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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 52

[NRC–2026–2377]

RIN 3150–AL70

AP1000 Design Certification Renewal

Correction

In rule document 2026–21030 beginning on page 65091 in the issue of Wednesday, October 14, 2026, make the following correction:

On page 65100, in the first column, under V. Applicable Regulations, paragraph V. A. should read V.A.1.

[FR Doc. C1–2026–21030 Filed 11–10–26; 8:45 am]

BILLING CODE 0099–10–D

FEDERAL RESERVE SYSTEM

12 CFR Part 209

[Regulation I; Docket No. R–1903]

RIN 7100–AH33

Federal Reserve Bank Capital Stock

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors (Board) is publishing a final rule that applies an inflation adjustment to the threshold for total consolidated assets in Regulation I. Federal Reserve Bank (Reserve Bank) stockholders that have total consolidated assets above the threshold receive a different dividend rate on their Reserve Bank stock than stockholders with total consolidated assets at or below the threshold. The Federal Reserve Act requires that the Board annually adjust the total consolidated asset threshold to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis (BEA). Based on the change in the Gross Domestic Product Price Index as of September 30, 2026, the total consolidated asset threshold will be $13,712,000,000 through December 31, 2027.

DATES:

Effective date: December 14, 2026.

Applicability date: The adjusted threshold for total consolidated assets will apply beginning on January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Benjamin Snodgrass, Special Counsel (202/263–4877), Legal Division; or Kelsey Cassidy, Senior Financial Institutions Policy Analyst (202/465–6817), Reserve Bank Operations and Payments Systems Division. For users of TTY–TRS, please contact 711 from any telephone, anywhere in the United States or (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Regulation I governs the issuance and cancellation of capital stock by the Reserve Banks. Under section 5 of the Federal Reserve Act [1] and Regulation I,[2] a member bank must subscribe to capital stock of the Reserve Bank of its district in an amount equal to six percent of the member bank's capital and surplus. The member bank must pay for one-half of this subscription when the Reserve Bank issues the capital stock, while the remaining half of the subscription shall be subject to call by the Board.[3]

Section 7(a)(1) of the Federal Reserve Act [4] provides that Reserve Bank stockholders with $10 billion or less in total consolidated assets shall receive a six percent dividend on paid-in capital stock, while stockholders with more than $10 billion in total consolidated assets shall receive a dividend on paid-in capital stock equal to the *lesser* of six percent and ''the rate equal to the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of such dividend.'' Section 7(a)(1) requires that the Board adjust the threshold for total consolidated assets annually to reflect the change in the Gross Domestic Product Price Index, published by the BEA.

Regulation I implements section 7(a)(1) of the Federal Reserve Act by (1) defining the term ''total consolidated assets,'' [5] (2) incorporating the statutory dividend rates for Reserve Bank stockholders [6] and (3) providing that the Board shall adjust the threshold for total consolidated assets annually to reflect the change in the Gross Domestic Product Price Index.[7] The Board has explained that it ''expects to make this adjustment [to the threshold for total consolidated assets] using the final second quarter estimate of the Gross Domestic Product Price Index for each year, published by the Bureau of Economic Analysis.'' [8]

II. Adjustment

The Board annually adjusts the $10 billion total consolidated asset threshold based on the change in the Gross Domestic Product Price Index between the second quarter of 2015 (the baseline year) and the second quarter of the current year.[9] The second quarter 2026 Gross Domestic Product Price Index estimate published by the BEA in September 2026 (133.416) is 37.12% percent higher than the second quarter 2015 Gross Domestic Product Price Index estimate published by the BEA in September 2026 (97.302). Based on this change in the Gross Domestic Product Price Index, the threshold for total consolidated assets in Regulation I will be $13,712,000,000 as of January 1, 2027.

III. Administrative Law Matters

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments that are required by statute and Regulation I and are consistent with a method

[1] 12 U.S.C. 287.

[2] 12 CFR 209.4(a).

[3] 12 U.S.C. 287 and 12 CFR 209.4(c)(2).

[4] 12 U.S.C. 289(a)(1).

[5] 12 CFR 209.1(d)(3).

[6] 12 CFR 209.4(e), (c)(1)(ii), and (d)(1)(ii); 209.2(a); and 209.3(d)(5).

[7] 12 CFR 209.4(f).

[8] 81 FR 84415, 84417 (Nov. 23, 2016).

[9] The BEA makes ongoing revisions to its estimates of the Gross Domestic Product Price Index for historical calendar quarters. The Board calculates annual adjustments from the baseline year (rather than from the prior-year total consolidated asset threshold) to ensure that the adjusted total consolidated asset threshold accurately reflects the cumulative change in the BEA's most recent estimates of the Gross Domestic Product Price Index.

previously set forth by the Board.[10] Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[11] As noted previously, the Board has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[12] the Board has reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 12 CFR Part 209

Banks and banking, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends Regulation I, 12 CFR part 209, as follows:

PART 209—ISSUE AND CANCELLATION OF FEDERAL RESERVE BANK CAPITAL STOCK (REGULATION I)

■ 1. The authority citation for part 209 continues to read as follows:

Authority: 12 U.S.C. 12 U.S.C. 222, 248, 282, 286–288, 289, 321, 323, 327–328, and 466.

■ 2. In part 209, remove the text ''$13,182,000,000'' and add in its place the text ''$13,712,000,000'', wherever it appears.

By order of the Board of Governors of the Federal Reserve System, under delegated authority.

Benjamin W. McDonough,

Secretary of the Board.

[FR Doc. 2026–23060 Filed 11–10–26; 8:45 am]

BILLING CODE 6210–01–P

[10] *See* 12 CFR 209.4(f) and n. 8 and accompanying text, *supra.*

[11] 5 U.S.C. 603 and 604.

[12] 44 U.S.C. 3506; 5 CFR 1320.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–7227; Project Identifier MCAI–2025–01754–R; Amendment 39–23514; AD 2026–22–12]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2022–20–11, which applied to certain Bell Textron Canada Limited Model 429 helicopters. AD 2022–20–11 required visually inspecting the external surface of the tail rotor (TR) gearbox support assembly, borescope inspecting or visually inspecting the inside of the tail boom, and performing a tactile inspection. Depending on the results of the inspections, AD 2022–20–11 required removing certain rivets from service or repairing gaps in accordance with an approved method. Since the FAA issued AD 2022–20–11, the manufacturer determined the repetitive inspection interval needs to be reduced. This AD requires the same actions as AD 2022–20–11 and reduces the inspection interval. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 17, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 17, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–7227; 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 Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–7227.

FOR FURTHER INFORMATION CONTACT: Soban Saeed, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4123; email: *soban.saeed@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2022–20–11, Amendment 39–22195 (87 FR 64152, October 24, 2022), (AD 2022–20–11). AD 2022–20–11 applied to certain Bell Textron Canada Limited Model 429 helicopters. AD 2022–20–11 required certain serial-numbered helicopters, an initial and repetitive visual inspection of the rivets at the TR gearbox support assembly for signs of any missing or separated rivet tails, any rivet tails resting at the bottom of the tail boom, and any rivet tails not resting against the tail boom skin. AD 2022–20–11 also required measuring any gaps between the TR gearbox support assembly and the tail boom skin. The FAA issued AD 2022–20–11 to detect failed rivets and rivets with inadequate grip length. The unsafe condition, if not addressed, could result in deterioration of the joint structural integrity, detachment of the TR gearbox support assembly, and loss of helicopter control.

The NPRM was published in the **Federal Register** on July 23, 2026 (91 FR 46322). The NPRM was prompted by Transport Canada AD CF–2025–60R1, dated January 28, 2026, (Transport Canada AD CF–2025–60R1) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states that, following reports of numerous failed rivets that were found within the repetitive inspection interval, the manufacturer determined the frequency of repetitive inspections needs to be increased until a terminating action is introduced.

In the NPRM, the FAA proposed to require the same actions as AD 2022–20–11 and reduce the inspection interval.

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–2026–7227.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment from an anonymous commenter. The following presents the comment received on the NPRM and the FAA's response to the comment.

Request To Revise the Regulatory Text of the Proposed AD To Include Reporting Results

The anonymous commenter requested that the FAA revise the regulatory text of the proposed AD by removing paragraph (i) of the proposed AD. The commenter stated to maintain robust safety monitoring and ensure foreign type design authorities receive complete fleet usage data, the FAA should remove the no reporting requirement and require operators to submit all required inspection data directly to the manufacturer as specified in the referenced material. The commenter further stated that the proposed AD is designated as an ''interim action,'' and as such, establishing a centralized data feedback loop directly through the manufacturer is essential for determining whether future design changes or permanent terminating actions are necessary. Additionally, the commenter stated, without structured, mandatory reporting, neither the manufacturer nor foreign civil aviation authorities will have complete visibility into the failure rates occurring across the U.S. fleet. Finally, the commenter stated by suppressing this reporting mechanism it limits the manufacturer's ability to perform comprehensive fleet-wide root-cause analyses, which could hinder the development of long-term terminating modifications.

The FAA disagrees. The FAA is following the actions of the state of design, which did not mandate reporting in Transport Canada AD CF–2025–60R1. Paragraph (i) of this AD is highlighting the fact for operators that they may submit reports, if requested, when accomplishing the service bulletin, but reporting is not being mandated for AD compliance or to address the unsafe condition. The FAA did not change this AD as a result of this comment.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF–2025–60R1, which specifies procedures for initial and repetitive general visual inspections and detailed inspections of the affected rivets at the joint between the tail boom skin and the TR gearbox support assembly.

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

Differences Between This AD, the MCAI, and the Referenced Material

Where the material referenced in Transport Canada AD CF–2025–60R1, specifies to obtain an approved Bell structural repair scheme to repair any gaps, this AD requires repairing those gaps in accordance with a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bell Textron Canada Limited's Transport Canada Design Approval Organization (DAO).

Interim Action

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

Costs of Compliance

The FAA estimates that this AD affects 147 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visual inspection	1 work-hour × $85 per hour = $85	$0	$85 per inspection	$12,495 per inspection.
Borescope inspection	1 work-hour × $85 per hour = $85	0	85 per inspection	12,495 per inspection.
Tactile inspection	1 work-hour × $85 per hour= $85	0	85 per inspection	12,495 per inspection.

The FAA estimates the following costs to do any repairs that will be required based on the results of the inspection. The agency has no way of determining the number of helicopters that might need this repair:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Measure gap	1 work-hour × $85 per hour = $85	$0	$85 per inspection.
Replace rivet	1 work-hour × $85 per hour = $85 (per rivet)	Up to $22 (per rivet)	Up to $9,416 (per helicopter).

The FAA has no way to determine the cost estimate of repairing a gap using a method approved by the Manager, International Validation Branch, FAA; Transport Canada; or Bell Textron Canada Limited's Transport Canada DAO.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I,

section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2022–20–11, Amendment 39–22195 (87 FR 64152, October 24, 2022); and

■ b. Adding the following new airworthiness directive:

2026–22–12 Bell Textron Canada Limited: Amendment 39–23514; Docket No. FAA–2026–7227; Project Identifier MCAI–2025–01754–R.

(a) Effective Date

This airworthiness directive (AD) is effective December 17, 2026.

(b) Affected ADs

This AD replaces AD 2022–20–11, Amendment 39–22195 (87 FR 64152, October 24, 2022).

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 429 helicopters, certificated in any category, as identified in Transport Canada AD CF–2025–60R1, dated January 28, 2026 (Transport Canada AD CF–2025–60R1).

(d) Subject

Joint Aircraft System Component (JASC) Code 5302, Rotorcraft tail boom.

(e) Unsafe Condition

This AD was prompted by reports of failed rivets between the tail boom skin and the tail rotor (TR) gearbox support assembly. The FAA is issuing this AD to detect and correct failed rivets and rivets with inadequate grip length. The unsafe condition, if not addressed, could result in deterioration of the joint structural integrity, detachment of the TR gearbox support assembly, and loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2025–60R1.

(h) Exceptions to Transport Canada AD CF–2025–60R1

(1) Where Transport Canada AD CF–2025–60R1 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2025–60R1 requires compliance in terms of air time, this AD requires using hours time-in-service.

(3) Where paragraphs (1), (2), and (3) of Part II of Transport Canada AD CF–2025–60R1 specify ''since the last inspection in accordance with Part I or Part II of AD CF–2021–15 or Part I of this AD'', for this AD replace that text with ''since the last inspection in accordance with Part I of this AD''.

(4) Where the material referenced in Transport Canada AD CF–2025–60R1 specifies ''tactile check'', this AD requires replacing that text with ''tactile inspection''.

(5) Where the material referenced in Transport Canada AD CF–2025–60R1 specifies to submit a structural repair request, this AD requires repairing any gaps and replacing rivets in accordance with a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bell Textron Canada Limited's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) No Reporting Requirement

Although the material referenced in Transport Canada AD CF–2025–60R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Soban Saeed, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4123; email: *soban.saeed@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF–2025–60R1, dated January 28, 2026.

(ii) [Reserved]

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

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

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

Issued on November 6, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–23007 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31693; Amdt. No. 4244]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 12, 2026. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 12, 2026.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Rune Duke, Manager, Standards Section, Flight Procedures and Airspace Group, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC. November 6, 2026.

Rune Duke,

Manager, Standards Section, Flight Procedures and Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
24–Dec–26 ...	AK	ANCHORAGE	MERRILL FLD	6/2508	10/6/2026	RNAV (GPS) Y RWY 8, Orig-B.
24–Dec–26 ...	AK	ANCHORAGE	MERRILL FLD	6/2510	10/6/2026	RNAV (GPS) Z RWY 8, Orig-B.
24–Dec–26 ...	AK	ANCHORAGE	MERRILL FLD	6/2512	10/6/2026	RNAV (GPS) RWY 35, Orig-A.
24–Dec–26 ...	CO	CRAIG	CRAIG–MOFFAT	6/3875	7/9/2026	RNAV (GPS) RWY 25, Orig.
24–Dec–26 ...	CO	CRAIG	CRAIG–MOFFAT	6/3877	7/9/2026	RNAV (GPS) RWY 7, Orig.
24–Dec–26 ...	CO	CRAIG	CRAIG–MOFFAT	6/3878	7/9/2026	VOR RWY 25, Amdt 5.

[FR Doc. 2026–23073 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31692; Amdt. No. 4243]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 12, 2026. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 12, 2026.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Rune Duke, Manager, Standards Section, Flight Procedures and Airspace Group, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPS, Takeoff Minimums and ODPs with their applicable effective

dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on November 6, 2026.

Rune Duke,

Manager, Standards Section, Flight Procedures and Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 24 December 2026

Dublin, GA, DBN, Takeoff Minimums and Obstacle DP, Amdt 2
Indianapolis, IN, MQJ, Takeoff Minimums and Obstacle DP, Amdt 4
Bangor, ME, BGR, ILS OR LOC RWY 15, ILS RWY 15 (CAT II), ILS RWY 15 (CAT III), Amdt 8
Bangor, ME, BGR, RNAV (GPS) RWY 15, Amdt 2
St Joseph, MO, STJ, LOC BC RWY 17, Amdt 10
St Joseph, MO, STJ, RNAV (GPS) RWY 13, Amdt 1
St Joseph, MO, STJ, RNAV (GPS) RWY 17, Amdt 2
St Joseph, MO, STJ, RNAV (GPS) RWY 31, Amdt 1
St Joseph, MO, STJ, RNAV (GPS) RWY 35, Amdt 3
Madison, MS, MBO, RNAV (GPS) RWY 17, Amdt 2A
Massena, NY, MSS, ILS OR LOC RWY 5, Amdt 4
Cleveland, OH, BKL, ZEYOU TWO, Graphic DP
Fredericksburg, VA, EZF, RNAV (GPS) RWY 24, Amdt 1
Charlotte Amalie, VI, STT/TIST, ILS OR LOC RWY 10, Amdt 2
Charlotte Amalie, VI, STT/TIST, RNAV (GPS) RWY 10, Amdt 3
Christiansted, VI, STX/TISX, ILS OR LOC RWY 10, Amdt 8
Friday Harbor, WA, FHR, RNAV (GPS) RWY 34, Amdt 3

[FR Doc. 2026–23072 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–1775]

Schedules of Controlled Substances: Placement of Oveporexton in Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Interim final rule; request for comments.

SUMMARY: On August 5, 2026, the United States Food and Drug Administration (FDA) approved a new drug application for Orzeyful (oveporexton) for the treatment of narcolepsy type 1 in adults. The Department of Health and Human Services (HHS) provided the Drug Enforcement Administration (DEA) with a scheduling recommendation to place oveporexton, chemically known as *N*-[(2*S*,3*R*)-2-[[3-(3,5-difluorophenyl)-2-fluorophenyl]methyl]-4,4-difluoro-1-(2-hydroxy-2-methylpropanoyl)pyrrolidin-3-yl]ethanesulfonamide, in schedule IV of the Controlled Substances Act (CSA). In accordance with the CSA, as amended by the Improving Regulatory Transparency for New Medical Therapies Act, DEA is hereby issuing an interim final rule placing oveporexton, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, in schedule IV of the CSA.

DATES: This rule is effective November 12, 2026. Comments must be submitted electronically or postmarked on or before December 14, 2026. 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.

Requests for hearing and waivers of an opportunity for a hearing or to participate in a hearing, together with a written statement of position on the matters of fact and law asserted in the hearing, must be received on or before December 14, 2026.

ADDRESSES: Interested persons may file written comments on this rulemaking in accordance with 21 U.S.C. 811(j)(3) and 21 CFR 1308.43(g). To ensure proper

handling of comments, please reference ''Docket No. DEA–1775'' on all correspondence, including any attachments.

• *Electronic comments:* The Drug Enforcement Administration (DEA) encourages commenters to submit comments electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. 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.

• *Paper comments:* 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, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, VA 22152.

• *Hearing requests:* All requests for hearing and waivers of participation, together with a written statement of position on the matters of fact and law asserted in the hearing, must be filed with the DEA Administrator, who will make the determination of whether a hearing will be needed to address such matters of fact and law in the rulemaking. Such requests must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. For informational purposes, a courtesy copy of requests for hearing and waivers of participation should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

• *Paperwork Reduction Act Comments:* All comments concerning collections of information under the Paperwork Reduction Act must be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for DOJ, Washington, DC 20503. Please state that your comment refers to Docket No. DEA–1775.

FOR FURTHER INFORMATION CONTACT: Dr. Terrence L. Boos, Drug & Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: In this interim final rule (IFR), Drug Enforcement Administration (DEA) is adding oveporexton to schedule IV of the Controlled Substances Act (CSA).

Posting of Public Comments

All comments received in response to this docket are considered part of the public record. DEA will make comments available for public inspection online at *https://www.regulations.gov,* unless reasonable cause is given. Such information includes personal or business identifying information (such as name, address, State or Federal identifiers, etc.) voluntarily submitted by the commenter.

Commenters submitting comments which include personal identifying information (PII), confidential, or proprietary business information that the commenter does not want made publicly available should submit two copies of the comment. One copy must be marked ''CONTAINS CONFIDENTIAL INFORMATION'' and should clearly identify all PII or business information the commenter does not want to be made publicly available, including any supplemental materials. DEA will review this copy, including the claimed PII and confidential business information, in its consideration of comments. The second copy should be marked ''TO BE PUBLICLY POSTED'' and must have all claimed confidential PII and business information already redacted. DEA will post only the redacted comment on *https://www.regulations.gov* for public inspection. DEA generally will not redact additional information contained in the comment marked ''TO BE PUBLICLY POSTED.'' The Freedom of Information Act applies to all comments received.

For easy reference, an electronic copy of this document and supplemental information to this IFR are available at *http://www.regulations.gov.*

Request for Hearing or Appearance; Waiver

Pursuant to 21 U.S.C. 811(j)(3), an interested person may ''request a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551–559.[1] Interested persons, as defined in 21 CFR 1300.01(b), may file requests for a hearing in conformity with the requirements of 21 CFR 1308.44(a) and 1316.47(a), and such requests must:

(1) state with particularity the interest of the person in the proceeding;

(2) state with particularity the objections or issues concerning which the person desires to be heard; and

(3) state briefly the position of the person with regard to the objections or issues. Any interested person may file a waiver of an opportunity for a hearing or to participate in a hearing in conformity with the requirements of 21 CFR 1308.44(c), together with a written statement of position on the matters of fact and law involved in any hearing.[2]

All requests for hearings and waivers of participation, together with a written statement of position on the matters of fact and law involved in such hearing, must be sent to DEA using the address information provided above. The decision whether a hearing will be needed to address such matters of fact and law in the rulemaking will be made by the Administrator. If a hearing is needed, DEA will publish a notice of hearing on the interim final rule in the **Federal Register**.[3] Further, once the Administrator determines a hearing is needed to address such matters of fact and law in rulemaking, he will then designate an Administrative Law Judge (ALJ) to preside over the hearing. The ALJ's functions shall commence upon designation, as provided in 21 CFR 1316.52.

In accordance with 21 U.S.C. 811 and 812, the purpose of a hearing would be to determine whether oveporexton meets the statutory criteria for placement in schedule IV.

Legal Authority

Under the CSA, as amended in 2015 by the Improving Regulatory Transparency for New Medical Therapies Act (section 2(b) of Pub. L. 114–89), DEA is required to commence an expedited scheduling action with respect to certain new drugs approved by the Food and Drug Administration (FDA). As provided in 21 U.S.C. 811(j), this expedited scheduling is required where both of the following conditions apply: (1) The Secretary of the Department of Health and Human Services (HHS) has advised DEA that a New Drug Application (NDA) has been submitted for a drug that has a

[1] 21 CFR 1308.41–1308.45; 21 CFR part 1316, subpart D.

[2] 21 CFR 1316.49.

[3] 21 CFR 1308.44(b), 1316.53.

stimulant, depressant, or hallucinogenic effect on the central nervous system (CNS), and that it appears that such drug has an abuse potential; and (2) the Secretary of HHS recommends that DEA control the drug in schedule II, III, IV, or V pursuant to 21 U.S.C. 811(a) and (b). In these circumstances, DEA is required to issue an IFR controlling the drug within 90 days.

Subsection 811(j)(2) states that the 90-day timeframe starts the later of (1) the date DEA receives HHS's scientific and medical evaluation/scheduling recommendation, or (2) the date DEA receives notice of the NDA approval by HHS. Subsection 811(j)(3) specifies that the rulemaking shall become immediately effective as an IFR without requiring DEA to demonstrate good cause therefore. Thus, the purpose of subsection 811(j) is to speed the process by which DEA schedules newly approved drugs that are currently either in schedule I or not controlled (but which have sufficient abuse potential to warrant control) so that such drugs may be marketed without undue delay following FDA approval.[4]

Subsection 811(j)(3) further provides that the IFR shall give interested persons the opportunity to comment and to request a hearing. After the conclusion of such proceedings, DEA must issue a final rule in accordance with the scheduling criteria of 21 U.S.C. 811(b) through (d), and 812(b).

Background

Oveporexton (also known as TAK–861) is a new molecular entity with CNS activity as an orexin type 2 receptor (OX2R) agonist. Selective OX2R agonism is a distinct pharmacological mechanism of action from other substances currently listed in the CSA.

On December 10, 2025, Takeda Pharmaceuticals U.S.A., Inc. (Sponsor) submitted an NDA for oveporexton to FDA. On August 5, 2026, FDA approved the NDA for oveporexton (Orzeyful) for the treatment of narcolepsy type 1 (NT1) in adults. The approved formulation consists of tablets in 0.5 mg, 1 mg, and 2 mg strengths, with a recommended dosage of either 1 mg or 2 mg taken orally twice daily.

Determination To Schedule Oveporexton

On July 31, 2026, DEA received from HHS a scientific and medical evaluation titled ''Basis for the Recommendation to Control Oveporexton in Schedule IV of the Controlled Substances Act'' and a scheduling recommendation. Pursuant to 21 U.S.C. 811(b) and (c), this document contained an eight-factor analysis of the abuse potential, legitimate medical use, and dependence liability of oveporexton, along with HHS's recommendation to control oveporexton under schedule IV of the CSA.

In response, DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by HHS, along with all other relevant data, and completed its own eight-factor review pursuant to 21 U.S.C. 811(c). DEA concluded that oveporexton meets the 21 U.S.C. 812(b)(4) criteria for placement in schedule IV of the CSA.

Pursuant to subsection 811(j), and based on HHS's scheduling recommendation, the approval of the NDA by HHS/FDA, and DEA's determination, DEA is issuing this IFR to schedule oveporexton as a schedule IV controlled substance under the CSA.

Included below is a brief summary of each factor as analyzed by HHS and DEA, and as considered by DEA in its scheduling action. Please note that both DEA and HHS analyses are available in their entirety under ''Supporting Documents'' in the public docket for this IFR at *https://www.regulations.gov,* under Docket Number ''DEA–1775.'' Full analysis of, and citations to, the information referenced in the summary may also be found in the supporting and related material.

1. *Its Actual or Relative Potential for Abuse:* Oveporexton is new molecular entity that has not been marketed legally or illegally in the United States and was recently approved for treatment of NT1 in China and Japan. Given that oveporexton is new to the global market, evidence regarding its diversion, illicit manufacturing, or abuse is currently lacking. FDA is not aware of any diversion from research activities or manufacturing facilities for oveporexton, and DEA's National Forensic Laboratory Information System (NFLIS)–Drug[5] database reflects that oveporexton has not been encountered by law enforcement in the United States.

Oveporexton is an OX2R-selective agonist with demonstrated CNS activity. There are currently no OX2R-selective agonists listed in the CSA. In nonclinical studies, oveporexton produces stimulant-like behavioral alterations in rodents and has weak reinforcing effects, as demonstrated by a rat self-administration study. In humans, some potential abuse-related treatment-emergent adverse events involving oveporexton occurred across clinical trials with higher incidence at supratherapeutic doses. Also, a human abuse potential study showed that supratherapeutic doses of oveporexton produced abuse-related subjective effect ratings that were not statistically significantly different from phentermine (schedule IV) (*see* Factor 2). Based on these data, oveporexton has a potential for abuse similar to the schedule IV stimulant phentermine, making it reasonable to assume its potential for diversion, misuse, and creating a hazard to the health of individuals or the community will be similar to that of substances in schedule IV of the CSA.

2. *Scientific Evidence of Its Pharmacological Effects, if Known:* The pharmacological effects of oveporexton were assessed using available nonclinical and clinical data. *In vitro* binding and functional studies demonstrate that oveporexton is a potent and selective OX2R agonist which lacks off-target effects at other receptor targets associated with abuse potential. Animal behavioral studies show that oveporexton has some stimulant-like and reinforcing properties. Oveporexton produced transient stimulant-like behavior in rats, with the most frequent behavioral observation in the modified Irwin's multiple observation method being slight restlessness 1–2 hours after administration of ≥20 mg/kg oral oveporexton. In a drug discrimination study in rats, oveporexton at doses up to 5 mg/kg (orally) did not substitute for the discriminative stimulus of the schedule II stimulant, *d*-amphetamine (0.3 mg/kg, subcutaneously). A second drug discrimination study revealed that rats could not be trained to discriminate oveporexton from placebo under the conditions tested. Additionally, in an intravenous self-administration study in rats, oveporexton at 0.03 mg/kg/0.2 mL infusion was self-administered more than vehicle control in cocaine-trained rats, but the other three tested oveporexton doses (0.01, 0.1, and 0.3 mg/kg/0.2 mL infusion) were not self-administered more than vehicle. From this result, HHS concluded that

[4] Given the parameters of subsection 811(j), in DEA's view, it would not apply to a reformulation of a drug containing a substance currently in schedules II through V for which an NDA has recently been approved.

[5] NFLIS-Drug represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS-Drug is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by Federal, State and local forensic laboratories in the United States. While NFLIS-Drug data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. *See Schedules of Controlled Substances: Placement of Carisoprodol Into Schedule IV,* 76 FR 77330, 77332 (Dec. 12, 2011). NFLIS-Drug data was queried on August 20, 2026.

oveporexton produces weak reinforcing effects in male cocaine-maintained rats.

The human clinical trial data described by HHS further demonstrate oveporexton's abuse potential. In a human abuse potential study, healthy adult non-dependent, recreational drug users with CNS stimulant experience rated all evaluated doses of oveporexton (6 mg, 18 mg, and 30 mg, taken orally) more favorably than placebo across primary and secondary endpoints associated with abuse potential. In this study, the maximal subjective Drug Liking scores (primary endpoint) were not statistically significantly different between the positive control (phentermine 75 mg; schedule IV) and oveporexton (18 mg and 30 mg). In addition, HHS's review of adverse events across clinical safety and efficacy studies indicated that oveporexton produced dose-dependent increases in potential abuse-related treatment-emergent adverse events. The most common oveporexton potential abuse-related adverse event in clinical trial participants without narcolepsy was ''euphoric mood.'' Such adverse events were infrequent in the intended treatment population (persons with NT1) at recommended therapeutic doses of oveporexton (≤4 mg/day).

In conclusion, the pharmacological effects of oveporexton support that oveporexton has a potential for abuse that is similar to that of the schedule IV stimulant phentermine.

3. *The State of Current Scientific Knowledge Regarding the Drug or Other Substance:* Oveporexton, chemically known as *N*-[(2*S*,3*R*)-2-[[3-(3,5-difluorophenyl)-2-fluorophenyl]methyl]-4,4-difluoro-1-(2-hydroxy-2-methylpropanoyl)pyrrolidin-3-yl]ethanesulfonamide, is a new molecular entity that was recently FDA-approved for the treatment of NT1 in adults. This approval indicates that oveporexton has an accepted medical use in treatment in the United States. The recommended dosage of oveporexton for the treatment of NT1 is either 1 mg or 2 mg orally, taken after awakening and then three to five hours later. Following oral administration, oveporexton is rapidly absorbed, highly distributed (including to the CNS), and shows approximately dose-proportional increases in systemic exposure. The mean terminal elimination half-life of oveporexton is 23.2 hours. Oveporexton is primarily excreted in the feces following cytochrome P450 3A4-predominant hepatic metabolism, with unchanged oveporexton identified as the major circulating species in plasma.

4. *Its History and Current Pattern of Abuse:* Consistent with the fact that oveporexton is new to the global market, both FDA and DEA are not aware of any diversion or abuse related to oveporexton. Since real-world data on history and patterns of abuse are lacking, there is no data to assess oveporexton's history and current patterns of abuse. However, nonclinical and clinical studies (*see* Factors 1 and 2) support that oveporexton has a potential for abuse similar to that of phentermine (schedule IV).

5. *The Scope, Duration, and Significance of Abuse:* FDA is not aware of any diversion or abuse of oveporexton from its manufacture and distribution associated with legitimate drug research, and oveporexton has not been previously marketed (legally or illegally) in the United States. DEA's NFLIS-Drug database confirms that oveporexton is absent from the United States illicit drug market. Since this is a new molecular entity, evidence of the scope, duration, and significance of abuse of oveporexton is limited. However, the available data (*see* Factors 1 and 2) indicate that oveporexton has a potential for abuse similar to that of phentermine (schedule IV), and because of this, it is likely to be abused upon its availability in the market.

6. *What, if any, Risk There Is to the Public Health:* HHS reviewed clinical trial adverse event data to evaluate oveporexton's potential public health risk. Oveporexton produces dose-dependent increases in the incidence of adverse events, including potential abuse-related treatment-emergent adverse events. Potential abuse-related treatment-emergent adverse events occurred in 19.4 percent of participants without narcolepsy taking 30–75 mg/day oveporexton. Adverse Events of Special Interest, such as insomnia and frequent urination, occurred in up to 16.7 percent of participants without narcolepsy after a 30 mg single dose of oveporexton. DEA adds that transient insomnia and increased urinary frequency occurred in a majority of participants with NT1 taking recommended therapeutic doses of oveporexton (≤4 mg/day) in the Phase 3 trials.

DEA adds that Lammers et al. (2026) [6] performed a secondary analysis of a Phase 2 trial in participants with NT1 (N=112) and determined that oveporexton improved attention, memory, and executive function at 8 weeks. The authors postulated that their findings may be because oveporexton is addressing the pathophysiology of NT1 (*i.e.,* impaired orexigenic neurotransmission) or may be secondary to improved NT1 symptomatology. DEA notes that studies are needed to confirm if cognitive performance benefits extend outside the NT1 population and if the effects are acute or only present after continual use. Nonetheless, DEA considers oveporexton's potential for cognitive enhancement and performance benefits may increase the attractiveness of the drug for diversion and abuse, thereby contributing to oveporexton's overall risk to public health because cognitive enhancement is a major motivation for prescription stimulant diversion and abuse.

Furthermore, a drug's abuse potential is a key indicator of its public health risk. Data presented in Factors 1–3 suggest that oveporexton possesses an abuse potential similar to that of phentermine—a schedule IV stimulant. Therefore, all things considered, as oveporexton becomes available for marketing, it is anticipated that it will present a similar public health risk to that of phentermine.

7. *Its Psychic or Physiological Dependence Liability:* Psychic (or psychological) dependence is a state similar to addiction and can be inferred through animal self-administration studies, human abuse potential studies, case reports, and epidemiological data. In an intravenous self-administration study in cocaine-trained rats, one (of four) oveporexton doses produced a small, but statistically significant increase in the number of infusions per session compared to vehicle control. In a human abuse potential study conducted in non-dependent, recreational drug users with CNS stimulant experience (N=43), the Take Drug Again scores were similar between phentermine 75 mg and supratherapeutic doses of oveporexton (18 mg and 30 mg). The reinforcing effects of oveporexton in animals and subjective effect scores indicative of reinforcing effects in humans align closely with phentermine rather than stronger stimulants (*i.e.,* schedule II stimulants), suggesting oveporexton's potential to induce drug-seeking behavior is expected to be correspondingly lower than schedule II stimulants. Taken together, these data indicate that oveporexton is unlikely to cause psychic dependence in humans.

Physical dependence develops from physiological adaptation to repeated drug use and manifests as withdrawal

[6] Lammers, G.J., Plazzi, G., Mignot, E., Pizza, F., Dauvilliers, Y., Barateau, L., Maruff, P., Scammell, T.E., Latzman, R.D., Naylor, M., Olsson, T., Stukalin, E., Tanaka, S., Volfson, D., Khachadourian, V., & Harel, B.T. (2026). Effects of Oveporexton, an Orexin Receptor 2-Selective Agonist, on Cognition in Narcolepsy Type 1: A Secondary Analysis of a Randomized Clinical Trial. *JAMA Neurology, 83*(2), 145–152. *https://doi.org/10.1001/jamaneurol.2025.4825*.

symptoms after abrupt drug discontinuation or reduction of a drug. A minority of female rats exhibited some sporadic effects of oveporexton withdrawal (writhing/abdominal spasm, eye closure and jaw chomping) following discontinuation after 28 days of oral oveporexton administration, but there were no robust signals of physical dependence. HHS reviewed drug-discontinuation-emergent adverse events from six repeated-dose oveporexton trials (N=277 participants) to determine if there was clinical evidence for withdrawal demonstrating physical dependence. Oveporexton did not show consistent or dose-related withdrawal effects in these trials. The adverse event data from the clinical trials corroborates the oveporexton preclinical data demonstrating a lack of physical dependence in rats. Thus, overall, data indicate that oveporexton does not appear to produce substantial physical dependence.

8. *Whether the Substance is an Immediate Precursor of a Substance Already Controlled under the CSA:* Oveporexton is not an immediate precursor of any substance already controlled under the CSA, as defined by 21 U.S.C. 802(23).

Conclusion: After considering the scientific and medical evaluation and scheduling recommendation provided by HHS, as well as DEA's own eight-factor analysis, DEA has determined that these facts and all relevant data constitute substantial evidence of potential for abuse of oveporexton. As such, DEA hereby schedules oveporexton as a controlled substance under the CSA.

Determination of Appropriate Schedule

The CSA lists the findings required to place a drug or other substance in any particular schedule (I, II, III, IV, or V).[7] After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all available data, the Administrator of DEA, pursuant to 21 U.S.C. 812(b)(4), finds that:

(1) *Oveporexton has a low potential for abuse relative to the drugs or other substances in schedule III.*

Oveporexton is an OX2R-selective agonist; this mechanism of action is distinct from other substances known to have a potential for abuse and already listed under the CSA. Animal behavioral studies show oveporexton produces some stimulant-like behaviors, does not substitute for the discriminative stimulus of *d*-amphetamine, and maintains self-administration at a significant level in cocaine-trained rats at one (of four) dose levels. Potential abuse-related treatment-emergent adverse events occurred infrequently across clinical studies, but the incidence of such events was consistently higher in participants receiving supratherapeutic doses of oveporexton. A human abuse potential study showed oveporexton produced positive subjective effects in stimulant-experienced, recreational drug users. All evaluated doses of oveporexton (6, 18, and 30 mg) demonstrated statistically significantly higher scores than placebo across primary and secondary endpoint measures indicative of abuse potential. For the primary endpoint, oveporexton 18 mg and 30 mg produced maximal Drug Liking scores that were comparable to the active comparator (phentermine 75 mg). Since oveporexton produced abuse-related subjective responses similar to phentermine, oveporexton's potential for abuse is also expected to be similar to phentermine (schedule IV). As such, the evidence indicates that oveporexton has a low potential for abuse relative to the drugs or other substances in schedule III.

(2) Oveporexton has a currently accepted medical use in treatment in the United States.

On August 5, 2026, FDA approved the NDA for Orzeyful (oveporexton) for the treatment of NT1 in adults. Thus, oveporexton has a currently accepted medical use in treatment in the United States.

(3) Abuse of oveporexton may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Nonclinical and clinical study data demonstrate that oveporexton does not appear to produce physical dependence and poses a low risk of psychological dependence. Oveporexton did not produce withdrawal signs and symptoms following abrupt discontinuation, indicating there was no development of physical dependence under the conditions evaluated. This was demonstrated by a lack of robust withdrawal effects in rats when oveporexton was discontinued after four weeks of oral administration and further supported by clinical trial drug-discontinuation-emergent adverse events involving oveporexton, which occurred infrequently and inconsistently across participant populations.

Oveporexton possesses weak reinforcing properties, which suggests that oveporexton poses a low risk of producing psychological dependence in humans. In the rat self-administration study, one dosing condition (oveporexton 0.03 mg/kg/0.2 mL infusion) increased the drug self-administration rate relative to vehicle control, but the effect was not dose-dependent, leading HHS to conclude that oveporexton possesses only weak reinforcing properties. In a human abuse potential study conducted in stimulant-experienced, non-dependent recreational drug users, Take Drug Again scores were comparable between the two highest doses of oveporexton (18 mg and 30 mg) and the schedule IV comparator (phentermine 75 mg). The data suggest the reinforcing properties of oveporexton align with those of phentermine. Therefore, oveporexton's psychological dependence liability is expected to be similar to that of phentermine (schedule IV). In conclusion, abuse of oveporexton may lead to limited physical or psychological dependence relative to drugs or other substances in schedule III.

Based on these findings, DEA concludes that oveporexton warrants control in schedule IV of the CSA.[8]

Requirements for Handling Oveporexton

Oveporexton is subject to the CSA's schedule IV regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distributing, dispensing, importing, exporting, research, and conduct of instructional activities, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) oveporexton must be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. These registration requirements, however, are not applicable to patients (end users) who possess oveporexton pursuant to a lawful prescription.

2. *Disposal of Stocks.* Any person unwilling or unable to obtain a DEA registration must surrender all quantities of currently held oveporexton or may transfer all quantities of currently held oveporexton to a person registered with DEA. Oveporexton is required to be disposed of in accordance with 21 CFR part 1317, in addition to all other applicable federal, state, local, and tribal laws.

[7] 21 U.S.C. 812(b).

[8] 21 U.S.C. 812(b)(4).

3. *Security.* Oveporexton is subject to schedule III–V security requirements for DEA registrants and must be handled and stored in accordance with 21 CFR 1301.71–1301.77, pursuant to 21 U.S.C. 821, 823, and 871(b). Non-practitioners handling oveporexton must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93. These requirements, however, are not applicable to patients (end users) who possess oveporexton pursuant to a lawful prescription.

4. *Labeling and Packaging.* All labels and packaging for commercial containers of oveporexton must comply with 21 U.S.C. 825 and 958(e) and be in accordance with 21 CFR part 1302.

5. *Inventory.* Every DEA registrant who possesses any quantity of oveporexton must have an initial inventory of all stocks of controlled substances (including oveporexton) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

Any person who registers with DEA to handle oveporexton must take an initial inventory of all stocks of controlled substances (including oveporexton) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (b).

After the initial inventory, every DEA registrant must take inventory of all controlled substances (including oveporexton) on hand every two years, pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. These requirements, however, are not applicable to patients (end users) who possess oveporexton pursuant to a lawful prescription.

6. *Records and Reports.* DEA registrants must maintain records and submit reports for oveporexton, pursuant to 21 U.S.C. 827, 832(a), and 958(e), and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and 1317.

7. *Prescriptions.* All prescriptions for oveporexton, or products containing oveporexton, must comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

8. *Manufacturing and Distributing.* In addition to the general requirements of the CSA and DEA regulations that are applicable to manufacturers and distributors of schedule IV controlled substances, such registrants should be advised that (consistent with the foregoing considerations) any manufacturing or distribution of oveporexton may only be for the legitimate purposes consistent with the drug's labeling, or for research activities authorized by the Federal Food, Drug, and Cosmetic Act, as applicable, and the CSA.

9. *Importation and Exportation.* All importation and exportation of oveporexton must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving oveporexton not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

The APA (5 U.S.C. 553) generally requires notice and comment for rulemakings. However, 21 U.S.C. 811(j) provides that in cases where a certain new drug is (1) approved by HHS, under section 505(c) of the FDCA, and (2) HHS recommends control in CSA schedule II–V, DEA shall issue an IFR scheduling the drug within 90 days. As stated in the legal authority section, the 90-day time frame is the later of: (1) the date DEA receives HHS's scientific and medical evaluation/scheduling recommendation, or (2) the date DEA receives notice of the NDA approval by HHS. Additionally, subsection 811(j) specifies that the rulemaking shall become immediately effective as an IFR without requiring DEA to demonstrate good cause.

Executive Orders 12866 and 14294

The Office of Management and Budget (''OMB'') has determined that, although this rule is not economically significant under section (3)(f)(1) of Executive Order 12866, this rule is nonetheless a ''significant regulatory action'' under section 3(f) of the Order. OMB has therefore reviewed this rule.

DEA scheduling actions are not subject to E.O. 14294, Fighting Overcriminalization in Federal Regulations.

Executive Order 12988, Civil Justice Reform

This rulemaking meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The proposed rule does 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.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not 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.

Paperwork Reduction Act

This rule would require compliance with the following existing Office of Management and Budget (OMB)-approved collections: 1117–0003, 1117–0004, 1117–0006, 1117–0008, 1117–0009, 1117–0010, 1117–0012, 1117–0014, 1117–0021, and 1117–0056. 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.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, applies to rules that are subject to the notice-and-comment requirements of the APA at 5 U.S.C. 553. The RFA's requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking. As noted in the above discussion regarding the applicability of the APA, DEA is not required to publish a general notice of proposed rulemaking. Consequently, the RFA does not apply to this IFR.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* DEA has determined and certifies that this proposed action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more

(adjusted annually for inflation) in any 1 year. . . .'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804(2). However, pursuant to the CRA, DEA is submitting a copy of this IFR to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.14:

■ a. Redesignate paragraphs (f)(8) through (14) as paragraphs (f)(9) through (15); and

■ b. Add a new paragraph (f)(8).

The addition reads as follows:

§ 1308.14 Schedule IV.

* * * * *

(f) * * *

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Signing Authority

This document of the Drug Enforcement Administration was signed on November 6, 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. 2026–23075 Filed 11–9–26; 4:15 pm]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

[Docket No. MSHA–2025–0079]

RIN 1219–AC10

Improving and Eliminating Regulations; Limit on Exposure to Diesel Particulate Matter in Underground Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: MSHA is eliminating outdated requirements for diesel particulate matter (DPM) personal exposure limits for underground metal and nonmetal (MNM) mines. These requirements are being removed from MSHA's regulations because they contain outdated effective dates and exposure limits that are no longer applicable.

DATES: *Effective date:* December 14, 2026.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances, MSHA at *MSHARulemaking@dol.gov* (email) or 202–693–9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

On February 6, 2025, the President issued Executive Order (E.O.) 14192 ''Unleashing Prosperity Through Deregulation,'' (90 FR 9065), which directed agencies to alleviate unnecessary regulatory burdens. On July 1, 2025, MSHA published a notice of proposed rulemaking (NPRM) entitled, ''Improving and Eliminating Regulations; Limit on Exposure to Diesel Particulate Matter in Underground Metal and Nonmetal Mines'' in the **Federal Register** (90 FR 28403).

MSHA identified §§ 57.5060(a), 57.5060(b)(1), and 57.5060(b)(2) for removal because they contain outdated effective dates and exposure limits to DPM in underground MNM mines and are no longer relevant. Removing these requirements will not reduce protections afforded to miners because the requirements are no longer applicable to underground MNM mines.

MSHA received three comments on the NPRM during the public comment period. Two of the commenters supported MSHA's proposal and another commenter requested a 60-day extension of the public comment period. MSHA received no comments opposed to the changes discussed in the NPRM.

II. Discussion

Existing paragraph (a) of § 57.5060 contains the interim DPM personal exposure limit (PEL) of 308_{EC} µg/m^3 which is no longer in effect. It also states that the interim PEL remains in effect until MSHA publishes a notice in the **Federal Register** that the final DPM exposure limit is effective. MSHA published a notice of enforcement of the DPM final PEL of 160_{TC} µg/m^3 in the **Federal Register** on May 20, 2008 (73 FR 29058). Also, existing paragraphs (b)(1) and (b)(2) of § 57.5060 list outdated effective dates and PELs for a miner's exposure to DPM in underground MNM mines.

In this final rule, unchanged from the proposed rule, MSHA is revising § 57.5060 by removing and reserving paragraphs (a), (b)(1), and (b)(2) and revising the language in paragraph (b)(3) to clarify the existing limit for a miner's personal exposure to DPM in underground MNM mines. These actions reflect MSHA's experience and ongoing review of existing regulations to ensure they remain necessary, effective, and aligned with current technologies and mining practices.

MSHA received three comments on the proposal. One commenter requested a 60-day extension of the public comment period to properly review, research, and develop a meaningful comment. The Agency reviewed the comment and decided not to grant an extension of the public comment period. MSHA is making non-substantive

changes to the DPM standard in underground MNM mines to remove outdated requirements that have no safety, burden, or cost implications. The changes are non-substantive; therefore, an extension of the public comment period was unnecessary.

MSHA received two comments in support of the proposal to remove the outdated requirements for a miner's personal exposure to DPM. The commenters agreed that the proposal would streamline the current requirements for underground MNM operators while maintaining the same level of protection for miners who are exposed to DPM in underground MNM mines. Therefore, MSHA finalizes the rule as proposed. The numbering for 30 CFR 57.5060(a), (b)(1), and (b)(2), will be reserved to show that the gap in numbering is deliberate and to assure reviewers that content is not missing from 30 CFR 57.5060.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

E.O. 12866, ''Regulatory Planning and Review'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends.

E.O. 12866 and E.O. 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. 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.

Removing the provisions containing outdated requirements for DPM exposure limits will not impose new costs on underground MNM mine operators because the effective dates and DPM exposure limits in these provisions are no longer relevant. Removing the outdated requirements will also not reduce the protections currently afforded to miners who are exposed to DPM; instead, it will streamline current requirements and improve the clarity of MSHA's standards for underground MNM miners and mine operators.

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a ''significant regulatory action'' is a regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant);

(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; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

This final rule is determined to not constitute a ''significant regulatory action'' because it does not meet any of the four ''significant regulatory action'' criteria under section 3(f) of E.O. 12866. Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

No alternatives were considered for this final deregulatory action.

B. Review Under the Regulatory Flexibility Act; Small Business Regulatory Enforcement Fairness Act; and Executive Order 13272

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires an agency to consider the impact that its rulemakings will have on small entities. E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (Aug. 16, 2002), requires Federal agencies to assess the economic impacts of rules on small businesses, small governmental jurisdictions, and small organizations, collectively referred to as small entities.

MSHA has reviewed this final rule, which reduces regulatory complexity, under the provisions of the RFA. MSHA concludes that this final rule will not have a ''significant economic impact on a substantial number of small entities.'' MSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring ''a collection of information'' from the public.

This final rule imposes no new information collection or recordkeeping requirements. The recordkeeping requirements for DPM exposure in underground MNM mines are fully covered in a currently approved information collection request, OMB Control Number 1219–0135 ''Health Standards for Diesel Particulate Matter Exposure (Underground Metal and Nonmetal Mines).'' Accordingly, OMB

clearance is not required under the Paperwork Reduction Act.

D. Review Under Executive Order 13132

E.O. 13132, ''Federalism'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The E.O. requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this final rule and has determined that it 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.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. MSHA has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this final rule according to UMRA and its statement of policy and determined that it does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on agency actions that would significantly affect the quality of the environment, unless the action is considered categorically excluded under 29 CFR 11.10. MSHA has reviewed the final rule in accordance with NEPA requirements and the Department of Labor's NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this final rule will not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not conducted an environmental assessment nor prepared an environmental impact statement.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), MSHA has determined that this final rule will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this final rule and has concluded that it is consistent with applicable policies in the OMB guidelines.

K. Review Under Executive Order 13175

E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments'' 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have ''tribal implications.'' This final rule does not have ''tribal implications'' because it will not ''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.'' Accordingly, under E.O. 13175, no further Agency action or analysis is required.

L. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this final rule for its energy effects. For the energy analysis, this final rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation'' 90 FR 9065 (Feb. 6, 2025); and the Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis'' 90 FR 8245 (Jan. 28, 2025). This final rule is an E.O. 14192 deregulatory action.

N. Congressional Notification

As required by 5 U.S.C. 801, MSHA will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 30 CFR Part 57

Chemicals, Electric power, Explosives, Fire prevention, Gases, Hazardous substances, Metals, Mine safety and health, Mines, Noise control, Radiation protection, Reporting and recordkeeping requirements, Surface mining, Underground mining.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended, MSHA amends chapter I of title 30 of the Code of Federal Regulations as follows:

PART 57—SAFETY AND HEALTH STANDARDS—UNDERGROUND METAL AND NONMETAL MINES

■ 1. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

Subpart D—Air Quality, Radiation, Physical Agents, and Diesel Particulate Matter

■ 2. Amend § 57.5060 by removing and reserving paragraphs (a), (b)(1), and (b)(2), and revising paragraph (b)(3) to read as follows:

§ 57.5060 Limit on exposure to diesel particulate matter.

* * * * *

(b) * * *

* * * * *

(3) A miner's personal exposure to diesel particulate matter (DPM) in an underground mine must not exceed an average eight-hour equivalent full shift airborne concentration of 160 micrograms of total carbon per cubic meter of air (160_{TC} $\mu g/m^3$).

* * * * *

Wayne D. Palmer,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2026–23050 Filed 11–10–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

[Docket No. MSHA–2025–0088]

RIN 1219–AC15

Mining of Pillars

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: MSHA is eliminating outdated requirements for the final mining of pillars from MSHA's regulations. These requirements are being removed because the practice of final mining of pillars with one mine opening is no longer used in the mining industry due to safety concerns.

DATES: *Effective date:* December 14, 2026.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances, MSHA at *MSHARulemaking@dol.gov* (email) or 202–693–9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

On February 6, 2025, the President issued Executive Order (E.O.) 14192 ''Unleashing Prosperity Through Deregulation,'' (90 FR 9065), which directed agencies to alleviate unnecessary regulatory burdens. On July 1, 2025, MSHA published a notice of proposed rulemaking (NPRM) titled, ''Mining of Pillars'' in the **Federal Register** (90 FR 28429).

In the final rule, unchanged from the proposal, MSHA is removing § 75.386 because mines do not practice mining at the working section with only one mine opening. Instead, mine operators follow the requirements in § 75.380 which requires two separate escapeways to be provided from the working section. Removing § 75.386 will not reduce protections afforded to miners because the requirements are no longer applicable to underground coal mines.

MSHA received two comments from the public during the comment period. One commenter requested an extension of the public comment period and another commenter supported MSHA's proposal. MSHA received no comments opposing the proposed changes discussed in the NPRM.

II. Discussion

Section 75.386—Final Mining of Pillars.

In this final rule, which is unchanged from the proposal, MSHA is removing the existing § 75.386. This section permitted final mining of pillars with only one mine opening if no more than 20 miners were in the mine, and the distance between the mine opening and working face did not exceed 500 feet. Removing this provision will not reduce protections afforded to miners because the practice of final mining of pillars with one mine opening is no longer used in the mining industry due to safety concerns; instead, mine operators provide two separate and distinct travelable passageways to be designated as escapeways from each working section as currently required under existing § 75.380.

MSHA received two comments on the proposal. One commenter requested a 60-day comment period extension. The commenter asked for the extension to properly review, research, and develop meaningful comments. The changes are non-substantive; therefore, an extension of the public comment period was unnecessary.

The second commenter supported the proposal to rescind requirements in § 75.386 for the final mining of pillars because the practice is outdated and no longer used due to safety concerns. MSHA agrees with the commenter and is removing § 75.386 in its entirety, as proposed. The section numbering will be reserved to show that the gap in section numbering is deliberate and to assure reviewers that content is not missing from Subpart D, Ventilation.

Conforming Amendments

As a result of removing § 75.386, MSHA is making conforming amendments to §§ 75.380(a) and

75.381(a) to remove references to § 75.386. Therefore, MSHA finalizes the rule as proposed.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

E.O. 12866, ''Regulatory Planning and Review'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends.

E.O. 12866 and E.O. 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. 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.

Removing these outdated requirements will not impose new costs on underground coal mine operators because mines do not practice mining at the working section with only one mine opening. Removing the outdated requirements will not reduce the protections afforded to miners; instead, it will streamline current requirements and improve the clarity of MSHA's standards for underground coal miners and mine operators.

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a ''significant regulatory action'' is a regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant);

(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; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

This final rule is determined to not constitute a ''significant regulatory action'' because it does not meet any of the four ''significant regulatory action'' criteria under section 3(f) of E.O. 12866. Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

No alternatives were considered for this final deregulatory action.

B. Review Under the Regulatory Flexibility Act; Small Business Regulatory Enforcement Fairness Act; and Executive Order 13272

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires an agency to consider the impact of its rulemakings on small entities. E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (Aug. 16, 2002), requires Federal agencies to assess the economic impacts of rules on small businesses, small governmental jurisdictions, and small organizations, collectively referred to as small entities.

MSHA has reviewed this final rule, which reduces regulatory complexity, under the provisions of the RFA. MSHA determines that there will be no impact on small entities because the practice of final mining of pillars with one mine opening is no longer used in the mining industry because it is not considered safe. MSHA concludes that the impacts of the final rule will not have a ''significant economic impact on a substantial number of small entities.'' MSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring ''a collection of information'' from the public.

This final rule imposes no new information collection or recordkeeping requirements. MSHA does not have an active information collection request regarding mining of pillars for underground coal mines. Accordingly, OMB clearance is not required under the Paperwork Reduction Act.

D. Review Under Executive Order 13132

E.O. 13132, ''Federalism'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The E.O. requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this final rule and has determined that it 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.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. MSHA has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this final rule according to UMRA and its statement of policy and determined that it does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on agency actions that would significantly affect the quality of the environment, unless the action is considered categorically excluded under 29 CFR 11.10. MSHA has reviewed the final rule in accordance with NEPA requirements and the Department of Labor's NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this final rule will not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not conducted an environmental assessment nor prepared an environmental impact statement.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), MSHA has determined that this final rule will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this final rule and has concluded that it is consistent with applicable policies in the OMB guidelines.

K. Review Under Executive Order 13175

E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments'' 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have ''tribal implications.'' This final rule does not have ''tribal implications'' because it will not ''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.'' Accordingly, under E.O. 13175, no further Agency action or analysis is required.

L. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this final rule for its energy effects. For the energy analysis, this final rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation'' 90 FR 9065 (Feb. 6, 2025); E.O. 14267, ''Reducing Anti-Competitive Regulatory Barriers'' 90 FR

15629 (Apr. 9, 2025); and the Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis'' 90 FR 8245 (Jan. 28, 2025). This final rule is an E.O. 14192 deregulatory action.

N. Congressional Notification

As required by 5 U.S.C. 801, MSHA will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 30 CFR Part 75

Communications equipment, Electric power, Emergency medical services, Explosives, Fire prevention, Mine safety and health, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended, MSHA is amending chapter I of title 30 of the Code of Federal Regulations as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), and 957.

Subpart D—Ventilation

■ 2. Revise § 75.380(a) to read as follows:

§ 75.380 Escapeways; bituminous and lignite mines.

(a) Except in situations addressed in §§ 75.381 and 75.385, at least two separate and distinct travelable passageways shall be designated as escapeways and shall meet the requirements of this section.

* * * * *

■ 3. Revise § 75.381(a) to read as follows:

§ 75.381 Escapeways; anthracite mines.

(a) Except as provided in § 75.385, at least two separate and distinct travelable passageways shall be designated as escapeways and shall meet the requirements of this section.

* * * * *

§ 75.386 [Removed and Reserved]

■ 4. Remove and reserve § 75.386.

Wayne D. Palmer,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2026–23053 Filed 11–10–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

[Docket No. MSHA–2025–0078]

RIN 1219–AC09

Improving and Eliminating Regulations; Permissible Lamps in Underground Coal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: MSHA is removing duplicative requirements for electric cap lamps and other electric lamps in underground coal mines. This provision is being removed from MSHA's regulations because it is a duplicative provision and its removal will not reduce the protections afforded to miners.

DATES: *Effective date:* December 14, 2026.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances, MSHA at *MSHARulemaking@dol.gov* (email) or 202–693–9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

On February 6, 2025, the President issued Executive Order (E.O.) 14192, ''Unleashing Prosperity Through Deregulation'' (90 FR 9065), which directed agencies to alleviate unnecessary regulatory burdens. On July 1, 2025, MSHA published a notice of proposed rulemaking (NPRM) titled, ''Improving and Eliminating Regulations; Permissible Lamps in Underground Coal Mines'' in the **Federal Register** (90 FR 28438).

In the NPRM, MSHA proposed to remove the existing requirements in 30 CFR 75.1703–1, *Permissible lamps,* for electric cap lamps and other electric lamps in underground coal mines because they are duplicative. Removing this provision will not reduce protections afforded to miners and clarifies the permissibility requirements for electric cap lamps and other lamps.

MSHA received two comments on the NPRM during the public comment period. One commenter requested a 60-day extension of the comment period to properly review, research, and develop meaningful comments. The other commenter supported MSHA's proposal. MSHA received no comments opposing the proposed changes in the NPRM.

II. Discussion

In this final rule, unchanged from the proposed rule, MSHA is removing and reserving 30 CFR 75.1703–1. This section identifies that lamps approved by the Bureau of Mines or by MSHA under 30 CFR part 19 or 30 CFR part 20 are approved as permissible portable electric lamps under § 75.1703. ''Permissible'' is defined in § 75.2 and covers the permissible electric lamps mentioned in § 75.1703. Therefore, MSHA is removing and reserving § 75.1703–1. Removing this provision will streamline part 75 by removing duplicative provisions and will not reduce the protections afforded to miners.

MSHA received one comment requesting an extension of the comment period. The commenter stated a 30-day comment period did not provide ample time to review, research, and develop meaningful comments, and requested a 60-day extension. The same commenter stated support for any effort that enhances health and safety protections for miners; however, they noted the Agency could ensure this rule becomes a success by allowing additional time for comments.

MSHA considered the comment extension request and determined it was not necessary to extend the comment period. Removing the existing requirements in 30 CFR 75.1703–1 for electric cap lamps and other electric lamps in underground coal mines does not reduce protections currently afforded to miners. The existing § 75.1703–1 contains duplicative requirements for the use of electric cap lamps and other electric lamps in underground coal mines. Since these requirements exist elsewhere in the CFR, MSHA believes that removing these requirements is not significant and does not impose any safety or health hazards on miners. The changes are non-substantive; therefore, extending the comment period was unnecessary.

MSHA received one comment in support of the proposal. The commenter supported removing the duplicative requirements for electric cap lamps and other electric lamps in underground

coal mines. The commenter also stated that these changes would clarify the permissibility requirements for electric cap lamps and other lamps while maintaining safety protections for miners using such equipment.

MSHA agrees with the commenter and believes that removing § 75.1703–1 will assist with streamlining 30 CFR part 75, while still maintaining protections to underground coal miners.

Therefore, MSHA is removing the duplicative requirements for electric cap lamps and other electric lamps in underground coal mines by removing and reserving § 75.1703–1, as proposed. The section numbering will be reserved to show that the gap in section numbering is deliberate and to assure reviewers that content is not missing from Subpart R, Miscellaneous.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

E.O. 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends.

E.O. 12866 and E.O. 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. 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.

Removing the duplicative requirements will not impose new costs on underground coal mine operators because these changes would clarify the permissibility requirements for electric cap lamps and other lamps. Removing the duplicative requirements for electric cap lamps and other electric lamps will not reduce the protection currently afforded to miners; instead, it will streamline current requirements and improve the clarity of MSHA's standards for underground coal miners and mine operators.

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a ''significant regulatory action'' is a regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant);

(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; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

This final rule is determined to not constitute a ''significant regulatory action'' because it does not meet any of the four ''significant regulatory action'' criteria under section 3(f) of E.O. 12866. Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

No alternatives were considered for this deregulatory action.

B. Review Under the Regulatory Flexibility Act; Small Business Regulatory Enforcement Fairness Act; and Executive Order 13272

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires an agency to consider the impact of its rulemakings on small entities. E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (Aug. 16, 2002), requires Federal agencies to assess the economic impacts of rules on small businesses, small governmental jurisdictions, and small organizations, collectively referred to as small entities.

MSHA has reviewed this final rule, which reduces regulatory complexity, under the provisions of the RFA. MSHA concludes that the final rule will not have a ''significant economic impact on a substantial number of small entities.'' MSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring ''a collection of information'' from the public.

This final rule imposes no new information collection or recordkeeping requirements. The recordkeeping requirements for examinations of electric equipment at underground coal mines are fully covered in a currently approved information collection request, OMB Control Number 1219–0116 ''Examinations and Testing of Electric Equipment.'' Accordingly, OMB clearance is not required under the Paperwork Reduction Act.

D. Review Under Executive Order 13132

E.O. 13132, ''Federalism'' 64 FR 43255 (August 10, 1999), imposes

certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The E.O. requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this final rule and has determined that it 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.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. MSHA has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires Federal agencies to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The UMRA also requires Federal agencies to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this final rule according to UMRA and its statement of policy and determined that the final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on agency actions that would significantly affect the quality of the environment, unless the action is considered categorically excluded under 29 CFR 11.10. MSHA reviewed the final rule in accordance with NEPA requirements and the Department of Labor's NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this final rule will not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not conducted an environmental assessment nor prepared an environmental impact statement.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), MSHA has determined that this final rule will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this final rule and has concluded that it is consistent with applicable policies in the OMB guidelines.

K. Review Under Executive Order 13175

E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments'' 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have ''tribal implications.'' This final rule does not have ''tribal implications'' because it will not ''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.'' Accordingly, under E.O. 13175, no further agency action or analysis is required.

L. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires

agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this final rule for its energy effects. For the energy analysis, this final rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation'' 90 FR 9065 (Feb. 6, 2025); E.O. 14267, ''Reducing Anti-Competitive Regulatory Barriers'' 90 FR 15629 (Apr. 9, 2025); and the Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis'' 90 FR 8245 (Jan. 28, 2025). This final rule is an E.O. 14192 deregulatory action.

N. Congressional Notification

As required by 5 U.S.C. 801, MSHA will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 30 CFR Part 75

Communications equipment, Electric power, Emergency medical services, Explosives, Fire prevention, Mine safety and health, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended, MSHA amends chapter I of title 30 of the Code of Federal Regulations as follows:

PART 75—MANDATORY SAFETY STANDARDS–UNDERGROUND COAL MINES

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), 957.

Subpart R—Miscellaneous

§ 75.1703–1 [Removed and Reserved]

■ 2. Remove and reserve § 75.1703–1.

Wayne D. Palmer,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2026–23049 Filed 11–10–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

[Docket No. MSHA–2025–0083]

RIN 1219–AC14

Electrical Equipment for Coal Seams Above the Water Table

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: MSHA is removing requirements for the use of permissible electric face equipment in coal seams above the water table. These requirements are being removed from MSHA's regulations because all coal mines are now considered gassy, regardless of location relative to the water table.

DATES: *Effective date:* December 14, 2026.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances, MSHA at *MSHARulemaking@dol.gov* (email) or 202–693–9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

On February 6, 2025, the President issued Executive Order (E.O.) 14192 ''Unleashing Prosperity Through Deregulation,'' (90 FR 9065), which directed agencies to alleviate unnecessary regulatory burdens. On July 1, 2025, MSHA published a notice of proposed rulemaking (NPRM) titled ''Electrical Equipment for Coal Seams Above the Water Table'' in the **Federal Register** (90 FR 28440). In the NPRM, MSHA proposed to remove and reserve 30 CFR 75.501, 75.501–1, 75.501–2, 75.501–3, and 75.502 because they reference coal seams above the water table which is no longer relevant to underground coal mines.

MSHA received two comments from the public during the comment period. One commenter requested a 60-day extension of the public comment period. The other commenter supported MSHA's proposal. MSHA received no comments opposing the proposed changes in the NPRM.

II. Discussion

In the final rule, unchanged from the proposed rule, MSHA is removing and reserving the provisions in 30 CFR 75.501, 75.501–1, 75.501–2, 75.501–3, and 75.502 which contain references to coal seams above the water table. These sections establish requirements for permissible electric face equipment used in mines with coal seams above the water table. All underground coal mines are now considered gassy, regardless of location relative to the water table. Therefore, this definition is no longer relevant. Removing these provisions will not reduce protections afforded to miners because the requirements for permissibility of electric equipment used in underground coal mines are already covered in other parts of 30 CFR part 75. As a result of removing 30 CFR 75.501, 75.501–1, 75.501–2, 75.501–3, and 75.502, MSHA is also making conforming amendments to §§ 75.500(d), 75.503, and 75.504 to remove references to the removed provisions. These actions reflect MSHA's experience and ongoing review of existing regulations to ensure they remain necessary, effective, and aligned with current technologies and mining practices.

MSHA received two comments on the proposal. MSHA received one comment requesting a 60-day extension of the comment period to properly review, research, and develop meaningful comments. MSHA decided to maintain the existing 30-day comment period because this final rule is not significant and does not make any impact on miner health or safety. All underground coal mines are now considered gassy mines which are already covered in other parts of 30 CFR part 75; therefore, removing the requirements for the use of permissible electric face equipment in coal seams above the water table will not reduce existing miner protections.

MSHA received one comment in support of the proposed rule, stating that removing requirements for the use of permissible electric face equipment in coal seams above the water table would not reduce protections afforded to miners. MSHA received no comments opposing the changes discussed in the NPRM. Therefore, the rule is being finalized as proposed. The section numbering for 30 CFR 75.501, 75.501–1, 75.501–2, 75.501–3, and 75.502 will be reserved to show that the gap in section numbering is deliberate and to assure reviewers that content is not missing from Subpart F, Electrical Equipment—General.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866 and 13563

E.O. 12866, ''Regulatory Planning and Review'' 58 FR 51735 (Oct. 4, 1993),

requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends.

E.O. 12866 and E.O. 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. 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.

Removing the requirements for permissible electric face equipment used in mines with coal seams above the water table will not impose new costs on underground coal mine operators. All underground coal mines are now considered gassy, regardless of location relative to the water table. Removing the outdated requirements that are no longer applicable will not reduce the protections afforded to miners; instead, it will streamline current requirements and improve the clarity of MSHA's standards for underground coal miners and mine operators.

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a ''significant regulatory action'' is a regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant);

(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; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

This final rule is determined to not constitute a ''significant regulatory action'' because it does not meet any of the four ''significant regulatory action'' criteria under section 3(f) of E.O. 12866. Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

No alternatives were considered for this final deregulatory action.

B. Review Under the Regulatory Flexibility Act; Small Business Regulatory Enforcement Fairness Act; and Executive Order 13272

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires an agency to consider the impact of its rulemakings on small entities. E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (Aug. 16, 2002), requires Federal agencies to assess the economic impacts of rules on small businesses, small governmental jurisdictions, and small organizations, collectively referred to as small entities.

MSHA has reviewed this final rule, which reduces regulatory complexity, under the provisions of the RFA. MSHA concludes that the final rule will not have a ''significant economic impact on a substantial number of small entities.'' MSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring ''a collection of information'' from the public.

This final rule imposes no new information collection or recordkeeping requirements. MSHA does not have an active information collection request regarding electric face equipment for underground coal mines. Accordingly, OMB clearance is not required under the Paperwork Reduction Act.

D. Review Under Executive Order 13132

E.O. 13132, ''Federalism'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The E.O. requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this final rule and has determined that it 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.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to

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

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. MSHA has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this final rule according to UMRA and its statement of policy and determined that it does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on agency actions that would significantly affect the quality of the environment, unless the action is considered categorically excluded under 29 CFR 11.10. MSHA has reviewed the final rule in accordance with NEPA requirements and the Department of Labor's NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this final rule will not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not conducted an environmental assessment nor prepared an environmental impact statement.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), MSHA has determined that this final rule will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this final rule and has concluded that it is consistent with applicable policies in the OMB guidelines.

K. Review Under Executive Order 13175

E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments'' 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have ''tribal implications.'' This final rule does not have ''tribal implications'' because it will not ''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.'' Accordingly, under E.O. 13175, no further Agency action or analysis is required.

L. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this final rule for its energy effects. For the energy analysis, this rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation'' 90 FR 9065 (Feb. 6, 2025); E.O. 14267, ''Reducing Anti-Competitive Regulatory Barriers'' 90 FR 15629 (Apr. 9, 2025); and the Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis'' 90 FR 8245 (Jan. 28, 2025). This final rule is an E.O. 14192 deregulatory action.

N. Congressional Notification

As required by 5 U.S.C. 801, MSHA will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is

not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 30 CFR Part 75

Communications equipment, Electric power, Emergency medical services, Explosives, Fire prevention, Mine safety and health, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended, MSHA amends chapter I of title 30 of the Code of Federal Regulations as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), and 957.

Subpart F—Electrical Equipment—General

■ 2. Revise § 75.500(d) to read as follows:

§ 75.500 Permissible electric equipment.

* * * * *

(d) All other electric face equipment which is taken into or used inby the last crosscut of any coal mine, which has not been classified under any provision of law as a gassy mine prior to March 30, 1970, shall be permissible.

§§ 75.501 through 75.502 [Removed and Reserved]

■ 3. Remove and reserve §§ 75.501, 75.501–1, 75.501–2, 75.501–3, and 75.502.

■ 4. Revise § 75.503 to read as follows:

§ 75.503 Permissible electric face equipment; maintenance.

The operator of each coal mine shall maintain in permissible condition all electric face equipment required by §§ 75.500 and 75.504 to be permissible which is taken into or used inby the last open crosscut of any such mine.

■ 5. Revise § 75.504 to read as follows:

§ 75.504 Permissibility of new, replacement, used, reconditioned, additional, and rebuilt electric face equipment.

All new, replacement, used, reconditioned, and additional electric face equipment used in any mine referred to in §§ 75.500 and 75.503 shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of electric face equipment, such equipment shall be put in, and thereafter maintained in, a permissible condition, unless in the opinion of the Secretary, such equipment or necessary replacement parts are not available.

Wayne D. Palmer,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2026–23052 Filed 11–10–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

[Docket No. MSHA–2025–0080]

RIN 1219–AC11

Improving and Eliminating Regulations; Installation of Foam Generator Systems in Underground Coal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: MSHA is removing outdated requirements regarding the installation of foam generator systems located in underground coal mines. These requirements are being removed from MSHA's regulations because they are no longer applicable.

DATES: Effective December 14, 2026.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances, MSHA at *MSHARulemaking@dol.gov* (email) or 202–693–9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

On February 6, 2025, the President issued Executive Order (E.O.) 14192 ''Unleashing Prosperity Through Deregulation,'' (90 FR 9065), which directed agencies to alleviate unnecessary regulatory burdens. On June 30, 2025, MSHA published a notice of proposed rulemaking (NPRM) titled, ''Installation of Foam Generator Systems in Underground Coal Mines'' in the **Federal Register** (90 FR 27828). In the NPRM, MSHA proposed to remove the existing provisions in 30 CFR 75.1101–5 because they are outdated requirements that were used in the past for fire suppression.

MSHA received one comment on the NPRM during the public comment period. The commenter supported the proposal to remove § 75.1101–5. MSHA received no comments opposed to the changes discussed in the NPRM.

II. Discussion

Section 75.1101–5—Installation of Foam Generator Systems

In this final rule, unchanged from the proposal, MSHA is removing § 75.1101–5 in its entirety. This section outlines outdated requirements for the installation of foam generator systems which are no longer used by coal operators due to their cost and complexity. In MSHA's experience, fixed automatic foam generator systems in underground coal mines are no longer used because water deluge type fire suppression systems are as effective as foam generator systems and are easier to maintain. Removing these provisions provides clarity in MSHA's requirements for underground coal mines and does not reduce protections afforded to miners.

MSHA received one comment on the proposal. The commenter supported removing the requirements in 75.1101–5 and stated that the existing provisions contain outdated requirements for the installation of foam generator systems. The commenter also stated that removing these provisions would not reduce protections afforded to miners because the requirements are outdated and are no longer applicable to underground coal mines.

MSHA agrees with the commenter and is removing § 75.1101–5 and reserving the section number, as proposed. The section numbering will be reserved to show that the gap in section numbering is deliberate and to assure reviewers that content is not missing from Subpart L, Fire Protection.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

E.O. 12866, ''Regulatory Planning and Review'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and

assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends.

E.O. 12866 and E.O. 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. 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.

Removing the outdated requirements for the installation of foam generator systems will not impose new costs on underground coal mine operators because these requirements are no longer applicable as foam generator systems are no longer used by coal operators. Removing the outdated requirements will also not reduce the protections currently afforded to miners; instead, it will streamline current requirements and improve the clarity of MSHA's standards for underground coal miners and mine operators.

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a ''significant regulatory action'' is a regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant);

(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; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

This final rule is determined to not constitute a ''significant regulatory action'' because it does not meet any of the four ''significant regulatory action'' criteria under section 3(f) of E.O. 12866. Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

No alternatives were considered for this final deregulatory action.

B. Review Under the Regulatory Flexibility Act; Small Business Regulatory Enforcement Fairness Act; and Executive Order 13272

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires an agency to consider the impact of its rulemakings on small entities. E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (Aug. 16, 2002), requires Federal agencies to assess the economic impacts of rules on small businesses, small governmental jurisdictions, and small organizations, collectively referred to as small entities.

MSHA has reviewed this final rule, which reduces regulatory complexity, under the provisions of the RFA. MSHA concludes that this final rule will not have a ''significant economic impact on a substantial number of small entities.'' MSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring ''a collection of information'' from the public.

This final rule imposes no new information collection or recordkeeping requirements. MSHA does not have an active information collection request regarding foam generator systems for underground coal mines. Accordingly, OMB clearance is not required under the Paperwork Reduction Act.

D. Review Under Executive Order 13132

E.O. 13132, ''Federalism'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The E.O. requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this final rule and has determined that it 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.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues

affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. MSHA has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this final rule according to UMRA and its statement of policy and determined that it does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on Agency actions that would significantly affect the quality of the environment; unless the action is considered categorically excluded under 29 CFR 11.10. MSHA has reviewed the final rule in accordance with NEPA requirements and the Department of Labor's NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this final rule will not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not conducted an environmental assessment nor prepared an environmental impact statement.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), MSHA has determined that this final rule will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this final rule and has concluded that it is consistent with applicable policies in the OMB guidelines.

K. Review Under Executive Order 13175

E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments'' 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have ''tribal implications.'' This final rule does not have ''tribal implications'' because it will not ''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.'' Accordingly, under E.O. 13175, no further Agency action or analysis is required.

L. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this final rule for its energy effects. For the energy analysis, this final rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation'' 90 FR 9065 (Feb. 6, 2025); E.O. 14267, ''Reducing Anti-Competitive Regulatory Barriers'' 90 FR 15629 (Apr. 9, 2025); and the Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis'' 90 FR 8245 (Jan. 28, 2025). This final rule is an E.O. 14192 deregulatory action.

N. Congressional Notification

As required by 5 U.S.C. 801, MSHA will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 30 CFR Part 75

Communications equipment, Electric power, Emergency medical services, Explosives, Fire prevention, Mine safety and health, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended, MSHA amends chapter I of title 30 of the Code of Federal Regulations as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), 957.

Subpart L—Fire Protection

§ 75.1101–5 [Removed and Reserved]

■ 2. Remove and reserve § 75.1101–5.

Wayne D. Palmer,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2026–23051 Filed 11–10–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2026–1347]

Special Local Regulation; Southern California Annual Marine Events for the San Diego Captain of the Port Zone, San Diego Fleet Week Veterans Day Boat Parade, San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation for the San Diego Fleet Week Veterans Day Boat Parade on November 11, 2026, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Southwest Coast Guard District identifies the regulated area for this event in San Diego, CA. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 100.1101, Table 1 to § 100.1101, Item No. 17, will be enforced from 10:45 a.m. until 1 p.m., on November 11, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Skye Eastman, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation in 33 CFR 100.1101, Table 1 to § 100.1101, Item No. 17, for the San Diego Fleet Week Veterans Day Boat Parade regulated area daily from 10:45 a.m. to 1 p.m., on November 11, 2026. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for Southern California Annual Marine Events for the San Diego Captain of the Port Zone, § 100.1101, Table 1 to § 100.1101, Item No. 17, specifies the location of the regulated area for the San Diego Fleet Week Veterans Day Boat Parade which encompasses all waters of San Diego Bay, from surface to bottom, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing. Under the provisions of § 100.1101, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Safety Marine Information Broadcast or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

R.C. Tucker,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2026–23047 Filed 11–10–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1214]

RIN 1625–AA00

Safety Zone; Sector Mobile Captain of the Port Zone, Mobile, AL

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary fixed safety zones to support the arrival and dismantling of the EX ENTERPRISE, formerly the USS ENTERPRISE (CVN–65), in the Sector Mobile Captain of the Port Zone. This rulemaking would prohibit persons and vessels from entering these zones unless authorized by the Captain of the Port, Sector Mobile.

DATES: This rule is effective from November 11, 2026, through May 11, 2030.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–1214.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Lieutenant Zachary West, Waterways Management—Division, U.S. Coast Guard Sector Mobile; telephone (251) 382–8653, email *SectorMobileWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

In June 2026, the U.S. Navy awarded a contract for the dismantling, recycling, and disposal of EX ENTERPRISE. Under this contract, EX ENTERPRISE will be dismantled in its entirety, and all resulting materials will be recycled or disposed of. Specifically, hazardous materials, including low-level radioactive waste, will be packaged and safely transported for disposal at authorized licensed sites. The vessel will be towed to its designated dismantlement location and has no capability to maneuver under its own power. Work will be performed in Mobile, Alabama, and is expected to be completed by December 2030. The receiving facility for the EX ENTERPRISE is on the west side of the Mobile River, located at 701 South Royal Street, in Mobile, AL.

To support the project, the U.S. Coast Guard was asked to establish a temporary fixed safety zone on portions of the Mobile Bay and Mobile River channels to address risks associated with its transit into Mobile, and a second temporary fixed safety zone around the EX ENTERPRISE to address risk associated with the dismantling operation. These risks include the fact that EX ENTERPRISE has no propulsion, limited maneuverability, and contains regulated materials requiring controlled handling. When moored, the vessel will undergo prolonged dismantling operations involving the removal of hazardous materials and regulated waste, including radiological materials. Work crews,

equipment, and response assets will be actively engaged on and around the hull. The Captain of the Port Sector Mobile (COTP) has determined that the transit and dismantling operations present safety concerns for the EX ENTERPRISE, personnel involved with the operations, and the public. Therefore, the COTP is establishing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel and vessels in the navigable waters within these zones.

The Coast Guard published a notice of proposed rulemaking (NPRM) on October 1, 2026 (91 FR 62368), proposing temporary moving and fixed safety zones to support the transit and dismantling of EX ENTERPRISE and soliciting public comments. After publication of the NPRM, the U.S. Navy and U.S. Coast Guard agreed that the Naval Vessel Protection Zone regulation described in 33 CFR 165.2025 will be enforced around the EX ENTERPRISE during the voyage, in place of a moving safety zone regulation. Therefore, the USCG is removing the moving safety zone that was proposed in that NPRM. The two fixed zones will remain in place. Accordingly, the Coast Guard is issuing this temporary final rule (TFR), which establishes safety zones that mirror the locations, dimensions, and enforcement periods of the fixed safety zones proposed in the NPRM.

Because of the hazards associated with this event, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because it is impracticable and contrary to the public interest. We must establish this safety zone by November 11, 2026, to protect personnel, vessels, and the marine environment.

III. Discussion of Comments and the Rule

During the comment period that ended on October 16, 2026, we received two comments. Both commenters recommended clearer parameters for the fixed zone described in paragraph (a)(3) of that NPRM. The Coast Guard agrees and amended the rule to describe the fixed safety zone using specific geographic coordinates rather than a radius around the vessel. This change also addresses one commenter's question concerning the units of measurement used in the NPRM by replacing the radius-based description with a boundary defined by geographic coordinates.

One commenter also requested clarification concerning a potential change in the vessel's mooring location. The U.S. Navy is making arrangements to moor EX ENTERPRISE at a precise location. If the mooring location changes, the Coast Guard will amend this temporary final rule, as appropriate, and provide notice to the public through appropriate means.

Following publication of the NPRM, the U.S. Navy and U.S. Coast Guard agreed that the Naval Vessel Protection Zone regulation described in 33 CFR 165.2025 will be enforced around EX ENTERPRISE during its transit. Accordingly, the proposed moving safety zone is no longer necessary and has been removed from this temporary regulation. The two fixed safety zones will remain in effect.

Additionally, the temporary fixed safety zone around the EX ENTERPRISE once it is moored at the receiving facility will remain in effect throughout the dismantling operations, for an estimated period of four years, not five years as mistakenly stated in section III of the NPRM. This Safety Zone will also not impact the federal channel. This zone is necessary due to the extensive dismantling work, removal of hazardous and regulated materials, and the continuous presence of personnel and equipment on and around the hull, all of which create elevated risks to nearby traffic.

The duration and enforcement periods for the temporary fixed safety zone, and the temporary fixed moored safety zone have been tailored to ensure protection of personnel, vessels, and the marine environment in these navigable waters while minimizing impacts on other waterway users to only what is necessary.

The COTP will provide specific notice of the enforcement date and time through Broadcast Notice to Mariners and other public advisories. Enforcement of the fixed safety zone on the navigational channel would terminate once the EX ENTERPRISE is moored at the receiving facility.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–1214 to read as follows:

§ 165.T08–1214 Safety Zone; Sector Mobile Captain of the Port Zone, Mobile, AL

(a) Locations. (1) The following area is a fixed safety zone: all navigable waters within any Federal channel from the Mobile Bar Channel, beginning at the Mobile Bar Lighted Buoy 1 (LLNR 6100), extending northward to the Mobile River Channel ending at the Cochrane Bridge.

(2) The following area is a fixed moored safety zone: All navigable waters of the Mobile River bound by the following approximate coordinates 30°40′34″ N, 088°02′16″ W, east to 30°40′33″ N, 088°02′13″ W on the west edge of the Mobile River Channel, south along the west edge of the Mobile River Channel to 30°40′18″ N, 088°02′05″ W, to 30°40′19″ N, 088°02′16″ W, then north along the shoreline back to the point of origin while the EX ENTERPRISE is moored at the receiving facility on the west side of the Mobile River, located at 701 South Royal Street, in Mobile, AL.

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

(c) Regulations. (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zones described in paragraphs (a)(1) and (2) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (251) 266–5888. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) Enforcement periods. This temporary regulation is effective from November 11, 2026, until May 11, 2030. The zones described in paragraph (a) of this section will be enforced during the periods described below.

(1) The fixed safety zone described in paragraph (a)(1) of this section will be enforced beginning when the EX ENTERPRISE arrives at the entrance of the Mobile Bar Channel at the Mobile Bar Lighted Buoy 1 (LLNR 6100), and will remain in effect, until the vessel is moored at the receiving facility.

(2) The fixed safety zone described in paragraph (a)(2) of this section will be enforced once the EX ENTERPRISE is moored at the receiving facility and will remain in effect until the dismantlement project has progressed to a stage deemed safe for nearby vessel traffic by the Captain of the Port (COTP). The dismantlement project is expected to be completed by December 2030, and all radioactive material is expected to be removed before May 2030, at which time the fixed safety zone around the EX ENTERPRISE will no longer be required. If the fixed safety zone is no longer required before May 11, 2030, enforcement of the fixed safety zone described in paragraph (a)(2) of this section will be terminated, and notice given via Local Notice to Mariners. The USCG Heartland District Local Notice to Mariners can be found at: *http://www.navcen.uscg.gov.*

(4) For each enforcement period generally described above, the Captain of the Port (COTP) will issue a Marine Safety Information Bulletin (MSIB) and Broadcast Notice to Mariners via marine channel 16 (VHF–FM), and Local Notice to Mariners announcing the exact dates and times of the enforcement periods in advance to the local maritime community.

M.O. Vega,

Captain, U.S. Coast Guard, Captain of the Port Sector Mobile.

[FR Doc. 2026–23027 Filed 11–10–26; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 26–195; RM–12023; DA 26–1188; FR ID 376959]

Television Broadcasting Services, St. George, Utah

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Table of TV Allotments (Table) of the Federal Communications Commission's (Commission) rules by substituting VHF channel 9 for UHF channel 21 at St. George, Utah in response to a petition for rulemaking filed by KUTV Licensee, LLC (Licensee), licensee of full power television station KMYU(TV) (KMYU or Station), St. George, Utah. The Media Bureau (Bureau) previously granted a petition for rulemaking submitted by the Licensee to substitute UHF channel 21 for VHF channel 9 at St. George, Utah in the Table. The Licensee subsequently filed an application for a construction permit for its new channel, which remains pending due to certain unresolved engineering matters. The Licensee now states that upon further consideration and restraints, it wishes to abandon its plans to modify its license for KMYU to operate on channel 21. The Licensee filed the instant petition to amend the Table to substitute VHF channel 9 for UHF channel 21 and allow KMYU to continue to operate on channel 9 at its licensed parameters. The staff engineering analysis finds that the proposal is in compliance with the Commission's principal community coverage and technical requirements,

including the interference protection requirements. In support of its channel substitution request, the Licensee filed comments reaffirming its interest and stating that it commits to promptly take any and all steps that may be necessary to effectuate the channel substitution proposed in the petition. An individual commenter, Steven Quinn Singleton (Singleton), also filed comments, but did not explicitly object to the proposed channel change. For the reasons discussed in the *Report and Order* referenced below, the Bureau denied Singleton's comments.

DATES: Effective November 12, 2026.

FOR FURTHER INFORMATION CONTACT: Todd Carney, Video Division, Media Bureau, at *Todd.Carney@fcc.gov,* (202) 418–1618; Emily Harrison, Media Bureau, at *Emily.Harrison@fcc.gov,* (202) 418–1665; or Mark Colombo, Media Bureau, at *Mark.Colombo@fcc.gov,* (202) 418–7611.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 26–195; RM–12023; DA 26–1188, adopted November 3, 2026, and released November 3, 2026. The proposed rule was published at 91 FR 51656 on August 11, 2026. The full text of this document is available online at *https://www.fcc.gov/edocs.*

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

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

PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. In § 73.622, in the table in paragraph (j), under Utah, revise the entry for ''St. George'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
Utah	
* * * * *	
St. George	9, *18
* * * * *	

* * * * *

[FR Doc. 2026–23041 Filed 11–10–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 17–318; FCC 26–53; FR ID 376834

National Television Multiple Ownership Rule

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) repeals the national television multiple ownership rule (national cap), which prohibits a commercial television licensee from having a cognizable interest in television stations that have an aggregate national audience reach above 39%. The Commission finds, given seismic changes in the modern media marketplace, that the rule's repeal will help empower local broadcast television stations to operate in the public interest and to better serve the needs and interests of their local communities. The Commission will review on a case-by-case basis proposed transactions that would have been prohibited under the national cap to determine whether a proposed transaction would serve the Commission's media ownership goals of localism, competition, and viewpoint diversity.

DATES: The repeal of 47 CFR 73.3555(e) is effective January 11, 2027.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, please contact Chad Guo of the Media Bureau, Industry Analysis Division, *Chad.Guo@fcc.gov,* (202) 418–0652.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, in MB Docket No. 17–318, FCC 26–53, adopted on August 6, 2026, and released on October 1, 2026. The complete text of this document is available electronically via the search function on the FCC's website at *https://docs.fcc.gov/public/attachments/FCC-26-53A1.pdf.*

Synopsis

Introduction

1. The Commission has been working to empower local broadcast television stations to operate in the public interest, and the agency has been doing so mindful of the modern media marketplace. This includes taking steps that can help ensure broadcasters continue serving the needs of their local communities in today's communications environment. The Commission takes another step in that direction here by updating its approach to the agency's national television multiple ownership rule for the first time in over 20 years. See 47 CFR 73.3555(e).

2. Dating back to its creation, the Commission has taken actions to regulate the ownership structure of the communications industry that it regulates. Early on, the Commission focused in many cases on blanket prohibitions and *ex ante* regulations. For instance, the Commission once had a blanket prohibition that prevented any one entity from owning both a daily print newspaper and a full-power broadcast station if the station's service contour encompassed the newspaper's community of publication. That prohibition operated to prevent the Commission from even considering whether to allow common ownership regardless of whether the facts pertinent to any particular combination would promote the public interest or not. In 2017, the Commission decided to modify its approach—ultimately allowing for case-by-case reviews of broadcast license transfers to newspaper owners.

3. Likewise, the Commission once had a blanket prohibition generally limiting commercial radio ownership on a nationwide basis to no more than 20

a.m. stations and no more than 20 FM stations. In 1996, Congress directed the Commission to eliminate this national restriction on radio station ownership. With the elimination of this national *ex ante* restriction, the Commission now reviews applications for radio license transfers and assignments on a case-by-case basis, consistent with applicable standards of the local radio ownership rule. The agency's experience with this regulatory approach has been positive.

4. With successive orders and statutes, the Commission and Congress have been in a decades-long review of the national television multiple ownership cap, but over the years one principle has remained clear—the Commission has always retained authority to modify the rule governing the national cap. Statutory directives, including those in the Consolidated Appropriations Act of 2004 (CAA), instructed the Commission only to ''modify its rules.'' And the power to modify its rules includes the power to later change them. This principle is highlighted in *Fox Television Stations, Inc.* v. *FCC* (*Fox I*), where the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) stated that ''the choice of 35%''—the then-congressionally specified national audience reach limit—''rather than any other number determined only the starting point from which the Commission was to assess the need for further change.''

5. Today, the Commission exercises its authority to modify the rule once again to meet current market realities. In its current formulation, the national cap generally has operated as a blanket prohibition on transactions that would result in the merged entity achieving a national audience reach greater than 39% of television households in the United States. As applied, the rule generally has presumed that it would not be in the public interest to allow a particular deal in excess of this bright line limit. Particularly in light of changes in the media marketplace since the Commission implemented the current *ex ante* restriction, the agency acts today to update its approach.

6. As we explain, the Commission shifts today from a blanket prohibition to a case-by-case approach that will give the Commission the flexibility to approve deals that are in the public interest while continuing to deny any transaction that fails to serve the public interest. Under a case-by-case approach, the Commission's interests in localism, viewpoint diversity, and competition (to the extent they are implicated) can be fully analyzed and vindicated in the context of a specific transaction. There may be transactions that would have exceeded the limits of the 39% national cap that do not promote the public interest and that will be denied. On the other hand, there may be transactions that would have exceeded the 39% national cap that do promote the public interest and could gain Commission approval. We find that shifting from a relatively inflexible, *ex ante* regulation to an individualized, case-by-case assessment will help ensure that the Commission carries out its statutory mandates in an appropriate manner without having to show special circumstances that would justify a waiver of a rule that no longer serves the public interest.

7. Given this finding, we repeal the Commission's national television multiple ownership rule. We conclude that replacing that regulation with a case-by-case approach to applications for television license transfers and assignments is the best way to promote the Commission's media ownership goals of localism, viewpoint diversity, and competition. Therefore, any proposed transactions that would have been barred under a strict application of the current rule will be subject to the Commission's regular review process to determine whether approval would serve the public interest, consistent with the local television multiple ownership rule.

8. It is fully within the Commission's statutory authority to repeal the rule. The Commission retains authority to change the national cap if the public interest requires. While Congress has at times directed us to change our rules, it has never withdrawn our authority under the Communication Act's public interest standard to regulate or change ownership limits. For the reasons below, we conclude that the public interest requires us to eliminate the national television multiple ownership rule in favor of a case-by-case approach.

Background

9. The Commission's rules prohibit a commercial television licensee from having a cognizable interest in television stations that have an aggregate national audience reach above 39%, or up to a maximum of 78% using the UHF discount, which attributes to a UHF television station only 50% of the television households in the station's Nielsen Designated Market Area (DMA). As an original matter, the Communications Act of 1934 (Communications Act) itself does not set any limit on broadcast ownership; rather, the Commission created the cap in 1941 as a rule under the statute's public interest standard. Since it was promulgated originally, the limit on national television ownership has become less restrictive as television licensees have required greater flexibility to respond to the marketplace changes confronting the broadcast industry. During the earliest days of television, the Commission's first, and most restrictive, ownership limits prohibited an entity from owning, operating, or controlling more than three television stations nationwide. The Commission stated that it would be inconsistent with the public interest, convenience, and necessity to allow a greater concentration of television ownership. Three years later, it relaxed the limit to five television stations. In 1954, under its rulemaking authority, the Commission concluded that the limit should be raised further to seven television stations, provided that at least two of the seven stations were UHF stations. In finding that the increase was warranted in order to promote the development of the UHF band, the Commission explained that its diversification policy was not the only relevant consideration in setting television ownership limits.

10. In 1984, again utilizing its rulemaking authority, the Commission reexamined its television and radio ownership limits in light of the increase in the number of broadcast stations and the expanding reach of cable service. Citing, among other things, the tremendous increase in the number of media outlets, the Commission concluded that the ownership limits could be repealed without harming either viewpoint diversity or competition. The Commission stated that new evidence showed that, in fact, group ownership can boost viewpoint diversity. Nonetheless, to avoid a disruptive restructuring of the broadcast industry that an immediate repeal might cause, the Commission adopted a transitional approach that included raising the television ownership limit from seven stations to twelve stations, which was intended to sunset after six years.

11. In 1985, on reconsideration of its decision to raise the limit to twelve stations, the Commission affirmed its earlier conclusion that eliminating the seven station limit would not have contravened the Commission's viewpoint diversity and competition goals. Nevertheless, the Commission decided that an even more cautious approach was needed to minimize the potentially disruptive effects of permitting additional concentration. First, the Commission retained the 12 station numerical limit to guard against a rapid restructuring of small markets

that might ensue from eliminating the numerical limit. Additionally, it layered onto the rule an audience reach limit of 25% of the nation's television households to prevent a group owner from substantially increasing its audience base by focusing its expansion efforts on the most populous markets. However, to reflect the fact that, in the analog television broadcasting era, UHF signals reached a smaller audience in comparison with VHF signals, the Commission adopted a 50% UHF discount, whereby UHF stations are attributed with only half of the television households in their DMAs for purposes of determining compliance with the national audience reach cap. Consistent with its decision to proceed more cautiously, the Commission eliminated the sunset provision.

12. In the 1996 Act, Congress directed the Commission to amend its rules to increase the national audience reach cap from 25% to 35% and to eliminate restrictions on the number of television stations an entity may own nationwide. The Commission revised its rules accordingly, and, in doing so, it retained the 50% UHF discount, which the 1996 Act had not addressed. Pursuant to Congress's directive in the 1996 Act to review the media ownership rules biennially, the Commission examined the national cap in 1998, and considered revising it, notwithstanding Congress's instruction to the Commission in the 1996 Act to set the cap at a specific level in the Commission's rules. Upon completion of its review, the Commission opted for a wait-and-see approach and retained the 35% limit.

13. The D.C. Circuit remanded that decision in 2002, finding that the Commission had failed to demonstrate that retaining the 35% cap advanced localism, diversity, or competition. Perhaps even more significant, the court also rejected the argument that the 1996 Act required the Commission to draw the line at 35%. The court reasoned instead that Congress's instruction to the Commission to set the cap at 35% in its rules did not require deference because ''the choice of 35% rather than any other number determined only the starting point from which the Commission was to assess the need for further change.'' Upon rehearing, the court again rejected the Commission's argument that the agency should defer to Congress, explaining that if Congress wished to take away the Commission's power to alter the cap, ''it need only have enshrined the 35% cap in the statute itself.''

14. In its *2002 Biennial Review Order,* the Commission again reviewed the national television multiple ownership rule and found that, while a national ownership cap was no longer needed to protect diversity or competition, a cap remained necessary to promote localism given the nature of station ownership in the television industry. The Commission observed that, by limiting the national audience reach that a broadcast network could achieve through the ownership of local television stations, the national cap limits how many stations the network itself can own and operate for the purpose of distributing its programming. By contrast, in those markets not covered by a network-owned station, the network's programming is aired by local television stations that are affiliated with the network but that are owned and operated by another entity. The owner of the network and the owner of a station affiliated with the network periodically negotiate the terms and conditions of their affiliation agreement, including the affiliate's rights and responsibilities regarding the airing of the network's programming. In the *2002 Biennial Review Order,* the Commission reasoned that, by preserving a balance of negotiating power between networks and its affiliates, a national cap enables affiliates to maintain their bargaining power to select programming responsive to the interests of their local communities. The Commission decided, however, to raise the cap from 35% to 45% to promote free, over-the-air programming by allowing networks to achieve greater economies of scale by purchasing more stations in order to compete more effectively with cable and satellite operators, while at the same time ensuring that a network could not reach a larger national audience than its affiliates could reach collectively.

15. Following the adoption of the *2002 Biennial Review Order,* and while an appeal of that Commission decision was pending, Congress in 2004 partially rolled back the Commission's cap increase by including a provision in the CAA directing the Commission to modify its rules to set the national cap at 39% of national television households. The CAA also amended section 202(h) of the 1996 Act to require the Commission to review its media ownership rules quadrennially rather than biennially. In doing so, however, Congress excluded consideration of ''any rules relating to the 39 percent national audience reach limitation'' from the quadrennial review requirement. Prior to the enactment of the CAA, several parties had appealed the Commission's *2002 Biennial Review Order* to the Third Circuit. In June 2004, the Third Circuit found that the challenges to the Commission's actions with respect to the national audience reach cap and the UHF discount were moot as a result of the CAA provisions. The court further stated that Congress's decision to remove ''any rules relating to the 39 percent national audience reach limitation'' from mandatory periodic review under section 202(h) would include removing the UHF discount from that review, given that any change made with respect to the discount would effectively change the national cap. Moreover, the court clarified that, although the UHF discount would be insulated from the specific 202(h) review process going forward, the court did not intend its decision to ''foreclose the Commission's consideration of its regulation defining the UHF discount in a rulemaking outside the context of Section 202(h)'' and that the Commission remained free to ''decide, in the first instance, the scope of its authority to modify or eliminate the UHF discount outside the context of 202(h).''

16. In August 2016, as part of a proceeding unaffiliated with the Commission's quadrennial review under section 202(h), the Commission eliminated the UHF discount, finding that UHF stations were no longer technically inferior to VHF stations following the digital television transition and that the competitive disparity between UHF and VHF stations had disappeared. In doing so, the Commission concluded that it had the authority to revise not only the UHF discount but also the national cap. The Commission characterized the CAA as simply directing the Commission to revise its rules while eliminating the requirement for periodic review. The Commission found that no statute barred ''the Commission from revisiting the cap or the UHF discount contained therein in a rulemaking proceeding so long as such a review is conducted separately from a quadrennial review of the broadcast ownership rules pursuant to Section 202(h) of the 1996 Act.'' Moreover, the Commission concluded that it retained authority under the Communications Act, and had an affirmative obligation over time, to revisit and, where appropriate, revise or eliminate its rules, which could include ''any aspect of the national audience reach cap.'' Eliminating the UHF discount effectively tightened the national cap by reducing the maximum allowable audience reach of an owner of UHF stations from 78% to 39%. After networks owning and/or affiliated with UHF stations asked the Commission to

reconsider its decision, the Commission decided in April 2017 to reinstate the UHF discount. The Commission concluded that because the discount is used to determine licensees' compliance with the national cap, the two are inextricably linked and the discount cannot be eliminated without also considering whether the cap remains in the public interest. The Commission's reinstatement of the discount was challenged in the D.C. Circuit, but the court found that the petitioners lacked standing and dismissed the lawsuit in an unpublished decision in 2018. There have been no further modifications to the rule, and so both the 39% national audience reach cap and the 50% UHF discount remain in effect.

17. In reinstating the UHF discount, the Commission committed to undertake a comprehensive rulemaking proceeding to determine whether to modify or eliminate the national ownership limit, including the UHF discount. Accordingly, the Commission adopted a Notice of Proposed Rulemaking (*NPRM*) in 2017 to initiate that proceeding to seek comment on whether the Commission is authorized to make changes to the cap and/or the UHF discount. The *NPRM* also asked whether the current 39% cap should be modified or eliminated and, if a cap is retained, how to calculate compliance, including whether to modify or eliminate the UHF discount. Among other things, the *NPRM* also sought comment on whether the cap continues to promote localism given the current media marketplace and on whether it has other potential benefits, or costs, that the Commission should consider. Specifically, the *NPRM* asked whether changes in the marketplace have affected the network/affiliate relationship in ways that warrant revision of the Commission's previous assumptions underlying the rule's justifications. In response, a number of parties, including broadcasters, MVPDs, and public interest organizations, filed comments on March 19, 2018, and reply comments on April 18, 2018. Multiple ex parte filings addressing the rule have been submitted in the years since then.

18. Although the public has had ample opportunity to comment on the issues raised in the *NPRM,* the Media Bureau issued a Public Notice (*Refresh Public Notice*) on June 18, 2025, that invited interested parties to refresh the record given the passage of time since the *NPRM's* adoption. The *Refresh Public Notice* sought comment on: (1) materials filed since the comment period for the *NPRM* ended in April 2018; (2) pertinent new or additional information regarding the television and video programming marketplace; (3) relevant trends within the television and video programming industry or in related markets, including whether and how the national cap has affected broadcast television's market position in relation to other video distributors, such as online video providers; and (4) other legal or economic developments that the Commission should consider. Comments were due on August 4, 2025, and reply comments were due on August 22, 2025.

19. In comments responsive to the *Refresh Public Notice,* broadcasters urge the Commission to eliminate the national television multiple ownership rule in its entirety, which they view as an obsolete and artificial constraint on their ability to compete in a vastly changed media marketplace. Supporters of the rule, including public interest organizations and MVPDs, assert that the Commission lacks statutory authority to modify or eliminate the rule. They also argue that, among other things, the rule is necessary to promote localism and to prevent higher retransmission consent fees that would lead to higher MVPD subscription prices.

Discussion

20. We find that a bright line, *ex ante* limitation, as opposed to a transaction-specific review, is not necessary in today's media marketplace. A rigid cap is no longer needed to serve the ''public interest, convenience, and necessity,'' which is the review standard used in our evaluation of individual applications and licenses, because, as discussed below, the Commission can review proposed transactions on a case-by-case basis to assess whether approval would promote the Commission's media ownership goals of diversity, competition, and localism. As mentioned above, the Commission determined in 2003 that a national cap was not necessary to promote either diversity or competition, and we find that there is even more support today for those conclusions given the availability and accessibility of a myriad of sources of video programming, including cable networks, online services, and social media platforms. The reason for the Commission's continued imposition of a limit in 2003 was to promote localism by maintaining the balance of power between the networks and their affiliates. At that time, limiting the percentage of households that networks could reach through their owned and operated stations ensured networks' reliance on affiliated television stations for the distribution of network programming. However, now networks can reach viewers by placing their programming on streaming platforms. After reviewing the extensive record in this proceeding, we find that a bright line rule is no longer necessary to serve the public interest because we can review cases on an individual basis.

21. The rule's repeal will not lead to automatic approval of transactions currently barred under the national cap because the Commission will review any proposed transaction that the national cap would have barred. In addition, it will have no effect on the public interest obligations of broadcast licensees. Instead, removal of the cap will serve the public interest because it will allow the Commission to analyze all proposed transactions on the basis of their individual merits, taking into account all pertinent factors, instead of automatically excluding transactions that do not satisfy a singular metric that may or may not be relevant to the circumstances of a particular case. National audience reach is not necessarily a meaningful measure of a station group's relative negotiating leverage, market power, financial strength, or public interest record. Thus, a blunt tool like the national cap may be precluding station acquisitions that would be in the public interest, without providing the Commission the opportunity, outside of a waiver process, to take into consideration factors favoring approval of a transaction. Conversely, station acquisitions that would result in a national audience reach below the cap are not given automatic approval on that basis. Rather, the Commission is required to review such transactions to ensure that they serve the public interest, as it always has.

22. In light of changing market conditions, it is no longer valid to presume that virtually any transaction that breaches the cap would disserve the public interest. Removing the cap will allow the Commission to consider additional proposed transactions instead of those currently brought by applicants because they happen to comply with an outdated cap. Eliminating the cap also will be a more efficient and sensible approach than retaining the cap and granting waivers for transactions that serve the public interest, like the recent merger between Nexstar Media Inc. (Nexstar) and TEGNA Inc. (TEGNA). For the reasons discussed below, we conclude that a blanket rule that automatically prohibits television mergers exceeding an inflexible numerical bar absent a waiver no longer makes sense in today's complex media marketplace, given the

numerous forces affecting the broadcast industry.

23. Therefore, we repeal the national television multiple ownership rule. Given that the UHF discount already allows television licensees to reach a potential 78% of the nation's households, we believe that repeal will provide needed relief to station owners without constituting a radical departure from the current ceiling. As discussed below, to the extent that market forces do not ameliorate or constrain any resulting public interest harms that some commenters in this proceeding predict, such as an imbalance in the network/affiliate relationship, a decrease in local programming, an increase in retransmission consent fees, or a loss of journalists and other communications workers, the Commission can consider addressing those concerns directly in more targeted ways, including as part of the Commission's transaction review process, rather than relying on an outdated rule that is no longer serving, and may be undermining, its intended purpose.

24. Furthermore, we conclude that the Commission has the statutory authority to modify or eliminate the national television multiple ownership rule. The best reading of the CAA is that Congress did not prohibit the Commission from reviewing or further modifying the rule. Under this authority, we now review the rule and conclude that it should be replaced with a case-by-case review.

A. The National Television Multiple Ownership Rule Is Not Necessary

1. The Rule Is Not Necessary To Promote Viewpoint Diversity or Competition

25. For more than 40 years, the Commission's position has been that a national ownership limit on television licensees is not necessary to promote competition or viewpoint diversity, most notably because the national scale of a broadcaster has no impact on the number of viewpoints or the concentration of competitors in the local television markets it serves. In 1984, the Commission reached that conclusion after observing the ''explosive growth and change'' that had led to an abundance of outlets in the mass media market, including the fact that the number of television stations had increased to 1,169; the number of radio stations had reached almost 9,500; cable passed 64% of the nation's television households; satellite service was expected to launch soon; and over 8.3 million video cassette recorders were in American homes. Moreover, the Commission concluded that national broadcast ownership limits are not pertinent to preserving viewpoint diversity and competition because the relevant market to consider for promoting those goals is local. The Commission reasoned that the viewpoint diversity to which an individual is exposed is not affected by whether those viewpoints also are disseminated in other local broadcast markets. The Commission also determined that ''the fact that local competitors may share common ownership with stations in other markets is unimportant in terms of competitive harm.'' In addition, the Commission concluded that ''[g]roup owners may be able to devote more resources to newsgathering and other activities which improve the quality of programming presented.'' Nevertheless, the Commission retained a modified national cap on a transitional basis to minimize potential disruptive effects to the broadcast industry. A year later, the Commission affirmed its position that repeal of the rule would not contravene its policy goals of promoting diversity and preventing undue concentration.

26. In 2003, the Commission again found that the national cap was not necessary to promote its diversity and competition goals. It affirmed its 1984 conclusion that the market for viewpoint diversity is local, not national, and that, regardless, ''the proliferation of media outlets nationwide'' rendered the cap unnecessary even if the national market were the relevant area to consider. The Commission added that the cap also was not necessary to promote program diversity, which it concluded that the marketplace can and should address. The Commission expanded its competition analysis from its 1984 review of the national television advertising market to include a review of the national program acquisition market. An in-depth analysis of both these markets confirmed the Commission's earlier conclusion that a national cap is not necessary to promote competition. The Commission's description of the U.S. media marketplace at the time was based on data showing that in 2000 there were more than 12,615 radio stations; 1,616 television stations; 68.5 million cable subscribers; approximately 14.8 million direct broadcast satellite systems (DBS) subscribers; and 281 nationally-distributed non-broadcast networks. Approximately 42.5 million U.S. households subscribed to an internet access provider, and the internet offered roughly 30 million websites. Thus, the total number of voices and competitors in the country had increased substantially since the Commission's 1984 observation that the media marketplace had undergone explosive growth.

27. We find no reason to depart from the Commission's earlier conclusions that a national cap is not needed to promote diversity or competition. Indeed, those findings are even more incontrovertible today, and we disagree with the commenters that claim otherwise. First, we affirm our previous view that it is the local market that is relevant for assessing those policy goals with respect to broadcast television. The national cap is not a constraint on local ownership because it is not focused on audience reach in any given local market but rather is concerned with how many stations a broadcaster owns on the national level. Therefore, eliminating the national cap will not permit any more or less consolidation within a local market and so will not affect the number of voices in that local market or the number of local stations competing in that local market. Allowing a station owner to purchase an existing station in another local market that it does not already serve will not harm viewpoint diversity because one viewpoint in the market will be exchanged for another, and the overall number of viewpoints in that market will not be reduced. Similarly, concentration within a local market will not be affected by the substitution of a station owner that is new to the local market for a station owner that had been serving the market, and in some instances, the new owner may inject new ideas or more vigorous competition into the market. In addition, while a broadcaster's acquisition of a second station in a local market could reduce the number of independent voices or independent competitors, repeal of the national cap has no bearing on the likelihood of such an outcome because, for purposes of the rule, a broadcaster's audience reach in that local market is the same regardless of the number of stations it owns in the market given that the television households in that market are counted only once and are not multiplied by the number of the broadcaster's stations in that market.

28. Second, the proliferation in recent years of video programming providers available on the internet and through streaming services only reinforces the Commission's 1984 and 2003 diversity and competition findings. We agree with some commenters that ''[i]f a national TV rule was not necessary to preserve viewpoint diversity or competition before the expansion of

cable TV channels; the launch of satellite TV and radio; the development and exponential growth of the [I]nternet, myriad online content providers, and social media . . . , then that rule is not necessary now.'' As compared with 1984 and 2003, recent data show that there are 15,686 radio stations; 1,777 television stations; 35.3 million cable subscribers; 13.7 million DBS subscribers; 5.1 million telephone company video subscribers; at least 193 nationally-distributed non-broadcast networks; and roughly 2.3 million U.S. podcast shows. Approximately 121 million U.S. households subscribe to an internet access provider, and the internet offers approximately 200 million active websites, with 252,000 new websites created daily. Although traditional MVPD subscribership has been in decline since 2012, when it reached 101.6 million subscribers, 83% of U.S. adults now access video programming through streaming services. Subscribership is robust for online video distributors (OVDs), which distribute video programming to consumers over the internet and include services such as Netflix, Amazon Prime Video, Disney+, and Paramount+, among many others. One report finds that 1,189 free, ad-supported streaming television (FAST) channels are available over the internet. As the Media Bureau observed in the *Nexstar-TEGNA Order,* ''today, broadcasters are competing in a much larger, broader, and competitive environment'' with digital advertisers and various technology platforms, including streaming services and podcasters. A national cap on broadcasters to protect viewpoint diversity and competition makes no sense in a media marketplace with so many ways for video content to reach consumers today. Indeed, allowing broadcasters to achieve greater scale in such a media environment is unlikely to have an adverse impact on viewpoint diversity or competition.

29. In any event, any relevant concerns about viewpoint diversity or competition can be raised and, if appropriate, adjudicated by the Commission in the context of its review of any broadcast transaction.

2. The Rule Is Not Necessary To Promote Localism

30. Notwithstanding its conclusion that a national cap is not necessary to promote its diversity and competition goals, the Commission decided to retain a cap in 2003 to promote its localism goal. We now find that the *ex ante* 39% cap is no longer necessary to serve this one remaining purpose. Rather, concerns regarding localism can be addressed by the Commission in the context of specific transactions.

31. As the Commission has explained before, to maximize their national audience, the Big Four networks (*i.e.,* ABC, CBS, FOX, and NBC) traditionally have acquired their own local broadcast stations (typically in the largest television markets) and entered into affiliation agreements with station owners throughout the rest of the country. Through this affiliation model, the Big Four networks benefit by obtaining wide-scale delivery of their programming, and affiliates benefit by obtaining access to network programming. By contrast, many local affiliates historically have aired local programming, including local news, in time slots not occupied by national network programming. Television viewers benefit from localism to the extent that their affiliated stations have the latitude and resources to produce and air local programming, as well as the incentive and ability to preempt national network programming in favor of local news or other programming that is potentially of greater value or importance to their local audiences and better serves local needs and interests. This network/affiliate model has long sought to balance two competing interests: that of broadcast networks, which are economically motivated to ensure that their programming appeals to a nationwide audience and is carried broadly by affiliates; and that of local affiliates, which are economically motivated to attract viewers and advertising dollars by tailoring their programming to the tastes of their local audiences and by inducing networks to air programming that is responsive to their communities' needs and interests.

32. The central factor in the Commission's 2003 decision to retain the national cap was its consideration of the ability of affiliated television stations to promote localism by: (1) influencing through collective negotiation the programming that networks provide and (2) preempting network programming in favor of programming that appeals more to the needs and interests of their local communities. The Commission acknowledged that it had not taken this factor into account in its determination in 1984 that the rule should sunset after a transition period. It noted that in 1984, the Commission had looked, however, at whether group station owners provided less or lower quality local news and public affairs programming than single station owners and had found no evidence that such was the case. In fact, the Commission found the opposite to be true. Similarly, the Commission concluded in 2003 that the national cap is not necessary to promote a higher quality or quantity of local news programming.

33. Nevertheless, after analyzing preemption rates, the Commission in 2003 found that affiliated stations act on their economic incentive to serve their local audiences by preempting network programming at greater rates than network-owned stations do, which is not surprising given networks' interest in the widest distribution of their programming in order to maximize their advertising and syndication revenues. The Commission pointed to data showing that affiliated stations preempted an average of 9.5 hours of prime time programming in 2001, as compared to an average of 6.8 hours preempted that year by network-owned stations. The Commission listed numerous specific examples of affiliates protecting local viewing interests by raising concerns with networks about certain programs and/or by preempting those programs. The Commission concluded that affiliates' ability to affect program selection is a benefit to viewers and that eliminating the cap would shift the balance of power toward the networks in a way that would disserve the Commission's localism policy. The Commission noted its finding in the *1998 Biennial Review Order* that ''affiliates 'play a valuable counterbalancing role' to network programming decisions by exercising their independent programming discretion regarding what programs best serve the needs and interests of their local communities.'' The Commission concluded that preventing a network from achieving a greater national audience reach than its affiliates have collectively serves the Commission's localism goal by keeping in check the network's power over its affiliates.

34. However, in today's media marketplace, the Commission determines that restricting the national audience reach of station owners through an *ex ante* 39% cap is no longer the best way for the agency to maintain the balance of power between networks and their affiliated stations. Rather, the Commission can examine the dynamics between networks and affiliates in the context of specific transactions. In making this change, we note that networks do not depend on affiliates for programming distribution to the same extent as they did in the past. As described in the *Nexstar-TEGNA Order,* ''[w]e have entered a new streaming age.'' Now networks can reach viewers directly by placing their programming on their associated streaming platforms, such as Peacock, Disney+, Paramount+,

and FOX One. The streaming services owned by the parent companies of the Big Four networks reach tens of millions of viewers. Thus, there is less incentive for networks to acquire local stations as a means of controlling the distribution of their programming such that an *ex ante* 39% cap is no longer the best approach.

35. Notably, the national cap currently affords the networks plenty of headroom to acquire more local television stations, and yet all four of the major networks remain well below the 39% limit. With the UHF discount, the Big Four network owners currently reach through their owned stations the following percentages of the national television audience: ABC owns stations reaching 20.7% of the national audience; CBS owns stations reaching 21.8% of the national audience; FOX owns stations reaching 24.2% of the national audience; and NBC owns stations reaching 19.4% of the national audience. Moreover, all Big Four networks are owned by large conglomerates engaged in multiple enterprises and therefore derive substantial revenue from other lines of business besides their network-owned stations. Indeed, the total number of stations owned by the Big Four networks has decreased since the *2002 Biennial Review Order.* For these reasons, we are not concerned that repealing the cap will lead to a higher concentration of network station ownership and further erode the network/affiliate balance of power. Regardless, the networks comprise only a small subset of potential station buyers, and any such concerns about their ownership concentration, where identified as the product of a specific transaction, can be considered as part of the Commission's transaction review process. Given that the networks' power over their affiliates has become less contingent upon station ownership, the bright line 39% national cap is not the best way for the agency to limit networks' negotiating leverage with affiliated stations. Further indication that the 39% national cap is not serving its purpose is the fact that the affiliates no longer seek a two-tiered cap as they did in 2018, when they proposed that network-owned stations be subject to a 39% cap with no UHF discount but that the rule be relaxed for non-network-owned stations. It is telling that the affiliates in their 2025 comments do not object to the rule being repealed for network-owned stations despite their claim of increasing network power.

36. This is not to say that there are no relevant differences between affiliates owning more television stations compared to networks owning more television stations. The Commission continues to have concerns regarding the balance of power between these two types of station owners. But any differences between affiliate or network television station ownership can be taken into account in the context of a specific transaction.

37. Not only is the national cap no longer necessary to maintain the balance of power in the network/affiliate relationship, but neither has it been effective in doing so. The market capitalizations of the Big Four networks are multiples of those of station groups owning affiliated stations. The affiliates point out that the networks, despite previously paying their affiliates for distributing their programming, now demand reverse compensation fees from the stations in exchange for their affiliation. These fees, which typically are tied to the retransmission consent payments stations receive from MVPDs, now total approximately one-half of the retransmission consent fee revenues that a local station receives on average. And by some accounts, certain networks are now charging fixed reverse compensation fees that are in excess of the station's retransmission consent revenues. In addition, the affiliates contend that networks control not only the negotiations with online video providers for the right to stream a station's local signal but also that they demand a share of the negotiated licensing revenues of the station's online streaming rights.

38. The affiliates further claim that networks exert their negotiating power by imposing unreasonable terms and conditions in affiliation agreements, such as limitations on preemption rights. The ability to preempt network programming remains an important means through which local stations can reflect the tastes and needs of the communities they serve. When the Commission last reviewed the national cap as part of the *2002 Biennial Review Order,* affiliates, at that time, described how increased network leverage had led, over time, to networks' rising resistance to affiliate preemptions and to affiliates' declining use of preemptions. In the current proceeding, affiliates maintain that preemption allowances ''in network affiliation agreements, where they exist, remain increasingly crabbed and financial penalties for unauthorized preemptions high, and loss of affiliation remains the ultimate penalty.'' As evidence, they submit numerous examples of preemption provisions that the CBS, FOX, and NBC networks have imposed in their affiliation agreements. Nonetheless, they state that ''[e]ven in the face of these restrictions and possibly severe penalties, affiliates do still preempt network programming'' given that ''[a]ffiliates have a countervailing and independent duty, as broadcast licensees, to serve the public interest,'' which they claim to fulfill ''by making independent programming decisions to serve their individual local communities—by producing their own local news, sports, weather, and public affairs programming and by making ultimate decisions about which programs, including network programs, best serve their local audiences.'' They describe various occasions when affiliated stations have preempted network programming, including to provide local coverage of the shooting at Marjory Stoneman Douglas High School, Hurricane Irma, tornado warnings, local parades, local telethons, and sporting events of local interest. They posit that affiliated stations would preempt network programming more often ''if the network grip were not so tight.''

39. The national cap has not prevented this growing imbalance in the network/affiliate relationship, and eliminating the cap will not worsen it given not only networks' decreasing incentive to acquire local television stations as a means of controlling the distribution of their programming, but importantly and more fundamentally the Commission's determination here that any such issues can be addressed and mitigated as appropriate in the context of any particular transaction.

40. Furthermore, if warranted, network power over affiliates likely could be curbed more effectively through more direct mechanisms than a blanket rule like the national cap. For example, § 73.658 of the Commission's rules affords affiliates various protections in their negotiations with networks, including with respect to program preemption, territorial exclusivity, and station rates for the sale of broadcast time. Among its options, the Commission could enforce these existing rules more rigorously, consider adopting new rules that might be warranted, or ensure that affiliate concerns are addressed when reviewing proposed station acquisitions. Indeed, a closer look at the network/affiliate relationship is already underway at the Commission in order to gather information regarding what, if any, more targeted measures should be taken to ensure affiliated stations have the leverage they need to meet their public interest obligations.

41. The networks' ability to migrate their programming to streaming platforms not only has lessened their

incentive to purchase their own local television stations, but it also has weakened affiliates' bargaining power by reducing networks' reliance on affiliated stations for programming distribution. Despite this shift, affiliated stations remain an important distribution channel for network programming, and station groups therefore could boost their bargaining strength by increasing their ownership of affiliated stations. The more stations affiliated with a particular network that a station group owns, the more leverage it has with that network in negotiations regarding reverse compensation fees, preemption rights, access to network programming, and so forth. Additional leverage would help preserve affiliated stations' ability to influence network programming through collective negotiation and to preempt network programming in favor of programming that better serves the local community—the bases for which the Commission retained the national cap in 2003. As one station group owner explains, ''[f]or broadcast affiliate owners to have a stronger hand in negotiations with their networks, those affiliate owners need to be able to achieve greater scale, putting them on more even footing with their networks, which now have their own non-broadcast national distribution channels.'' By limiting national audience reach, the national cap constrains a station group's ability to purchase more affiliated stations as a way to maintain its leverage vis-à-vis networks' increasing bargaining power. According to that group owner, ''[w]ithout the ability to obtain greater scale, owners of local network affiliates remain at a massive disadvantage in negotiating with networks, threatening the ability of local broadcasters to survive and deliver essential local news and other locally-focused programming.'' Thus, we find that the national cap has become an ineffectual tool for promoting localism because, rather than preserving a balance of power, it may be exacerbating an imbalance of power. For these reasons, we find that it is no longer the case that eliminating the cap would ''shift the balance of power with respect to programming decisions toward the national broadcast networks in a way that would disserve our localism policy.'' In fact, allowing station groups to achieve greater scale may promote our localism goal depending on the facts of any particular case.

42. For the reasons discussed above, we conclude that the national television multiple ownership rule is no longer serving its intended purpose to promote localism; nor is it necessary to promote the Commission's other media policy goals of viewpoint diversity and competition. On this basis, we therefore find that the rule is not serving the public interest, convenience, or necessity, and we repeal § 73.3555(e) of the Commission's rules.

B. Case-by-Case Review Is a Better Way To Promote the Commission's Goals

43. As discussed above, the Commission must review all applications for television license transfers and assignments to evaluate whether approval would serve the public interest. Elimination of the rule does not eliminate the Commission's obligation to weigh the potential benefits and harms specific to a proposed transaction. Rather, it ensures that proposed transactions that otherwise would have been presumed not to be in the public interest under the national cap are reviewed on their individual merits. On the one hand, opponents of the national cap argue that, as a general matter, further consolidation will produce public interest benefits, namely furtherance of the Commission's localism goal and advancement of innovative technologies, such as ATSC 3.0. On the other hand, proponents of the national cap warn that further consolidation will result in public interest harms, such as a decrease in localism, an increase in retransmission consent fees, and a loss of journalists and other communications workers. We respond to commenters' arguments below. We note, however, that to the extent that commenters forecast harms as a result of the rule's repeal, those harms would occur, if at all, as a result of specific transactions. This action to repeal the rule will neither create harms nor affect our ability to assess and address any particular concerns about the potential effect of a proposed transaction.

44. Moreover, our decision to eliminate an outdated and overly restrictive bright line limit, in favor of a more flexible approach, is consistent with the approach the Commission has taken with respect to other ownership restrictions, including in other spectrum bands and services. It is undisputed, and abundantly evident in the record of this proceeding, that the communications industry (broadcast television included) has undergone seismic changes over the course of several decades. Seeing this transformation on the horizon, Congress, in the 1996 Telecommunications Act, set out to ''promote competition and reduce regulation.'' Consistent with those objectives, and in recognition of dramatic changes in the marketplace, the Commission's rules have evolved over time such that many *ex ante* restrictions have given way to case-by-case review. For instance, the 1996 Telecommunications Act led to the removal of restrictions on the nationwide ownership of broadcast radio stations and the cross-ownership of cable systems and broadcast television stations. Similarly, the Commission no longer restricts MVPD ownership via horizontal or vertical restrictions. More recently, the Commission also eliminated restrictions on the cross-ownership of newspapers and broadcast stations as well as cross-ownership of radio and television stations.

45. In addition to its actions with respect to media ownership limits, the direction the Commission has taken over the past twenty plus years in the mobile wireless sector also proves instructive. In that context, the Commission once maintained spectrum aggregation limits that strictly limited the total megahertz of spectrum across certain spectrum bands that a licensee could hold in a geographic area. In 2001, the Commission decided to eliminate this so-called spectrum cap, with the final sunset of the cap occurring in 2003. The Commission found, at the time, that with the evolution of competition in the market, the rule was no longer necessary in the public interest to serve its intended purpose and it was, therefore, ''no longer appropriate to impose overbroad, *a priori* limits on spectrum aggregation that may prevent transactions that are in the public interest.'' In the absence of a rigid spectrum cap, the Commission, for more than two decades, has employed a case-by-case approach, guided by the use of a ''spectrum screen'' that has evolved over time, through both transaction and rulemaking decisions, to keep pace with developments in the wireless industry.

46. In keeping with that approach, the end of a strict cap on national broadcast television ownership by no means represents the end of Commission oversight regarding the transfer of ownership of broadcast television stations. Rather, the overall shift away from rigid limits, and toward a more nuanced approach (which our current action also reflects) has proven nimble and provided the Commission with much needed flexibility in a rapidly changing environment, allowing it to consider, and reach determinations regarding, which transactions would, or would not, serve the public interest. Under this case-by-case approach, and

consistent with the Commission's statutory public interest review, it has long been true—and it will remain so—that some transactions receive approval, while others do not. Ultimately, approval of any given transaction will continue to depend on the Commission's analysis of the transaction's potential benefits and harms and the likelihood that any potential harms can be mitigated by the imposition of merger conditions. In the discussion below, we address arguments that a case-by-case approach allows for more subjective decision-making than bright line rules do. We provide some initial guidance regarding the kind of information that would inform our review of any non-local effects of a television merger, particularly with respect to allegations of potential harm from such effects. We anticipate that such transactions processed under a case-by-case approach will help to refine and further develop these guideposts and criteria.

1. Potential Transaction-Specific Benefits

a. Increase in Local Programming

47. As suggested above, instead of promoting localism, the national cap may be undermining it by preventing the Commission from approving specific transactions that promote localism (*e.g.,* transactions that would improve the ability of local television stations to access additional capital and advertising revenue needed to invest in local programming). Repealing the rule will provide the Commission the opportunity to analyze whether a particular transaction would result in increased investment in local news coverage and other programming of local interest.

48. There is considerable debate in the record over whether the national cap prevents station groups from competing effectively with national and global technology and media conglomerates, which some commenters refer to as Big Tech and Big Media, for the revenues that local broadcasters need to serve their communities. The broadcast industry argues that station groups need economies of scale in order to compete for viewers and advertisers with Big Tech and Big Media, which enjoy unrestricted reach. Several commenters cast the threat to the broadcast industry as existential. They argue that ''[t]he remedy is unshackling local broadcasters by eliminating the national ownership cap, which will allow broadcasters to achieve greater scale and synergies and challenge Big Tech and Big Media gatekeepers.''

49. Proponents of retaining the national cap are not persuaded. They assert that station groups are not as vulnerable as they claim, as evidenced by their statements to investors touting their company's profit performance and favorable business outlook. For example, they quote Nexstar's Chief Executive Officer stating that ''[Nexstar's] record-breaking top line financial performance . . . [and] record-breaking distribution revenue further validates the power and sustainability of [its] highly profitable business model.'' They provide financial data purporting to show that Nexstar, Sinclair, Scripps, Gray, and TEGNA generally experienced healthy growth from 2016 to 2024 in terms of operating revenue, advertising revenue, and political advertising revenue.

50. Proponents of retaining the national cap further argue that comparing local broadcast licensees, which have unique public interest obligations and regulatory protections, to Big Tech and Big Media is an apples to oranges comparison because Big Tech and Big Media do not provide local news and other locally produced content. One commenter, for example, contends that ''[w]hile there have indeed been market and technological changes, broadcasters misrepresent the reality of how these changes have affected broadcasting's profitability and local broadcasting's continued unique role relative to streaming services and Big Tech.'' These commenters argue that, even if they were direct competitors, eliminating the national cap would not let station groups achieve equal footing with massive conglomerates such as Google, Apple, Amazon, Netflix, DIRECTV, Verizon, Comcast, Disney, Paramount, and Fox.

51. It is not necessary for us to resolve this debate in order to recognize that the broadcast industry as a whole has been experiencing declines in both viewership and advertising revenue for decades. A recent Nielsen study reported that viewership of streaming services has surpassed that of broadcast and cable combined. Other data show that ''the ratings of the top-rated scripted program on broadcast TV has fallen 72.1 percent since 2004 . . . ; by 78.3 percent since passage of the 1996 Telecommunications Act; and by 86.4 percent since the mid-1980s.'' BIA data show that total advertising revenue (over-the-air plus digital) for television stations fell 42.9% from 2000 to 2024 on an inflation-adjusted basis. In addition, local broadcasters now control only 28.7% of the local advertising-supported viewing market, while 42.4% of that market goes to streaming services. As the Media Bureau noted in the *Nexstar-TEGNA Order,* both streaming services and cable providers offer ''targeted and DMA-wide advertising options'' that are ''real and competitive substitutes in any market for local spot advertising.''

52. Station groups argue that expansion through the elimination of the national cap will improve their ability to provide programming that promotes the Commission's localism goal. Broadcasters describe the high cost of gathering and producing local news content. They also decry the rising expense of securing distribution rights to live sports programming of interest to their local communities given increasing migration of live sports programming to non-broadcast channels and streaming platforms. They claim that allowing station groups to reach more viewers will enable them to attract additional advertising and investment capital needed to improve local service. Broadcasters argue that the national cap creates ''a vicious circle'' by restricting broadcasters' audiences and advertising revenues, which hinders their ability to produce and/or acquire quality programming and to obtain investment capital, which in turn further impairs their ability to attract viewers and advertising dollars, and thus their ability to invest in local journalism.

53. We share station groups' concern that, with the increase in network bargaining power over their affiliates that has resulted from the rise of online video distribution and other secular changes in the media landscape, the returns on local programming investments by affiliates have been reduced due to the networks now capturing a larger share of the profits from those investments. With the rising leverage of the networks over their affiliates, the returns on local programming investments, and therefore the total dollars invested in local programming, would be reduced primarily for three reasons. First, as networks extract an increasing share of the retransmission consent fees that MVPDs pay to carry the local network affiliate, the returns on local programming investments decline because the affiliate retains a lower share of the returns on such investments. Second, networks negotiating the online distribution rights and retaining a share of these revenues similarly would directly reduce the return on local programming investments. Third, network-imposed limitations on preemption directly limit the amount of local programming that an affiliate can produce and air. Furthermore, the imbalance of power

between networks and affiliates that now exists is exacerbated by our artificial cap on station ownership because it does not allow station owners to sufficiently consolidate and restore their bargaining position vis-à-vis the networks.

54. We believe that eliminating the national cap will serve to allow affiliates to restore their leverage in negotiations with networks, which will promote the public interest by providing affiliates with the ability to use their greater returns to invest in local programming. To the extent that the national cap is preventing station groups from increasing investment in local news and other content of local interest, we agree with broadcasters that the cap is not only unnecessary to promote our localism goal but that, in fact, it likely is undermining it. That possibility, although not a basis for our decision to repeal the rule, lends support to our conclusion that the rule is no longer serving the public interest. We will evaluate proposed transactions on a case-by-case basis to determine, among other things, whether approval would result in a higher quality and quantity of local programming on the applicants' television stations.

55. Several broadcasters claim that expanding their audience reach across other local markets already has enabled them to produce a higher quality and quantity of local content. One commenter provides data showing that during a period of consolidation between November 2011 and November 2023 when the number of different television station groups fell from 140 to 62, the number of local news telecasts increased by 41.7% and the hours of local news increased by 49.7%. According to one station group owner, when it acquired the licenses in 2021 of television stations KUPX in the Salt Lake City market and KMCC in the Las Vegas market, neither station aired any local news. It states that, under its ownership, KUPX now airs 25 hours per week of local news and KMCC now airs 21.5 hours per week of local news. Among other examples it provides, it touts its addition of 15.5 hours per week of local news to KCDO's schedule after it purchased the station in 2020 and combined it with station KMGH in the Denver, Colorado market. Further, it credits its ability to leverage the resources obtained through its increased scale for its addition of hundreds of hours of local sports to various stations it owns and for the acquisition of its broadcast rights to a number of women's sporting events and games.

56. Likewise, another group owner claims that ''[its] own experience demonstrates that the efficiencies and resources available to larger station groups lead to expanded news and other local coverage.'' It states that between its 2019 acquisition of Tribune Media Company (Tribune) and 2024, its stations increased their total local news coverage by more than 28,000 hours and won hundreds of journalism awards annually. It further states that, during that period, its stations added a total of more than 9,000 hours of local lifestyle programming and almost 800 hours of local political programming. It contends that its reach and the resources made possible by scale enabled it to host 74 political debates or forums leading up to the 2024 election. In addition, it describes how resource sharing among its stations allows it to provide continuing weather and safety information to communities affected by hurricanes and other natural disasters.

57. These examples demonstrate that allowing station groups to grow and expand their audience reach can promote the Commission's localism goal. This point is particularly salient in the case of a station that is without the resources to produce local news or is likely to go dark without some form of relief. As some broadcasters argue, ''[t]o the extent individual stations are financially struggling, repealing the national cap would allow station groups with healthier balance sheets to expand into new markets, acquire those stations, and provide those communities with more robust locally-oriented programming.''

58. In reviewing proposed transactions, we will consider all arguments supporting or opposing a finding that approval of the transaction would promote localism. Thus, rather than presume that any deal that exceeds the cap would not be in the public interest, by repealing the rule, we will consider and potentially approve specific transactions based on their individual merit.

b. Increase in Innovation

59. Another potential benefit of allowing broadcasters to achieve greater scale via transactions approved through the Commission's case-by-case approach could be their improved ability to invest in innovative technologies and services, such as ATSC 3.0, to the benefit of consumers. That is, the rule's repeal will mean that the Commission will evaluate each proposed transaction on its individual merit, including whether grant would enable the merged entity to devote additional resources to the deployment of ATSC 3.0, among other innovations, without first needing to show that special circumstances warrant a waiver. In the *2002 Biennial Review Order,* the Commission posited that the national cap encouraged innovation in the television industry because different station groups were likely to develop different types of services and offerings, which the Commission concluded would be particularly beneficial in facilitating the impending transition to digital television. With the rollout of ATSC 3.0, the television industry is again on the cusp of a technological transition. However, given the changes to the media marketplace in the more than 20 years since the Commission's conclusion that the national cap would promote innovation in the transition to digital television, we now find that the national cap may be hindering, rather than promoting, investment in innovative developments by limiting broadcasters' ability to expand their operations and achieve economies of scale in the deployment of new technologies. With respect to innovation, once again, a principal advantage of removing an *ex ante* barrier in the national cap is that the Commission will consider transactions on their individual merit, rather than presume that deals in excess of the bright line limit would not be in the public interest even if they otherwise would promote innovation.

2. Potential Transaction-Specific Harms

a. Decrease in Local Programming

60. Numerous commenters contest the argument that further consolidation among station groups will promote localism. They argue that consolidation leads to a homogenization of news content, fewer resources devoted to local journalism, cuts to local newsroom staffs, and corporate takeover of editorial decision-making. They assert that empirical research shows that ''the larger broadcast conglomerates *do not* invest freed resources into local content and coverage.'' They posit that economies of scale and scope are not achieved unless local news and local programming are replaced with centrally-produced programming. Similarly, they point to a study finding a prevalence of duplicated news content when stations are under common ownership or control, which the study's authors call ''a direct and unambiguous form of the achievement of economies of scale.'' Several commenters criticize Sinclair's use of ''must-run'' news segments, where local news anchors across Sinclair's stations are required to read from the same script or to air a news story that was produced at Sinclair's national headquarters. One commenter predicts that ''[i]nstead of

competing for the approval of viewers by investing in news and other local programming, broadcasting conglomerates would likely take any relaxation of the national ownership cap as encouragement to compete for scale alone—pursuing mergers that swallow up the last semblance of diverse voices in the broadcasting marketplace, and pocketing the savings for shareholders rather than spending them on viewers.''

61. In addition, commenters submitted a 2018 study by Gregory J. Martin and Josh McCrain, political scientists then with Emory University, that compared stations acquired by Sinclair from Bonten Media Group Holdings to other stations operating in the same markets. The study found that Sinclair's station acquisitions led to ''substantial increases in coverage of national politics at the expense of local politics.'' However, another study in 2024 by these same authors and Nicola Mastrorocco and Arianna Ornaghi widened the analysis of local news coverage to include stations acquired by Nexstar and Gray, as well as Sinclair. Consistent with their earlier research, they found that news coverage of local events and local politics dropped by about 10% on the Sinclair stations. However, their data showed an increase in local news coverage by about that same amount on the stations acquired by Nexstar. The data showed no real change on the stations acquired by Gray. Therefore, the study shows that the effect of consolidation on local news coverage varies by merger, with some mergers leading to decreases in local coverage, some leading to increases, and others having no effect. Furthermore, viewers in local markets have an interest in national and regional political issues, and many of the larger broadcast groups are able to invest in such reporting that otherwise would be unavailable in the market or provided solely by national news networks.

62. We acknowledge that there are arguments on both sides of the question regarding the effects of consolidation on investment in locally oriented programming. However, given that repealing the rule could help restore the balance of bargaining power in the network/affiliate relationship, which ultimately should have a salutary effect on station revenues, we believe that the better course is to remove the national cap and replace it with a case-by-case approach. We reiterate that removal of the cap will not itself lead to any direct or inevitable harm given the Commission's obligation to review all proposed transactions. Moreover, review of applications for transfers and assignments, license renewal applications, and complaints filed against a station offer the Commission a more targeted means of ensuring that local stations are meeting their public interest obligations, based on the record in a particular proceeding, rather than a rigid bar proscribing certain transactions that may be in the public interest.

63. We believe that, regardless, the need for Commission action likely will be mitigated by market forces. Numerous commenters maintain that television local news remains one of the most relied upon and trusted sources of news among consumers. They further argue that local news, live sports, weather and traffic reports, and emergency information are the types of offerings that differentiate local broadcasters from other video programming providers. As expressed by one commenter, ''relaxation of the National Cap will not change the enduring incentive of broadcasters to produce quality local content, because quality local service is simply sound business.'' Another commenter adds that ''[l]ocal programming and local community service are key to allowing television broadcasters to differentiate themselves in the sea of voices that have invaded the contemporary video programming marketplace.'' We therefore reject the suggestion that retention of the national cap is justified given TEGNA's plan to expand its local news operations despite being subject to the cap. If anything, the claim regarding TEGNA supports the argument that removing the cap will not reduce broadcasters' incentive to invest in local news coverage, such as by expanding news staffs, adding news anchors, and devoting more time to local news stories. To the extent that stations are incentivized to invest in local programming as a means of differentiation, the market will serve as a check against station owners reducing investment in local journalism and other local content. Nevertheless, in reviewing a proposed transaction, we will take into consideration any and all concerns that market forces would be insufficient to negate the transaction's potential harms.

64. In light of our new approach replacing the national cap with case-by-case review, we provide initial guidance on our anticipated approach to case-by-case review of the potential transaction-specific harms premised on national reach identified in this Order should they be alleged in a particular transaction in the future. In doing so, we do not seek to comprehensively identify every consideration that could be relevant in the future, but we simply highlight certain implications particularly relevant in light of our analysis in this Order.

65. With respect to concerns about decreases in local programming, and local news in particular, alleged to result from the post-transaction national reach of a broadcast group, a threshold consideration will be the transaction-specific nature of any alleged harms. The record reveals the financial challenges posed by producing high-quality local news and the fact that not all local television stations broadcast local news. Thus, we will expect oppositions to a transaction based on local news concerns to draw any comparisons to the likely marketplace *status quo* and likely trajectory absent the transaction, rather than some hypothetical ideal marketplace not grounded in practical realities.

66. As to the merits of any alleged transaction-specific concern about local news, given the record evidence that local programming, including local news, is a competitive advantage for local broadcasters, we will expect oppositions to a transaction based on local news concerns to explain why that incentive is unlikely to exist or why the broadcaster is unlikely to act on that incentive in a given transaction. In conducting such an analysis, historical experience involving the parties at issue is likely to be relevant. This includes the practical experience of viewers in communities where the potential acquiror expanded into new markets in the past. Such history is not in itself dispositive insofar as that history is distinguishable or where such issues are mooted by commitments by the merging parties. But giving due consideration to the practical experience of viewers is a critical way to ensuring our case-by-case approach truly best protects the public interest in the markets at issue, consistent with our expectations.

b. Increase in Retransmission Consent Fees

67. Any concerns regarding the effect a particular transaction may have on retransmission consent negotiations can be addressed within the context of the Commission's review of that transaction. Therefore, we disagree with those commenters that argue that the Commission should retain a national ownership cap to preserve a balance of power between broadcasters and MVPDs, including small MVPDs, in retransmission consent negotiations. We note, at the outset, that the national cap—a structural ownership rule that applies nationwide—historically has not been intended as a vehicle for addressing concerns about leverage in retransmission consent negotiations.

Instead, retransmission consent negotiations are governed by a specific set of behavioral rules, including a good faith negotiation standard that applies to both broadcasters and MVPDs.

68. Moreover, the Commission previously has found that, in general, the public is well served when marketplace mechanisms can be left to govern such negotiations as much as possible. Over the years, Congress and the Commission have reviewed, and in some cases modified (or declined to modify), the retransmission consent rules as warranted in light of evolving marketplace behavior (*e.g.,* prohibiting joint negotiations for two stations in a given geographic market where the two stations are not commonly owned). We note that, in addition to advocacy in this proceeding, parties are free to seek further clarification or modification of the Commission's retransmission consent rules, including the good faith standard, to address areas where they have specific concerns. Given that the Commission has separate rules that directly govern the retransmission consent process—something the national cap has never been intended to do—general issues related to retransmission consent are best addressed in a rulemaking proceeding focused on those rules.

69. It should also be noted that the Commission has not previously identified or defined a non-local (*e.g.,* national or regional) market for retransmission consent. Instead, the Commission has focused on the individual local markets in which the licensing of broadcast television stations occurs. Indeed, if the national cap is removed, the Commission must still review all applications for the transfer of control and assignment of licenses and authorizations to ensure that the public interest would be served by approving the applications. We recognize that retransmission consent issues associated with national consolidation may continue to come up in the context of the Commission's individualized broadcast television transaction review. Commenters in those transaction proceedings will continue to be able to raise transaction-specific issues in the context of a specific combination of broadcast assets and a defined set of facts. Given the state of the video marketplace today, we believe that approach is far more suitable than clinging to a bright line limit that no longer serves its intended purpose and was never intended to address retransmission consent issues.

70. Despite these rules and safeguards currently in place, some commenters argue that the national cap should remain because there is a correlation between station group size and increased retransmission consent fees and that allowing station groups to grow in size would harm MVPD subscribers who will be forced to pay higher bills due to higher programming costs. They contend that increasing or abolishing the 39% national cap would increase the bargaining leverage for a station group by allowing it to threaten blacking out programming across a greater percentage of an MVPD's footprint, thereby enabling the station group to extract a higher retransmission consent fee from the MVPD. These commenters argue that retransmission fees paid by MVPDs have grown exponentially in recent years and that broadcasters will use this increased bargaining leverage to continue raising retransmission consent fees, resulting in more contentious negotiations that will, in turn, lead to more programming blackouts and higher prices for MVPD subscribers. One commenter points out that ''[r]etransmission consent revenue increased by 31% from 2019 to 2023 ($11.5 billion to $15.1 billion) and more than *135%* when compared to 2015 levels ($6.4 billion)—despite MVPDs' decline in subscribership.'' By contrast, broadcast commenters claim the fees are set by the market, they are appropriately priced for the programming's value, they are more affordable than cable programming, and they are slowing in growth. Moreover, the record shows that increases in retransmission consent fees charged by network-affiliated local stations to MVPDs have coincided with increasing reverse compensation fees charged by the networks to their affiliates based on network bargaining power. As commenters note, these payments to national networks are resources that do not go toward additional local news coverage or other local programming. Outside of retransmission consent fees themselves, some commenters also warn against the influence a large station group may have in retransmission consent negotiations, which they claim may enable such groups to induce MVPDs to carry additional programming or to dictate an MVPD's carriage terms in a way that disfavors a competing independent programmer.

71. With regard to concerns about station group leverage in retransmission consent negotiations, two studies introduced into the record reach conflicting conclusions regarding the relationship between station group size and increased retransmission consent fees. DIRECTV introduced a statistical study performed by Dr. Allan Shampine. The study examines the relationship between station group size and retransmission consent fees and concludes that larger station group owners charge higher retransmission consent fees to DIRECTV than smaller station group owners. The study purports to replicate a 2017 study by DISH that was introduced in the docket of the Sinclair-Tribune proceeding (MB Docket No. 17–179). The 2017 study was submitted by DISH in that docket to support allegations that the specific, proposed combination of Sinclair and Tribune would lead to higher retransmission consent fees for the combined company's stations. In his study, Dr. Shampine reviewed DIRECTV's confidential monthly retransmission consent data from January 2023 to December 2024 and found that retransmission consent fees for stations affiliated with the Big Four broadcast networks were higher for affiliates owned by larger groups with the impact of size on fees being ''very economically significant.''

72. In response, NAB submitted its own analysis from Dr. Jay Ezrielev that refutes DIRECTV's submission and contends that the analysis does not demonstrate a causal relationship between station group size and retransmission consent fees. Dr. Ezrielev argues that Dr. Shampine's analysis does not take into account key variables, such as DMA size and the greater per-household costs of serving small versus large markets. Dr. Ezrielev also asserts that Dr. Shampine's analysis is overly skewed toward small station groups with which DIRECTV can negotiate a below market rate for retransmission consent and does not properly take into account DIRECTV's natural loss of market power when negotiating with a larger station group. NAB further contends that even if DIRECTV pays more to larger broadcast groups than to smaller groups for retransmission consent, that fact does not establish that the rates are anticompetitive or overpriced.

73. Given the conflicting evidence in the record regarding whether, and the extent to which, permitting some level of greater audience reach would affect retransmission consent fees in all, or even most, cases, we do not believe the record justifies retaining a bright line prohibition on all acquisitions that would exceed 39%. To start, even if there may be some evidence that purports to show a correlation between station group size and retransmission consent fees, we do not believe it is reasonable to conclude that larger group owner reach automatically results in retransmission consent fee increases

across all broadcasters, such that a 39% cap remains necessary to limit broadcaster leverage. For instance, not all broadcasters obtain, or even seek, retransmission consent compensation in exchange for carriage. In lieu of retransmission consent compensation, broadcast stations are permitted to choose mandatory carriage of their signal (also known as ''must carry''). As a result, when viewed through the lens of retransmission consent, the rule is likely overbroad because it restricts the growth of all station groups regardless of whether, or the extent to which, they actually seek or intend to seek retransmission consent fees for their stations. With respect to price increases that MVPDs allege would be passed through to consumers, or other direct harms (*e.g.,* increased signal blackouts) that MVPDs allege would follow from broadcasters increasing their audience reach, we note that, ultimately, it is MVPDs that set the prices for their subscribers and that the video marketplace today offers consumers various alternatives beyond a traditional MVPD subscription to access broadcast programming.

74. Moreover, if size equates to influence on pricing, the maxim may hold true on the MVPD side of the negotiation as well, where MVPDs are not bound by bright line limits on their geographic reach. That is, larger MVPDs, many of which have broad geographic reach, may have the ability to drive down prices for retransmission consent. Indeed, gaining scale in order to reduce the amount spent on video programming was a key aspect of several mergers involving MVPDs. Additionally, while smaller MVPDs, in general, may likely pay more for programming than larger MVPDs, they are also permitted by law to designate a qualified MVPD buying group to negotiate on their behalf in retransmission consent negotiations with large station groups to help level the playing field.

75. Furthermore, the Commission, consistent with the direction of Congress, has not found it to be a failure of good faith bargaining where a broadcaster, regardless of its size, enters into different terms and conditions, including different price terms, with MVPDs so long as the different terms and conditions are based on competitive marketplace conditions. The Commission also has not found that increasing a station's national reach leads to a public interest harm in retransmission consent negotiations. Similarly, the Commission has held that an increase in compensation, by itself, is not necessarily a public interest harm, and rather, the Commission found that such harm exists where an increase is not the product of ''competitive marketplace considerations.'' In addition, to the extent greater audience reach permits some stations to increase their retransmission consent fees, additional revenue could serve to strengthen the viability of the station and contribute greater resources to the mission of serving its local community. For the foregoing reasons, we find that concerns about retransmission consent negotiations raised in the record of this proceeding are insufficient to justify retaining a broad structural limit on station ownership that no longer serves its intended purpose. Finally, as noted previously, all station acquisitions will be subject to the Commission's transaction review process, where the Commission will have the opportunity to evaluate any alleged transaction-specific harms and to make a determination as to whether the proposed transaction serves the public interest.

76. Consistent with the analysis above, we provide certain guidance about our anticipated approach to allegations of retransmission consent-related harms premised on an increase in broadcaster negotiating leverage due to increased national reach. A threshold consideration will be the transaction-specific nature of any alleged harms, particularly because the Commission historically has not identified a non-local market for retransmission consent. Oppositions to a transaction premised on cost increases in future retransmission negotiations arising from increased national reach could seek to justify a non-local market definition or would need to support another theory why the increased national reach at issue in a given transaction would cause the alleged harms.

77. Further, the Communications Act circumscribes the Commission's authority with respect to retransmission consent. As a result, we will expect allegations of transaction-specific retransmission consent harms to explain why the alleged concerns should be cognizable in the Commission's review.

78. In the case of alleged harms in future retransmission consent negotiations premised on expanded national reach, we further will expect oppositions to identify why the relative negotiating leverage of the broadcast group would be contrary to the public interest. As discussed above, many MVPDs are themselves large, and small MVPDs have the statutory right to designate a qualified buying group to negotiate on their behalf when dealing with large station groups. For example, evidence or arguments alleging concerns about future retransmission consent negotiations should address whether a broadcast group's increased national reach leads to a material net change in the stakes for the two sides and, if so, whether the change unfairly advantages the broadcasters in negotiations or simply enables the broadcast group to begin to approach comparable negotiating leverage to the MVPD. We recognize that this could turn on a number of specific factors or considerations and we do not seek to catalog them all here.

79. Finally, the ultimate question in our public interest review remains the overall effect on the viewing public. We recognize that this commonly has been the intended focus of retransmission consent-related arguments raised in transactions in the past, but we take this opportunity to confirm our approach in that regard.

c. Loss of Journalists and Other Communications Workers

80. Some commenters argue that eliminating the national cap will harm workers in the broadcast industry. They contend that removing the national cap would allow for greater consolidation in the broadcast industry and that consolidation historically has caused harm to journalists and newsroom staffs when newly consolidated stations centralize their operations in an attempt to increase scale and revenue. They argue that the harms caused by consolidation include lowered employee wages and reduced benefits, a decrease in the total number of jobs, and weakened job security. In addition, they contend that further consolidation will follow this trend and lead to less journalism being produced, which in turn would undermine and harm the Commission's public interest goal of localism. For the reasons below, we find that these labor-related concerns do not justify preserving a bright line limit on station ownership.

81. While commenters raise a valid concern that industry consolidation could result in employment reductions, we also recognize that questions about the viability of broadcast stations include risks to the long-term employment of its workers. As a result, we find that allowing broadcasters to increase their scale could improve long-term employment prospects for workers, particularly in instances where a financially stronger company acquires a station. In addition, we note that the synergies to be gained by transactions currently subject to the national cap are different from the synergies that would be gained from combining ownership of

stations within a local market. As we have noted, removing the national cap does nothing to permit greater consolidation within a local market and therefore does not carry the same risk of elimination of overlapping or redundant operations that would result from the acquisition of an additional station in the market. Rather, repealing the national cap could allow a station group to expand its reach to a new market where it is currently not present, and the acquired station, under new ownership, would continue to compete with the other stations in the market for audience share, advertising revenue, and broadcast employees.

82. Regardless, elimination of the national cap rule would not foreclose the Commission's consideration of such issues in a case-by-case public interest review of individual acquisitions. Therefore, although labor issues historically have been handled and enforced by federal agencies other than the Commission, commenters still will be able to raise transaction-specific labor issues that may be involved in a particular matter.

83. When seeking to raise such concerns, we will expect oppositions to be premised on a proper baseline to ensure the alleged employment-related harms are transaction-specific. In particular, financial challenges in the broadcast television industry make it important to compare alleged post-merger harms against the pre-transaction *status quo* and trajectory that actually was likely absent the transaction. We also will expect oppositions to explain why the alleged transaction-specific labor issues are cognizable by the Commission under its public interest authority under the Communications Act. Finally, we once again will be focused on the ultimate effects on viewers through the broadcasters' continued ability to operate consistent with their public interest duties under the Communications Act and Commission rules.

C. The Commission Has Authority To Repeal the Rule

84. Congress has authorized the Commission to adopt, modify, or eliminate broadcast ownership rules, including the national cap, under sections 154(i) and 303(r) of the Communications Act. 47 U.S.C. 154(i). The Commission promulgated and modified broadcast ownership limits pursuant to this authority throughout the decades following the Act's passage in 1934. The Commission adopted a national cap after determining such a rule was necessary to serve the public interest. As with any Commission rule, the agency has the authority and obligation to reexamine the national cap rule in response to changing circumstances and to modify or repeal it if it no longer serves the public interest. Indeed, the Commission has modified its limits on the number of television stations an entity can own several times, raising the limit each time to account for developments in the television industry.

85. Although Congress also has reset the level of the national cap as the video marketplace evolved, Congress has uniformly done so by directing the Commission to modify its rules rather than by enacting a fixed cap into law. In the 1996 Act, Congress instructed the Commission to set its previously modified national cap at a specific numerical percentage. See 1996 Act section 202(c)(1)(b). Specifically, section 202(c)(1)(b) of the 1996 Act directed the Commission to ''*modify its rules* . . . by increasing the national audience reach limitation for television stations to 35 percent.'' Section 202 similarly instructed the Commission to ''modify'' or ''revise'' other media ownership rules and directed the Commission to ''review its rules adopted pursuant to this section and all of its ownership rules'' on a periodic basis. See 1996 Act section 202(b)(1), (c)(2), (e), (h). The use of the term ''modify'' indicates that Congress was prescribing a point to which the Commission would set the national cap, using the Commission's preexisting authority to modify the national cap, and from which the Commission periodically would reexamine the prescribed figures, again under its preexisting authority.

86. Section 202(h) of the 1996 Act could not have been the sole statutory authority granted to the Commission for reviewing the media ownership rules because the Commission, having modified the national cap on multiple occasions prior to 1996, plainly had authority to promulgate or review its media ownership rules prior to adoption of the 1996 Act. An argument that the 1996 Act takes away the Commission's plenary authority over television ownership ignores the fact that Congress chose to have the Commission revise its rules rather than enact statutory provisions and that the 1996 Act directs the Commission to conduct a rulemaking proceeding on local television ownership limits. 1996 Act § 202(c). Therefore, the 1996 Act cannot be read credibly as having rescinded the Commission's rulemaking authority over television ownership.

87. Notably, there are other instances where Congress provided the specific figures the Commission was to use in modifying its rules but similarly declined to enact those limits in statute. For instance, § 202(b) of the 1996 Act specified the precise market size tiers and numerical limits that the Commission was to use in its revisions for the local radio ownership rule. Section 202(e) of the 1996 Act also specified the numerical limits and definition for networks that the Commission was to use in its revisions for the dual network rule. In each of those cases, even though Congress provided the specific language and figures to be used in the rule revisions, the Commission retained authority to modify or eliminate the rule in question, and at Congress's direction, has periodically reviewed those rules ever since. Furthermore, as described above, the Commission promulgated and revised the national television ownership limits many times before the adoption of the 1996 Act, exercising its authority under sections 154(i) and 303(r) of the Communications Act to promulgate and review its media ownership rules. The 1996 Act did not change that. It simply directed the Commission to make revisions under the Commission's preexisting rulemaking authority and review them periodically.

88. In this regard, we find particularly significant the D.C. Circuit's rulings in the *Fox* litigation, which remanded the Commission's 1998 decision to defer any revision of the national cap when the agency examined it two years after the 1996 Act's instruction to increase the cap from 25% to 35%. 1996 Act § 202(c)(1). In doing so, the court rejected the Commission's argument that by setting the line at 35%, Congress had thereby removed the Commission's power to revisit that line should the public interest require. *Fox I,* 280 F.3d at 1042–43. The court explained that the Commission's decision to leave Congress's initial number untouched was improper: ''the choice of 35% rather than any other number determined only the starting point from which the Commission was to assess the need for further change.'' On rehearing, the court again rejected the Commission's argument that Congress set an unchangeable limit, explaining that had Congress wished to take away the Commission's ability to alter the cap, ''it need only have enshrined the 35% cap in the statute itself,'' which it had not done. *Fox II,* 293 F.3d 540.

89. Eight years after the 1996 Act and two years after the *Fox* rulings, Congress again set the national cap at a specific numerical percentage in the CAA. Critically, Congress chose to use the

same language as in the 1996 Act. The CAA amends section 202(c)(1)(B) to instruct the Commission to ''modify its rules . . . by increasing the national audience reach limitation for television stations to 39 percent.'' CAA section 629(1), 118 Stat. at 99 (amending 1996 Act section 202(c)(1)(B) ''by striking '35 percent' and inserting '39 percent' ''). In accordance with that instruction, the Commission amended its rules to revise the national cap to 39%—the level at which it stands today. Echoing the 1996 Act, Congress included no language in the CAA taking away the Commission's rulemaking authority with regard to the cap, even though Congress, as made clear by the D.C. Circuit, easily could have ''enshrined'' the 39% level ''in the statute itself.'' Nonetheless, there is no language in the CAA requiring the Commission to maintain the national cap at 39% indefinitely or for any period of time. That omission is especially significant because Congress was acting against the backdrop of the ruling in *Fox I* and in direct response to the Commission's attempt to increase the national cap in the *2002 Biennial Review Order,* both of which read the language used in the 1996 Act—which Congress incorporated into the CAA—to preserve the Commission's authority to further revise or eliminate the national cap in the future. By using the same formulation as the 1996 Act, Congress did not suggest that it was eliminating the agency's authority to amend its national cap rule. Some commenters suggest that Congress need not retract rulemaking authority from agencies in express statutory language. Even if that were so, the circumstances here (namely of the Commission having so recently concluded it retains authority in the wake of Congress legislating on the matter and the court decision affirming the Commission's conclusion) make it very unlikely that Congress would refrain from making some express statement. As the Supreme Court has explained, ''Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change.'' *Lamar, Archer & Cofrin, LLP* v. *Appling,* 584 U.S. 709, 721–22 (2018) (quoting *Lorillard* v. *Pons,* 434 U.S. 575, 580 (1978)); *accord, e.g., Hall* v. *United States,* 566 U.S. 506, 516 (2012). Notably, as pointed out in the *Nexstar-TEGNA Order,* the same Congress that enacted the CAA considered alternative bills that would have enacted a fixed statutory cap as part of the Communications Act, displacing the rules created and maintained by the Commission, but it declined to enact those proposals.

90. The fact that express prohibitory language can be found elsewhere in the Communications Act further illustrates that Congress could have included such language in the CAA, but chose not to do so. The Radio Broadcasting Preservation Act of 2000, which also contains an express removal of the Commission's authority, similarly contrasts with the CAA and the 1996 Act. Along with directing the Commission to modify its low-power FM radio rules, Congress included language that the Commission ''may not . . . eliminate or reduce'' its prescribed rule modifications except ''as expressly authorized by an Act of Congress enacted after the date of the enactment of this Act.'' Radio Broadcasting Preservation Act of 2002 § 632(a)(2). Language rescinding the Commission's ability to modify or eliminate the national cap is not present anywhere in the CAA or the 1996 Act. As another example, Congress codified an existing Commission broadcast ownership rule via section 613 of the Cable Communications Policy Act of 1984. See Cable Communications Policy Act of 1984, Public Law 98–549, 98 Stat. 2779, section 613 (1984). By enshrining that rule into statutory law, Congress ensured that the Commission could not modify or eliminate it. Tellingly, Congress did no such thing with respect to the national cap.

91. For all these reasons, we believe that the Commission's interpretation of its statutory authority to modify or repeal the national audience reach cap is the best reading of the CAA and the 1996 Act. As the Supreme Court has held, ''a legislature says in a statute what it means and means in a statute what it says there.'' See *Conn. Nat'l Bank* v. *Germain,* 503 U.S. 249, 253–54 (1992). Statutory language then must be interpreted to ''mean[ ] what it says and no more.'' See *United States* v. *M.H. Pulaski Co.,* 243 U.S. 97, 107 (1917). Nor can a statute be interpreted beyond its text based ''on the view that . . . Congress 'must have intended' something broader'' than it enacted. *Michigan* v. *Bay Mills Indian Cmty.,* 572 U.S. 782, 794 (2014). In short, the plain text of the 1996 Act and the CAA shows that the Commission has authority to modify or eliminate the national cap.

92. Furthermore, the Supreme Court has indicated that agency interpretations ''issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute's meaning.'' *Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369, 394 (2024) (citing *U.S.* v. *American Trucking Ass'ns.,* 310 U.S. 534, 549 (1940)). Our interpretation here meets these conditions. First, the Commission's interpretation was issued contemporaneously with the relevant statutes. After the 1996 Act was enacted, the Commission considered changing the national audience reach cap under the interpretation that, in directing the Commission to set the national cap at a specific level, the 1996 Act did not curtail the Commission's authority to revise the cap further if deemed necessary in the public interest.

93. Second, the Commission has consistently maintained that it retains authority to repeal or revise both the national cap and the UHF discount since then. In 2013, the Commission, with bipartisan support, tentatively concluded that the CAA did not preclude it from revisiting the national cap or the UHF discount in a proceeding separate from the quadrennial review proceeding. In 2016, the Commission, again with bipartisan support, concluded that it had authority to revise the national cap, including the UHF discount, and characterized the CAA as simply directing the Commission to revise the cap while eliminating the need for periodic review.

94. After undertaking a comprehensive review of the relevant statutory and regulatory provisions, we find no reason to depart from the Commission's longstanding bipartisan position that the Commission retains authority to modify or eliminate the rule establishing the national cap upon a determination that the rule no longer serves the public interest, convenience, and necessity. To properly examine the issue, the *NPRM* in this proceeding sought further comment on whether the Commission has authority to modify or eliminate the national cap and the UHF discount used for measuring compliance with the cap. The *Refresh Public Notice* also sought comment on whether any legal developments have affected the Commission's past conclusions about its authority to implement changes to the national cap and the UHF discount. We conclude that the Commission continues to have the authority to modify or repeal the national cap based on the record of this proceeding and prior determinations.

95. Some commenters argue that the Commission lacks authority to modify the national audience reach because the CAA excluded the cap from the quadrennial review mandated by section 202(h) of the 1996 Act. We are unpersuaded. Section 202(h) requires the Commission to ''review . . . all of

its ownership rules quadrennially'' to ''determine whether any of such rules are necessary in the public interest as the result of competition,'' and to ''repeal or modify any regulation it determines to be no longer in the public interest.'' The CAA added language stating that the periodic review mandated by section 202(h) ''does not apply to any rules relating to'' the national audience reach cap. CAA section 629(3), 118 Stat. at 100. Consistent with the Commission's position, here the CAA expressly refers to any provisions relating to the national cap as ''rules.'' Section 629(3) of the CAA is also notable because, had Congress established the 39% cap as a statute, there would have been no need for a separate provision exempting the national cap from quadrennial review because the Commission would have no authority—under section 202(h) or otherwise—to review a cap enshrined in statute. The express exclusion of the national cap from the quadrennial review thus reinforces our conclusion that the 39% national cap is a rule and that the Commission retains authority to review it outside of the quadrennial cycle mandated by 202(h). As the Third Circuit recognized in *Prometheus I,* the language of section 629(3) of the CAA does not purport to forbid the Commission from accounting for changing market conditions by reexamining rules relating to the national cap *outside of* the quadrennial review process; it simply separates the Commission's decisions to review the national cap from the statutorily mandated review of other media ownership rules that are to occur every four years. *Prometheus I,* 373 F.3d at 397. Nor can the CAA be read to implement an implied repeal of the Commission's general authority to modify its rules, including the national cap rule, since no such intent is ''clear and manifest'' in the text and the law as written is not ''irreconcilable'' with that authority.

96. Furthermore, Congress's decision to remove the requirement that the national cap be subject to statutorily mandated periodic review can be read to serve other purposes that make more sense than implicitly removing the cap from Commission review altogether. Congress's elimination of a rigid review cycle for the national cap effectively gave the Commission additional flexibility and time to evaluate the national television market and determine whether modifying or repealing the cap would serve the public interest. Had Congress not removed the national cap from section 202(h)'s periodic review mandate, the Commission would have been tasked as part of the 2006 quadrennial review with revisiting that particular rule a mere two years after Congress had directed the Commission to change it to 39%. Congress's decision to remove the national cap—set at 39% in 2004—from further review in 2006 thus can be seen, at least in part, as informed by practical considerations that the fixed periodic timetable likely would not have given the Commission sufficient time to assess the marketplace and consider possible changes to the new rule.

97. Other commenters argue that the Commission's interpretation would lead to an absurd result if the Commission could have waived the cap or changed the cap back immediately afterwards from what Congress had just set. But under general administrative law principles, the Commission would have had to have shown that the public interest would have been served by such an immediate waiver or revision of the rule. Administrative procedure constraints would also have required the Commission to seek public comment on whether the existing cap continues to serve the public interest before revising it. As a practical matter, some period of time would have had to elapse to provide an opportunity for debate on the advisability of any possible rule change. In all events, whether the Commission could have justified a change to the national cap shortly after Congress prescribed the figure in 2004, over two decades have elapsed since then, and such concerns can hardly apply to the Commission's decision here to revisit the cap now.

98. The CAA's exclusion of the national cap from the Commission's forbearance authority under section 10 of the Communications Act does not preclude the Commission from altering the cap itself. See CAA section 629(2), 118 Stat. at 100. For one thing, as the Commission has noted, ''the meaning of this provision is unclear given that forbearance authority does not apply to the regulation of broadcasters under Title III of the Communications Act.'' Whatever the import of the provision, as the Media Bureau explained in the *Nexstar-TEGNA Order,* the Commission's ability to forbear from enforcement of its rules is distinct from its power to alter or eliminate those rules.

99. The CAA also provides that any person or entity that exceeds the 39% national cap through a transaction ''shall have not more than 2 years after exceeding such limitation to come into compliance.'' CAA § 629(2), 118 Stat. at 99. This provision simply sets a specific time period for coming into compliance with the rule as it exists. It is not reasonably read to restrict the Commission's discretion to alter the cap. Indeed, the Commission routinely provides grace periods for acquiring parties to come into compliance with existing ownership rules via divestiture when granting applications for assignments or transfers of television station licenses. The provision also states that ''[t]his divestiture requirement shall not apply to persons or entities that exceed the 39 percent national audience reach limitation through population growth.'' This clarifying language merely restates Commission policy adopted when the national cap based on audience reach was first adopted in 1985 and cannot be read as indicating that population growth was the only congressionally-approved method of avoiding divestiture after exceeding the national cap. We note that this sentence does not include the reference, ''in paragraph (1)(B),'' which some might claim suggests the number is to be unchangeable statutory language. However, given the other references in the CAA to section (c)(1)(B), the second sentence is best understood as also referring to that section (which only directs the Commission to use its rulemaking authority) rather than creating a freestanding statutory cap. Furthermore, as noted earlier, the CAA refers to provisions relating to the national cap as ''rules.'' CAA § 629(3), 118 Stat. at 100.

100. Finally, we see no independent significance to the CAA's various other references to ''the 39 percent national audience reach limitation for television stations in [section 202(c)](1)(B).'' CAA section 629(2), (3), 118 Stat. at 99–100 (amending 1996 Act section 202(c), (h), 110 Stat. at 111–12). This language simply reflects that, at the time Congress enacted the CAA, it had directed the Commission in section 202(c)(1)(B) to revise its rules to reset the national cap to that particular level. While they refer to the then-existing cap, they do not freeze the cap at a particular level indefinitely. The references to the 39% number are to its placement ''in paragraph (1)(B),'' which is the provision of the 1996 Act that directed the Commission to set the cap through its rulemaking authority, which necessarily preserves Commission discretion to adjust its rules as warranted by the public interest.

101. We acknowledge that there are some statements by Members of Congress while the CAA was under consideration, as well as other contemporaneous accounts expressing a

belief that the statute would preclude the Commission from making further changes to the national cap. But these statements are belied by the terms of the legislation that was adopted. As the Supreme Court has reiterated, ''[L]egislative history is not the law. It is the business of Congress to sum up its own debates in its legislation, and once it enacts a statute we do not inquire what the legislature meant; we ask only what the statute means.'' *Epic Systems Corp.* v. *Lewis,* 584 U.S. 497, 523 (2018). In similar circumstances, the D.C. Circuit in *Fox I* refused to find a statement ''by the ranking minority Member of the relevant subcommittee of the House'' that the 1996 Act's specification of a 35% cap ''should settle the issue for many years to come'' to dispose of the statute's meaning. *Fox I,* 280 F.3d at 1043.

102. A few commenters assert that the Commission is prevented from repealing the national cap by the Major Questions Doctrine. But that doctrine applies to instances in which an agency claims ''extravagant statutory power over the national economy'' in the absence of clear authority from Congress. See *Utility Air Regulatory Group* v. *EPA,* 573 U.S. 302, 324 (2014). The Commission has held the power to modify or repeal broadcast ownership rules since the Communications Act was passed. It is not regulating outside its area of expertise or invoking expansive power from a narrow statute. And, as we have discussed, nothing in the CAA repeals the Commission's authority to review its rules, even where the ''starting point'' has been set by Congress. *Fox I,* 280 F.3d at 1043.

103. In sum, the best reading of the statute supports the Commission's longstanding position that the Commission retains authority to modify or eliminate the national television audience reach rule upon determining that the rule no longer serves the public interest, and for the reasons we have explained, we have determined that here. We therefore exercise our authority to modify our rules by repealing the national audience reach limitation for television stations in favor of a case-by-case analysis of specific transactions. This, in our judgment, far better serves the public interest in light of the significant changes to the position of television broadcasters in the modern media marketplace.

Procedural Matters

104. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Public Law 104–121, 110 Stat. 847 (1996); 5 U.S.C. 605(b). Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule and policy changes contained in this Report and Order on small entities. The FRFA is set forth below.

105. *Paperwork Reduction Act.* This Report and Order does not contain proposed new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, this Report and Order therefore does not contain any new or modified ''information burden for small business concerns with fewer than 25 employees'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4).

106. *Congressional Review Act.* The Office of Information and Regulatory Affairs of the Office of Management and Budget has found that this rule is major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report & Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Final Regulatory Flexibility Act Analysis

107. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule,* Notice of Proposed Rulemaking (*NPRM*), released on December 18, 2017. The Media Bureau sought further written public comment in *Media Bureau Seeks to Refresh the Record in the National Television Multiple Ownership Rule Proceeding,* Public Notice (*Refresh Public Notice*), including comment on the IFRA. The comments received are addressed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Rules

108. In December 2017, the Commission adopted an *NPRM* to seek comment on whether to retain, modify, or eliminate its rule limiting entities from owning or controlling broadcast television stations that, in the aggregate, reach more than 39% of the television audience households in the United States. The *NPRM* also sought comment on a component of the rule, which provides a 50% discount to UHF stations for purposes of calculating compliance with the 39% audience reach cap, often referred to as the ''UHF discount.'' In June 2025, the Media Bureau issued the *Refresh Public Notice* seeking to refresh the record in this proceeding. In light of the request to refresh the record, the *Refresh Public Notice* invited comment on any potential effect of proposals on small entities and the IRFA. In the *Report & Order,* we repeal the national television multiple ownership rule, an important step towards modernizing our regulation of the media marketplace.

109. We find that the record demonstrates that eliminating the national television multiple ownership rule serves the public interest, as it is no longer necessary to promote competition, viewpoint diversity, and localism. The Commission has found since 2003 that the rule is not needed to promote competition and viewpoint diversity, which is only more true today in the modern, diverse media marketplace that includes the proliferation of online video streaming options for viewers. On localism, we agree that increased scale will open opportunities for broadcasters to attract additional capital and advertising revenue needed to produce local programming and to improve service to their local communities. We find that a case-by-case review of applications for the transfer and assignment of television licenses is a better way to ensure that the Commission's media ownership goals are being met. Accordingly, we eliminate the national television multiple ownership rule.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

110. While no commenter directly responded to the IRFA in this proceeding, one commenter references the RFA process. That commenter contends that the Commission's regulatory flexibility analysis under the RFA is insufficient because, in seeking to refresh the record, the Commission ''fails to provide any meaningful analysis of how potential changes to the nationwide audience reach cap or UHF discount might affect small broadcast entities.'' The commenter further states that ''[t]o address this deficiency, the FCC should conduct a comprehensive

RFA analysis before proceeding with any modifications to the national audience reach cap or UHF discount.'' The arguments raised by the commenter fail to acknowledge that the 2017 *NPRM* in this proceeding included the requisite IRFA and that the *Refresh Public Notice* sought further comment on that IRFA. The Commission has reviewed the record in its entirety and has evaluated the impact of this final action on small broadcast entities, and now publishes this FRFA, consistent with the requirements of the RFA.

C. Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy

111. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and also provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding. The SBA Office of Advocacy did file comments in another Commission proceeding (GN Docket No. 25–133) that discuss the national television multiple ownership rule, 47 CFR 73.3555(e).

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

112. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

113. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and are not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99% of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

114. The rule changes adopted in the *Report and Order* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard (million)	Total firms	Total small firms	% Small firms
Television Broadcasting Stations	516120	$47	413	316	76.51

TABLE 2—BROADCAST ENTITY DATA

Broadcast station owners (as of August 8, 2025)	SBA size standard ($47 million)		
Affected entity	Number commercial licensed	Small firms	% Small entities
Television Stations	171	142	83.04

E. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

115. The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

116. In this *Report and Order,* we repeal the national television multiple ownership rule. Accordingly, small and other entities that want to purchase or control broadcast television stations that, in the aggregate, reach more than 39% of the television audience households in the United States will no longer need to make a showing or otherwise calculate and demonstrate compliance with the rule. We find that there are no reporting, recordkeeping, or other compliance requirements for small entities. After reviewing the record in this proceeding, we received no concerns about these types of burdens on small entities. In addition, as the *Report and Order* explains, eliminating the national cap will not permit any more or less consolidation within a local market and so will not reduce the number of voices in the market or increase the concentration among

stations for small broadcasters in a given market.

F. Discussion of Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

117. The RFA requires an agency to provide, ''a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

118. The rule change, eliminating the national television multiple ownership rule, is deregulatory in nature and does not impose or increase regulatory burdens on small entities. In the *Report & Order,* the Commission finds that a case-by-case approach to applications for television license transfers and assignments is the best way to promote the Commission's media ownership goals of localism, competition and viewpoint diversity. Notably, in response to the latest request for comment in the *Refresh Public Notice,* broadcast commenters were unified in their advocacy for complete elimination of the rule. As the *Report & Order* explains, elimination of the rule would not result in a loss of viewpoint diversity or competition in the local markets in which broadcast stations operate. Further, the *Report & Order* finds that eliminating the national cap does not permit any more or less consolidation within a local market and therefore has no effect on the number of voices in the market. Similarly, the *Report & Order* finds that competition within a local market will not be harmed by the substitution of one station owner for another, and preservation of the rule is not needed to promote localism.

119. Some commenters believe an alternative approach of maintaining the national ownership cap will encourage competition and local programming. By contrast, the *Report & Order* makes clear that eliminating the rule will enable broadcasters to gain additional scale, which will allow broadcasters to generate additional revenues that can be used to provide broadcast service to the local community. Creating this flexibility for broadcasters is important, as the *Report & Order* details the loss of viewership and revenue that the industry has endured since the time when the Commission last reviewed the need for this rule. The *Report & Order* further finds that scale will give local broadcast affiliates additional leverage vis-à-vis the national networks with which they negotiate for affiliation, thereby improving the ability of broadcast affiliates to resist network demands with respect to compensation and programming decisions. We considered alternative arguments that eliminating the national ownership cap would give broadcasters leverage over multichannel video programming distributors (MVPDs) in retransmission consent negotiations; however, any retransmission consent concerns may be addressed in the context of a specific transaction or in a separate rulemaking proceeding. The *Report & Order* also explains that, for individual stations that are financially struggling, repealing the national cap would give those stations additional options by permitting station groups with healthier balance sheets to expand into new markets, acquire those stations, and provide communities with more robust locally-oriented programming.

G. Report to Congress

120. The Commission will send a copy of the *Report & Order,* including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report & Order,* including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Report & Order,* and this Final Regulatory Flexibility Analysis (or summaries thereof) in the **Federal Register**.

Ordering Clauses

121. Accordingly, *it is ordered* that, pursuant to the authority contained in Sections 1, 2(a), 4(i), 303(r), 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303(r), 307, 309, and 310, the Report and Order *is adopted* effective 60 days after the date of publication in the **Federal Register**.

122. *It is further ordered* that, pursuant to the authority contained in Sections 1, 2(a), 4(i), 303(r), 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303(r), 307, 309, and 310, Part 73 of the Commission's rules *is amended* as set forth below, effective 60 days after the date of publication in the **Federal Register**.

123. *It is further ordered* that the Commission's Office of the Secretary *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

124. *It is further ordered* that the Office of the Managing Director, Performance Program Management, *shall send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

125. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 17–318 *shall be terminated* and its docket *closed*.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.3555 [Amended]

■ 2. Amend § 73.3555 by removing and reserving paragraph (e).

[FR Doc. 2026–23040 Filed 11–10–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0066; RTID 0648–XG161]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod from catcher vessels using trawl gear to Amendment 80 (A80) trawl catcher/

processors in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2026 total allowable catch (TAC) of Pacific cod in the BSAI to be harvested.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), November 12, 2026, through 2400 hours, A.l.t., December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Andrew Olson, 907–206–5813.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared and recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2026 Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI is 25,231 metric tons (mt) as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026) and reallocations (91 FR 64806, October 13, 2026, and 91 FR 67224, October 26, 2026).

The 2026 Pacific cod TAC specified for A80 trawl catcher/processors in the BSAI is 15,799 mt as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026).

The Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that catcher vessels using trawl gear will not be able to harvest 200 mt of the 2026 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*9*). The Regional Administrator has also determined that A80 trawl catcher/processors have the capability to harvest an additional 200 mt of Pacific cod TAC.

Therefore, in accordance with § 679.20(a)(7)(iii)(B), NMFS reallocates 200 mt of Pacific cod from catcher vessels using trawl gear to the annual amount specified for A80 trawl catcher/processors.

The harvest specifications for 2026 Pacific cod TAC included in the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026) and reallocations (91 FR 64806, October 13, 2026, and 91 FR 67224, October 26, 2026) are revised as follows: 25,031 mt to catcher vessels using trawl gear and 15,999 mt to A80 trawl catcher/processors.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data on Pacific cod catch in a timely fashion and would not allow for the full harvest of the Pacific cod TAC by the sector with harvesting capability. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on the catch of Pacific cod by sectors operating in the BSAI and the capability of certain sectors to harvest additional TAC only became available as of November 5, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 5, 2026.

Shannon Bettridge,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–23002 Filed 11–10–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 217
Thursday, November 12, 2026

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–13809; Project Identifier MCAI–2026–00761–A]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Diamond Aircraft Industries GmbH (DAI) Model DA 50 C airplanes. This proposed AD was prompted by reports of flap actuator failures. This proposed AD would require inspecting for displacement of the black slide grommet and inspecting the rod end bearing for a tight fit of the flap actuator. This proposed AD would also require modification of the flap actuator followed by repetitive inspections for a broken actuator torque seal on the jam nuts at the attachment of the rod end bearing of the flap actuator with applicable corrective action. This proposed AD would also prohibit the installation of unmodified flap actuators on any airplane. 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–91, West Building Fifth Floor, Room W58–213, 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–2026–13809; 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 Diamond Aircraft material identified in this proposed AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straβe 5, A–2700 Wiener, Neustadt, Austria; phone: +43 2622 26700; email: *office@diamond-air.at;* website: *diamondaircraft.com/*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1100 Main, Kansas City, MO 64015. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Aryanna Sanchez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–4058; email: *aryanna.t.sanchez@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include ''Docket No. FAA–2026–13809; Project Identifier MCAI–2026–00761–A'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2026–0140, dated July 15, 2026 (referred to as the MCAI), to correct an unsafe condition on all DAI Model DA 50 C airplanes. The MCAI states that reports of flap actuator failures resulted in the inability to extend the flaps. It was determined during investigations of this condition that the flap actuator could interfere with the aileron control system. There was one report of a case causing reduced aileron control. This condition, if not detected and corrected, could lead to inability to extend the flaps, which could result in limited aileron travel and reduced control of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–13809.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed DAI Work Instruction WI–MSB 50–016, Revision 0, dated July 9, 2026. This material specifies procedures for inspecting for

displacement of the black slide grommet and inspecting the rod end bearing for a tight fit of the flap actuator, modifying the flap actuator, repetitively inspecting for a broken actuator torque seal on the jam nuts at the attachment of the rod end bearing of the flap actuator, and taking applicable corrective action. The FAA also reviewed DAI Mandatory Service Bulletin DAI MSB 50–016, dated July 9, 2026, which includes the Execution Report that is to be sent to Diamond after completing actions required in Diamond Aircraft Industries GmbH Work Instruction WI–MSB 50–016, Revision 0, dated July 9, 2026.

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 and material referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described. This proposed AD would also require an installation prohibition on unmodified flap actuators.

Interim Action

The FAA considers this AD to be an interim action. This unsafe condition is still under investigation by the manufacturer and, depending on the results of that investigation, the FAA may consider further rulemaking action.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 30 airplanes 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
Initial inspection of the flap actuator.	1 work-hour × $85 per hour = $85.	$0	$85 (per inspection)	$2,550 (per inspection).
Modification of the flap actuator.	5 work-hours × $85 per hour = $425.	$2,250 (up to)	$2,675 (up to)	$80,250 (up to).
Repetitive Inspections of the flap actuator.	1 work-hour × $85 per hour = $85 (per inspection).	$0	$85 (per inspection)	$2,550 (per inspection).
Execution Report submittal	1 work-hour × $85 per hour = $85 (per action).	$0	$85 (per action)	$2,550 (per action).

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Diamond Aircraft Industries GmbH: Docket No. FAA–2026–13809; Project Identifier MCAI–2026–00761–A.

(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 all Diamond Aircraft Industries GmbH (DAI) Model DA 50 C airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2752–TE Flap Actuator.

(e) Unsafe Condition

This AD was prompted by reports of flap actuator failures. The FAA is issuing this AD to detect and correct displacement of the black slide grommet, the rod end bearing for a tight fit of the flap actuator, and broken actuator torque seals on the jam nuts at the attachment of the rod end bearing of the flap actuator. The unsafe condition, if not addressed, could lead to the inability to extend the flaps, which could result in limited aileron travel and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 50 hours time-in-service (TIS) or 12 months, whichever occurs first after the effective date this AD, do the initial inspection of the flap actuator in accordance with Section III, steps 1 through 15, of DAI Work Instruction WI–MSB 50–016, Revision 0, dated July 9, 2026 (DAI WI–MSB 50–016, Revision 0).

(2) Within 100 hours TIS or 12 months, whichever occurs first after the effective date this AD, modify the flap actuator in accordance with the instructions of Section IV, steps 1 through 34, of DAI WI–MSB 50–016, Revision 0.

(3) Within 200 hours TIS or 12 months, whichever occurs first after the modification of the flap actuator as required by paragraph (g)(2) of this AD, and thereafter at intervals not to exceed 200 hours TIS or 12 months, whichever occurs first, do the repetitive inspections of the flap actuator in accordance with Section V, steps 1 through 13 of DAI WI–MSB 50–016, Revision 0.

(4) If, during any inspection required by paragraph (g)(1) or (3) of this AD, any discrepancies are detected as defined in DAI WI–MSB 50–016, Revision 0, before next flight, accomplish the applicable corrective actions in accordance with the instructions of Diamond WI–MSB 50–016, Revision 0.

(5) Where DAI WI–MSB 50–016, Revision 0, specifies to contact DAI, this AD requires before further flight using instructions approved by the Manager, International Validation Branch, FAA; the European Union Aviation Safety Agency (EASA); or DAI's EASA Design Organization Approval (DOA) and within the compliance time specified therein, accomplishing those instructions. If approved by the DOA, the approval must include the DOA-authorized signature.

(6) Where DAI WI–MSB 50–016, Revision 0, specifies to ''discard'' certain parts, this AD requires replacing that text with ''remove from service''.

(h) Reporting Requirement

At whichever time in paragraph (h)(1) or (2) of this AD that occurs later, report the results of the inspection required by paragraphs (g)(1) and (3) of this AD and the modification required by paragraph (g)(2) of this AD to DAI using the Execution Report found in DAI Mandatory Service Bulletin DAI MSB 50–016, dated July 9, 2026.

(1) Within 30 days after the referenced inspection and modification; or

(2) Within 30 days after the effective date of this AD.

(i) Parts Installation Limitation

As of the effective date of this AD, do not install a flap actuator on any airplane unless it has been modified in accordance with the requirements of paragraph (g)(2) of this AD and applicable inspections and corrective actions are accomplished in accordance with the requirements of paragraph (g) of this AD.

(j) 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 local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Aryanna Sanchez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–4058; email: *aryanna.t.sanchez@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Diamond Aircraft Industries GmbH (DAI) Mandatory Service Bulletin DAI MSB 50–016, dated July 9, 2026.

(ii) DAI Work Instruction WI–MSB 50–016, Revision 0, dated July 9, 2026.

(3) For Diamond Aircraft material identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straβe 5, A–2700 Wiener, Neustadt, Austria; phone: +43 2622 26700; email: *office@diamond-air.at;* website: *diamondaircraft.com/.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1100 Main, Kansas City, MO 64015. 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 9, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–23068 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–14192; Airspace Docket No. 26–ASW–13]

RIN 2120–AA66

Amendment of Jet Route J–21 in the Vicinity of Laredo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Jet Route J–21 to eliminate an unnecessary 1.47-degree turn in the airway in the vicinity of Laredo, TX. The FAA proposes this action to improve efficiency by straightening the ground track of J–21, eliminating a 1.47-degree turn.

DATES: Comments must be received on or before December 28, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2026–14192 and Airspace Docket No. 26–ASW–13 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W58–213, West Building, 5th floor, Washington, DC 20590.

* *Hand Delivery or Courier:* Take comments to Docket Operations in

Room W58–213 of the West Building, 5th 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 the Docket Operations in Room W58–213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Kendra Herrera, Airspace Regulations Group, Operational Policy Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. 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 *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Jet Routes are published in paragraph 2004 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11M, dated July 30, 2026, and effective September 15, 2026. These updates would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11M, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend Jet Route J–21 in the vicinity of Laredo, TX. This amendment would straighten J–21's ground track and eliminate the 1.47-degree turn that exists at the international boundary between the United States and Mexico, the current airway intersection, and will improve efficiency.

J–21: J–21 currently extends between the intersection of the United States/Mexican border and the Laredo, TX, Very High Frequency (VHF) Omnidirectional Range (VOR)/Tactical Air Navigation (VORTAC) 172° (T) radial, and the Duluth, MN, VOR/Distance Measuring Equipment (DME), via the Laredo, TX, VORTAC; San Antonio, TX, VORTAC; Centex, TX, VORTAC; Waco, TX, VORTAC; Ranger, TX, VORTAC; Ardmore, OK, VORTAC; Will Rogers, OK, VORTAC; Wichita, KS, VORTAC; Omaha, IA, VORTAC; and Gopher, MN, VORTAC.

The FAA proposes to amend the southern segment of J–21 by adjusting the Laredo VORTAC radial defining the route to the United States/Mexican border from the current 163° (M)/172° (T) radial (TTXOX, Waypoint (WP)) to the 165° (M)/174° (T) radial (DAPUN, WP). As a result, the new airway intersection at the United States/Mexican border would shift from the TTXOX, WP to the newly designated DAPUN, WP, located 0.93 nautical miles southwest of the existing border intersection. This amendment would eliminate an unnecessary 1.47-degree turn where the Mexican segment of J–21 (charted between Ciudad Victoria, Mexico, and the United States/Mexican border) joins the United States segment (charted between the United States/Mexican border and Laredo, TX), thereby straightening the ground track and improving airway efficiency. The remainder of the route would remain unchanged.

As amended, J–21 would extend between the intersection of the United States/Mexican border and the Laredo, TX, 165° (M)/174° (T) radial (DAPUN, WP), and the Duluth, MN, VOR/DME, via the Laredo, TX, VORTAC; San Antonio, TX, VORTAC; Centex, TX, VORTAC; Waco, TX, VORTAC; Ranger, TX, VORTAC; Ardmore, OK, VORTAC; Will Rogers, OK, VORTAC; Wichita, KS,

VORTAC; Omaha, IA, VORTAC; and Gopher, MN, VORTAC.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Order 2100.6B, ''Rulemaking and Guidance Procedure'' (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these proposed amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, ''*FAA National Environmental Policy Act Implementing Procedures*'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

* * * * *

J–21 [Amended]

From INT of the United States/Mexican border and the Laredo, TX, 174° (T) radial; Laredo, TX; San Antonio, TX; Centex, TX; Waco, TX; Ranger, TX; Ardmore, OK; Will Rogers, OK; Wichita, KS; Omaha, IA; Gopher, MN; to Duluth, MN.

* * * * *

Issued in Washington, DC, on November 9, 2026.

Brian Erie Konie,

Acting Manager, Airspace Regulation Group.

[FR Doc. 2026–23017 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–13805; Project Identifier MCAI–2026–00064–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Dassault Aviation Model MYSTERE–FALCON 50, FALCON 2000, and FALCON 2000EX airplanes. This proposed AD was prompted by a reported quality escape and a determination that high-temperature oxidation of main landing gear (MLG) upper and lower torque links may have occurred during manufacturing. This proposed AD would require replacing any affected MLG with a serviceable MLG. This proposed AD would also limit the installation of affected parts under certain conditions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by 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–2026–13805; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2026–13805.
- 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: Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7350; email: *9-AVS-AIR-BACO-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–2026–13805; Project Identifier MCAI–2026–00064–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 Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7350; email: *9-AVS-AIR-BACO-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

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2026–0012, dated January 19, 2026 (EASA AD 2026–0012) (also referred to as the MCAI), to correct an unsafe condition for all Dassault Aviation Model MYSTERE–FALCON 50, FALCON 2000, and FALCON 2000EX airplanes. The MCAI states that following the reporting of a quality escape, it has been determined that occurrences of high-temperature oxidation of MLG upper and lower torque links may have occurred during manufacturing. This condition, if not corrected, could lead to failure of the MLG, possibly resulting in damage to the airplane and injury to occupants.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–13805.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2026–0012 specifies procedures for replacing any affected MLG (an MLG having certain upper and lower torque link assemblies) with a serviceable MLG (an MLG that is not an affected MLG, or an affected MLG whose affected part has accumulated less than 7,100 flight cycles since first installation on an airplane). EASA AD 2026–0012 also limits the installation of affected parts under certain conditions.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2026–0012 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2026–0012 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2026–0012 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2026–0012 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2026–0012. Material required by EASA AD 2026–0012 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–13805 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 683 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
36 work-hours × $85 per hour = $3,060.	Up to $300,000 *	Up to $303,060	Up to $53,944,680 (178 airplanes **).

* The FAA estimates the cost of replacing an affected MLG with a new MLG to be $300,000. However, operators could also rebuild the MLG by replacing the upper and lower torque link assemblies, which would cost $48,990.

** The FAA estimates that up to 178 airplanes have an affected part installed and would be required to replace an affected MLG.

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

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2026–13805; Project Identifier MCAI–2026–00064–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 all Dassault Aviation Model MYSTERE–FALCON 50, FALCON 2000, and FALCON 2000EX airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a reported quality escape and a determination that high-temperature oxidation of main landing gear (MLG) upper and lower torque links may have occurred during manufacturing. The FAA is issuing this AD to address this condition. The unsafe condition, if not addressed, could result in failure 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, European Union Aviation Safety Agency (EASA) AD 2026–0012, dated January 19, 2026 (EASA AD 2026–0012).

(h) Exceptions to EASA AD 2026–0012

(1) Where EASA AD 2026–0012 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2026–0012 defines a serviceable MLG as ''Any MLG, eligible for installation in accordance with Dassault instructions, which is not an affected MLG; and any affected MLG, having an affected part installed, provided that the affected part accumulated less than 7,100 flight cycles (FC) since first installation on an aeroplane'', this AD requires replacing that text with ''Any MLG, eligible for installation, which is not an affected MLG; and any affected MLG, having an affected part installed, provided that the affected part accumulated less than 7,100 flight cycles (FC) since first installation on an airplane''.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2026–0012.

(i) 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 (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, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

For more information about this AD, contact Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7350; email: *9-AVS-AIR-BACO-COS@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 2026–0012, dated January 19, 2026.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA 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 3, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–23074 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. FDA–2026–N–12508]

Hematology and Pathology Devices; Reclassification of Immunohistochemistry Test Systems for Use With a Corresponding Approved Oncology Therapeutic Product

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed amendment; proposed order; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify immunohistochemistry (IHC) test systems indicated for use with a corresponding approved oncology therapeutic product (product codes

MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF), which are postamendments class III devices, from class III (premarket approval) into class II (special controls), subject to premarket notification. FDA is proposing minor revisions to an existing classification regulation and also proposing a new device classification regulation, along with the special controls that FDA believes are necessary to provide a reasonable assurance of safety and effectiveness for these devices.

DATES: Either electronic or written comments on the proposed order must be submitted by January 11, 2027. Please see section X of this document for the proposed effective date when the new requirements would apply and for the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 11, 2027. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2026–N–12508 for ''Hematology and Pathology Devices; Reclassification of Immunohistochemistry Test Systems for Use with a Corresponding Approved Oncology Therapeutic Product.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA 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, the plain language summary of the proposed order of not more than 100 words consistent with the ''Providing Accountability Through Transparency Act,'' or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Soma Ghosh, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3316, Silver Spring, MD 20993, 240–402–5333, *Soma.Ghosh@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) establishes three classes of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three classes of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Section 513(a)(1) of the FD&C Act defines the three classes of devices. Class I devices are those devices for which the general controls of the FD&C Act (controls authorized by or under section 501, 502, 510, 516, 518, 519, or 520 (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, or 360j) or any combination of such sections) are sufficient to provide reasonable assurance of the safety and effectiveness of the device; or those devices for which insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of safety and effectiveness or to establish special controls to provide such assurance, but because the devices are not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, and do not present a potential unreasonable risk of illness or injury, are to be regulated by general controls (section 513(a)(1)(A) of the FD&C Act).

Class II devices are those devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness,

and for which there is sufficient information to establish special controls to provide such assurance, including the issuance of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions FDA (Agency or we) deems necessary to provide such assurance (section 513(a)(1)(B) of the FD&C Act).

Class III devices are those devices for which insufficient information exists to determine that general controls and special controls would provide a reasonable assurance of safety and effectiveness, and are purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or present a potential unreasonable risk of illness or injury (section 513(a)(1)(C) of the FD&C Act).

Devices that were not introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, (generally referred to as ''postamendments devices'') are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require approval of a premarket approval application (PMA), unless and until: (1) FDA reclassifies the device into class I or II, or (2) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. FDA determines whether new devices are substantially equivalent to predicate devices by means of the procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and our implementing regulations (21 CFR part 807, subpart E).

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or class II under section 513(f)(3) of the FD&C Act. Section 513(f)(3) of the FD&C Act provides that FDA, acting by administrative order, can reclassify the device into class I or class II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.[1]

FDA relies on ''valid scientific evidence'' as stated in section 513(a)(3) of the FD&C Act and defined in 21 CFR 860.7(c)(2) in the classification process to determine the level of regulation for devices.[2] To be considered in the reclassification process, the ''valid scientific evidence'' on which the Agency relies generally must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending PMA (see section 520(c) of the FD&C Act). Section 520(h)(4) of the FD&C Act provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety and effectiveness of the device, but it does not include the descriptions of methods of manufacture and product composition and other trade secrets.

In accordance with section 513(f)(3) of the FD&C Act, FDA is issuing this proposed order to reclassify postamendments class III IHC-based test systems indicated for use with a corresponding approved oncology therapeutic product (product codes MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF),[3] [4] hereafter collectively referred to as oncology therapeutic IHC-based test systems, into class II (special controls) subject to premarket notification under a new device classification regulation with the name ''Immunohistochemistry Test Systems for Use with a Corresponding Approved Oncology Therapeutic Product.'' [5]

The identification in the proposed classification regulation characterizes oncology therapeutic IHC-based test systems as prescription in vitro diagnostic (IVD) devices that utilize IHC technology to qualitatively or quantitatively detect protein expression in human specimens and are indicated for use with a corresponding approved oncology therapeutic product. These test systems include companion diagnostic (CDx) test systems, which are devices that provide information that is essential for the safe and effective use of a corresponding approved therapeutic product and the use of which is stipulated in the instructions for use in the labeling of both the diagnostic device and the approved corresponding therapeutic product (Ref. 1). These test systems also include those test systems that provide information about known benefits and/or risks of an approved therapeutic product, where the use of the test system is referenced in the product labeling of the corresponding approved oncology therapeutic product, but the test system is not essential for the safe and effective use of the approved therapeutic product.

As discussed further throughout this proposed order, FDA has issued PMAs for various oncology therapeutic IHC-based test systems designated under product codes MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF. The oncology therapeutic IHC-based test systems within the different product codes have distinct characteristics in certain respects; for example, each product code generally represents devices with specific antibodies utilized, specific biomarker(s) detected by the test system, specimen type(s), and/or specific FDA-approved therapeutic product(s) for

[1] See generally section 513 of the FD&C Act.

[2] See generally *id.*

[3] FDA's Center for Devices and Radiological Health (CDRH) uses product codes to assist in accurate identification and tracking of current medical devices and to allow for tracking of and easy reference to predicate device types. CDRH and a subset of Center for Biologics Evaluation and Research regulated medical device product codes consist of a three-letter combination which associates a device's type with a product classification designated for the application. There is no definitive meaning for the three-digit classification product codes in CDRH's Product Classification Database. See FDA guidance titled, ''Medical Device Classification Product Codes'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/medical-device-classification-product-codes-guidance-industry-and-food-and-drug-administration-staff.*

[4] FDA is aware that product codes for certain previously approved oncology therapeutic IHC-based test systems (NKF, NQF, QUL, QNH, QZJ, SBL, and SER) are identified in the PMA and Product Classification Databases as being associated with a preexisting classification regulation for IHC reagents and kits (§ 864.1860 (21 CFR 864.1860)). The association of these devices and product codes with § 864.1860 is an administrative error and does not reflect the Agency's intent to classify these devices under § 864.1860. FDA intends to update the PMA and Product Classification Databases and remove references to the classification regulation, § 864.1860, mistakenly assigned to these devices/product codes. If this proposed order is finalized, previously approved oncology therapeutic IHC-based test systems designated under product codes MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, or SHF will be reclassified from class III into class II (special controls) under § 864.1895 (21 CFR 864.1895). Through this proposed order, FDA is also proposing to amend the identification paragraph under § 864.1860 to clarify that IHCs indicated for use with a corresponding approved oncology therapeutic product will be classified under § 864.1895, when finalized.

[5] FDA notes that the ''ACTION'' caption for this proposed order is styled as ''Proposed amendment; proposed order; request for comments'' rather than ''Proposed order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

which the device is indicated for use. FDA has considered the distinctions of these test systems across the 12 product codes and has determined that these test systems, including those devices that provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product, as well as test systems that, while not essential to the safe and effective use of the corresponding approved oncology therapeutic product, provide information about known benefits and/or risks related to the use of the approved oncology therapeutic product, have the same or a similar risk profile and sufficiently similar purposes, design considerations, functions, and other features related to safety and effectiveness such that the same or similar regulatory controls are necessary and sufficient to provide reasonable assurance of safety and effectiveness.[6] For these reasons and considering that FDA did not identify any unique risks associated with the distinctions across these devices, FDA is proposing a single classification regulation to classify all oncology therapeutic IHC-based test systems into class II. There would generally not be changes to the product codes (*i.e.,* MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF) for previously approved oncology therapeutic IHC-based test systems, and future oncology therapeutic IHC-based test systems would either be assigned to one of the currently existing product codes or a new product code, as appropriate. The new classification regulation would apply to both current and new devices that are oncology therapeutic IHC-based test systems.

Based on the extensive PMA data available to FDA in accordance with section 520(h)(4) of the FD&C Act,[7] [8] published peer-reviewed literature studying this longstanding and well-understood technology, and data available to the Agency demonstrating a lack of significant postmarket safety signals with oncology therapeutic IHC-based test systems, FDA believes there is sufficient information to reclassify these devices from class III (premarket approval) into class II (special controls). FDA believes the standard in section 513(a)(1)(B) of the FD&C Act is met as there is sufficient information to establish special controls, which, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing to establish a new device classification regulation, ''Immunohistochemistry Test Systems for Use with a Corresponding Approved Oncology Therapeutic Product,'' and classify this device type into class II along with the special controls that the Agency believes are necessary to provide a reasonable assurance of the safety and effectiveness of these devices.

Under the FD&C Act, premarket notification (510(k)) submissions are required to reasonably assure the safety and effectiveness of class II devices unless FDA determines that the device type should be exempt from 510(k) requirements under section 510(m) of the FD&C Act.[9] FDA has not made this determination for oncology therapeutic IHC-based test systems and, therefore, FDA is not proposing that this class II device type be exempt from the 510(k) requirements. If this proposed order is finalized, persons who intend to market this type of device must submit to FDA a premarket notification under section 510(k) of the FD&C Act prior to marketing the device.[10]

II. Regulatory History of the Devices

In accordance with section 513(f)(1) of the FD&C Act, oncology therapeutic IHC-based test systems are automatically classified into class III because they were not introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, have not been reclassified into class I or II, and have not been found substantially equivalent to a device placed in commercial distribution after May 28, 1976, which was subsequently classified or reclassified into class I or class II. Therefore, these devices are subject to the PMA requirements under section 515 of the FD&C Act (21 U.S.C. 360e).

On September 25, 1998, FDA approved an original PMA for the first oncology therapeutic IHC-based test system, a CDx device, Dako HercepTest (P980018, product code MVC) for use in determining human epidermal growth factor receptor 2 (HER2) overexpression in breast cancer tissues routinely processed for histological evaluation as an aid in the assessment of patients for whom trastuzumab treatment is being considered (Ref. 2). In a June 22, 1999, **Federal Register** notice (64 FR 33306), FDA announced the approval order and the availability of the Summary of Safety and Effectiveness Data (SSED) for the device.

[6] For example, a specific device could be indicated for and approved to provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product and to provide information about known benefits and/or risks related to the use of a corresponding approved oncology therapeutic product that is not essential to the safe and effective use of a corresponding approved oncology therapeutic product. The distinction is determined by the data from the clinical development program of the corresponding therapeutic product and how the therapeutic product is labeled (*i.e.,* whether the use of the IVD device is essential for the safe and effective use of the therapeutic product or not essential for the safe and effective use of the therapeutic product but provides information about known benefits and/or risks related to the use of the therapeutic product). The devices have sufficiently similar purposes, design considerations, functions, and other features related to safety and effectiveness such that the same or similar regulatory controls are necessary and sufficient to provide reasonable assurance of safety and effectiveness and the devices can be part of the same device type.

[7] In proposing to reclassify oncology therapeutic IHC-based test systems from class III to class II, FDA, on its own initiative, is relying on data from relevant PMAs (under product codes NKF, NQF, PLS, PKW, and MVC) available to FDA in accordance with the 6-year rule (see section 520(h)(4) of the FD&C Act); see also, FDA, ''Guidance on Section 216 of the Food and Drug Administration Modernization Act of 1997—Guidance for Industry and for FDA Reviewers,'' August 9, 2000 (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-section-216-food-and-drug-administration-modernization-act-1997-guidance-industry-and-fda*). This data was from relevant PMAs approved after November 28, 1990, and before October 15, 2020, for devices that would fall under this specific proposed reclassification as noted in section II of this proposed order. See also, FDA's premarket approval database, available at *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpma/pma.cfm.*

[8] For the purpose of this proposed order, PMA data considered in accordance with section 520(h)(4) of the FD&C Act includes only that data that was submitted to and, therefore, considered by FDA at the time the PMA was reviewed and approval was issued.

[9] In considering whether to exempt class II devices from premarket notification, FDA considers whether premarket notification for the type of device is necessary to provide reasonable assurance of safety and effectiveness of the device. FDA generally considers the factors initially identified in the January 21, 1998, **Federal Register** notice (63 FR 3142) and further explained in FDA's guidance issued on February 19, 1998, titled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff'' in determining whether premarket notification is necessary for class II devices. FDA also considers that, even when exempting devices from the 510(k) requirements, these devices would still be subject to certain limitations on exemptions, for example, the general limitations set forth in 21 CFR 864.9.

[10] If this proposed order is finalized, oncology therapeutic IHC-based test systems, including those currently approved devices designated under product codes MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF will be reclassified from class III into class II (special controls) under the new classification regulation. If this proposed order is finalized, oncology therapeutic IHC-based test systems with prior PMA approval at the time of the final order may continue to be marketed per the previous PMA approval and would not require an additional marketing authorization. For changes or modifications to such devices that could significantly affect the safety or effectiveness of such devices or a major change or modification in the intended use of such devices (see 21 CFR 807.81(a)(3)), FDA would expect that manufacturers would submit a 510(k) for the modified device.

On October 9, 2015, FDA approved an original PMA for the first oncology therapeutic IHC-based test system that, while not essential to the safe and effective use of the corresponding approved therapeutic product, provides information about known benefits and/or risks related to the use of the approved oncology therapeutic product. The approval was for the original PMA for PD–L1 IHC 28–8 pharmDx under the product code PLS (P150025). The PD–L1 IHC 28–8 pharmDx is an oncology therapeutic IHC-based test system using monoclonal rabbit anti-Programmed Cell Death Ligand 1 (PD–L1), Clone 28–8 intended for use in the detection of PD–L1 protein in formalin-fixed, paraffin-embedded (FFPE) non-squamous non-small cell lung cancer (NSCLC) tissue using EnVision FLEX visualization system on Autostainer Link 48. PD–L1 protein expression is defined as the percentage of tumor cells exhibiting positive membrane staining at any intensity. PD–L1 expression as detected by PD–L1 IHC 28–8 pharmDx in non-squamous NSCLC may be associated with enhanced survival from OPDIVO (nivolumab) (Ref. 3). Since the approval of P150025, as of November 3, 2025, FDA has approved four additional PMAs for oncology therapeutic IHC-based test systems that provide information about known benefits and/or risks of an approved oncology therapeutic product, but the test system is not considered to be essential for the safe and effective use of the approved oncology therapeutic product.

Since the first approval order for an oncology therapeutic IHC-based test system, FDA has reviewed and approved an additional 21 original PMAs and approximately 270 PMA supplements for oncology therapeutic IHC-based test systems under product codes MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF.[11]

In accordance with the ''6-year rule'' described in section 520(h)(4) of the FD&C Act (Ref. 4), FDA considered data contained in the following 14 original PMAs, representing oncology therapeutic IHC-based test systems from 5 of the 12 product codes (*i.e.,* MVC, NKF, NQF, PLS, and PKW) for oncology therapeutic IHC-based test systems: Dako HercepTest (P980018, product code MVC) (Ref. 2), Ventana Medical Systems' PATHWAY Her 2 (P990081, product code MVC) (Ref. 5), DakoCytomation EGFR pharmDx (P030044, product code NQF, Ref. 6), Ventana® Medical Systems' PATHWAY Anti-c-KIT (9.7) Primary Antibody (P020055, product code NKF) (Ref. 7), BioGenex InSite™ Her-2/neu kit (P040030, product code MVC) (Ref. 8), DakoCytomation c-Kit pharmDx™ (P040011, product code NKF) (Ref. 9), Bond™ Oracle™ HER2 IHC System (P090015, product code MVC) (Ref. 10), VENTANA ALK (D5F3) CDx Assay (P140025, product code PKW) (Ref. 11), PD–L1 IHC 22C3 pharmDx (P150013, product code PLS) (Ref. 12), PD–L1 IHC 28–8 pharmDx (P150025, product code PLS) (Ref. 3), PD–L1 IHC 28–8 pharmDx (P150027, product code PLS) (Ref. 13), VENTANA PD–L1(SP142) Assay (P160002, product code PLS) (Ref. 14), VENTANA PD–L1 (SP142) Assay (P160006, product code PLS) (Ref. 15), VENTANA PD–L1 (SP263) ASSAY (P160046, product code PLS) (Ref. 16).[12] No information from PMAs and PMA supplements for which fewer than 6 years have passed since FDA's approval has been used in support of this proposed order to reclassify oncology therapeutic IHC-based test systems into class II (see section 520(h)(4) of the FD&C Act).[13]

A review of data from FDA's Manufacturer and User Facility Device Experience (MAUDE) database, which contains Medical Device Reports (MDRs) of adverse events, indicates that as of July 15, 2026, there have been 48 reported events for oncology therapeutic IHC-based test systems under the product codes PLS (N=35 MDRs), MVC (N=7 MDRs), PKW (N=4 MDRs), QNH (N=1 MDR), and QUL (N=1 MDR) since the approval of the first oncology therapeutic IHC-based test system in 1998. There have been no MDRs reported under the product codes NKF, QQT, NQF,[14] QZJ, SBL, SER, and SHF.

After review of the data, the Agency has determined that false negative results account for the device problem associated with a majority of the MDR reported events, with less frequently reported device problems, including, for example, other incorrect, inadequate, or imprecise results or readings, adverse events without identified device or use problem, incorrect or inadequate test results, and false positive results. Notably, a majority of the MDR reported events (over 70 percent) under these product codes stated in their reports that no clinical signs, symptoms or conditions to the patient, no health consequences or impact, and/or no known impact or consequence to patient.

A search of these product codes in FDA's Medical Device Recalls database indicates that as of July 15, 2026, there has been 1 class III recall, 10 class II recalls,[15] and no class I recalls[16] involving oncology therapeutic IHC-based test systems. Of the 10 class II recalls and 1 class III recall, 10 occurred between 2004 and 2020, have since been terminated, and were due to (1) a

[11] FDA has determined that the test systems assigned to product codes MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF all utilize IHC-based technology for use with a corresponding approved oncology therapeutic product and have sufficiently similar purposes, design considerations, functions, and other features related to safety and effectiveness such that all oncology therapeutic IHC-based test systems have the same or a similar risk profile. Further, FDA has not identified any unique risks associated with the distinctions across these test systems.

[12] For the reasons discussed in footnote 11, FDA has determined that these 14 original PMAs, representing oncology therapeutic IHC-based test systems from 5 of the 12 product codes that are proposed to be reclassified, provide an adequate basis for identifying the risks to health associated with oncology therapeutic IHC-based test systems assigned to 1 of the 12 product codes and for developing special controls for oncology therapeutic IHC-based test systems assigned to 1 of the 12 product codes that, together with general controls, would provide a reasonable assurance of safety and effectiveness. Although oncology therapeutic IHC-based test systems may differ with respect to characteristics such as the specific antibody utilized, biomarker detected, indicated tumor type, and corresponding approved oncology therapeutic product, and product codes have been used to distinguish these technological differences, FDA has determined that these differences do not alter the principal device-related risks identified in section V (*i.e.,* false test results, failure of the test system to perform as intended or indicated, and failure to correctly interpret test results). Accordingly, FDA believes that the information from these 14 PMAs is relevant to identifying the risks to health and developing special controls for oncology therapeutic IHC-based test systems across all 12 product codes and that such special controls, together with general controls, would provide a reasonable assurance of safety and effectiveness.

[13] In accordance with section 520(h)(4) of the FD&C Act, FDA has not relied on information in PMAs and PMA supplements approved within the last 6 years to develop the proposed special controls or to otherwise inform this proposed reclassification action.

[14] The database searches initially identified one MDR reported under the NQF product code. However, after manual review of the data, it has been determined that this MDR was improperly reported under this product code. The MDR appears to be intended to report an adverse event for a drug product, and not a device. As such, for the purpose of this proposed order, the data related to this MDR is not included in the Agency's postmarket surveillance analysis and discussion.

[15] One Class II recall was reported under product code NQF; however, it has been determined to have been improperly reported. The class II recall is related instead to a device product code that falls outside the scope of this proposed order. As such, for the purpose of this proposed order the data related to this recall has been excluded from the Agency's postmarket surveillance analysis and discussion surrounding recall data.

[16] As defined in 21 CFR 7.3(m), the numerical designation *i.e.,* I, II, or III, assigned by the FDA to a particular product recall indicates the relative degree of health hazard presented by the product being recalled. Class I recalls are those classified as the highest level of risk in which there is a reasonable probability that the use of, or exposure to, a violative product will cause serious adverse health consequences or death.

process control issue related to storage time which may have led to a false negative result, (2) distribution without premarket approval, (3) nonconforming material/component resulting in light staining inconsistencies isolated to a specific lot, or (4) per the manufacturer, granular staining which may have led to a false positive result, increased background staining related to a process change for the purification of the raw material, and a formulation error in the visualization reagent (*i.e.,* violations of production and process controls and purchasing controls). There are 29 MDR reported events associated with the remaining class II recall (these are included in the earlier discussion of MDR reported events), which occurred in 2023 due to manufacturer identified unacceptable light staining which could potentially lead to a false negative result. This class II recall is currently open with the investigation ongoing.

In response to FDA's announcement that the Agency intended to initiate the reclassification process for certain IVD devices, including CDx tests (Ref. 17), FDA received a petition on January 7, 2026, from Ventana Medical Systems, Inc., (Docket No. FDA–2026–P–1301) requesting FDA reclassify all PD–L1 IHC qualitative assays to identify PD–L1 expression in human clinical tissue specimens (under product code PLS) from class III to class II. As discussed in this proposed order, FDA has considered the information available to the Agency and believes that there is sufficient information available to establish special controls, and that the special controls proposed in section VII, together with general controls, would provide a reasonable assurance of the safety and effectiveness of such devices under the PLS product code, as well as other similar devices under product codes MVC, NKF, QQT, NQF, PKW, QUL, QNH, QZJ, SBL, SER, and SHF. As such, FDA is proposing, on its own initiative, that oncology therapeutic IHC-based test systems, including those under product code PLS, be reclassified from class III to class II.

III. Device Description

Oncology therapeutic IHC-based test systems are postamendments devices classified into class III under section 513(f)(1) of the FD&C Act. These oncology therapeutic IHC-based test systems are prescription IVD devices intended for the quantitative, semi-quantitative, or qualitative detection of protein expression in human specimens using IHC technology through manual techniques, automated instrumentation, or a combination of manual techniques and automated instrumentation and are indicated for use with a corresponding approved oncology therapeutic product. These oncology therapeutic IHC-based test systems include IVD CDx devices which are devices that provide information that is essential for the safe and effective use of a corresponding therapeutic product.[17] The use of an IVD CDx device with a therapeutic product is stipulated in the instructions for use in the labeling of both the diagnostic device and the corresponding approved therapeutic product, including the labeling of any generic equivalents of the therapeutic product.[18] An IVD CDx device could be essential for the safe and effective use of a corresponding approved therapeutic product to:

- Identify patients who are most likely to benefit from the therapeutic product;
- Identify patients likely to be at increased risk for serious adverse reactions as a result of treatment with the therapeutic product;
- Monitor response to treatment with the therapeutic product for the purpose of adjusting treatment (*e.g.,* schedule, dose, discontinuation) to achieve improved safety or effectiveness;
- Identify patients in the population for whom the therapeutic product has been adequately studied and found safe and effective; *i.e.,* there is insufficient information about the safety and effectiveness of the therapeutic product in any other population.

An IVD CDx does not include devices that are not essential to the safe and effective use of a therapeutic product.[19] For more information on CDx devices, see FDA's guidance titled ''In Vitro Companion Diagnostic Devices—Guidance for Industry and Food and Drug Administration Staff'' (Ref. 1).

Additionally, the oncology therapeutic IHC-based test systems in this proposed order include IVD test systems that provide information about known benefits and/or risks to patient populations related to the use of a corresponding approved oncology therapeutic product and are referenced in the labeling for the corresponding approved therapeutic product but are not essential for the safe and effective use of the therapeutic product. For example, such devices can be used to assess a biomarker-defined population of patients and provide information regarding the overall survival rate or objective response rate for those patients compared to the broader population of patients for whom the corresponding therapy is indicated. The use of these devices is not a prerequisite for receiving treatment with the corresponding therapeutic product but can aid in the benefit-risk assessment as to the use of the corresponding therapy for those biomarker-defined patients.

FDA proposes to revise 21 CFR part 864 to create a new device classification regulation with the name ''Immunohistochemistry Test Systems for Use with a Corresponding Approved Oncology Therapeutic Product.'' IHC-based test systems indicated for use with a corresponding approved oncology therapeutic product are identified as prescription IVD devices consisting of polyclonal or monoclonal antibodies intended for the quantitative, semi-quantitative, or qualitative detection of protein expression in human clinical specimens to provide information related to the use of a corresponding approved oncology therapeutic product as described in the corresponding approved oncology therapeutic product labeling. These test systems provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product and/or are test systems that, while not essential to the safe and effective use of the corresponding approved oncology therapeutic product, provide information about known benefits and/or risks related to the use of the corresponding approved oncology therapeutic product.

IV. Proposed Reclassification and Summary of Reasons for Reclassification

In accordance with section 513(f)(3) of the FD&C Act and 21 CFR part 860, subpart C, FDA is proposing to reclassify oncology therapeutic IHC-based test systems from class III into class II, subject to 510(k) requirements. FDA believes that there is sufficient information available to establish special controls and that these special controls, together with general controls, would effectively mitigate the risks to health identified in section V and are necessary to provide a reasonable assurance of the safety and effectiveness of oncology therapeutic IHC-based test systems.

Under this proposed order, if finalized, oncology therapeutic IHC-based test systems will be identified as prescription IVD devices. Such devices are subject to the prescription labeling requirements for IVD products (see 21

[17] FDA, ''In Vitro Companion Diagnostic Devices—Guidance for Industry and Food and Drug Administration Staff,'' August 6, 2014. Available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/in-vitro-companion-diagnostic-devices.*

[18] *Id.*

[19] *Id.*

CFR 809.10(a)(4) and (b)(5)(ii)). In this proposed order, FDA has identified the special controls under section 513(a)(1)(B) of the FD&C Act that it believes, together with general controls, will provide a reasonable assurance of the safety and effectiveness of these test systems.

Under the FD&C Act, 510(k) submissions are required to reasonably assure the safety and effectiveness of class II devices unless FDA determines that the device type should be exempt from 510(k) requirements under section 510(m) of the FD&C Act.[20] FDA has not made this determination for oncology therapeutic IHC-based test systems, and therefore, FDA is not proposing this class II device type be exempt from 510(k) requirements. If this proposed order is finalized, persons who intend to market an oncology therapeutic IHC-based test system will need to submit to FDA a 510(k) and receive clearance prior to marketing the device.

This proposed order, if finalized, will decrease regulatory burden on industry, as manufacturers will no longer have to submit a PMA for this type of device but can instead submit a 510(k) to the Agency for review prior to marketing their device. The 510(k) pathway is less burdensome and generally more cost-effective for industry and FDA than the PMA pathway, the most stringent type of device marketing application required by FDA. A 510(k) typically results in a shorter premarket review timeline compared to a PMA, which ultimately may provide more timely patient access for this type of device. FDA expects that the reclassification of these devices would enable more manufacturers to develop this type of device such that patients would benefit from increased access to appropriately safe and effective test systems.

Additionally, manufacturers may wish to use predetermined change control plans (PCCPs) as a way to implement future modifications to their devices without needing to submit a new 510(k) for each significant change or modification [21] while continuing to provide a reasonable assurance of device safety and effectiveness.[22] FDA reviews a PCCP as part of a marketing submission for a device to ensure the continued safety and effectiveness of the device without necessitating additional marketing submissions for implementing each modification described in the PCCP. When used appropriately, PCCPs authorized by FDA are expected to be least burdensome for manufacturers and FDA.[23]

FDA believes that there is sufficient information available to FDA through the 14 original PMAs for Dako HercepTest (P980018, product code MVC), Ventana Medical Systems' PATHWAY Her 2 (P990081, product code MVC), DakoCytomation EGFR pharmDx (P030044, product code NQF), Ventana® Medical Systems' PATHWAY Anti-c-KIT (9.7) Primary Antibody (P020055, product code NKF), BioGenex In Site ™ Her-2/neu (P040030, product code MVC), DakoCytomation c-Kit pharmDx™ (P040011, product code NKF), Bond ™ Oracle ™ HER2 IHC System (P090015, product code MVC), VENTANA ALK (D5F3) CDx Assay (P140025, product code PKW), PD–L1 IHC 22C3 pharmDx (P150013, product code PLS), PD–L1 IHC 28–8 pharmDx (P150025, product code PLS), PD–L1 IHC 28–8 pharmDx (P150027, product code PLS), VENTANA PD–L1(SP142) Assay (P160002, product code PLS), VENTANA PD–L1 (SP142) Assay (P160006, product code PLS), and VENTANA PD–L1 (SP263) ASSAY (P160046, product code PLS) (Ref. 2 and 3 and 5 through 16), published peer-reviewed literature on IHC technology, and FDA's publicly available MAUDE and Medical Device Recalls databases to establish special controls that effectively mitigate the risks to health identified in section V. More specifically, in evaluating these data sources, FDA has identified the risks to health for inclusion in the overall risk assessment for oncology therapeutic IHC-based test systems. The Agency has considered the risks to health identified by these sources and used certain information from these sources in developing proposed special controls that include mitigation measures for each of the risks to health identified in section V. Accordingly, there would continue to be a reasonable assurance of safety and effectiveness for the devices upon their reclassification from class III to class II when there is conformity with general and special controls. FDA does not believe that the general controls applicable to the devices are sufficient to effectively mitigate the risks to health identified for these devices and, therefore, does not believe that the general controls applicable to the devices are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

V. Risks to Health

FDA is providing a substantive summary of the valid scientific evidence concerning the public health benefits of the use of oncology therapeutic IHC-based test systems and the risks to health of these devices (see further discussion of the special controls being proposed to mitigate these risks in section VII of this proposed order). FDA considered data from 14 PMAs available to FDA under section 520(h)(4) of the FD&C Act, published peer-reviewed literature on IHC technology, and postmarket information regarding oncology therapeutic IHC-based test systems.

Cancer continues to be one of the two leading causes of death in the United States (Ref. 18). Biomarker tests for molecularly targeted cancer therapies aim to provide information for healthcare providers to target and/or tailor cancer treatment based on identifiable molecular differences between patients, with the goal of improving patient outcomes while minimizing risks related to treatment side effects. Oncology therapeutic IHC-based test systems provide a benefit to the public health by aiding in oncology therapeutic product treatment decisions. These test systems may provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product and/or provide information about known benefits and/or risks related to the use of a corresponding approved oncology therapeutic product that is not essential for its safe and effective use. For example, healthcare providers may use a relevant oncology therapeutic IHC-based test system to identify specific

[20] See *supra* note 9.

[21] For the purpose of this proposed order, reference to ''modification'' means a significant change or modification that would generally require a new premarket notification under 21 CFR 807.81(a)(3). For additional details, see FDA guidances titled ''Deciding When To Submit a 510(k) for a Change to an Existing Device,'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/deciding-when-submit-510k-change-existing-device* and ''Deciding When To Submit a 510(k) for a Software Change to an Existing Device,'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/deciding-when-submit-510k-software-change-existing-device.*

[22] Section 3308 of the Food and Drug Omnibus Reform Act of 2022, Title III of Division FF of the Consolidated Appropriations Act, 2023 (FDORA) (Pub. L. 117–328), enacted on December 29, 2022, added section 515C ''Predetermined Change Control Plans for Devices'' to the FD&C Act (21 U.S.C. 360e–4). Section 515C has provisions regarding PCCPs for devices requiring premarket approval or premarket notification. Under section 515C, supplemental applications (section 515C(a)) and new premarket notifications (section 515C(b)) are not required for a change to a device that would otherwise require a premarket approval supplement or new premarket notification if the change is consistent with a PCCP approved or cleared by FDA.

[23] Sections 513 and 515 of the FD&C Act. See also, FDA's guidance titled, ''The Least Burdensome Provisions: Concept and Principles—Guidance for Industry and FDA Staff,'' February 5, 2019, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/least-burdensome-provisions-concept-and-principles.*

patients who are eligible for the safe and effective use of a corresponding oncology therapeutic product, including those patients for which the drug is contraindicated, or monitor a particular patient's response to an approved oncology therapeutic product for the purpose of optimizing a dosing regimen. These devices can be used to enable personalization of oncology care by identifying patients who are most likely to benefit from a specific therapy and yield improved clinical outcomes, or who are at varying degrees of risk for a particular side effect related to the use of a specific therapy. Ultimately, the use of these devices informs treatment decisions and has a significant public health impact for cancer patients.

The Agency has identified the following risks to health associated with the use of oncology therapeutic IHC-based test systems:

- *False negative test results or false positive test results.* False negative test results or false positive test results may negatively influence oncology therapeutic product treatment decisions for patients. For those test systems intended to provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product, the risk of false test results may, for example, result in the withholding of appropriate oncology therapeutic treatment, delayed treatment from an available appropriate alternative therapy, or receiving inappropriate therapy with varying degrees of consequence (*e.g.,* failing to adjust therapy to achieve optimal clinical outcome or exposing a patient to otherwise avoidable serious adverse health risks caused by the therapeutic product). For those test systems that provide information about known benefits and/or risks related to the use of a corresponding approved oncology therapeutic product but are not essential for the safe and effective use of the corresponding approved oncology therapeutic product, this risk may negatively influence patient management based on a misinformed benefit-risk assessment related to the use of a corresponding approved oncology therapeutic product and could lead to many of the same negative patient outcomes associated with test systems intended to provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product as previously described.
- *Failure of the test system to perform as intended or indicated.* For test systems intended to provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product, failure of the test system to perform as intended or indicated may result in inappropriate clinical management, due to, among other things, the potential need to rerun the test, leading to a delay in effective treatment or inappropriate treatment for a patient based on delayed results that are essential for the safe and effective use of a corresponding approved oncology therapeutic product. Similarly, for those test systems that provide information about known benefits and/or risks related to the use of a corresponding approved oncology therapeutic product but are not essential for the safe and effective use of the corresponding approved oncology therapeutic product, this risk may result in the potential need to rerun the test, leading to a delay in treatment or inappropriate treatment for a patient based on delayed results that would provide important benefit-risk information for a healthcare provider to aid in the clinical decision making related to the use of a corresponding approved oncology therapeutic product.
- *Failure to correctly interpret test results.* Failure to correctly interpret test results, such as incorrect interpretation/reading of the stained slides, may result in the same negative outcomes associated with false negative or false positive test results as previously discussed. For example, for test systems intended to provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product, incorrectly interpreting the test results as positive (*i.e.,* false positive test results) may lead to a patient receiving ineffective or unnecessary treatment that may unnecessarily expose them to treatment toxicities. Similarly, for those test systems that provide information about known benefits and/or risks related to the use of a corresponding approved oncology therapeutic product but are not essential for the safe and effective use of the corresponding approved oncology therapeutic product this risk may, for example, lead to inappropriate patient management decisions made by a healthcare provider, such as, selecting a suboptimal treatment for a patient, and failure for the patient to realize benefit from a different therapy based on inaccurate benefit-risk information related to the use of a corresponding approved oncology therapeutic product.

VI. Summary of Data Upon Which the Reclassification Is Based

The safety and effectiveness of this device type has become well established since the initial approval of the first oncology therapeutic IHC-based test system in 1998. FDA believes that oncology therapeutic IHC-based test systems should be reclassified from class III (premarket approval) into class II (special controls) on the basis that special controls can be established to mitigate the risks to health identified in section V and there is sufficient information to establish special controls which, in addition to general controls, would provide a reasonable assurance of the safety and effectiveness of these devices. The proposed special controls are identified by FDA in section VII of this proposed order.

Taking into account the available evidence, including the health benefits of the use of these devices and the nature and known incidence of the risks to health of the devices, FDA, on its own initiative, is proposing to reclassify these postamendments class III devices into class II. FDA believes that when used as indicated, oncology therapeutic IHC-based test systems can provide significant benefits to healthcare providers and patients.

In proposing to reclassify and establish special controls for oncology therapeutic IHC-based test systems, FDA has considered and analyzed the following information: (1) data from 14 PMAs for oncology therapeutic IHC-based test systems available to FDA in accordance with section 520(h)(4) of the FD&C Act, (2) published peer-reviewed literature on IHC technology, and (3) MDR and recall data from the Agency's publicly available MAUDE and Medical Device Recalls databases. The available evidence demonstrates that there are public health benefits derived from the use of oncology therapeutic IHC-based test systems which provide information related to the use of a corresponding approved oncology therapeutic product. In addition, the nature of the associated risks to health are known, and special controls can be established to sufficiently mitigate these risks.

FDA considered the safety and effectiveness of oncology therapeutic IHC-based test systems through review of PMA data going back to the initial approval of the first oncology therapeutic IHC-based test system in 1998, under product code MVC (P980018) (Ref. 2). Subsequently, between 2000 and 2025, FDA approved 21 additional original PMAs for oncology therapeutic IHC-based test systems under the product codes MVC, NKF, QQT, NQF, PLS, PKW, QUL, QNH, QZJ, SBL, SER, and SHF. For the purpose of this reclassification, FDA was able to consider data from the following 14 original PMAs in accordance with section 520(h)(4) of the FD&C Act: Dako HercepTest (P980018,

product code MVC), Ventana Medical Systems' PATHWAY Her 2 (P990081, product code MVC), DakoCytomation EGFR pharmDx (P030044, product code NQF), Ventana® Medical Systems' PATHWAY Anti-c-KIT (9.7) Primary Antibody (P020055, product code NKF), BioGenex In Site™ Her-2/neu (P040030, product code MVC), DakoCytomation c-Kit pharmDx™ (P040011, product code NKF), Bond™ Oracle™ HER2 IHC System (P090015, product code MVC), VENTANA ALK (D5F3) CDx Assay (P140025, product code PKW), PD–L1 IHC 22C3 pharmDx (P150013, product code PLS), PD–L1 IHC 28–8 pharmDx (P150025, product code PLS), PD–L1 IHC 28–8 pharmDx (P150027, product code PLS), VENTANA PD–L1(SP142) Assay (P160002, product code PLS), VENTANA PD–L1 (SP142) Assay (P160006, product code PLS), and VENTANA PD–L1 (SP263) ASSAY (P160046, product code PLS) (Refs. 2 and 3 and 5 through 16).[24]

As part of the Agency's analysis for the proposed reclassification of oncology therapeutic IHC-based test systems, FDA reviewed and considered information provided within each of these applications, including information available in the SSEDs and device labeling for each application, which helped to demonstrate a reasonable assurance of safety and effectiveness for the devices. The Agency considered the analytical and clinical studies performed and device performance data, demonstrating appropriate performance of the device, which supported each approval, when developing the proposed special controls which FDA believes can effectively mitigate the risks to health identified in section V and, along with general controls, can provide a reasonable assurance of the safety and effectiveness for oncology therapeutic IHC-based test systems. Additionally, FDA identified the probable adverse effects or risks to health of the tests consistent with information provided within the applications. As diagnostic tests, oncology therapeutic IHC-based test systems generally do not pose additional safety hazards or direct adverse effects to the patients being tested beyond those associated with routine procedures typical for a diagnostic workup of the disease. The risks to health identified within the applications were false test results (*i.e.,* false positive and false negative test results), failure of the test system to perform as intended or indicated, and failure to correctly interpret test results. Consistent with data collected in the corresponding clinical studies submitted in support of the approvals, the adverse event profile for these devices was generally deemed acceptable.

While the oncology therapeutic IHC-based test systems that are the subject of the 14 PMAs have unique test attributes in certain respects (*e.g.,* specific antibodies utilized, specific biomarker(s) detected by the test system, specimen type(s), and/or specific FDA-approved therapeutic product(s) for which the device is indicated for use), FDA has determined that these tests have sufficiently similar purposes, design considerations, functions, and other features related to safety and effectiveness such that the information and data reviewed and analysis conducted by FDA was analogous across all 14 applications available to the Agency in accordance with section 520(h)(4) of the FD&C Act. As such, to avoid redundancy, the following 2 summaries are intended to provide examples that are representative of the PMA information and data that was reviewed and considered by FDA across the 14 applications in proposing to reclassify oncology therapeutic IHC-based test systems from class III (premarket approval) into class II (special controls).

For example, FDA reviewed the original PMA data for the first FDA-approved oncology therapeutic IHC-based test system, which was approved on September 25, 1998, through an original PMA, for a CDx test, Dako HercepTest with an intended use to determine HER2 overexpression in breast cancer tissues and for use as an aid in the assessment of patients for whom Herceptin (Trastuzumab) treatment is being considered (product code MVC) (P980018) (Ref. 2). The Agency considered the submitted analytical and clinical studies and data provided in the approved submission, which demonstrated that the Dako HercepTest has acceptable performance, including accuracy and reproducibility demonstrating a reasonable assurance of the safety and effectiveness of the device for its intended use. For example, such studies include a clinical study demonstrating that the concordance of the Dako HercepTest to the clinical trial assay (CTA) used to screen potential patients for the Herceptin clinical trials was 79 percent with a two-sided 95 percent confidence interval (CI) of 76–82 percent. Additionally, a second clinical study was performed to determine the agreement between the DAKO HercepTest and the HER2 status of ''well-characterized'' tissues. Results from this clinical study indicated an 85 percent concordance (95 percent CI: 78–89 percent) between the degree of positivity (2+ and 3+) and negativity (0 and 1+ DAKO IHC score) determined using the DAKO kit and some degree of overexpression by five different methods for determination of HER2 overexpression. This level of concordance indicated that the Dako HercepTest performed in a similar manner to the CTA and would identify a patient population eligible for Herceptin therapy. Probable adverse effects of the device include the identified risks of false positive or false negative results. Beyond the risk to patients of false positive or false negative test results, there is one hazardous material (the 3,3′-diaminobenzidine (DAB) chromogen) included in the test system, which also identifies instructions for the safe handling of the hazardous material to be included in the device labeling. This safety precaution is considered and the risks to technicians are mitigated by labeling requirements stipulated under general controls.

Additionally, FDA considered the original PMA studies and data from the VENTANA PD–L1 (SP263) Assay, which FDA approved on May 1, 2017, (P160046, product code PLS) (Ref. 16). The VENTANA PD–L1 (SP263) Assay is a qualitative IHC test using rabbit monoclonal anti-PD–L1 clone SP263 intended for use in the assessment of the PD–L1 protein in FFPE urothelial carcinoma tissue stained with OptiView DAB IHC Detection Kit on a VENTANA BenchMark ULTRA instrument. Further, the VENTANA PD–L1 (SP263) Assay provides information about known benefits related to the use of an approved therapeutic product. PD–L1 High status as determined by the VENTANA PD–L1 (SP263) Assay was associated with increased objective response rate (ORR) in a single arm study of IMFINZI (durvalumab). Analytical and clinical data provided in this PMA supported that there is reasonable assurance of safety and effectiveness of this device when used in accordance with the indications for use. The clinical performance of VENTANA PD–L1 (SP263) Assay investigated in the single arm study, was evaluated in a non-randomized, multi-center, open label study of IMFINZI (durvalumab) on patients with locally advanced or metastatic urothelial carcinoma. High PD–L1

[24] In accordance with section 520(h)(4) of the FD&C Act. FDA has not relied on information in PMAs and PMA supplements approved within the last 6 years to develop proposed special controls or to otherwise inform this proposed reclassification.

status, as determined by VENTANA PD–L1(SP263) Assay, is associated with increased ORR according to Response Evaluation Criteria in Solid Tumors (RECIST) v1.1 as assessed by Blinded Independent Central Review (BICR) for patients with locally advanced or metastatic urothelial carcinoma that have progressed while on or after a platinum-based therapy who are treated with IMFINZI (durvalumab). The clinical performance data demonstrated that results of this device provide known benefits related to the use of the therapeutic product and may help physicians determine the best treatment regimen and tailor therapies accordingly. The performance of the VENTANA PD–L1 (SP263) Assay was also supported by the analytical validation studies demonstrating acceptable analytical performance supporting a reasonable assurance of the safety and effectiveness of the device for its intended use. Clinical and analytical performance data ultimately supported the approval of this PMA. Probable adverse effects of the VENTANA PD–L1 (SP263) Assay include failure of the device to perform as intended or indicated, failure to correctly interpret test results, and/or false positive test results or false negative test results which have the potential to adversely affect patient management. Further, the risks of the device are also based on data collected in the clinical study conducted to support the PMA approval. As an IVD device, the VENTANA PD–L1 (SP263) Assay tests tumor FFPE specimens collected from patients with urothelial carcinoma, which are routinely removed for diagnosis and, therefore, does not present additional significant safety concerns.

In addition to PMA data from the 14 available PMAs, FDA further considered that IHC is a well-established technology and it has been commonly used in both research and clinical settings for decades, and at this time, its general principles are well understood and widely published in the literature. Over the past 8 decades, there have been significant scientific developments aimed at addressing certain IHC limitations and expanding the applications of the technology, such as the monoclonal antibody discovery and the emergence of the heat-induced antigen (epitope) retrieval technique. These developments further demonstrate the maturity of this technology (Refs. 19 and 20). FDA considered the breadth of knowledge available regarding IHC as an established technology in proposing to reclassify oncology therapeutic IHC-based test systems from class III into class II. This includes, for example, the establishment of special controls that FDA believes can effectively mitigate those identified risks to health (discussed in section V) and, along with general controls, are necessary to provide a reasonable assurance of the safety and effectiveness for these devices.

Finally, a search of FDA's publicly available MAUDE database revealed 48 reported events for oncology therapeutic IHC-based test systems under the product codes PLS, MVC, PKW, QNH, and QUL. There have been no MDRs reported under product codes NKF, QQT, NQF,[25] QZJ, SBL, SER, and SHF. A search of FDA's publicly available recall database revealed no entries for devices under the QQT, PKW, QUL, QNH, QZJ, SBL, SER, and SHF product codes. There have been 1 class III recall, 10 class II recalls,[26] and no class I recalls involving oncology therapeutic IHC-based test systems. The lack of class I recalls, and relatively low number of class II and class III recalls, coupled with the relatively low number of reported events that caused patient harm, indicate a generally good safety record for this device type (see further discussion of the MDR and recall data in section II of this proposed order).

Based on the Agency's review of the information described in this proposed order, FDA has determined that special controls, in addition to general controls, are necessary to provide a reasonable assurance of safety and effectiveness for these devices, and that sufficient information exists to establish such special controls. Therefore, FDA, on its own initiative, is proposing to reclassify these postamendment devices from class III (premarket approval) into class II (special controls) subject to 510(k) requirements.

VII. Proposed Special Controls

FDA believes that oncology therapeutic IHC-based test systems can be reclassified into class II with the establishment of special controls. FDA believes that the following proposed special controls would mitigate each of the risks to health described in section V and that these special controls, in addition to general controls, would provide a reasonable assurance of safety and effectiveness for oncology therapeutic IHC-based test systems. Table 1 demonstrates how FDA believes each risk to health described in section V would be mitigated by the proposed special controls, including certain design verification and validation activities as well as certain labeling requirements.

Risks of false negative test results or false positive test results, failure of the test system to perform as intended or indicated, and failure to correctly interpret test results (caused by, for example, failure of the antibodies, instruments, or software to perform as expected or failure of the intended user to correctly perform the test) can be mitigated by special controls, including certain design verification and validation activities. For example, documentation of clinical performance testing must include clinical data demonstrating acceptable performance of the device for its intended use based on data generated using a dataset representative of the intended use population. This may include, for example, data from use of the device as the clinical trial enrollment assay in the therapeutic product clinical trial or data from a method comparison study to an appropriate FDA-authorized device. The analytical performance testing must include data demonstrating appropriate analytical performance of the device, such as the precision, analytical sensitivity, analytical specificity, and sample stability of the test system (*e.g.,* unstained cut-tissue section stability). In addition, device design verification and validation information must include the specifications for risk mitigation elements intended to mitigate risks associated with testing and results interpretation, including controls, procedures, and user training requirements.

The risks of false test results (*i.e.,* false negative test results and false positive test results) and failure to correctly interpret test results can be further mitigated by special controls that require specific information in the labeling for these test systems. For example, specific required limiting statement(s) explaining that test results are intended to be interpreted by a qualified or appropriately trained reader in conjunction with other diagnostic laboratory test results and/or pathology

[25] The database searches initially identified one MDR reported under the NQF product code. However, after manual review of the data, it has been determined that this MDR was improperly reported under this product code. The MDR appears to be intended to report an adverse event for a drug product, and not a device. As such, for the purpose of this proposed order, the data related to this MDR is not included in the Agency's postmarket surveillance analysis and discussion.

[26] One Class II recall was reported under product code NQF; however, it has been determined to have been improperly reported. The class II recall is instead related to a device product code that falls outside the scope of this proposed order. As such, for the purpose of this proposed order, the data related to this recall has been excluded from the Agency's postmarket surveillance analysis and discussion surrounding recall data.

test results, relevant clinical information, and proper controls can aid in mitigating these risks.

The risk of failure of the test system to perform as intended or indicated can be mitigated by special controls that require an appropriate, as determined by FDA, summary of the performance studies performed and for the results of those studies to be included in labeling, thus informing the user of the expected performance of the device. Table 1 shows how FDA believes such risks to health described in section V would be mitigated by the proposed special controls.

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR ONCOLOGY THERAPEUTIC IHC-BASED TEST SYSTEMS

Identified risks to health	Mitigation measures
False negative test results or false positive test results	Certain design verification and validation activities, including certain analytical validation and clinical validation data. Certain labeling information, including certain limiting statement(s) and certain performance information.
Failure of the test system to perform as intended or indicated	Certain design verification and validation activities, including certain analytical validation and clinical validation data. Certain labeling information, including certain limiting statement(s), and certain performance information.
Failure to correctly interpret test results	Certain design verification and validation activities, including certain analytical validation and clinical validation data. Certain labeling information, including certain limiting statement(s), and certain performance information.

If this proposed order is finalized, oncology therapeutic IHC-based test systems will be identified as prescription IVD devices. Therefore, these devices would be subject to the prescription labeling requirements for IVD products (see 21 CFR 809.10(a)(4) and (b)(5)(ii)).

If this proposed order is finalized, oncology therapeutic IHC-based test systems will be reclassified into class II (special controls) and will be subject to premarket notification requirements under section 510(k) of the FD&C Act. As discussed in this proposed order, the intent is for the reclassification to be codified in the new classification regulation § 864.1895 (21 CFR 864.1895). If finalized, firms submitting a premarket notification under section 510(k) of the FD&C Act for oncology therapeutic IHC-based test systems will be required to comply with the particular mitigation measures set forth in the special controls. Adherence to the special controls, in addition to the general controls, is necessary to provide a reasonable assurance of the safety and effectiveness of oncology therapeutic IHC-based test systems.

VIII. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not normally have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

While this proposed order contains no new collections 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 21 CFR part 820 (Quality Management System Regulation) have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E (Premarket Notification Procedures), have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231; and the collections of information in 21 CFR parts 801 and 809 (Device Labeling) have been approved under OMB control number 0910–0485.

X. Proposed Effective Date

FDA proposes that any final order based on this proposed order become effective 30 days after the date of its publication in the **Federal Register**.

XI. Codification of Orders

Under section 513(f)(3) of the FD&C Act, FDA may issue final orders to reclassify devices. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as newly codified orders. Therefore, under section 513(f)(3) of the FD&C Act, in the proposed order, we are proposing to codify Immunohistochemistry Test Systems for Use with a Corresponding Approved Oncology Therapeutic Product in the new § 864.1895, under which these oncology therapeutic IHC-based test systems would be reclassified from class III into class II.

XII. 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 as of the date this document publishes in the **Federal Register**, websites are subject to change over time.

* 1. FDA, In Vitro Companion Diagnostic Devices—Guidance for Industry and Food and Drug Administration Staff, August 6, 2014. Available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/in-vitro-companion-diagnostic-devices.*

* 2. PMA P980018 Summary of Safety and Effectiveness. Available at *https://www.accessdata.fda.gov/cdrh_docs/pdf/P980018.pdf.*

* 3. PMA P150025 Summary of Safety and Effectiveness. Available at: *https://www.accessdata.fda.gov/cdrh_docs/pdf15/P150025B.pdf.*

* 4. FDA, ''Guidance for Industry and for FDA Reviewers: Guidance on Section 216 of the Food and Drug Administration Modernization Act of 1997,'' August 9, 2000. Available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-section-*

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* 5. PMA P990081 Summary of Safety and Effectiveness. Available at *https://www.accessdata.fda.gov/cdrh_docs/pdf/P990081B.pdf.*
* 6. PMA P030044 Summary of Safety and Effectiveness. Available at *https://www.accessdata.fda.gov/cdrh_docs/pdf3/P030044B.pdf.*
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* 16. PMA P160046 Summary of Safety and Effectiveness. Available at *https://www.accessdata.fda.gov/cdrh_docs/pdf16/P160046B.pdf.*
* 17. FDA, ''CDRH Announces Intent to Initiate the Reclassification Process for Most High Risk IVDs,'' January 31, 2024. Available at *https://www.fda.gov/medical-devices/medical-devices-news-and-events/cdrh-announces-intent-initiate-reclassification-process-most-high-risk-ivds.*
18. Curtin, S.C., B. Tejada-Vera, and B.A. Bastian, ''Deaths: Leading Causes for 2021,'' National Center for Health Statistics, *National Vital Statistics Reports,* 73(4), April 2024. Available at *https://stacks.cdc.gov/view/cdc/147882.*
19. Coons, A.H., H.J. Creech, and R.N. Jones, ''Immunological Properties of an Antibody Containing a Fluorescent Group,'' Experimental Biology and Medicine, 47(2):200–202, June 1941. doi:10.3181/00379727–47–13084P.
20. Shi, S.R., M.E. Key, and K.L. Kalra, ''Antigen Retrieval in Formalin-Fixed, Paraffin-Embedded Tissues: An Enhancement Method for Immunohistochemical Staining Based on Microwave Oven Heating of Tissue Sections,'' Journal of Histochemistry & Cytochemistry, 39(6):741–748, June 1991. doi:10.1177/39.6.1709656.

List of Subjects in 21 CFR Part 864

Blood, Medical devices, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 864 be amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

■ 1. The authority citation for part 864 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. In § 864.1860, revise paragraph (a) to read as follows:

§ 864.1860 Immunohistochemistry reagents and kits.

(a) *Identification.* Immunohistochemistry test systems (IHC's) are in vitro diagnostic devices consisting of polyclonal or monoclonal antibodies labeled with directions for use and performance claims, which may be packaged with ancillary reagents in kits. Their intended use is to identify, by immunological techniques, antigens in tissues or cytologic specimens. Similar devices intended for use with flow cytometry devices are not considered IHC's. IHC's indicated for use with a corresponding approved oncology therapeutic product are classified under § 864.1895.

* * * * *

■ 3. Add § 864.1895 to subpart B to read as follows:

§ 864.1895 Immunohistochemistry Test Systems for Use with a Corresponding Approved Oncology Therapeutic Product.

(a) *Identification.* Immunohistochemistry (IHC) test systems indicated for use with a corresponding approved oncology therapeutic product are identified as prescription in vitro diagnostic devices consisting of polyclonal or monoclonal antibodies intended for the quantitative, semi-quantitative, or qualitative detection of protein expression in human clinical specimens to provide information related to the use of a corresponding approved oncology therapeutic product as described in the corresponding approved oncology therapeutic product labeling. These test systems include devices that provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product and devices that, while not essential to the safe and effective use of the corresponding oncology therapeutic product, provide information about known benefits and/or risks related to the use of the corresponding oncology therapeutic product.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Design verification and validation must include:

(i) Specification for risk mitigation elements intended to mitigate risks associated with testing and results interpretation, including controls, procedures, and user training requirements, as appropriate.

(ii) Specification of the criteria for test result interpretation and reporting, including device cut-off(s) (*i.e.,* clinical threshold(s) or the medical decision point(s) between positive and negative results), scoring method or other relevant criteria that distinguishes positive and negative results, or ordinal classes of biomarker expression. This information must include the rationale for the chosen cut-off(s) or other relevant criteria and results supporting validation of the cut-off(s) evaluating borderline samples around the clinical threshold(s).

(iii) Device performance data demonstrating appropriate analytical specificity of the device for the intended use specimen type(s), as determined to be appropriate by FDA. These studies must include antigen/antibody characterization and characterization with a panel of well-characterized tissue samples, including as applicable, but not limited to, western blots, peptide inhibition, testing in a variety of normal tissues and neoplastic tissues (*i.e.,* tour of body and tour of tumor testing), interference by endogenous and exogenous substances, and cross-reactivity and cross-contamination testing.

(iv) Device performance data demonstrating appropriate precision and reproducibility of the device using clinical specimens representing the intended use specimen type(s) and intended use biomarker(s) from the intended use population and investigating major sources of variability (*e.g.,* multiple reagent lots, multiple operators, instruments over multiple days, and inter- and intra-reader precision). Surrogate samples that adequately represent the intended use specimen type(s) and intended use biomarker(s) may be appropriate, as determined by FDA, to supplement clinical specimens. If the device will be used at more than one site, data must

demonstrate adequate reproducibility across multiple intended use sites. Additionally, precision and reproducibility of the device must be evaluated with specimens near the clinical decision threshold(s) and near the limits of reportable range. Precision studies must include evaluation of the controls. Precision of the device must be evaluated per specimen, in aggregate, and for repeat testing/invalid rate, as appropriate.

(v) Device performance data demonstrating appropriate device robustness, as determined to be appropriate by FDA. The study must assess the tolerance ranges for critical test and specimen parameters, as applicable.

(vi) Device performance data demonstrating linearity of quantitative results using samples covering the device measuring range, as applicable.

(vii) Device performance data demonstrating appropriate specimen stability for the intended specimen type(s) (*e.g.,* unstained cut-tissue section stability).

(viii) Clinical data generated using well-characterized clinical specimens representative of the intended use population demonstrating appropriate clinical performance of the device for its intended use, as determined to be appropriate by FDA.

(2) Labeling must include:

(i) An appropriate summary, as determined by FDA, of the performance studies performed and the results of those studies, including those that relate to all design verification and validation special controls.

(ii) A limiting statement, as appropriate, that explains that the test results are intended to be interpreted by a qualified or appropriately trained reader in conjunction with other diagnostic laboratory test results and/or pathology test results, relevant clinical information, and proper controls.

(iii) For those test systems intended to provide information that is essential for the safe and effective use of a corresponding approved oncology therapeutic product, language indicating that the test system is indicated for use with a corresponding FDA-approved oncology therapeutic product. Device labeling must be consistent with the information set forth in the corresponding FDA-approved oncology therapeutic product labeling.

(iv) For those test systems intended to provide information about known benefits and/or risks related to the use of a corresponding FDA-approved oncology therapeutic product but are not essential for the safe and effective use of the corresponding approved oncology therapeutic product, language summarizing the benefits and/or risks related to the use of a corresponding FDA-approved oncology therapeutic product that must be consistent with the information set forth in the corresponding FDA-approved oncology therapeutic product labeling.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–23005 Filed 11–10–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–117199–25]

RIN 1545–BR97

Federal Scholarship Tax Credit; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notification of change to telephonic-only public hearing on a proposed rulemaking.

SUMMARY: This document announces that the public hearing scheduled for December 15, 2026, at 10 a.m. ET, for the notice of proposed rulemaking and notice of public hearing (REG–117199–25) published in the **Federal Register** on October 2, 2026, has been changed to a telephonic-only hearing. These proposed regulations would provide guidance regarding the non-refundable Federal tax credit for qualified contributions to scholarship granting organizations to fund qualified elementary and secondary school education scholarships.

DATES: The public hearing scheduled to be held on December 15, 2026, at 10 a.m. ET, has been changed to a telephonic-only hearing.

ADDRESSES: Public comments that have been submitted on the proposed regulations (REG–117199–25) are available on the Federal eRulemaking Portal at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Constance Chien, (202) 317–7002, or Andrew Fahmy, (202) 317–3840; concerning submissions of comments and the public hearing, the Publications and Regulations Section at (202) 317–6901 (not toll-free numbers) or by email at *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking and notice of public hearing (REG–117199–25) published in the **Federal Register** on October 2, 2026 (91 FR 62818). This hearing will now be held in a telephonic-only format.

The rules of 26 CFR 601.601(a)(3) apply to the public hearing. Individuals who wish to present oral comments at the public hearing are required to submit an outline of the topics to be discussed as well as the time to be devoted to each topic by December 1, 2026. Individuals who made requests to testify either in-person or by telephone prior to this Notification of change, and individuals who subsequently make timely requests to testify by telephone will receive the telephone number and access codes for the public hearing. A period of 10 minutes will be allotted to each person testifying.

Individuals who have already sent an email to *publichearings@irs.gov* to request to attend the hearing by telephone or in person do not need to make a second request to attend the hearing now being held by telephone only. The IRS will provide those individuals with a telephone number and access code for the rescheduled hearing by email.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available via the Federal eRulemaking Portal (*https://www.regulations.gov*) under the title of Supporting & Related Material.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number (REG–117199–25) and the language ''ATTEND Hearing Telephonically.'' For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–117199–25. Requests to attend the hearing must be received by 5 p.m. ET on Thursday, December 10, 2026.

Public hearings will be made accessible to people with disabilities. To request special assistance during a public hearing, please contact the Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) no later than Wednesday, December 9, 2026.

Any additional questions regarding speaking at or attending the hearing may

also be emailed to *publichearings@irs.gov*.

Regina L. Johnson,

Federal Register Liaison, Publications and Regulations Section, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2026–23032 Filed 11–10–26; 8:45 am]

BILLING CODE 4831–GV–P

POSTAL SERVICE

39 CFR Part 501

Authorization To Manufacture and Distribute Postage Evidencing Systems

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is amending its Postage Evidencing Systems regulations to align with existing practices and operational realities to better address circumstances where advances by a resetting company on any given day exceed the daily average funds advanced amount maintained on deposit with the Postal Service. The regulations currently allow resetting companies to advance postage to customers by a process where the resetting company maintains a daily average advance balance with the Postal Service. The current regulation contemplates that the amount on deposit will always cover amounts advanced and does not permit a resetting company to advance funds to customers in excess of the amount maintained on deposit. Operational realities will create circumstances where it is necessary to advance funds in excess of the amount on deposit and the average daily balance rule represents a practical and fair method to address circumstances where excess advances occur.

DATES: Comments must be received on or before December 14, 2026.

ADDRESSES: Mail or deliver comments to the Treasurer, United States Postal Service, 475 L'Enfant Plaza SW, RM 8307, Washington, DC 20260. Email comments, containing the name and address of the commenter, to: *PCFederalRegister@usps.gov,* with a subject line of ''[Date], Authorization to Manufacture and Distribute Postage Evidencing Systems.'' Faxed comments are not accepted.

You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor N, Washington, DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1–202–268–2906 in advance.

FOR FURTHER INFORMATION CONTACT: Michael Milligan, Treasurer, United States Postal Service, 475 L'Enfant Plaza SW, RM 8307, Washington, DC 20260, phone number (202) 384–7296.

SUPPLEMENTARY INFORMATION: The Postal Service invites public comment on the following proposed amendments to the Code of Federal Regulations.

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS

■ 1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended); 5 U.S.C. App. 3.

■ 2. Amend § 501.15 by revising paragraph (c) to read as follows:

§ 501.15 Computerized Meter Resetting System.

* * * * *

(c) If the RC chooses to offer advancement of funds to customers, the RC is required to maintain a deposit with the Postal Service equal to at least one (1) day's average funds advanced. The provider shall transfer to the Postal Service funds equal to the net amount advanced for any given day on or before the morning of the next business day. The Postal Service shall not be liable for any payment made by the RC on behalf of a customer that is not reimbursed by the customer, since the RC is solely responsible for the collection of advances made by the RC.

* * * * *

Jeffrey Boblick,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2026–23064 Filed 11–10–26; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2026–4753; FRL–9802.1–01–R5]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; Withdrawal of the Federal Implementation Plan for the Detroit Sulfur Dioxide Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to withdraw the Federal Implementation Plan (FIP), promulgated on October 12, 2022 (the ''2022 FIP''), for attaining the 2010 1-hour primary sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) in the Detroit area. On May 19, 2025, the EPA approved a revision to Michigan's State Implementation Plan (SIP) for attaining the 2010 1-hour primary SO_2 NAAQS in the Detroit area, rendering the 2022 FIP duplicative. The EPA is proposing this action pursuant to Clean Air Act (CAA) section 110.

DATES: Comments must be received on or before December 28, 2026.

Virtual Public Hearing. If anyone contacts the EPA requesting to present at a virtual public hearing on or before November 27, 2026, the Agency will hold a virtual public hearing on December 14, 2026.

To request to present at a virtual public hearing, or to pre-register to attend the hearing, if one is held, please use the online registration form available at *https://www.epa.gov/mi/detroit-so2-federal-implementation-plan* or contact Abigail Teener at (312) 353–7314 or by email at *teener.abigail@epa.gov.* The EPA is asking all hearing attendees to register, even those who do not intend to present. The last day to request to present at the hearing will be November 27, 2026. If no request to present at the virtual public hearing is received by 11:59 p.m. Central Time (CT) on November 27, 2026, the EPA will not hold the hearing. If a virtual hearing is held, the EPA will accept registration until the start of the hearing.

The EPA will announce the status of the hearing on November 30, 2026 on the public hearing website at *https://www.epa.gov/mi/detroit-so2-federal-implementation-plan.* Alternatively, interested parties may contact Abigail Teener at (312) 353–7314 or by email at *teener.abigail@epa.gov* to find out if the hearing is being held.

If a request to present at the virtual public hearing is received by November 27, 2026, the EPA will hold a virtual public hearing on December 14, 2026. The EPA will post a general agenda for the hearing on December 10, 2026. The agenda will be available at *https://www.epa.gov/mi/detroit-so2-federal-implementation-plan* and will list pre-registered presenters in approximate order. The hearing will convene at 9:00 a.m. CT and will conclude at 1:00 p.m. CT, or 15 minutes after the last pre-registered presenter in attendance has presented if there are no additional presenters. The EPA will announce further details on the virtual public hearing website at *https://www.epa.gov/mi/detroit-so2-federal-implementation-plan.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Each commenter will have five minutes to provide oral testimony. The EPA encourages commenters to provide the Agency with a written copy of their oral testimony electronically by including it in the registration form or emailing it to *teener.abigail@epa.gov.* The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the virtual public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/mi/detroit-so2-federal-implementation-plan.* Please monitor our website or contact Abigail Teener at (312) 353–7314 or *teener.abigail@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates concerning the virtual public hearing.

If you require the services of a translator or a special accommodation such as audio description/closed captioning, please pre-register for the hearing with Abigail Teener at (312) 353–7314 or *teener.abigail@epa.gov* and describe your needs by November 27, 2026. The EPA may not be able to arrange accommodations without advance notice.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2026–4753 at *https://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* For comments submitted at *https://www.regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to the Agency's public docket. Do not submit to the EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: For information about this proposed rule, please contact Abigail Teener, Air and Radiation Division (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353–7314, email address: *teener.abigail@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA—Clean Air Act
CBI—Confidential Business Information
CT—Central Time
DIG—Dearborn Industrial Generation
EPA—Environmental Protection Agency
FIP—Federal Implementation Plan
NAAQS—National Ambient Air Quality Standard
NSR—New Source Review
OMB—Office of Management and Budget
PBI—Proprietary Business Information
PRA—Paperwork Reduction Act
RACM—Reasonably Available Control Measures
RACT—Reasonably Available Control Technology
RFA—Regulatory Flexibility Act
RFP—Reasonable Further Progress
SIP—State Implementation Plan
SO_2—Sulfur Dioxide
UMRA—Unfunded Mandates Reform Act

Organization of this document. The information presented in this preamble is organized as follows:

I. Background
II. Detroit SO_2 FIP
III. Michigan's Revised SIP for the Detroit SO_2 Area
IV. FIP Withdrawal
V. What action is the EPA taking?
VI. Statutory and Executive Order Reviews

I. Background

On August 5, 2013, the EPA designated the Detroit area, a portion of Wayne County, Michigan, as nonattainment for the 2010 1-hour primary SO_2 NAAQS based on ambient air quality data collected at the Detroit SW monitoring site (AQS ID 26–163–0015) from 2009 to 2011.[1] The nonattainment area designation became effective on October 4, 2013. CAA section 191 directs States to submit a SIP for an area designated as nonattainment for the 2010 1-hour primary SO_2 NAAQS to the EPA within 18 months of the effective date of the designation, *i.e.,* in this case, by no later than April 4, 2015. Under CAA section 192, the SIP must demonstrate attainment of the NAAQS as expeditiously as practicable, but no later than five years from the effective date of designation, which was October 4, 2018, for the Detroit nonattainment area.

On March 18, 2016, the EPA published an action finding that Michigan had failed to submit the required SO_2 attainment plan by the submittal deadline.[2] Under CAA section 110(c), the finding triggered a requirement that the EPA promulgate a FIP within two years of the finding unless, by that time, (a) the State had made the necessary complete submittal, and (b) the Agency had fully approved the submittal as meeting all applicable requirements.

On May 31, 2016, and June 30, 2016, Michigan submitted a Detroit SO_2 attainment plan and associated final enforceable measures, respectively. Michigan's submission of a complete attainment plan terminated the deadlines for imposing sanctions, pursuant to 40 CFR 52.31(d)(5), but it did not terminate the EPA's FIP obligation. On March 19, 2021, the EPA partially approved and partially disapproved Michigan's SO_2 plan as submitted in 2016 (the ''March 2021

[1] 78 FR 47191 (Aug. 5, 2013).
[2] 81 FR 14736 (Mar. 18, 2016).

Action'').[3] The March 2021 Action approved the enforceable control measures for two facilities, approved the base-year emissions inventory, and affirmed that the New Source Review (NSR) requirements for the area had previously been met in the SIP. In the same March 2021 Action, the EPA disapproved the SIP attainment demonstration, as well as the requirements for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures/reasonably available control technology (RACM/RACT), contingency measures, and control measures for two facilities. The partial disapproval started a new sanctions clock under CAA section 179(a), but it did not have any impact on the FIP clock.

II. Detroit SO_2 FIP

On October 12, 2022, the EPA promulgated the 2022 FIP for the Detroit SO_2 nonattainment area.[4] In accordance with CAA section 172, the 2022 FIP includes an attainment demonstration for the Detroit area and addresses requirements for RFP, RACM/RACT, enforceable emission limitations and control measures, and contingency measures. The 2022 FIP did not address emissions inventory or NSR requirements, as they had already been approved in the SIP as part of the March 2021 Action.

The 2022 FIP, codified at 40 CFR 52.1189, includes emission limits and associated requirements for United States Steel Corporation (''U.S. Steel''), EES Coke Battery (''EES Coke''), Cleveland-Cliffs Steel Corporation, and Dearborn Industrial Generation (DIG). The 2022 FIP also relies upon emission limits for Carmeuse Lime and DTE Trenton Channel, which had already been incorporated into Michigan's SIP at the time the 2022 FIP was promulgated.

The 2022 FIP satisfied the Agency's duty to promulgate a FIP for the area under CAA section 110(c) that resulted from the previous finding of failure to submit. However, the 2022 FIP did not affect the sanctions clock started under CAA section 179 resulting from the EPA's partial disapproval of the prior SIP, which would be terminated by an EPA rulemaking approving a revised SIP.

III. Michigan's Revised SIP for the Detroit SO_2 Area

On December 20, 2022, Michigan submitted a revised attainment plan for the Detroit SO_2 nonattainment area mirroring the 2022 FIP. Michigan's submittal relied in part upon permits that had not yet been issued but would include limits and associated requirements for U.S. Steel, EES Coke, and DIG facilities no less stringent than those set forth in the 2022 FIP. On February 21, 2023, Michigan submitted a clarification letter committing to submit the necessary permits by April 30, 2024. On March 23, 2023, the EPA proposed to conditionally approve Michigan's plan, conditioned upon the issuance, and submission for incorporation into the SIP, of the applicable permits for the U.S. Steel, EES Coke, and DIG facilities.[5]

On December 14, 2023, Michigan submitted three applicable permits for the U.S. Steel, EES Coke, and DIG facilities. On April 2, 2024, Michigan submitted the final applicable permit for the DIG facility, along with a request that the EPA approve the State's revised plan. On May 19, 2025, the EPA fully approved Michigan's revised SIP submission, which the State submitted to the Agency on December 20, 2022, and supplemented on February 21, 2023, December 14, 2023, and April 2, 2024, for attaining the 2010 1-hour primary SO_2 NAAQS for the Detroit area and for meeting other nonattainment area planning requirements of CAA sections 110, 172, 179, and 192.[6] The EPA approved Michigan's demonstration that these requirements provide for attainment of the 2010 1-hour primary SO_2 NAAQS in Detroit and concluded that Michigan had satisfied the other applicable requirements for nonattainment areas.

On May 5, 2025, Michigan submitted a redesignation request and maintenance plan for the Detroit nonattainment area for the 2010 1-hour primary SO_2 NAAQS, which relies on the State's approved attainment plan for the area. On April 2, 2026, the EPA determined that the Detroit, Michigan area is attaining the 2010 1-hour primary SO_2 NAAQS and took action in accordance with Michigan's request to redesignate the area to attainment of the 2010 1-hour primary SO_2 NAAQS and approve the State's maintenance plan for the area.[7] The maintenance plan, designed to ensure the area will continue to maintain attainment of the 2010 1-hour primary SO_2 NAAQS, does not rely on the 2022 FIP and instead relies on the permanent and enforceable SO_2 emission limits and associated requirements in Michigan's SIP.

IV. FIP Withdrawal

The EPA is now proposing to withdraw the 2022 FIP because the Agency has since taken subsequent SIP actions such that Michigan's SIP for the Detroit SO_2 area now satisfies the requirements of the March 2021 Action. As is explained in section III of this preamble, the EPA approved Michigan's complete submittal into the State's SIP, rendering it federally enforceable. As a result, the 2022 FIP is no longer necessary for attainment of the 2010 1-hour primary SO_2 NAAQS in the Detroit area.

Under CAA section 110(l), the EPA cannot approve a plan revision if the revision would interfere with any applicable requirement concerning attainment and maintenance of the NAAQS, RFP, or any other applicable requirement of the CAA. Michigan's SIP for the Detroit SO_2 area mirrors the 2022 FIP and contains SO_2 emission limits and associated requirements that are equally as stringent as those set forth in the 2022 FIP. Therefore, the withdrawal of the 2022 FIP will not interfere with attainment or maintenance of the NAAQS, RFP, or any applicable requirements under the CAA, and the EPA proposes to find that the withdrawal of the 2022 FIP is consistent with CAA section 110(l).

V. What action is the EPA taking?

The EPA is proposing to withdraw the 2022 Detroit SO_2 FIP by removing 40 CFR 52.1189 and all provisions therein because Michigan's SIP for attaining the 2010 1-hour primary SO_2 NAAQS in the Detroit area, which the Agency approved on May 19, 2025, satisfied the requirements of the March 2021 Action. The maintenance plan for the Detroit area, designed to ensure the area will continue to maintain attainment of the 2010 1-hour primary SO_2 NAAQS, does not rely on the 2022 FIP and instead relies on the permanent and enforceable SO_2 emission limits and associated requirements in Michigan's SIP. The EPA is proposing this action pursuant to CAA section 110.

VI. Statutory and Executive Order Reviews

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

[3] 86 FR 14827 (Mar. 19, 2021).

[4] 87 FR 61514 (Oct. 12, 2022).

[5] 88 FR 17488 (Mar. 23, 2023).

[6] 90 FR 21228 (May 19, 2025).

[7] 91 FR 16562 (Apr. 2, 2026).

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

This action is exempt from review by the Office of Management and Budget (OMB) for review because it is deemed to be a rule of particular applicability. This action affects and is limited to four specific facilities in the Detroit area.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 does not apply because rules of particular applicability are exempted from review 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.*). This action does not contain any information collection activities.

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. This action merely proposes to remove duplicative requirements and imposes no new requirements.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531 through 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 would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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 would 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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the Agency has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it proposes to withdraw a previously promulgated FIP.

Furthermore, the EPA's Policy on Children's Health does not apply to this action.

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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Lee Zeldin,

Administrator.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 52.1189 [Removed and Reserved]

■ 2. Remove and reserve § 52.1189.

[FR Doc. 2026–23026 Filed 11–10–26; 8:45 am]

BILLING CODE 6569–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 261106–0004]

RIN 0648–BN92

Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic and the Shrimp Fishery of the South Atlantic Region; Amendments 11/12

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 11 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic (Coral FMP) and to implement Amendment 12 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (Shrimp FMP) (jointly Amendments 11/12), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would establish a shrimp fishery access area (SFAA) along the eastern boundary of the northern extension of the Oculina Bank Habitat Area of Particular Concern (OHAPC) where trawling for rock shrimp is currently prohibited. The purpose of this proposed rule is to reinstate access to historic rock shrimp fishing grounds, achieve optimum yield (OY) in the rock shrimp fishery, while minimizing impacts to deep-water corals in the OHAPC.

DATES: Written comments on the proposed rule must be received on or before December 14, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at *https://www.regulations.gov/docket/NOAA-NMFS-2026-1750.* You may submit comments on this document, identified by NOAA–NMFS–2026–1750, by either of the following methods:

- *Electronic Submission:* Submit comments electronically via the Federal e-Rulemaking Portal. Visit *https://www.regulations.gov* and type NOAA–NMFS–2026–1750 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Rick DeVictor, NMFS Southeast

Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address) confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments—enter ''N/A'' in the required fields if you wish to remain anonymous.

An electronic copy of Amendments 11/12 is available from *https://www.regulations.gov* or from the Southeast Regional Office website at: *https://www.fisheries.noaa.gov/action/coral-amendment-11-shrimp-amendment-12-establish-shrimp-fishery-access-area.* Amendments 11/12 include an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, regulatory impact review, and fishery impact statement.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, 727–824–5305, or *Karla.Gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the coral and shrimp fisheries in Federal waters of the U.S. South Atlantic. The shrimp fishery in the South Atlantic region is managed under the Shrimp FMP. Coral, coral reefs, and live/hardbottom habitats of the South Atlantic region are managed under the Coral FMP. These FMPs were prepared by NMFS and the South Atlantic Fishery Management Council (Council) and are implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

This action is taken under the statutory authority of Magnuson-Stevens Act section 303(b)(2), which allows the designation of zones where, and periods when, fishing may be limited or permitted or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear.

Background

In 1984, NMFS published the final rule to implement the designation of a 92-square nautical mile (NM^2) portion of the Oculina Bank as the OHAPC (49 FR 29607, July 23, 1984) to protect a unique coral reef ecosystem of *Oculina varicosa* (ivory tree coral) found off the east coast of Florida (49 FR 29607, July 23, 1984). A habitat area of particular concern (HAPC) is a subset of Essential Fish Habitat (EFH) that is prioritized for conservation and management because it is ecologically important, particularly susceptible to human-induced environmental degradation, or rare. The OHAPC meets these criteria due to its high biodiversity, supporting over 70 species of fish and hundreds of species of invertebrates, as well as the presence of slow-growing coral pinnacles. As part of the OHAPC designation there is a prohibition on the use of bottom trawls, bottom longlines, dredges, traps, and pots within the OHAPC to mitigate the risk of damage by fishing gear to *Oculina* coral. Additionally, anchoring by all fishing vessels is prohibited within the OHAPC to prevent physical impact to the coral structures.

In 2000, the size of the OHAPC was expanded through Amendment 4 to the Coral FMP (65 FR 37292, June 14, 2000). In 2014, the OHAPC boundary was extended northward through Amendment 8 to the Coral FMP (Coral Amendment 8) (80 FR 42423, July 17, 2015). The proposed SFAA in Amendments 11/12 is located within the OHAPC area that was implemented through Coral Amendment 8.

Amendment 5 to the Shrimp FMP first required the use of a vessel monitoring system (VMS) by vessels allowed to fish for rock shrimp in the limited access program (68 FR 2188, January 16, 2003). In addition, Amendment 8 to the Coral FMP allowed fishermen to transit the OHAPC, with an increased VMS ping rate of one ping per 5 minutes during the transit time (80 FR 42423, July 17, 2015). Current regulations require the use of a NMFS-approved VMS for an owner or operator with a commercial vessel permit for rock shrimp in South Atlantic Federal waters.

During the development of Amendment 8, some participants within the rock shrimp industry noted to the Council that a narrow portion of the expanded OHAPC along the eastern boundary was a historically important rock shrimp fishing ground. Although the use of this area by the rock shrimp fleet is variable and depends on environmental conditions, industry representatives maintained that access to this narrow strip is critical for the economic viability of the fleet during periods when rock shrimp follow the Gulf Stream to the offshore side of the reef. Rock shrimp fishermen requested adjustment of the proposed OHAPC boundary expansion in Amendment 8 and provided coordinates for their important fishing grounds in the area proposed for the expansion of the OHAPC. Because this request from industry happened late in the development of Coral Amendment 8, the Council determined that it did not have sufficient time to evaluate the request, given concerns that included verification of the provided coordinates, as well as data on effort and yield of historic rock shrimp fishing in the proposed area. Therefore, it was decided not to change the proposed expansion of the OHAPC boundary contained in Coral Amendment 8, but instead to consider the fishermen's request of a possible OHAPC boundary adjustment through a new amendment to the Coral FMP.

In June 2020, the Council recommended the development of Amendment 10 to the Coral FMP (Coral Amendment 10) to consider options to create a SFAA in the OHAPC that would allow rock shrimp access to a historical fishing area. That action aligned with the Presidential Executive Order on Seafood Competitiveness and Economic Growth to ''reduce burdens on domestic fishing and to increase production within sustainable fisheries'' for commercial fishermen who have lost access to areas that had been traditionally fished (Executive Order (E.O.) 13921) (85 FR 28471, May 12, 2020). As discussed in Coral Amendment 10, the rock shrimp portion of the shrimp fishery has been consistently operating well below OY and maximum sustainable yield levels. The purpose of Coral Amendment 10 was to increase the economic and social benefits to rock shrimp fishermen by allowing access to historic rock shrimp fishing grounds.

The Council recommended approval of Coral Amendment 10 at its September 2021 meeting and submitted it to NMFS for Secretarial review in December 2021. On July 28, 2022, NMFS, on behalf of the Secretary of Commerce, disapproved Coral Amendment 10. Specifically, NMFS determined that Coral Amendment 10 and supporting analyses did not adequately demonstrate how the proposed action was consistent with Section 303(a)(7) of the Magnuson-Stevens Act, which requires FMPs to minimize, to the extent practicable, the adverse effects of fishing on EFH and to further the goals and objectives of the Coral FMP, specifically in regard to protection of EFH. Additionally, NMFS determined that Coral Amendment 10 did not demonstrate consistency with Section 301(a)(9) of the Magnuson-Stevens Act, which requires fishery conservation and management measures to minimize bycatch to the extent

practicable and, to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. The Magnuson-Stevens Act allows a Council to submit a revised amendment that addresses any identified deficiencies.

The Council developed Amendments 11/12 to address the deficiencies identified in Coral Amendment 10. Amendments 11/12 incorporate updated scientific data and analysis and amend the Shrimp FMP to address the need to achieve OY in the rock shrimp fishery.

While Coral Amendment 10 originally proposed changes only to the Coral FMP, Amendments 11/12 amend the Shrimp FMP as well to properly manage the rock shrimp fishery's access to the proposed SFAA and to ensure that fishery specific objectives, such as optimizing yield and protecting the interests of traditional users in the rock shrimp fishery, are met. Furthermore, amending both the Coral and the Shrimp FMPs ensures that the action to create an SFAA remains consistent with the objectives of the Coral FMP to optimize the benefits generated from coral resources while conserving the coral and minimizing adverse human impacts on sensitive habitat.

The Council's Deep-water Shrimp Advisory Panel (AP) supported the creation of an SFAA through Amendment 10 noting that shrimpers are experienced professionals who use high-resolution navigation and VMS to avoid sensitive habitat. The Deep-water Shrimp AP also noted that the area of the proposed SFAA has a history of trawling for rock shrimp and that the industry relies on a healthy reef ecosystem to support the shrimp population. However, the Coral AP and the Habitat and Ecosystem AP both expressed concern with the proposed SFAA in Amendment 10 and noted the risk of indirect damage from sedimentation plumes posed by rock shrimp trawling within the OHAPC, stating that fine particles stirred up by trawling can travel considerable distances and potentially smother coral polyps or larvae.

During the development of Amendments 11/12, these conflicting AP viewpoints on Amendment 10 were considered by the Council because the coordinates for the SFAA proposed by Amendment 10 and Amendments 11/12 are identical. The Council ultimately recommended the implementation of the SFAA, which is supported by new survey data and ongoing VMS monitoring, finding that it provides the best balance between historical rock shrimp fishing access and habitat protection. The boundary of the proposed SFAA also includes a buffer between it and known *Oculina* coral pinnacles to aid in decreasing potential sedimentation impacts from bottom trawling. Amendments 11/12 address the deficiencies of Coral Amendment 10 through inclusion of recent scientific surveys in the OHAPC and analysis on EFH, bycatch and habitat impacts, as well as how the proposed action meets the objectives of the Coral and Shrimp FMPs. Two new surveys are incorporated into the record in Amendments 11/12. In 2022, a NMFS Southeast Fisheries Science Center visual survey using a towed camera system covered approximately 35 kilometers over an area that included the proposed SFAA and found no evidence of live, dead, or rubble *Oculina* coral within the proposed SFAA. Additionally, in April 2025, the NOAA Ship *Nancy Foster* completed a high-resolution acoustic mapping expedition that included the area of the proposed SFAA. This mapping data confirms that the proposed SFAA consists of low-relief sandy and muddy bottoms, lacking the high-relief mounds required to support *Oculina* colonies.

As part of Amendments 11/12, a comprehensive bycatch practicability analysis (BPA) was developed to identify bycatch and habitat impacts that were not described in Coral Amendment 10. The BPA reviews rock shrimp fishery observer data from 2018 through 2022 and documents that bycatch in the rock shrimp fishery is primarily composed of non-managed invertebrates. The occurrence of South Atlantic snapper-grouper species managed by the Council and NMFS is negligible in any bycatch from the rock shrimp fishery. The BPA also addresses the risk of sedimentation on deep-water coral pinnacles. Based on the location of the proposed SFAA which is approximately 360 to 1,580 meters away from known coral pinnacles and the oceanographic currents in the area, this buffer is expected to minimize the risk of impacts from sedimentation plumes to coral habitat to the extent practicable. The BPA also concludes the use of specialized gear (Turtle Excluder Devices and Bycatch Reduction Devices), which combined with the sandy and muddy-bottom location of the SFAA, effectively minimizes bycatch mortality.

Management Measure Contained in This Proposed Rule

This proposed rule would establish an approximately 14.10 NM^2 SFAA along the eastern boundary of the northern extension of the OHAPC, in an area where fishing for rock shrimp is currently prohibited. Within the proposed SFAA, a shrimp vessel with a valid Federal limited access commercial vessel permit for rock shrimp would be allowed to bottom trawl for rock shrimp. All other existing restrictions in the OHAPC, including the prohibitions on anchoring and the use of bottom longline, dredge, pot, or trap gear, would continue to apply in the proposed SFAA (50 CFR 622.224(b)(1)(i)). Current regulations which require the use of a NMFS-approved VMS on a vessel for an owner or operator with a limited access endorsement for South Atlantic rock shrimp or a commercial vessel permit for rock shrimp in the South Atlantic Federal waters would remain unchanged in the OHAPC and the proposed SFAA. Vessels are required to maintain a VMS transmission rate of one position per 5 minutes when transiting through both areas or fishing in the SFAA (50 CFR 622.205 and 50 CFR 622.224(b)(1)(i)(C)). The current transmission rate is considered effective in monitoring fishing activity within and near the OHAPC. This proposed rule would also not change the current transit provisions for rock shrimp vessels within the OHAPC. Under these provisions, transit means a direct and non-stop continuous course through the area, maintaining a minimum speed of 5 knots as determined by an operating VMS and a VMS minimum ping rate of one ping per 5 minutes; fishing gear appropriately stowed means that doors and nets are out of the water (50 CFR 622.224(b)(1)(i)(C)).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendments 11/12, the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Senior Lead Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification follows. A copy of the full analysis is available from NMFS (see **ADDRESSES**). All monetary estimates in the following analysis are in 2024 dollars.

A description of this proposed rule, why it is being considered, and the

objectives of this proposed rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this proposed rule.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule.

Amendments 11/12 and this proposed rule would establish a SFAA along the eastern boundary of the northern extension of the OHAPC where holders of a valid limited access commercial vessel permit for rock shrimp in South Atlantic Federal waters would be able to fish for and possess rock shrimp. The Magnuson-Stevens Act serves as the legal basis for this proposed rule. The RFA requires NMFS to describe the impact of the proposed rule on small entities (5 U.S.C. 603). Small entities include small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601(3)–(6)).

This proposed rule is expected to directly regulate all vessels with a valid or renewable commercial vessel permit for rock shrimp. From 2019 through 2023, the average number of vessels with a valid commercial vessel permit for rock shrimp per year was 101. During this time, the average number of vessels with a valid commercial vessel permit for rock shrimp that harvested rock shrimp from the South Atlantic Federal waters (*i.e.,* were active in the fishery) was 23, with a maximum of 35 vessels harvesting rock shrimp from the South Atlantic Federal waters in 2022. As of December 17, 2025, there were 100 vessels with a valid or renewable commercial vessel permit for rock shrimp. Thus, this proposed rule is assumed to directly regulate 100 vessels with a valid or renewable commercial vessel permit for rock shrimp, though it would be expected to only directly affect the 14 to 35 percent of permitted vessels that have harvested rock shrimp from South Atlantic Federal waters between 2019 and 2023.

NMFS does not possess complete ownership data for businesses that own vessels with a commercial vessel permit for rock shrimp. Therefore, it is not currently feasible to accurately determine affiliations between these particular businesses. Because of the incomplete ownership data, for purposes of this analysis, it is assumed each of these vessels is independently owned by a single business, which is expected to result in an overestimate of the actual number of businesses directly regulated by this proposed rule. Thus, this proposed rule is estimated to directly regulate 100 businesses in the commercial South Atlantic rock shrimp fishing industry.

In 2021 and 2022, for vessels with a valid commercial vessel permit for rock shrimp that were active in the South Atlantic rock shrimp fishery, total gross seafood revenue per vessel was about $869,012 on average per year. South Atlantic rock shrimp landings accounted for an average of approximately $219,358 or roughly 25 percent of total annual gross revenue per year. Most trips that harvest rock shrimp also harvest penaeid shrimp, and most vessels also harvest penaeid shrimp on separate trips in the South Atlantic. Average annual gross revenue per vessel from South Atlantic penaeid shrimp landings was $383,137, or about 44 percent of these vessels' total gross revenue per year. Many vessels are also relatively dependent on revenue from the Gulf of America shrimp fishery, which accounted for $260,006, or about 30 percent of these vessels' total gross revenue per year. Based on economic return estimates for these vessels in 2021 and 2022, net revenue from commercial fishing operations is estimated to be $70,919 per year on average, representing a profit margin of 8.2 percent. From 2019 through 2023, the maximum rock shrimp revenue earned by a single vessel (business) was approximately $813,000, while maximum total revenue of one vessel was $3.49 million (although only 4 percent of that was from rock shrimp).

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this proposed rule are determined to be small entities based on the NMFS size standard.

As discussed in the **SUPPLEMENTARY INFORMATION** section, this proposed rule would establish a narrow SFAA, approximately 14.10 NM^2 in total area (representing less than 3 percent of the current OHAPC), along the eastern boundary of the northern extension of the OHAPC. Given changes in fleet composition, variability in the size of the active, permitted fleet, and historical variability in use of the area, the economic effects of allowing currently permitted vessels to harvest rock shrimp from the proposed access area cannot be quantified. While the proposed SFAA could lead to incremental gains in landings and gross revenue, these positive economic effects are expected to be limited due to the small geographic footprint of the access area. Moreover, the proposed rule leaves general permit and gear requirements unchanged and requires a VMS transmission rate of one position per 5 minutes within the SFAA, which represents a small incremental communication cost compared to fishing outside the OHAPC. Balanced against these minor costs and spatial limits, the net economic benefits to vessel owners and operators are not expected to be significant.

Based on the above analysis, this proposed rule would not be expected to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Corals, Fisheries, Fishing, Shrimp, South Atlantic.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 6, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF AMERICA, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.224, add paragraph (b)(3) and Table 1 to paragraph (b)(3) to read as follows:

§ 622.224 Area closures to protect South Atlantic corals.

* * * * *

(b) * * *

(3) *Rock shrimp fishery access area.* The provisions of paragraph (b)(1) of this section notwithstanding, an owner or operator of a vessel for which a valid limited access commercial vessel permit for rock shrimp (South Atlantic EEZ)

has been issued may trawl for rock shrimp in the following portion of the Oculina Bank HAPC. This area is bounded by rhumb lines connecting, in order, the following points:

TABLE 1 TO PARAGRAPH (b)(3)

Point	North lat.	West long.
Origin	29°17′31.98″	80°10′22.02″
1	29°10′58.98″	80°08′39.00″
2	29°03′34.98″	80°07′28.98″
3	28°54′25.02″	80°05′22.98″
4	28°48′36.00″	80°04′22.02″
5	28°30′00.00″	80°01′01.02″
6	28°30′00.00″	80°00′46.02″
7	28°46′00.84″	80°03′28.50″
8	28°48′37.14″	80°03′56.76″
9	28°53′18.36″	80°04′48.84″
10	29°11′19.62″	80°08′36.90″
11	29°17′33.96″	80°10′06.90″
Origin	29°17′31.98″	80°10′22.02″

* * * * *

[FR Doc. 2026–23020 Filed 11–10–26; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 91, No. 217

Thursday, November 12, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–ST–26–2410]

Plant Variety Protection Office: Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget for an extension of the currently approved information collection ''Application for Plant Variety Protection Certification and Objective Description of Variety.''

DATES: Comments received by January 11, 2027 will be considered.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *www.regulations.gov.* Written comments may also be submitted to the Plant Variety Protection Office (PVPO), Science and Technology, Agricultural Marketing Service, USDA, 1400 Independence Avenue SW, Room 2915–S, Stop 0274, Washington, DC 20250 or by email to *AMS.PVPOForms@usda.gov.* All comments should reference the docket number AMS–ST–26–2410, the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, at *www.regulations.gov* and will be included in the record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Sarah Ledbetter, Plant Variety Examiner, *AMS.PVPOForms@usda.gov,* (202) 260–8983.

SUPPLEMENTARY INFORMATION:

Title: ''Application for Plant Variety Protection Certification and Objective Description of Variety.''

OMB Number: 0581–0055.

Expiration Date of Approval: January 30, 2027.

Type of Request: Extension of a currently approved information collection.

Abstract: The Plant Variety Protection Act (PVPA) (7 U.S.C. 2321 *et seq.*) was established: ''To encourage the development of novel varieties of sexually reproduced plants and make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promote progress in agriculture in the public interest.''

The PVPA is a voluntary user-funded program that grants intellectual property rights protection to breeders of new, distinct, uniform, and stable sexually reproduced, tuber propagated, and asexually reproduced plant varieties. To obtain these rights the applicant must provide information which shows the variety is eligible for protection and that it is indeed new, distinct, uniform, and stable as the law requires.

Application forms, descriptive forms, and ownership forms are furnished to applicants to identify the information which is required to be furnished by the applicant to legally issue a certificate of protection (ownership). The certificate is based on claims of the breeder and cannot be issued based on reports in publications not submitted by the applicant. Regulations implementing the PVPA appear at 7 CFR part 92.

Applicant's Ownership ST–470, Application for Plant Variety Protection Certificate; ST–470 A, Origin and Breeding History; ST–470 B, Statement of Distinctness; Form ST–470 series, Objective Description of Variety (Exhibit C); and *Form ST–470–E, Basis of Applicant's Ownership* are the basis by which the determination, by experts at PVPO, is made as to whether a new, distinct, uniform, and stable seed reproduced or tuber-propagated variety in fact exists and is entitled to protection. The ST–470 application form combines Exhibits A, B, and E into one form. The information received on applications, with certain exceptions, is required by law to remain confidential until the certificate is issued (7 U.S.C. 2426).

The information collection requirements in this request are essential to carry out the intent of the PVPA, to provide applicants with certificates of protection, to provide the respondents with the type of service they request, and to administer the program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Businesses or other for profit, not-for-profit institutions, and the Federal Government.

Estimated Number of Respondents: 95.

Estimated Total Annual Responses: 2,132.

Estimated Number of Responses per Respondent: 22.4.

Estimated Total Annual Burden on Respondents: 2,185.05.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to the Plant Variety Protection Office (PVPO), Science and Technology, Agricultural Marketing Service, USDA, 1400 Independence Avenue SW, Room 2915–S, Stop 0274, Washington, DC 20250 or by email to *AMS.PVPOForms@usda.gov.* All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2026–23030 Filed 11–10–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–26–1981]

Domestic Hemp Production Program; Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension and revision to the approved information collection Survey of Hemp Producers and Production Trends.

DATES: Comments on this notice are due by January 11, 2027 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Comments must be sent to USDA/AMS/Specialty Crops Program Hemp Branch, 470 L'Enfant Plaza SW, P.O. Box 23192, Washington, DC 20026; or online at *https://www.regulations.gov.* All comments should reference the docket number AMS–SC–26–1981, the date, and the page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237 during regular business hours, or can be viewed at: *https://www.regulations.gov.* All comments submitted in response to this notice will be included in the record and will be made available to the public online at *www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours. Please be advised that all comments received will be posted without change.

FOR FURTHER INFORMATION CONTACT: Quintin Joshua, Branch Chief, Domestic Hemp Production Program, Market Development Division, Specialty Crops Program, AMS, USDA, USDA/AMS/Specialty Crops Program Hemp Branch, 470 L'Enfant Plaza SW, P.O. Box 23192, Washington, DC 20026; telephone: 888–721–4367; or email: *farmbill.hemp@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Market Development Division—Domestic Hemp Production Program.

OMB Number: 0581–0341.

Expiration Date of Approval: November 30, 2026.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Improvement Act of 2018 (2018 Farm Bill) amended the Agricultural Marketing of 1946 and was signed into law December 20, 2018, as Public Law 115–334. Section 10113 of the 2018 Farm Bill amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) by adding Subtitle G—Hemp Production. The law requires the U.S. Department of Agriculture (USDA) to promulgate regulations and guidelines to develop and oversee a program for the production of hemp in the United States. The Agriculture Improvement Act of 2018, Public Law 115–334 (2018 Farm Bill) directs that this will include State and Tribal plans, and a USDA plan for those States, including territories of Indian Tribes, that choose not to submit their own plan. The 2018 Farm Bill amended the Agricultural Marketing Act of 1946 (AMA) by adding Subtitle G (sections 297A through 297D of the AMA). Section 297D of the AMA requires the Secretary of Agriculture (Secretary) to promulgate regulations and guidelines relating to the production of hemp, including sections 297B and 297C, in consultation with the U.S. Attorney General. Additionally, section 297D of the AMA requires the Secretary to annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing updates on the implementation of this subtitle.

This is a request for the Office of Management and Budget (OMB) to review the revisions and extend the expiration date of the HEMP PRODUCTION PRACTICES AND COSTS STUDY. This survey is necessary for the Secretary of Agriculture to meet authorities granted by, and meet reporting requirements under, section 297D of the 2018 Farm Bill. A description of the survey is below.

Hemp Production Practices and Costs Study

In brief, this survey—prepared by the University of Kentucky (UKY) under a cooperative agreement with the USDA Specialty Crops Program (SCP)—is a national, census-style effort designed to collect hemp production-practice and cost-of-production information from producers across all segments of the industry (fiber, grain, and floral). The survey supports rulemaking needs, Congressional reporting requirements, and analysis of production practices across the U.S. hemp sector. It also fulfills key data-collection objectives of the 2018 Farm Bill (Pub. L. 115–334) by closing longstanding information gaps and strengthening the quality of data available for federal decision-making.

Burden for Domestic Hemp Production Program

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Individuals that represent a household, business, farm/ranch, or organization that is registered to grow hemp with a state, tribal, or USDA hemp program.

Estimated Number of Respondents: 4,010 (Total number of S/T/T and USDA licensees as of 09/2026).

Estimated Number of Responses: 4,019.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,010 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the 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.

AMS is committed to complying with the E-Government Act of 2002 to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A 60-day comment period is provided to allow interested people to respond to the notice.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–22971 Filed 11–10–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2026–0562]

Mozza Foods, Inc.: Availability of a Petition for a Determination of Nonregulated Status and Draft Plant Pest Risk Assessment for MF1786–1 Soybean (Glycine max) Expressing Casein Proteins

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Mozza Foods, Inc. seeking a determination of nonregulated status for MF1786–1 Soybean (*Glycine max*) which has been developed using genetic engineering to express the bovine alpha S1, beta and kappa casein proteins and the FAM20C kinase in its seeds, and to reduce the level of soybean glycinin proteins in seeds. We are making the petition and draft plant pest risk assessment available for public review and comment.

DATES: We will consider all comments that we receive on or before January 11, 2027.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2026–0562 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2026–0562, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Avenue #AP760, Beltsville, MD 20705.

The petition, draft plant pest risk assessment, and any comments we receive on this docket may be viewed at *www.regulations.gov,* or in our reading room, which is located in 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Pearson, Biotechnology Regulatory Services, APHIS, USDA, 5601 Sunnyside Avenue, AP100–3–WS–1151, Beltsville, MD 20705; (301) 851–3944; email: *alan.pearson@usda.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such organisms and products are considered ''regulated articles.''

Section 340.6(a) of the regulations provides that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received a petition (APHIS Petition Number 25–239–01p) from Mozza Foods, Inc. seeking a determination of nonregulated status for MF1786–1 Soybean (*Glycine max*), which has been developed using genetic engineering to express the bovine alpha S1, beta and kappa casein proteins and FAM20C Kinase in its seeds, and to reduce the level of soybean glycinin proteins in seeds. MF1786–1 soybean has also been modified for glufosinate resistance as a selectable marker to aid in the identification of transformed plants. The petition states that the information provided indicates that MF1786–1 soybean is unlikely to pose a plant pest risk and therefore should not be regulated under APHIS' regulations in 7 CFR part 340.

As part of our decision-making process regarding the organism's regulatory status, APHIS prepared a draft plant pest risk assessment (PPRA) to assess the plant pest risk of the organism. APHIS' draft PPRA compared the pest risk posed by MF1786–1 soybean with that of the nonmodified soybean variety from which it was derived. The draft PPRA concluded that MF1786–1 soybean is unlikely to pose an increased plant pest risk compared to the nonmodified soybean.

Paragraph (d) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** providing 60 days for public comment on petitions for a determination of nonregulated status. In accordance with § 340.6(d), we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition and draft PPRA from interested or affected persons for a period of 60 days from the date of this notice. The petition and draft PPRA are available for public review and comment, and copies are available as indicated under **ADDRESSES** and from the individual listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. We are particularly interested in receiving comments regarding biological or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments.

After the comment period closes, APHIS will review and evaluate any information received during the comment period and any other relevant information. Based upon available information, APHIS will respond to the petitioner either approving or denying the petition. APHIS will post its regulatory determination on its website and publish a notice of availability in the **Federal Register**.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 5th day of November 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–23015 Filed 11–10–26; 8:45 am]

BILLING CODE 3410–34–P

APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS26–09]

Appraisal Subcommittee; Notice of Public Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of public meeting.

Description: In accordance with section 1104(b) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI), codified at 12 U.S.C. 3333(b), and the Appraisal Subcommittee (ASC) Rules of

Operation, notice is hereby given that the ASC is meeting for a Quarterly Meeting on November 18, 2026.

Location: This will be a virtual meeting via Zoom. Please visit the agency's homepage (*www.asc.gov*) and access the registration link provided in the News and Events section. You MUST register in advance to attend this Meeting.

Date: November 18, 2026.

Time: 11:00 a.m. ET.

Status: Open.

Agenda

The ASC may reorder the agenda to accommodate the needs or members or staff.

Call to Order, Determination of Quorum, Opening Remarks

Approval of September 16, 2026 Minutes

Reports

Chair
Acting Executive Director
Delegated State Compliance Reviews
Grants
Finance
Notation Votes

Discussion and Action Items

- USVI Compliance Review for Appraiser Program

How to Attend and Observe the Open Session: The meeting will be open to the public via live webcast only. Please visit the agency's homepage (*www.asc.gov*) and access the registration link provided in the News and Events section. You must register in advance to attend the open session. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC Meetings.

Ada Bohorfoush,

Attorney-Advisor.

[FR Doc. 2026–23062 Filed 11–10–26; 8:45 am]

BILLING CODE 6700–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–118]

Wood Mouldings and Millwork Products From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers and exporters of wood mouldings and millwork products (millwork products) from the People's Republic of China (China) received countervailable subsidies during the period of review (POR), January 1, 2024 through December 31, 2024.

DATES: Applicable November 12, 2026.

FOR FURTHER INFORMATION CONTACT: Brandon James or Joshua Nixon, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7472 or (202) 482–8361, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 8, 2026, Commerce published the *Preliminary Results* of this administrative review and invited interested parties to comment.[1] On August 4, 2026, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for issuing the final results by 53 days, until October 28, 2026.[2] On October 26, 2026, we extended the deadline for the final results by an additional seven days until November 4, 2026.[3]

For a detailed description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4] A list of topics discussed in the Issues and Decision Memorandum is included as Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The product covered by the *Order* is millwork products from China. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by interested parties in briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided in Appendix I of this notice.

Changes Since the Preliminary Results

The subsidy programs under review, and the issues raised in case and rebuttal briefs submitted by the interested parties, are discussed in the Issues and Decision Memorandum. Based on events occurring since the *Preliminary Results,* and our analysis of the comments received from interested parties, we made certain changes from the *Preliminary Results.* For a discussion of these changes, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Act. For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5]

In making these findings, Commerce relied on facts available and drew an adverse inference in selecting from among the facts otherwise available.[6] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Issues and Decision Memorandum.

Companies Not Selected for Individual Review

The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for cooperative

[1] *See Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2024,* 91 FR 25341 (May 8, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Extension of Deadline for the Final Results of Countervailing Duty Administrative Review; 2024,'' dated August 4, 2026.

[3] *See* Memorandum, ''Second Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2024,'' dated October 26, 2026.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2024 Countervailing Duty Administrative Review of Wood Mouldings and Millwork Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] *See* sections 776(a) and (b) of the Act.

non-selected companies in reviews in a manner that is consistent with sections 703(d) and 705(c)(5)(A) of the Act, which provide that Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely on facts available under section 776 of the Act.

However, if the countervailable subsidy rates established for all exporters and producers individually investigated are zero or *de minimis,* or are determined entirely based on facts available under section 776 of the Act, Commerce may use any reasonable method to establish the all-others rate. In past reviews, Commerce has determined that a reasonable method to use when all the rates of selected mandatory respondents are zero, *de minimis* or based entirely on facts available, is to assign non-selected respondents the average of the most recently determined rates that are not zero, *de minimis,* or based entirely on facts available.[7]

Because all individually calculated rates in this review are based entirely on facts available, we have based the rate for cooperative non-selected companies on the rate applied to cooperative non-selected companies in *Millwork Products from China 2023,*[8] *i.e.,* the average of the most recently determined rates established for cooperative individually examined respondents in any segment of this proceeding that are not zero, *de minimis,* or based entirely on facts available.[9]

Final Results of Review

In accordance with section 751(a)(1)(A) and of the Act and 19 CFR 351.221(b)(5), we determine that the following total net countervailable subsidy rates exist for the period of January 1, 2024, through December 31, 2024:

Producer/exporter	Subsidy rate (percent *ad valorem*)
Nanping Huatai Wood and Bamboo Co., Ltd	147.88
Fujian Yinfeng Imp & Exp Trading Co., Ltd.[10]	147.88
Fujian Hongjia Craft Products Co., Ltd	147.88
Rate for Non-Selected Companies Under Review[11]	21.39

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).

Verification

As stated in the *Preliminary Results,* Commerce intended to conduct verification of the respondents' questionnaire responses pursuant to section 782(i)(1) of the Act; however, because the respondents withdrew from participation in this segment prior to verification, Commerce did not conduct verification. For further information, *see* the ''Background'' section of the Issues and Decision Memorandum.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the above-listed companies at the applicable *ad valorem* assessment rates listed. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the POR for each of the respective companies listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms subject to the *Order,* we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, effective upon publication of the final results of review, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: November 4, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Use of Facts Otherwise Available and Application of Adverse Inferences
V. Discussion of the Issues
Comment 1: Application of Total Adverse Facts Available (AFA) to Hongjia and Huatai

[7] *See Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015,* 82 FR 57951 (December 8, 2017).

[8] *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2023,* 91 FR 8408 (February 23, 2026) (*Millwork Products from China 2023*), and accompanying Issues and Decision Memorandum at 6.

[9] *See* Issues and Decision Memorandum at Comment 2.

[10] In accordance with past determinations, Commerce finds the following companies to be cross-owned with Yinfeng: Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. and Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. Youxi Xicheng Branch. *See Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2023,* 90 FR 24778 (June 12, 2025), and accompanying PDM at 20, unchanged in *Millwork Products from China 2024,* and accompanying IDM at 6.

[11] *See* Appendix II for a list of the non-selected companies under review.

Comment 2: Selection of the Rate for Non-Examined Companies
Comment 3: Whether the Preliminary AFA Rate is Consistent with Commerce's Practice and Record Evidence
Comment 4: Whether To Modify the Preliminary AFA Rate in Accordance with CAMP's AFA Calculation
Comment 5: Whether Commerce Made a Clerical Error in the Calculation of Yinfeng's Preliminary AFA Rate
VI. Recommendation

Appendix II

Non-Selected Companies Under Review

1. Anji Huaxin Bamboo & Wood Products Co., Ltd.
2. Bel Trade Wood Industrial Co.
3. Bel Trade Wood Industrial Co., Ltd. Youxi Fujian.
4. Fotiou Frames Limited
5. Fujian Jinquan Trade Co., Ltd.; Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd.[12]
6. Fujian Wangbin Decorative Material Co., Ltd.
7. Longquan Jiefeng Trade Co., Ltd; Zhejiang Senya Board Industry Co., Ltd.[13]
8. Putian Yihong Wood Industry Co., Ltd.
9. Sanming Lintong Trading Co., Ltd
10. Shuyang Kevin International Co., Ltd.
11. Zhangzhou Wangjiamei Industry & Trade Co., Ltd.

[FR Doc. 2026–22950 Filed 11–10–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–106]

Wooden Cabinets and Vanities and Components Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain exporters of wooden cabinets and vanities and components thereof (wooden cabinets and vanities) from the People's Republic of China (China), made sales of subject merchandise at less than normal value (NV) during the period of review (POR) April 1, 2024, through March 31, 2025.

DATES: Applicable November 12, 2026.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0665.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 2026, Commerce published the *Preliminary Results* of this review in the **Federal Register** and invited interested parties to comment.[1] For a complete description of the events since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order[3]

The products covered by the *Order* are wooden cabinets and vanities from China. A complete description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of a Comment Received

An issue raised in the case brief by Yixing Pengjia Technology Co., Ltd. (Pengjia Technology) in this administrative review is addressed in the Issues and Decision Memorandum and is listed in the appendix to this notice.

Changes Since the Preliminary Results

Based on our review of the record and the comments received from Pengjia Technology regarding the *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we did not make changes to the margin calculation for Pengjia Technology.[4]

Rate for Non-Examined Separate Rate Respondents

No party commented on Commerce's preliminary decision to grant a separate rate to Jiangsu Xiangsheng Bedtime Furniture Co., Ltd., Xiamen Golden Huanan Imp. & Exp. Co., Ltd., and Zhongshan NU Furniture Co., Ltd.[5] We have made no changes to Commerce's preliminary separate rate determination for the final results of review.

Final Results of Review

Commerce determines that the following estimated weighted-average dumping margins exist for the period April 1, 2024, through March 31, 2025:

Exporter	Weighted-average dumping margin (percent)
Yixing Pengjia Technology Co., Ltd	7.48

[12] In past reviews, Commerce has found these entities to be cross-owned. *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2020–2021,* 88 FR 62319 (September 11, 2023) and *Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2022,* 89 FR 15816 (March 5, 2024). Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

[13] In past reviews, Commerce has found these entities to be cross-owned. *See Millwork Products from China 2023.* Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

[1] *See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Preliminary Results and Partial Recission of the Antidumping Duty Administrative Review; 2024–2025,* 91 FR 42922 (July 13, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China; 2024–2025,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order,* 85 FR 22126 (April 21, 2020) (*Order*).

[4] *See* Issues and Decision Memorandum.

[5] *See Preliminary Results.*

Exporter	Weighted-average dumping margin (percent)
Non-Individually Examined Companies Receiving a Separate Rate	
Jiangsu Xiangsheng Bedtime Furniture Co., Ltd	7.48
Xiamen Golden Huanan Imp. & Exp. Co., Ltd	7.48
Zhongshan NU Furniture Co., Ltd	7.48

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final results 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 made no changes to the calculations from the *Preliminary Results,* there are no calculations to disclose to interested parties in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Pursuant to 19 CFR 351.212(b)(1), for Pengjia Technology, we calculated importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is zero or *de minimis, i.e.,* less than 0.5 percent, the entries by that importer will be liquidated without regard to antidumping duties.

For the respondents that were not selected for individual examination in this administrative review but qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margins calculated for the mandatory respondents, *i.e.,* Pengjia Technology, consistent with section 735(c)(5)(A) of the Act. Consequently, the rate established for the non-individually examined companies is an *ad valorem* rate of 7.48 percent. For entries of subject merchandise during the POR produced by Pengjia Technology for which it did not know its merchandise was destined for the United States, we intend to instruct CBP to liquidate such entries at the China-wide rate if there is no rate for the intermediate company or companies involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired, *i.e.,* within 90 days of publication.

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided in section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the companies subject to this review will be the rates established in these final results of the review; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the rate for the China-wide entity (*i.e.,* 251.64 percent); [6] and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties has occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: November 6, 2026.

Steven Presing,

Executive Director for Policy and Negotiations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Issue
Comment: Financial Statements of Orma Orman Mahsulleri Integre A.Ş.
V. Recommendation

[FR Doc. 2026–23045 Filed 11–10–26; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See Order,* 85 FR at 22132.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 261030–0002]

RIN 0693–XC140

National Cybersecurity Center of Excellence (NCCoE) Projects and Activities

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) National Cybersecurity Center of Excellence (NCCoE) invites organizations to submit letters of interest to participate in NCCoE collaborative research projects through a standing consortia structure. This **Federal Register** Notice (FRN) notifies interested parties that NIST is establishing a single process through which organizations may express interest in participating in one or more NCCoE project consortia. Rather than issuing a separate FRN for each new NCCoE project, NIST is posting a single partnership announcement in the **Federal Register** and directing interested parties to *SAM.gov* for further information. New NCCoE collaborative research projects will be announced on *SAM.gov*. Additionally, NIST will maintain a publicly available list of active and forming NCCoE projects on the NCCoE website (*https://www.nccoe.nist.gov/portfolio*), where instructions for letters of interest will also be posted. Organizations may submit letters of interest to participate in one or more consortia on a rolling basis. Selected participants will collaborate with NIST through Cooperative Research and Development Agreements (CRADAs), and contribute technology, expertise, and products to NCCoE cybersecurity demonstrations. Interested organizations should describe the technical expertise, services, and/or products that they will bring to NCCoE to support the Center's collaborative research activities. Participation is open to all interested organizations that can contribute their expertise, services, and/or products to the NCCoE's projects and activities. Selected participants will be required to enter into a CRADA with NIST. At NIST's discretion, entities that are not legally permitted to enter into CRADAs may be allowed to participate under a separate non-CRADA agreement.

DATES: NCCoE collaborative research projects operate on an ongoing basis. New NCCoE collaborative research projects will be announced on *SAM.gov* and the NCCoE website (*https://www.nccoe.nist.gov*). The current list of NCCoE projects seeking collaborators will be maintained on the NCCoE website and updated as new projects are initiated. The timeframe for submissions will be shared on the NCCoE website as new projects are announced. NIST will periodically review submissions and notify applicants if they are selected to participate in NCCoE projects.

ADDRESSES: Interested parties can access the letter of interest request for a consortium by visiting *https://www.nccoe.nist.gov/CRADA* and completing the letter of interest webform. Completed letters of interest may be submitted to the email address listed for the consortium, by email to *nccoe@nist.gov,* or with a hardcopy to: National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Organizations whose letters of interest are accepted in accordance with the process outlined in the **SUPPLEMENTARY INFORMATION** section of this notice will be asked to sign a CRADA with NIST. The CRADA template will be made available to selected applicants by NIST's Technology Partnerships Office (TPO).

FOR FURTHER INFORMATION CONTACT: Contact the NCCoE by email at *NCCoE@nist.gov,* by phone at (301) 975–0200, or by mail to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. For questions related to CRADAs please contact J'aime Maynard, Consortia Agreements Officer, NIST's Technology Partnerships Office (TPO), by email to *agreements@nist.gov* or by mail to 100 Bureau Drive, Mail Stop 2200, Gaithersburg, MD 20899. Please direct all media inquiries to NIST's Communications and Outreach Office (COO), by email to *inquiry@nist.gov* or by phone at (301) 975–2762.

SUPPLEMENTARY INFORMATION:

Background: The NCCoE, part of NIST, is a public-private collaboration for accelerating the widespread adoption of secure technologies. The NCCoE brings together experts from industry, government, and academia to develop practical, interoperable cybersecurity and privacy approaches that address the real-world needs of complex Information Technology (IT) and Operational Technology (OT) systems.

NCCoE projects are selected based on their alignment with NIST and government and industry priorities. For example:

- *National Priorities:* The challenge addresses a nationwide cybersecurity challenge.
- *NIST Mission and Available Resources:* The work builds on NIST standards and technology expertise in areas such as cryptography, identity, risk management, privacy, trustworthy systems, and more.
- *NCCoE Mission Alignment:* The work addresses a real-world challenge using commercial technology.
- *Industry Signals:* The topic is consistently identified by industry participants as a priority.

NCCoE's project portfolio (*https://www.nccoe.nist.gov/portfolio*) evolves in response to emerging cybersecurity challenges, national priorities, and stakeholder input. As new projects are initiated, they will be posted on *SAM.gov* and the NCCoE website (*https://www.nccoe.nist.gov*), without issuing an additional **Federal Register** Notice.

Process: NIST is soliciting responses from all sources of relevant technical capabilities (see below) to enter into a CRADA to provide technical expertise, technology products, and other capabilities as necessary to build and demonstrate integrated approaches in support of NCCoE's projects and activities, as described in the previous section.

Interested parties can submit a letter of interest to participate in NCCoE projects by visiting the NCCoE website (*https://www.nccoe.nist.gov*), and then navigating to *https://www.nccoe.nist.gov/CRADA* and completing the letter of interest webform; alternatively, parties can provide the information detailed in LETTER OF INTEREST, below, and send via email or hardcopy (for reference, see **ADDRESSES** section above). NIST will contact interested parties if there are questions regarding the responsiveness of the letters of interest to the project objective or requirements identified below. NIST evaluates complete letters of interest on a first-come, first-served basis and determines technical acceptability based on fit within the project's scope and satisfaction with the project's technical requirements. Selected participants will be required to enter into a CRADA with NIST. At NIST's discretion, entities that are not legally permitted to enter into CRADAs may be allowed to participate pursuant to separate non-CRADA agreements.

Objective of NCCoE Projects: NCCoE projects demonstrate integrated cybersecurity solutions using

commercially available technologies. Collaborators contribute products, technical expertise, and implementation expertise that enable NIST to build and evaluate reference architectures addressing real-world technology transition challenges. This will help enable projects that are aligned with U.S. industry and government needs, promote secure-by-design technologies and applications, and ensure that the U.S. Government is at the forefront of managing national security risks in technology environments. NCCoE's work is open and transparent, and it invites interested parties to provide insights into emerging cybersecurity challenges and solutions, and to accelerate the adoption of cybersecurity processes and tools.

Building upon its long track record of working with the private and public sectors and its history of reliable and practical measurement and standards-oriented solutions, NCCoE seeks research collaborators who can support this vital undertaking. Specifically, NCCoE looks to:

- Create a convening space for collaborators to engage in dialogue and strive for open and transparent collaborations.
- Bring together stakeholders from industry and academia to work collaboratively to build and mature cybersecurity processes and tools for IT systems.
- Demonstrate the ability to secure IT systems using commercially available technologies.

Participation in NCCoE projects provides organizations with the opportunity to collaborate directly with NIST and other industry leaders to address significant cybersecurity challenges. Collaborators contribute technologies and expertise to build integrated reference architectures that demonstrate practical implementations of standards, best practices, and commercially available technologies. These demonstrations inform NIST guidance and help accelerate the adoption of secure technologies across government and industry.

NCCoE projects and activities are subject to change based upon current NCCoE, NIST, and U.S. Government priorities and as advances in the technical state of the art open new avenues for scientific inquiry and collaboration. These changes may result in the addition or removal of measurement science, technologies, and support areas listed above.

Requirements for Letters of Interest: Interested Parties must use NCCoE's Letter of Interest form (OMB Control No. 0693–0075) to submit their interest in participating in NCCoE projects. A sample of the current version of the form is available at *https://www.nccoe.nist.gov/get-involved/collaborate-us-technical-contributions.* Each NCCoE project announcement will contain specific instructions on how to request and submit a letter of interest for that project.

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 an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0693–0075. Without this approval, NCCoE could not conduct this information collection. Public reporting for this information collection is estimated to be approximately 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. All responses to this information collection are voluntary. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to NCCoE using the information in the **FOR FURTHER INFORMATION CONTACT** section above.

Letters of interest should not include proprietary information. NIST will not treat any information provided in response to this notice as proprietary information.

NIST cannot guarantee that all submissions will be utilized or that the products proposed by respondents will be used in NCCoE's activities. Each prospective participant will be expected to work collaboratively with NIST staff and other project participants under the terms of the NCCoE project agreement.

Additional details about the NCCoE's project portfolio are available at: *https://www.nccoe.nist.gov/portfolio*

For additional information on the NCCoE governance, business processes, and NCCoE operational structure, visit the NCCoE website *https://nccoe.nist.gov/.*

(Authority: 15 U.S.C. 3710a, 15 U.S.C. 278h–1, and 15 U.S.C. 272b and 272c)

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2026–23031 Filed 11–10–26; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG154]

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its Pelagic Plan Team (PPT), Hawaii Archipelago Fishery Ecosystem Plan (FEP) Advisory Panel (AP), Mariana Archipelago FEP Guam AP, American Samoa FEP AP, Mariana Archipelago FEP Commonwealth of the Northern Mariana Islands (CNMI) AP and Social Science Planning Committee (SSPC) meetings to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held between November 19 through December 4, 2026. For specific times and agendas, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The Council will hold its PPT, Hawaii Archipelago FEP AP, American Samoa FEP AP, FIAC, Mariana Archipelago FEP CNMI AP, SSPC meetings in a hybrid format with in-person and remote participation (Webex) options available for the members and the public. In-person attendance for the PPT, Hawaii Archipelago FEP AP, and SSPC and public will be hosted at Council Office, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813. In-person attendance for the Mariana Archipelago FEP Guam AP and public will be hosted at Cliff Pointe, 304 W O'Brien Drive, Hagatña, GU, 96910. In-person attendance for the American Samoa Archipelago FEP AP and public will be hosted at the Tedi of Samoa, Suite 208B, P8C6+V2F, Fagatogo Village, AS, 96799. In-person attendance for the Mariana Archipelago FEP AP and public will be hosted at the BRI Building, Suite 205, Kopa Di Oru St., Garapan, Saipan, 96950. Instructions for connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Contact Kitty M. Simonds, Executive

Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The PPT will be held between 1 p.m. and 5 p.m. (Hawaii Standard Time [HST]) on Thursday, November 19, 2026. The Hawaii Archipelago FEP AP will be held between 9 a.m. and 2 p.m. (HST) on Friday, November 20, 2026. The Mariana Archipelago FEP Guam AP will be held between 10 a.m. and 12 p.m. (Chamorro Standard Time [ChST]) on Saturday, November 21, 2026. The American Samoa FEP AP be held between 5 p.m. and 8 p.m. (Samoa Standard Time [SST]) on Tuesday, December 1, 2026. The Mariana Archipelago FEP CNMI AP will be held between 6 p.m. and 8 p.m. (ChST) on Wednesday, December 2, 2026. The SSPC will be held between 11 a.m. and 4 p.m. HST on Friday, December 4, 2026.

Public Comment periods will be provided in the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the PPT Meeting

Thursday, November 19, 2026, 1 p.m. to 5 p.m. (HST)

1. Welcome and Introductions
2. Approval of PPT Draft Agenda
3. Update on Previous Meeting Recommendations
4. Seafood Executive Order Actions
   - A. Overview
   - B. Revising the Hawaii Shallow-set Longline Fishery Sea Turtle Measures
     - i. Draft Alternatives and Overview of the Analyses
     - ii. PPT Working Group analysis Update
   - C. Revising the American Samoa Longline Fishery Sea Turtle Measures
   - D. Removing the Swordfish Retention Limit in the Hawaii Deep-set Longline Fishery
5. Updates on Plan Team Working Groups
6. Public Comment
7. Discussion and Recommendations
8. Other Business

Schedule and Agenda for the Hawaii Archipelago FEP AP Meeting

Friday, November 20, 2026, 9 a.m. to 2 p.m. (HST)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Feedback from the Fleet
4. Council Fisheries Issues
   - A. Experimental Fishing Permit for the Northwestern Hawaiian Islands (NWHI)
   - B. Revising the Hawaii Shallow-set Longline Fishery Sea Turtle Measures
   - C. Removing the Swordfish Retention Limit in the Hawaii Deep-set Longline Fishery
5. Council Inflation Reduction Act (IRA) Community Consultation Project Update
   - A. Disaster Resilience Workshop Report
   - B. Hawaii Shark Regulatory Alignment and Education Workshop
   - C. Hawaii IRA Engagement
   - D. Fisher Observation Portal
6. Management Strategy Evaluation on Uku Slot Limits
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Schedule and Agenda for the Mariana Archipelago FEP Guam AP Meeting

Saturday, November 21, 2026, 10 a.m. to 12 p.m. (ChST)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Feedback from the Fleet
4. Council IRA Project Discussions
   - A. Disaster Resilience Workshop
   - B. Fisher Observation Portal
5. Report on Guam Bottomfish Workshop
6. Update on Deep Sea Mining in the Marianas
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Schedule and Agenda for the American Samoa Archipelago FEP AP Meeting

Tuesday, December 1, 2026, 5 p.m. to 8 p.m. (SST)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Feedback from the Fleet
4. Council Fisheries Issues
   - A. Revising American Samoa Bottomfish Management Unit Species and Specifying Annual Catch Limits for 2027–2030
   - B. Revsiing the American Samoa Longline Fishery Sea Turtle Measures
5. Council IRA Project Discussions
   - A. Disaster Resilience Workshop
   - B. Fisher Observations Portal
6. American Samoa Marine Conservation Plan Revision 2027–2030
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Schedule and Agenda for the Mariana Archipelago FEP CNMI AP Meeting

Wednesday, December 2, 2026, 6 p.m. to 8 p.m. (ChST)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Feedback from the Fleet
4. Council IRA Project Discussions
   - A. Disaster Resilience Workshop
   - B. Fishers Observation Portal
5. Air Force EIS
6. Update on Deep Sea Mining in the Marianas
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Schedule and Agenda for the SSPC Meeting

Friday, December 4, 2026, 11 a.m. to 4 p.m. (HST)

1. Welcome and Introductions
2. Approval of Agenda
3. Developing the SSPC Work Plan
4. Fisher Observations: 5-year Review and Next Steps
5. Update on Seafood Initiatives
6. Socioeconomic Considerations for Council Actions and Issues
   - A. Experimental Fishing Permit for NWHI
   - B. Revising the Hawaii Shallow-set Longline Fishery Sea Turtle Measures
   - C. Revising the American Samoa Longline Fishery Sea Turtle Measures
   - D. Removing the Swordfish Retention Limit in the Hawaii Deep-set Longline Fishery
8. Project Updates
9. Other Business
10. Public Comment
11. Discussion and Recommendations

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 9, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–23066 Filed 11–10–26; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

Per 45 CFR Chapter XXI § 2102.3, the next meeting of the U.S. Commission of Fine Arts is scheduled for November 19, 2026, at 9:00 a.m. and will be held in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW, Washington, DC 20001–2728. Items of discussion may include buildings, infrastructure, parks, memorials, and public art.

Draft agendas and additional information regarding the Commission are available on our website: *www.cfa.gov.* Inquiries regarding the agenda, as well as any public testimony, and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *cfastaff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated November 6, 2026, in Washington, DC.

Zakiya N. Walters,

Administrative Officer.

[FR Doc. 2026–22945 Filed 11–10–26; 8:45 am]

BILLING CODE 6330–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* December 13, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On October 8, 2026 (91 FR 64357), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7920–01–440–9190—Mop Head, Wet, Looped-End, Green, 22 oz., 40″
7920–01–440–9193—Mop Head, Wet, Looped-End, Green, 24 oz., 32″
7920–01–440–9197—Mop Head, Wet, Looped-End, Orange, 16 oz., 34″
Authorized Source of Supply: MISSISSIPPI INDUSTRIES FOR THE BLIND (INC), Jackson, MS
Contracting Activity: GENERAL SERVICES ADMINISTRATION, GSA/FSS GREATER SOUTHWEST ACQUISITI
8405–01–334–1493—Cap, Garrison, Army, Men's, Green, 6⅜
8405–01–334–1494—Cap, Garrison, Army, Men's, Green, 6½
8405–01–334–1495—Cap, Garrison, Army, Men's, Green, 6⅝
8405–01–334–1496—Cap, Garrison, Army, Men's, Green, 6¾
8405–01–334–1497—Cap, Garrison, Army, Men's, Green, 6⅞
8405–01–334–1498—Cap, Garrison, Army, Men's, Green, 7
8405–01–334–1499—Cap, Garrison, Army, Men's, Green, 7⅛
8405–01–334–1500—Cap, Garrison, Army, Men's, Green, 7¼
8405–01–334–1501—Cap, Garrison, Army, Men's, Green, 7⅜
8405–01–334–1502—Cap, Garrison, Army, Men's, Green, 7½
8405–01–334–1503—Cap, Garrison, Army, Men's, Green, 7⅝
8405–01–334–1504—Cap, Garrison, Army, Men's, Green, 7¾
8405–01–334–1505—Cap, Garrison, Army, Men's, Green, 7⅞
Authorized Source of Supply: Goodwill Industries of South Florida, Inc., Miami, FL, Goodwill Industries of South Florida, Inc., Miami, FL
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–APG NATICK,
Contracting Activity: DEPT OF DEFENSE, DLA TROOP SUPPORT

Service(s)

Service Type: Base Supply Center and Retail Gift Shop
Mandatory For: Bureau of Alcohol, Firearms, Tobacco and Explosives, Washington, DC, 99 New York Avenue NE, Washington, DC
Authorized Source of Supply: Virginia Industries for the Blind, Charlottesville, VA
Contracting Activity: JUSTICE, DEPARTMENT OF, ATF

Service Type: Office Supply Store
Mandatory For: BSC-Defense Supply Service-Washington: Presidential Towers, 2511 South Clarke Street, Suite 1600, Arlington, VA
Authorized Source of Supply: Virginia Industries for the Blind, Charlottesville, VA
Contracting Activity: DEPT OF DEFENSE, DOD/OFF OF SECRETARY OF DEF (EXC MIL DEPTS)

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026–22972 Filed 11–10–26; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete service(s) previously furnished by such agencies.

DATES: Comments must be received on or before: December 12, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

The Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) is proposing to add the product listed below to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

In accordance with 41 CFR 51–2.4(b), Government personnel within the contracting activity have identified this as a product requirement not applicable to other Federal entities and has requested the Committee consider granting a purchase or distribution preference if the product is added to the Procurement List. *See* 71 FR 69536 (Dec. 1, 2006). If the Committee grants this request, the product will not be available through the U.S. AbilityOne Commission's Commercial Distribution Program. The Committee will consider this request along with relevant comments received from interested parties.

NSN(s)—Product Name(s):
700007102N—Rubber Duck, Doctor
700007103N—Rubber Duck, Nurse
700007101N—Rubber Duck, Military
700007104N—Rubber Duck, Captain
700007105N—Rubber Duck, Sailor
780001601N—Light, Selfie, LED
Authorized Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Mandatory For: DEPT THE NAVY
Contracting Activity: DEPT OF THE NAVY, NAVSUP FLT LOG CRR NORFOLK

In accordance with 41 CFR 51–5.3(b), the Committee intends to add the service requirement listed below to the Procurement List as a mandatory purchase only for the contracting activity at the location listed with the proposed qualified nonprofit agency listed as the authorized source of supply. Prior to adding the service to the Procurement List, the Committee will consider other pertinent information, including information from Government personnel and relevant comments from interested parties regarding the Committee's intent to geographically limit this services requirement.

The following service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service(s)

Service Type: Custodial & Grounds Maintenance
Mandatory For: Defense Counterintelligence and Security Agency, Fort George G. Meade, Buildings 600 and 601, Fort George G. Meade, MD, 601 10th Street, Fort Meade, MD
Authorized Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: DEPT OF DEFENSE, DEFENSE CI AND SECURITY AGENCY

Deletions

The following service(s) are proposed for deletion from the Procurement List:

Service(s)

Service Type: Contract Mgt Adm Svcs Assoc w-Contract Closeout
Mandatory For: Department of Defense, Army Contracting Command—Orlando, Orlando, FL, 3100 Technology Parkway, Orlando, FL
Authorized Source of Supply: Lighthouse Works!, Inc, Orlando, FL
Contracting Activity: DEPT OF DEFENSE, WASHINGTON HEADQUARTERS SERVICES

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026–22973 Filed 11–10–26; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2025–HQ–0069]

Submission for OMB Review; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by December 14, 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: Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Establishment of Air Force Junior ROTC Program; OMB Control Number 0701–0114.

Type of Request: Reinstatement with change.

Number of Respondents: 25.

Responses per Respondent: 1.

Annual Responses: 25.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 8.

Needs and Uses: Headquarters Air Force Junior Reserve Officer Training Corps (AFJROTC) must collect information from public and private secondary schools that wish to establish an AFJROTC or Space Force Junior ROTC unit. Interested school officials contact Headquarters AFJROTC to obtain access to the Web Intensive New Gain System (WINGS), where they complete and submit the application electronically. Respondents provide information about the school's location, type, accreditation status, enrollment, student demographics, academic schedule, ability to grant academic credit for the JROTC curriculum, available resources, and institutional support for the proposed unit.

Headquarters AFJROTC uses the information to manage and evaluate applications for new units. The information allows program personnel to verify that applicant schools meet foundational eligibility requirements; assess each school's capacity to establish and sustain a viable JROTC unit; compare and rank eligible applicants; and identify schools for further consideration, including possible site surveys. The collection also supports program oversight, expansion planning, resource allocation, and accurate responses to leadership and congressional reporting requirements.

Affected Public: State, Local or Tribal Government; Businesses or other for-profit; Not-for-profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DOD Clearance Officer: Mr. Reginald Lucas.

Dated: November 6, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2026–22968 Filed 11–10–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2026–OS–1354]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by December 14, 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: Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Sexual Assault Incident Reporting; DD Form 2965, 2910, 2910–2, 2910–3, 2910–4, 2910–8; OMB Control Number 0704–0482.

Type of Request: Revision.

Number of Respondents: 16,061.

Responses per Respondent: 1.

Annual Responses: 16,061.

Average Burden per Response: 67.244 minutes.

Annual Burden Hours: 18,000.

Needs and Uses: Section 563 of Public Law 110–417, the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009, directs the Secretary of Defense to implement a centralized case-level database for the collection and maintenance of information regarding sexual assaults involving members of the Armed Forces. This includes information, if available, about the nature of the assault, victim, alleged offender, investigative information, case outcomes in connection with the assault, and other information necessary to fulfill reporting requirements. Section 543 of Public Law 114–328, the NDAA for FY2017, further directed the Secretary of Defense to include information on each claim of retaliation in connection with a report of sexual assault in the Armed Force made by or against a member of such Armed Force in the Annual Report on Sexual Assault in the Military. This includes the narrative description and nature of each complaint, information on the complainant and alleged retaliator, and summary and determination of the investigation. Section 536 of Public Law 116–92 of the NDAA for FY 2020 directs the Secretary to prescribe procedures under which a victim who files a restricted report on an incident of sexual assault may request, at any time, the return of any personal property of the victim obtained as part of the sexual assault forensic examination.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DoD Clearance Officer: Mr. Reginald Lucas.

Dated: November 6, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–22969 Filed 11–10–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Calendar Year (CY) 2027 TRICARE Prime and TRICARE Select Out-of-Pocket Expenses

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Notice of CY 2027 TRICARE Prime and TRICARE Select out-of-pocket expenses.

SUMMARY: This notice provides the CY 2027 TRICARE Prime and TRICARE Select out-of-pocket expenses.

DATES: The CY 2027 rates contained in this notice are effective January 1, 2027.

ADDRESSES: Defense Health Agency (DHA), TRICARE Health Plan, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042–5101.

FOR FURTHER INFORMATION CONTACT: Debra Fisher, 703–275–6224, *dha.ncr.healthcare-ops.mbx.thp-policy-and-programs-branch@health.mil.*

SUPPLEMENTARY INFORMATION: The National Defense Authorization Acts for Fiscal Years 2012 and 2017, and subsequent implementing regulations (*e.g.,* § 199.17 of Title 32 of the Code of Federal Regulations), established rates for TRICARE beneficiary out-of-pocket expenses and how they may be increased by the annual cost of living adjustment (COLA) percentage used to increase military retired pay or via budget neutrality rules. The CY 2027 retiree COLA increase is 3.6%.

The DHA has updated the CY 2027 out-of-pocket expenses as shown below:

BILLING CODE 6001–FR–P

Calendar Year (CY) 2027 TRICARE Prime and TRICARE Select Out-of-Pocket Expenses Active Duty Family Members Category Page 1 of 1					
Out of Pocket Expense		**Select Group A CY27**	**Select Group B CY27**	**Prime* Group A CY27**	**Prime* Group B CY27**
Annual enrollment fee	*Individual*	$0	$0	$0	$0
	Family	$0	$0	$0	$0
Annual deductible	*E1-E4, individual*	$50	$68	$0	$0
	E1-E4, family	$100	$137	$0	$0
	E5 & above, individual	$150	$205	$0	$0
	E5 & above, family	$300	$411	$0	$0
Annual catastrophic cap		$1,000	$1,372	$1,000	$1,372
Preventive visit		$0	$0	$0	$0
Primary care		$30 (IN) 20% (OON)	$20 (IN) 20% (OON)	$0	$0
Specialty care		$39 (IN) 20% (OON)	$34 (IN) 20% (OON)	$0	$0
Emergency Room visit		$107 (IN) 20% (OON)	$54 (IN) 20% (OON)	$0	$0
Urgent care center visit		$30 (IN) 20% (OON)	$27 (IN) 20% (OON)	$0	$0
Ambulatory surgery		$25 (IN or OON)	$34 (IN) 20% (OON)	$0	$0
Ambulance, outpatient ground		$86 (IN) 20% (OON)	$20 (IN) 20% (OON)	$0	$0
Ambulance, outpatient air		20% (IN or OON)	20% (IN or OON)	$0	$0
Durable medical equipment		15% (IN) 20% (OON)	10% (IN) 20% (OON)	$0	$0
Inpatient admission		$25.45 per day; $25 min. per admission	$82 per adm. (IN); 20% (OON)	$0	$0
Inpatient Skilled Nursing		$25.45 per day;	$34 per day (IN);	$0	$0

Facility/rehab facility	$25 min. per admission	$68 per day (OON)		

* When TRICARE Prime enrollees other than active duty Service members self-refer to specialty or non-emergent inpatient care without a referral from a network provider and/or authorization from the regional contractor, the TRICARE Point of Service deductible and copayment applies in lieu of TRICARE Prime copayments.

Calendar Year (CY) 2027 TRICARE Prime and TRICARE Select Out-of-Pocket Expenses
Retiree Beneficiary Category
Page 1 of 2

Out of Pocket Expense		Select Group A CY27	Select Group B CY27	Prime* Group A CY27	Prime* Group B CY27
Annual enrollment fee	*Individual*	$193.92	$616.92	$396	$480
	Family	$388.92	$1,233.96	$792.96	$960
Annual deductible	*Individual*	$150	$205 (IN); $411 (OON)	$0	$0
	Family	$300	$411 (IN); $823 (OON)	$0	$0
Annual catastrophic cap		$4,538	$4,802	$3,000	$4,802
Preventive visit		$0	$0	$0	$0
Primary care		$40 (IN) 25% (OON)	$34 (IN) 25% (OON)	$27	$27
Specialty care		$52(IN) 25% (OON)	$54 (IN) 25% (OON)	$41	$41
Emergency Room visit		$143 (IN) 25% (OON)	$109 (IN) 25% (OON)	$82	$82
Urgent care center visit		$40 (IN) 25% (OON)	$54(IN) 25% (OON)	$41	$41
Ambulatory surgery		20% (IN) 25% (OON)	$130 (IN) 25% (OON)	$82	$82
Ambulance, outpatient ground		$115 (IN) 25% (OON)	$82 (IN) 25% (OON)	$54	$54
Ambulance, outpatient air		25% (IN or OON)	25% (IN or OON)	$20	$20

Note: The calendar year catastrophic cap for TRICARE Select Group A retirees who are survivors of active duty deceased sponsors or medically retired Uniformed Service members and their dependents is $3,000.

CY 2027 TRICARE Prime and TRICARE Select Out-of-Pocket Expenses
Retiree Beneficiary Category
Page 2 of 2

Out of Pocket Expense		Select Group A CY27	Select Group B CY27	Prime* Group A CY27	Prime* Group B CY27
Durable medical equipment		20% (IN) 25% (OON)	20% (IN) 25% (OON)	20%	20%
Inpatient admission	*In-network*	$250/day up to 25% of hospital charges, plus 20% of sep. billed services	$240 per adm	$205 per adm	$205 per adm
	Out of network	ǂ $1,345/day up to 25% of hosp. charges, plus 25% of sep. billed services	25%	$205 per adm	$205 per adm
Inpatient Skilled Nursing Facility /rehab facility		$250/day up to 25% of hospital charges, plus 20% of sep. billed services (IN); 25% (OON)	$68 per day (IN); lesser of $411 per day or 20% (OON)	$41 per day	$41 per day

ǂ This is the CY26 rate. The CY27 out-of-pocket expense will be available mid-December once the Diagnosis Related Group payment rates are calculated.

* When TRICARE Prime enrollees other than active duty Service members self-refer to specialty or non-emergent inpatient care without a referral from a network provider and/or authorization from the regional contractor, the TRICARE Point of Service deductible and copayment applies in lieu of TRICARE Prime copayments.

Dated: November 9, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–23035 Filed 11–10–26; 8:45 am]

BILLING CODE 6001–FR–C

DEPARTMENT OF EDUCATION

National Assessment Governing Board

Committee and Quarterly Board Meetings; Correction

AGENCY: National Assessment Governing Board, Department of Education.

ACTION: Notice; correction.

SUMMARY: The National Assessment Governing Board (Board) published a notice in the **Federal Register** announcing the schedule and proposed agenda for its standing committee meetings and quarterly Board meeting on Thursday, November 19, 2026, and Friday, November 20, 2026. This notice corrects the meeting location and revises the supplementary information concerning two closed sessions.

FOR FURTHER INFORMATION CONTACT: Angela Scott, (202) 245–6234.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of October 27, 2026, in FR Doc. 2026–21827, at 91 FR 67555–67558, the notice of the Board's hybrid meetings is corrected as follows:

On page 67556, in the first column, under **ADDRESSES**, remove ''TBD.'' and add ''Courtyard Washington Downtown Convention Center, 901 L Street NW, Washington, DC 20001.''

On page 67557, in the first column, under Thursday, November 19, 2026, revise the description of the closed plenary session scheduled from 12:45 p.m. to 2:30 p.m. to read as follows: The Board will receive an overview of bridge studies and evaluations supporting the release of the 2026 National Assessment of Educational Progress (NAEP) Reading and Mathematics results. This session must be closed because the presentation and discussion will include information about the budget and the Federal acquisition process, as well as data that cannot be released to the public at this time. Public disclosure of this confidential information would significantly impede implementation of the NAEP assessment program. Exemption 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B), protects these matters.

On page 67556, in the second column, and on page 67557, in the first column, under Friday, November 20, 2026, add: the Nominations Committee will meet in closed session from 7:00 a.m. to 8:15 a.m. to discuss outreach activities and applications for Board vacancies for the 2027 nominations cycle, including the rating process and member assignments for reviewing applications. The discussion will include personal

information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy. Exemption 6 of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), protects the discussion.

Lesley Muldoon,

Executive Director, National Assessment Governing Board, U.S. Department of Education.

[FR Doc. 2026–23034 Filed 11–10–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2872]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Special Education—Individual Reporting on Regulatory Compliance Related to the Personnel Development Program's Service Obligation

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before December 14, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Celia Rosenquist, (202) 245–7373.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Special Education—Individual Reporting on Regulatory Compliance Related to the Personnel Development Program's Service Obligation.

OMB Control Number: 1820–0686.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals and Households.

Total Estimated Number of Annual Responses: 60,949.

Total Estimated Number of Annual Burden Hours: 9,210.

Abstract: The Personnel Development Program (PDP) is a Federal program managed at the Office of Special Education Programs (OSEP) aimed at increasing the supply of qualified personnel in the field of special education. This program awards competitive grants to Institutions of Higher Education (IHEs) to support scholars who are preparing to provide special education and related services to children and youth with disabilities. Scholars who receive funding agree to work in the field of special education or related services for two years for each year of support they receive.

The information is collected through the web-based Personnel Development Program Data Collection System (PDPDCS) under the authority of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1462) and the implementing service obligation regulations at 34 CFR part 304, as well as reporting requirements under 34 CFR 75.110. Through the PDPDCS, grantees, scholars, and employers report data electronically.

The PDPDCS enables OSEP to meet its Congressional mandate by providing reliable data to assess program efficiency, performance, and effectiveness. Data collected are used to evaluate grantees' compliance with PDP program requirements, report program performance on GPRA measures to Congress, track scholar enrollment in training programs and subsequent service obligation fulfillment, and to refer scholars to the Accounts Receivable and Bank Management Division (ARBMD) for repayment of part or all of the scholarship received, if the scholars are not fulfilling their obligations through service.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–22961 Filed 11–10–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13761–002]

FFP Missouri 6, LLC; Notice of Request for Extension of Time To Commence and Complete Construction Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Time.

b. *Project No:* 13761–002.

c. *Date Filed:* September 18, 2026.

d. *Applicant:* FFP Missouri 6, LLC.

e. *Name of Project:* Emsworth Back Channel Dam Hydroelectric Project.

f. *Location:* The unconstructed project is located at the U.S. Army Corps of Engineers' (Corps) Emsworth Back Channel Dam on the Ohio River in Allegheny County, Pennsylvania. The project occupies federal land administered by the Corps.

g. *Filed Pursuant to:* Public Law 119–90, 1020, 140 Stat. 820–21.

h. *Applicant Contact:* Erik Steimle, Rye Development, LLC, 745 Atlantic Avenue, 8th Floor, Boston, MA 02111, *erik@ryedevelopment.com*.

i. *FERC Contact:* Aneela Mousam, (202) 502–8357, *aneela.mousam@ferc.gov*.

j. *Deadline for filing comments:* December 7, 2026 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at

FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–13761–002. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests that the Commission grant a two-year extension of time from the existing deadline of May 5, 2027, to May 5, 2029, to commence project construction pursuant to Article 301 of the license. Additionally, the licensee requests a two-year extension of time from May 5, 2030, to May 5, 2032 to complete project construction. This would be the first 2-year extension authorized by Public Law 119–90.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

p. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1.)

Dated: November 5, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–22947 Filed 11–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5223–040]

International Falls Power Company; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed International Falls Hydroelectric Project

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 5223–040.

c. *Date Filed:* November 24, 2025.

d. *Applicant:* International Falls Power Company.

e. *Name of Project:* International Falls Hydroelectric Project.

f. *Location:* On the Rainy River, in Koochiching and St. Louis Counties, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert Pflederer Assistant Superintendent—Power/Recovery PCA—International Falls, MN, 400 2nd Street International Falls, MN 56649; telephone: 218–324–3931; or email: *RobertPflederer@packagingcorp.com.*

i. *FERC Contact:* Colleen Corballis, Project Coordinator, Midwest Branch, Division of Hydropower Licensing; telephone at (202) 502–8598; email at *colleen.corballis@ferc.gov.*

j. The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental effects of relicensing the International Falls Hydroelectric Project. The Commission will use this environmental document in its decision-making process to determine whether to issue a new license for the project.

k. This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. This notice is intended to advise all participants as to the potential scope of the National Environmental Policy Act (NEPA) document and to seek additional information pertinent to this analysis. Commission staff does not intend to issue a separate scoping document.

As part of the NEPA review process, the Commission takes into account concerns the public may have about proposals and the environmental effects that could result from its action whenever it considers the issuance of a hydropower license. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues.

l. *Scoping Comments:* By this notice, the Commission requests written public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC by 5:00 p.m. Eastern Time on December 7, 2026.

Comments should focus on the potential environmental effects and reasonable alternatives. Your input will help the Commission staff determine what issues they need to evaluate in the

environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: International Falls Hydroelectric Project (P–5223–040).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The International Falls Hydroelectric Project includes a dam consisting of a 170-foot-long masonry overflow gravity section and a 215-foot-long integral powerhouse. The dam spans between the United States of America (U.S.A.) and Canada, but the project boundary only encompasses the U.S.A. side of the dam. The dam creates a 48,296.3-acre impoundment (Rainy Lake), having a storage capacity of 1,545,482 acre-feet at elevation 1,108.1 feet mean sea level. From the impoundment, water flows through the project's forebays conveying water into seven intake structures, each connecting to the powerhouse consisting of seven horizontal-shaft Francis unit turbine-generators, for a total installed capacity of 14.45 megawatts. Water is discharged from the turbines to a tailrace discharging into Rainy River. The project does not have transmission facilities, as the 6.9-kilovolt generator-leads connect the project's generators to a non-project International Falls Mill located on site. There are no project recreation facilities.

International Falls Power Company proposes to: (1) continue operating the project in accordance with the 2018 rule curve regulating the level of Rainy Lake as prescribed by the International Joint Commission, established by the Boundary Waters Treaty of 1909 between the U.S.A. and Canada; and (2) develop a cultural resources management plan.

o. A copy of the application, with details of the proposed project, can be viewed on the Commission's website at *https://www.ferc.gov* using the ''eLibrary'' link. Enter the project's docket number excluding the last three digits in the docket number field to access the document (P–5223–040). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

p. *NEPA Process and the Environmental Document:* Any environmental document issued by the Commission will discuss effects that could occur as a result of the project's relicensing under the relevant general resource areas, such as:

- aquatic resources;
- terrestrial resources;
- threatened and endangered species;
- recreation and land use resources;
- cultural resources; and
- developmental resources.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid effects on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Intent to Prepare an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an Environmental Impact Statement* will be issued. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary. If eSubscribed, you will receive instant email notification when the environmental document is issued (see paragraph (r) of this notice for instructions on using eSubscription).

q. 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.*

r. This notice is being distributed to the Commission's official mailing list for the project and any additional entities on the applicant's distribution list. You can access the Commission's official mailing list for this project at *https://ferconline.ferc.gov/MailListLOR.aspx?Type=MailList&ListVar=P-522.* If you want to receive future mailings for the project and are not included on the Commission's official mailing list, or if you wish to be removed from the Commission's official mailing list, please send your request by email to *FERCOnlineSupport@ferc.gov.* In lieu of an email request, you may submit a paper request. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All written or emailed requests must specify your wish to be added to or removed from the mailing list, and must clearly identify the following on the first page: International Falls Hydroelectric Project No. 5223–040.

Additionally, the Commission offers a free service called eSubscription, which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) 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 (P–5223–040). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

(Authority: 18 CFR 2.1)

Dated: November 5, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–22946 Filed 11–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13642–003]

GB Energy Park, LLC; Notice of Request for Extension of Time To Commence and Complete Construction Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Time.

b. *Project No:* 13642–003.

c. *Date Filed:* August 31, 2026.

d. *Applicant:* GB Energy Park, LLC.

e. *Name of Project:* Gordon Butte Pumped Storage Project.

f. *Location:* The unconstructed project will be located in Meagher County, Montana, approximately three miles west of the town of Martinsdale. The project does not occupy federal land.

g. *Filed Pursuant to:* Public Law 119–90, 1020, 140 Stat. 820–21.

h. *Applicant Contact:* Carl Borgquist, Gb Energy Park, LLC, (406) 585–3006 *absaroka@absarokaenergy.com.*

i. *FERC Contact:* Zeena Aljibury, (202) 502–6065, *Zeena.aljibury@ferc.gov.*

j. *Deadline for filing comments:* December 7, 2026 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–13642–003. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests that the Commission grant a two-year extension of time from the existing deadline to commence and complete construction pursuant to Article 301 of the license of December 14, 2026, and December 14, 2029, respectively. Therefore, the licensee requests an extension until December 14, 2028, to commence construction of the project, and until December 14, 2031, to complete construction of the project. This would be the first extension of time authorized by Public Law 119–90.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

p. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: November 5, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–22949 Filed 11–10–26; 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 Accounting Request filings:

Docket Numbers: AC27–3–000.

Applicants: ITC Midwest LLC.

Description: ITC Midwest LLC submits journal entries to clear Account 102 re purchase of electric plant from Interstate Power and Light Company consummated on or about 05/12/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5120.

Comment Date: 5 p.m. ET 11/27/26.

Take notice that the Commission received the following Exempt Wholesale Generator filings:

Docket Numbers: EG27–30–000.

Applicants: Cheyenne Power Hub, LLC.

Description: Cheyenne Power Hub, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/4/26.

Accession Number: 20261104–5235.

Comment Date: 5 p.m. ET 11/25/26.

Take notice that the Commission received the following Electric Rate filings:

Docket Numbers: ER10–2774–009; ER10–566–007; ER11–3917–007; ER24–2897–003; ER24–2898–003; ER26–3541–001.

Applicants: Overnight Solar LLC, Mordor ES2 LLC, Mordor ES1 LLC, Mojave Solar LLC, Coso Geothermal Power Holdings, LLC, Arizona Solar One LLC.

Description: Notice of Non-Material Change in Status of Arizona Solar One LLC, et al.

Filed Date: 10/30/26.

Accession Number: 20261030–5442.

Comment Date: 5 p.m. ET 11/20/26.

Docket Numbers: ER12–164–032; ER19–1402–011; ER24–1576–009; ER18–2203–012; ER22–2046–011; ER20–2288–012; ER10–2563–016; ER10–1894–020; ER10–1882–022.

Applicants: Wisconsin River Power Company, Wisconsin Public Service Corporation, Wisconsin Electric Power Company, Tatanka Ridge Wind, LLC, Sapphire Sky Wind Energy LLC, Upper Michigan Energy Resources Corporation, Maple Flats Solar Energy Center LLC, Coyote Ridge Wind, LLC, Bishop Hill Energy III LLC.

Description: Notice of Non-Material Change in Status of Bishop Hill Energy III LLC, et al.

Filed Date: 10/29/26.

Accession Number: 20261029–5311.

Comment Date: 5 p.m. ET 11/19/26.

Docket Numbers: ER26–2935–004.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 1887R17 Evergy Kansas Central, Inc. NITSA NOA Amended to be effective 9/1/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5079.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–426–000.

Applicants: Mark Center Solar Project, LLC.

Description: Initial Rate Filing: Application for Market-Based Rate to be effective 1/5/2027.

Filed Date: 11/5/26.

Accession Number: 20261105–5190.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–427–000.

Applicants: San Diego Gas & Electric Company.

Description: Annual Filing of Post-Employment Benefits Other than Pensions for 2025 of San Diego Gas & Electric Company.

Filed Date: 10/29/26.

Accession Number: 20261029–5312.

Comment Date: 5 p.m. ET 11/19/26.

Docket Numbers: ER27–428–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Requests for Clarification of Accounting Treatment and Approval to Include Environmental Remediation Obligation Costs of Tri-State Generation and Transmission Association, Inc.

Filed Date: 10/23/26.

Accession Number: 20261023–5233.

Comment Date: 5 p.m. ET 11/13/26.

Docket Numbers: ER27–429–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Termination of ISA, Service Agreement No. 970 to be effective 11/6/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5027.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–430–000.

Applicants: ISO New England Inc., NSTAR Electric Company.

Description: 205(d) Rate Filing: NSTAR Electric Company submits tariff filing per 35.13(a)(2)(iii: NSTAR; Establishment of 3-Year Depreciation Rate for Account No. 351–2 to be effective 1/5/2027.

Filed Date: 11/6/26.

Accession Number: 20261106–5036.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–431–000.

Applicants: Southern California Edison Company.

Description: Tariff Amendment: Termination GIA DSA, Goleta Energy Storage, WDT1187, SA 1004 1005 to be effective 12/23/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5073.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–432–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: Revisions to Schedule 15 and Attachment T for SPP West Region to be effective 2/1/2027.

Filed Date: 11/6/26.

Accession Number: 20261106–5091.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–433–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA SA No. 5799: Queue No. AF1–260 to be effective 1/6/2027.

Filed Date: 11/6/26.

Accession Number: 20261106–5092.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–434–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA SA No. 3917 RE: Queue No. Y1–047/Y2–060/Z2–103/AD1–110 to be effective 1/6/2027.

Filed Date: 11/6/26.

Accession Number: 20261106–5096.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–435–000.

Applicants: NSTAR Electric Company.

Description: Tariff Amendment: Cancellation—Vitol Inc. Transfer of Use Rights Agreement to be effective 11/6/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5118.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–436–000.

Applicants: NSTAR Electric Company.

Description: Tariff Amendment: Cancellation—NSTAR–HQUS Transfer Agreement (MMWEC Use Rights) to be effective 11/6/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5119.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–437–000.

Applicants: Gonzaga Ridge Battery Facility, LLC.

Description: 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 11/7/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5121.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–438–000.

Applicants: Gonzaga Ridge Wind Farm, LLC.

Description: 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 11/7/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5122.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–439–000.

Applicants: Nimbus Wind Farm, LLC.

Description: 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 11/7/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5125.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–440–000.

Applicants: Oregon Trail Solar, LLC.

Description: Initial rate filing: Co-Tenancy, Common Facilities, Easement, and Development Cooperation Agreement to be effective 11/7/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5142.

Comment Date: 5 p.m. ET 11/27/26.

Docket Numbers: ER27–441–000.

Applicants: Montague Solar, LLC.

Description: Initial rate filing: Filing of Shared Facilities Common Ownership Agreement to be effective 11/7/2026.

Filed Date: 11/6/26.

Accession Number: 20261106–5151.

Comment Date: 5 p.m. ET 11/27/26.

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 6, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–23058 Filed 11–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 137–242]

Pacific Gas and Electric Company; Notice of Scoping Comment Sessions and Environmental Site Review

On November 2, 2026, Commission staff issued a Notice of Intent to File License Application, Filing of Pre-Application Document (PAD), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests for the Mokelumne River Hydroelectric Project (FERC No. 137–242). That notice set a deadline of 5:00 p.m. Eastern Time on January 4, 2027, for filing written comments on the PAD and Scoping Document 1 (SD1) and contained specific instructions on how to file comments electronically or to mail written comments to the Commission. The notice and SD1 did not include a location for the public scoping sessions meetings and environmental site review; this notice provides the location, date, and time for the scoping sessions and site environmental site review.

All interested individuals and entities are invited to attend one or both of the following scoping sessions and environmental site review.

Evening Scoping Session

Date: Wednesday, December 2, 2026.

Time: 6:00 p.m. to 8:00 p.m. Pacific Time (PST).

Location: Best Western Amador Inn, 200 South State Highway 49, Jackson, California 95642.

Phone: (209) 223–0257.

Daytime Scoping Session

Date: Wednesday December 2, 2026.

Time: 9:00 a.m. to 11:00 a.m. Pacific Time.

Location: Best Western Amador Inn, 200 South State Highway 49, Jackson, California 95642.

Phone: (209) 223–0257.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping sessions, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

Date: Tuesday, December 1, 2026.

Time: 9:00 a.m. Pacific Time.

Location: PG&E Facility—Tiger Creek Location, 28570 Tiger Creek Road, Pioneer, California 95666.

All persons attending the environmental site review must adhere to the following requirements: (1) all persons must wear sturdy, closed-toe shoes or boots; (2) persons with open-toed shoes/sandals/flip flops/high heels, etc. will not be allowed on the environmental site review; (3) persons must be 18 years or older; (4) no photography will be allowed inside the powerhouse; (5) no weapons are allowed on-site; (6) no alcohol/drugs are allowed on-site (or persons exhibiting the effects thereof); and (7) no animals (except for service animals) are allowed on the environmental site review.

Scoping Session Objectives

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the environmental document. Commission staff will prepare either an environmental assessment (EA) or an environmental impact statement (EIS) that will present Commission staff's independent analysis of the issues. The Commission's scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission prepares an EA or an EIS.

Scoping session participants should come prepared to discuss their issues and/or concerns. Please review the PAD and SD1 in preparation for the scoping sessions.

Meeting Procedures

The scoping sessions will begin promptly at their respective start times listed above. If you wish to speak, Commission staff will hand out numbers in the order of your arrival. If no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session a half hour earlier than the scheduled time.

Your oral comments will be recorded by a court reporter (with FERC staff or FERC representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system. If a significant number of people are interested in providing oral comments

in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process. Representatives from the Pacific Gas and Electric Company will also be present to answer project-specific questions.

Proper conduct will help the sessions maintain a respectful atmosphere for attendees to provide comments effectively. Loudspeakers, lighting, oversized visual aids, other visual or audible disturbances, and disruptive video and photographic equipment are not permitted. Recorded interviews are also not permitted within the session space. FERC reserves the right to end the session if disruptions interfere with the opportunity for individuals to provide oral comments or if there is a safety or security risk.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided orally at a scoping session.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: November 6, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–23057 Filed 11–10–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0127; FRL–11623–01–OCSPP]

Inventory of Mercury Supply, Use, and Trade in the United States 2026 Report; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA was directed by Congress in the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act), which amended the Toxic Substances Control Act (TSCA), to carry out and publish in the **Federal Register** not later than April 1, 2017 and every three years thereafter, an inventory of mercury supply, use, and trade in the United States. The Lautenberg Act defines ''mercury'' as ''elemental mercury'' or ''a mercury compound.'' Consistent with this mandate, EPA is announcing the availability of the 2026 mercury inventory report, which summarizes information on U.S. mercury supply, use, and trade required to be reported by rule directly from mercury manufacturers, importers, and processors.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Thomas Groeneveld, Existing Chemicals Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; email address: *groeneveld.thomas@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general, and may be of interest to a wide range of stakeholders including members of the public interested in elemental mercury or mercury compounds generally. Other topics of interest include the supply, use, or trade of elemental mercury or mercury compounds, including mercury-added products and manufacturing processes. As such, the Agency has not attempted to describe all the specific entities that may be interested in this action.

B. What action is the Agency taking?

As directed in TSCA section 8(b)(10)(B), EPA is publishing an inventory of mercury supply, use, and trade in the United States (15 U.S.C. 2507(b)(10)(B)). The Lautenberg Act defines ''mercury'' as ''elemental mercury'' or ''a mercury compound'' (15 U.S.C. 2507(b)(10)(A)). In carrying out the mercury inventory, EPA must ''identify any manufacturing processes or products that intentionally add mercury'' (15 U.S.C. 2607(b)(10)(C)(i)). The Agency also must ''recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use.'' (15 U.S.C. 2607(b)(10)(C)(ii)).

This is the third report (Ref. 1) in which the supply, use, and trade of mercury is presented based on data collected by EPA under the final rule Mercury; Reporting Requirements for the TSCA Mercury Inventory (83 FR 30054 June 27, 2018 (FRL–FRL–9979–74). Persons subject to the reporting requirements in 40 CFR part 713 submitted information directly to EPA via the Mercury Electronic Reporting (MER) application, which is accessed through the Agency's Central Data Exchange (CDX). The deadline for reporting mercury information to EPA was July 1, 2025 for reporting activities that occurred in the calendar year 2024, and the inventory collection, reporting, and publication cycle will continue every three years thereafter. The 2026 inventory report, and the previously published reports in 2023 (Ref. 2) and 2020 (Ref. 3), may be found in the docket for this notice (EPA–HQ–OPPT–2017–0127) and on the EPA's Mercury website.

II. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Inventory of Mercury Supply, Use, and Trade in the United States 2026 Report. 2026.

2. EPA. Inventory of Mercury Supply, Use, and Trade in the United States 2023 Report. 2023 available here *https://www.epa.gov/system/files/documents/2023-12/2023-mercury-inventory-report_final.pdf.*

3. EPA. Inventory of Mercury Supply, Use, and Trade in the United States 2020 Report. 2020 available here *https://www.epa.gov/mercury/2020-mercury-inventory-report.*

Authority: 15 U.S.C. 2607(b)(10)(B).

Dated: November 5, 2026.

Douglas M. Troutman,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2026–23011 Filed 11–10–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2026–0067; FRL–13665–01–OCSPP]

Pesticides; Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations To Terminate Certain Uses With a 30-Day Comment Period (September 2026)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Agency's receipt of and solicits comments on requests by registrants to voluntarily cancel their pesticide registrations of certain products and to amend their product registrations to terminate one or more uses. In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA provides a periodic notice of receipt addressing requests received by EPA since the last notice of receipt was issued and uses the month and year in the title to help distinguish one document from the other. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments during the comment period that would merit further review of the requests or the requests are withdrawn by the registrant. If these requests are granted, EPA will issue an order in the **Federal Register** cancelling the listed product registrations, after which any sale, distribution, or use of the products listed in this document will only be permitted after the registrations have been cancelled if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments and withdrawal requests must be received on or before December 14, 2026.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2026–0067, online at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, are available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Christopher Green, Regulatory & Information Services Division, Office of Mission Critical Operations, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2707; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action is directed to the public and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What action is the Agency taking?

This document announces receipt by EPA of requests from registrants to voluntarily cancel their pesticide registrations and amend their product registrations to terminate one or more uses of the products listed in Unit II, that are currently registered under FIFRA section 3 (7 U.S.C. 136a) or section 24(c) (7 U.S.C. 136v(c)). Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling and amending the affected registrations.

C. What is EPA's authority for taking this action?

FIFRA section 6(f)(1) (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. Before acting on a request for voluntary cancellation, EPA must provide at least a 30-day public comment period on the request. FIFRA further provides that, before acting on a request for voluntary cancellation or termination of any minor agricultural use, EPA must provide an 180-day comment period unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 3 of Unit II have requested that EPA waive the 180-day comment period. Accordingly, this document provides a 30-day comment period on these requests.

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through email or *https://www.regulations.gov.* If you wish to include CBI in your comment, please follow the applicable instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

E. How can a registrant withdraw their request for voluntary cancellation?

Registrants who choose to withdraw their request for voluntary cancellation should submit a withdrawal request in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlled.

II. Requests to Voluntarily Cancel and Amend Certain Registrations

The registrations with pending voluntary requests for cancellation are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

TABLE 1—REGISTRATIONS WITH PENDING VOLUNTARY REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredient
524–623	524	Tioxazafen Technical (Wetcake)	Tioxazafen (074752/330459–31–9)—(82.5%).
524–624	524	Mon 102133 SC Nematicide Seed Treatment	Tioxazafen (074752/330459–31–9)—(45.9%).
7946–30	7946	Abacide 2HP	Abamectin (122804/71751–41–2)—(1.9%).

The product registrations with pending voluntary requests for amendments to terminate uses are listed in sequence by registration number (or company number and 24(c) number) in Table 2 of this unit.

TABLE 2—PRODUCT REGISTRATIONS WITH PENDING VOLUNTARY REQUESTS FOR AMENDMENT

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
4972–43	4972	SunPac Mildewcide	Paraformaldehyde (043002/30525–89–4)—(91%)	Residential.
8743–17	8743	Formaldehyde Solution 37.	Formaldehyde (043001/50–00–0)—(37%)	In-container preservation for: industrial and household consumer products such as air fresheners, automotive products, fabric softeners, hand cleaners, polishes for floor and furniture, shoe polishes, moist sponges and towelettes, spray starch, waxes and automotive polishes, hand and automatic dish detergents, liquid laundry detergents and car washes, household cleaners, industrial cleaners, liquid hand soaps, oil and grease removers, carpet cleaners and spot removers, waterless hand cleaners, raw materials for cleaning products and surfactants for silicone emulsions.
				Railway cars.
55364–5	55364	Physan 20	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) (069104/53516–76–0)–(10%), Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) (069154/85409–23–0)—(10%).	Disinfection of plant cuttings, seeds and seedlings that are then propagated outdoors.
				Trees, lawn, and turfgrass.
				Pathogen control for specific applications when used directly on plants located outdoors i.e. when not in a greenhouse.
81598–76	81598	Technical MCPA Acid	MCPA (030501/94–74–6)—(96.5%)	Alfalfa hay and forage.

The name and address of record for the requesting registrants are listed in sequence by EPA company number in Table 3 of this unit. The company number corresponds to the first part of the EPA registration numbers of the products listed in Tables 1 and 2 of this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

Company No.	Company name and address
524	Bayer CropScience, LLC, 800 North Lindbergh Blvd., Saint Louis, MO 63167.
4972	Protexall Products, Inc., 73356 Highway 41, Pearl River, LA 70452.
7946	J. J. Mauget Co., Agent Name: SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192.
8743	Brainerd Chemical Company, Inc., Agent Name: Lewis & Harrison, LLC, 2461 South Clark Street, Suite 710, Arlington, VA 22202.
55364	Maril Products, Inc., Agent Name: Scientific & Regulatory Consultants, Inc., 201 W Van Buren Street, Columbia City, IN 46725.
81598	Albaugh North America Limited, 4900 Stockyards Expressway, Saint Joseph, MO 64504.

III. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States, and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. In any order issued in response to these requests, EPA anticipates including the following provisions for the treatment of any existing stocks of the products listed in Unit II:

For voluntary cancellations of the registrations listed in Table 1 of Unit II, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation order. Thereafter, registrants will be prohibited from selling or distributing the products identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Once EPA has approved labels for the products listed in Table 2 of Unit II, (amended to reflect the requested amendments to terminate uses), registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of publication of the cancelation order in the **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Persons other than the registrant will generally be allowed to sell, distribute, or use existing stocks of the canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

(Authority: 7 U.S.C. 136 et seq.)

Dated: November 5, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2026–23021 Filed 11–10–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0678; FR ID 376960]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before December 14, 2026.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–0678.

Title: Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage by Commercial Earth Stations and Space Station.

Form Nos.: FCC Form 312, FCC Form 312–EZ, FCC Form 312–R and Schedules A, B and S.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities and not-for-profit institutions.

Number of Respondents and Responses: 4,171 respondents; 4,223 responses.

Estimated Time per Response: 0.5–78 hours per response.

Frequency of Response: On occasion, one time, and annual reporting requirements; third-party disclosure requirements; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has statutory authority for the information collection requirements under 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

Total Annual Burden: 37,129 hours.

Annual Cost Burden: $7,159,040.

Needs and Uses: On August 8, 2025, the Commission released a Second Report and Order, FCC 25–48, IB Docket Nos. 22–411 and 22–271, titled ''Expediting Initial Processing of Satellite and Earth Station Applications; Space Innovation.'' In this Second Report and Order, the Commission streamlines, simplifies, and modernizes the processing of space and earth station applications. Specifically, the Second Report and Order: (1) adopts a new process by which earth station operators may receive a baseline license without identifying a specific satellite point of communication, and adopts a procedure by which earth station applicants can easily add or remove identified points of communication; (2) expands the list of license modifications that do not require prior authorization; (3) eliminates the requirement to retain paper copies of applications; (4) changes the default ex parte status of all space station and earth station applications from ''restricted'' to ''permit-but-disclose;'' (5) adopts expanded timeframes to file license renewal applications for earth stations and replacement applications for non-geostationary orbit (NGSO) space stations; (6) provides non-U.S. licensed market access grantees the ability to receive the equivalent of a grant of special temporary authority; and (7) adopts a 30-day shot clock for earth station renewal applications.

The relevant rules for purposes of this revised information collection are §§ 25.110(e), 25.117(i), 25.118(a)(3), 25.118(b)(1), 25.118(b)(2), 25.118(b)(3), 25.118(e)(4), 25.118(h), and 25.137(h).

On May 1, 2026, the Commission released a Report and Order, FCC 26–26, SB Docket No. 25–157, titled ''Modernizing Spectrum Sharing for Satellite Broadband.'' In this Report and Order the Commission replaced the Equivalent Power Flux Density (EPFD) framework with modern, performance-based geostationary orbit (GSO) protection criteria that take account of the improved spectrum sharing possibilities that modern satellite technology has brought, including through use of adaptive coding and modulation (ACM). As relevant to this information collection, a non-geostationary orbit (NGSO) FSS applicant must either certify that it has completed a coordination agreement with any operational co-frequency GSO satellite network, or submit for Commission approval a compatibility showing which demonstrates by use of a degraded throughput methodology that it will not cause unacceptable interference to any such system with which coordination has not been completed.

The relevant rules for purposes of this revised information collection are §§ 25.146(a)(3) and 25.289(a)(2).

The new information collection requirements in this collection remove previously required information collections that are no longer considered necessary. In addition, the new information is required to ensure that applicants are meeting the Commission's rules when they modify their systems without prior approval from the Commission. In addition, the information is required to ensure that the public and the Commission are provided with accurate information about the operations of a system. amended the registration and verification requirements for individual users.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–23042 Filed 11–10–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 26–04]

Orleans International, Inc., Complainant v. Hapag Lloyd AG, Respondent; Notice of Filing of Second Amended Complaint

Notice is given that a second amended complaint (the ''amended complaint'') has been filed with the Federal Maritime Commission (the ''Commission'') by Orleans International, Inc. (the ''Complainant'') against Hapag Lloyd AG (the ''Respondent''). Complainant states that the Commission has subject-matter jurisdiction over the amended complaint pursuant to the Shipping Act of 1984, as amended, 46 U.S.C. 41301 *et seq.* and 41310, and personal jurisdiction over Respondent as a vessel-operating ocean common carrier, as defined in 46 U.S.C. 40102(18).

Complainant is a corporation existing under the laws of the state of Michigan with its principal place of business located in Farmington Hills, Michigan.

Complainant identifies Respondent Hapag Lloyd AG as a company existing under the laws of the Federal Republic of Germany with its principal place of business located in Hamburg, Germany, whose agent in the United States is Hapag-Lloyd (America) LLC, a limited liability company existing under the laws of the state of Delaware with its principal place of business located in Atlanta, Georgia.

Complainant alleges that Respondents violated 46 U.S.C. 41102(c); 41104(a)(10) and (14); and 46 CFR 545.5. Complainant alleges these violations arose from the assessment of demurrage and detention charges during periods of time in which Complainant's ability to pick up or return containers was constrained due to circumstances beyond its control, Respondent's lack of engagement in attempted dispute resolution, and other acts or omissions of Respondent.

An answer to the amended complaint must be filed with the Commission within 25 days after the date of service.

The full text of the amended complaint can be found in the Commission's electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/26-04/.* This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by March 19, 2027, and the final decision of the Commission shall be issued by October 4, 2027.

(Authority: 46 U.S.C. 41301; 46 CFR 502.61(c))

Served: November 9, 2026.

Jennifer Everling,

Assistant Secretary.

[FR Doc. 2026–23065 Filed 11–10–26; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL TRADE COMMISSION

SES Performance Review Board

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members to the FTC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Tamika Williams, Chief Human Capital Officer, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2184.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4) and 5 CFR 430.311(a)(4), agencies must publish notice of Performance Review Board (PRB) appointments in the **Federal Register** before service begins. The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations regarding performance ratings, performance-based pay adjustments, and awards (bonuses) to the Chairman.

The following individuals have been designated to serve on the Commission's Performance Review Board:

Lucas Croslow, General Counsel, PRB Chair

Daniel Guarnera, Director, Bureau of Competition

Christopher Mufarrige, Director, Bureau of Consumer Protection

Ted Rosenbaum, Deputy Director for Research and Management, Bureau of Economics

Brian Berggren, Associate Director for Enforcement, Bureau of Consumer Protection

Katherine White, Deputy Director, Bureau of Consumer Protection

Tamika Williams, Chief Human Capital Officer

Montreal Ravenel, Deputy Chief Human Capital Officer and Performance Management Officer

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2026–23028 Filed 11–10–26; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Final Effect of the Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of the final effect of a decision to add a class of employees from the Savannah River Site in Aiken, South Carolina, to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Lori Marion-Moss, Director, Division of Compensation Analysis and Support, NIOSH, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7384q(b). 42 U.S.C. 7384l(14)(C).

On July 8, 2026, as provided for under 42 U.S.C. 7384l(14)(C), the Secretary of HHS designated the following class of employees as an addition to the SEC:

All construction trade employees of Department of Energy (DOE) subcontractors who worked at the Savannah River Site in Aiken, South Carolina, from January 1, 1991, through December 31, 1993, for a number of workdays aggregating at least 250 workdays, occurring either solely under this employment, or in combination with

workdays within the parameters established for one or more other classes of employees included in the Special Exposure Cohort. This class specifically does not include employees of prime contractors of Westinghouse Savannah River Company during this time period.

This designation became effective on August 7, 2026. Therefore, beginning on August 7, 2026, members of this class of employees, as defined in this notice, became members of the SEC.

John J. Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2026–23004 Filed 11–10–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10856]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by January 11, 2027.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: __/OMB Control Number: __, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request*: Revision of a currently approved collection; *Title of Information Collection*: Medicaid Managed Care and Supporting Regulations; *Use*: The collection of information request pertains to the attestation collection requirement at 42 CFR 438.6(c)(2)(ii)(H), which requires that providers receiving payment under a State directed payment attest that they do not participate in any hold harmless arrangement for any health care-related tax as specified in § 433.68(f)(3) in which the State or other unit of government imposing the tax provides for any direct or indirect payment, offset, or waiver such that the provision of the payment, offset, or waiver directly or indirectly guarantees to hold the taxpayer harmless for all or any portion of the tax amount, and ensure either that (upon CMS request) such attestations are available, or that the State provides an explanation that is satisfactory to CMS about why specific providers are unable or unwilling to make such attestations. *Form Number*: CMS–10856 (OMB control number: 0938–1453); *Frequency*: Yearly and once; *Affected Public*: Private sector and State, Local, or Tribal Governments; *Number of Respondents*: 719; *Total Annual Responses*: 6,243; *Total Annual Hours*: 264,468. (For questions regarding this collection contact Alex Loizias at 410–786–2435.)

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–23037 Filed 11–10–26; 8:45 am]

BILLING CODE 4169–69–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–D–13432]

Early-Phase IND Protocol Recommendations for Solid Tumors; Draft Guidance for Industry; 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 draft guidance for industry titled ''Early-Phase IND Protocol Recommendations for Solid Tumors.'' The purpose of this draft guidance is to provide recommendations to sponsors and clinical investigators developing early-phase trials, which include first-in-human (FIH) protocols or protocols for

drugs and biologic products with limited human experience, submitted under an Investigational New Drug Application (IND) to the appropriate disease-specific division located within the Office of Oncologic Diseases (OOD) in the Center for Drug Evaluation and Research (CDER) and the Office of Clinical Evaluation (OCE) in the Center for Biologics Evaluation and Research (CBER.) This draft guidance is specific to solid tumors and does not address protocols for investigational drugs intended to treat hematologic malignancies.

DATES: Submit either electronic or written comments on the draft guidance by January 11, 2027 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2026–D–13432 for ''Early-Phase IND Protocol Recommendations for Solid Tumors.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or to the Center for Biologics Evaluation and Research, Food and Drug Administration, by calling 1–800–835–4709 or 240–402–8010, or email *industry.biologics@fda.hhs.gov,* or from the internet at *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances.* Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: LCDR Michael Gu, Oncology Center of Excellence, Food and Drug Administration, 301–796–2031, *OCE-Guidances@fda.hhs.gov,* or Phillip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry titled ''Early-Phase IND Protocol Recommendations for Solid Tumors.'' The purpose of this draft guidance is to provide recommendations to sponsors and clinical investigators developing early-phase trials, which include FIH protocols or protocols for drugs and biologic products with limited human experience, submitted under an IND to the appropriate disease-specific division located within OOD in CDER and OCE in CBER. This draft guidance is specific to solid tumors and does not address protocols for investigational drugs intended to treat hematologic malignancies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Early-Phase IND Protocol Recommendations for Solid Tumors.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

II. Paperwork Reduction Act of 1995

While this draft guidance contains no 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 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0130; and the collections of information pertaining to consultation with CDRH regarding the development and validation of an in vitro companion diagnostic device (CDx), if applicable, have been approved under OMB control number 0910–0756.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–22970 Filed 11–10–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N- 10742]

Patient-Level Data for Drugs and Biological Products Submissions Containing Real-World Data and Real-World Evidence; Request for Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; Request for Information.

SUMMARY: The Food and Drug Administration (FDA or Agency), is announcing a request for information (RFI) from interested parties to share perspectives on patient-level data access related to the use of real-world evidence (RWE) in regulatory decision-making for drugs and biological product submissions. The purpose of this RFI is to solicit input from interested parties on innovative solutions to address the challenges in submitting patient-level data for real-world data (RWD) analyzed in clinical studies included in a marketing application. Interested parties may include regulated industry, health information technology (HIT) vendors, academic medical centers, electronic data capture vendors, patient advocates, and other interested parties.

DATES: Either electronic or written comments on the notice must be submitted by January 11, 2027.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 11, 2027. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2026–N- 10742 for ''Patient-level data for drugs and biological products submissions containing real-world data and real-world evidence; Request for Information.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

FOR FURTHER INFORMATION CONTACT: Marie Bradley, Office of Medical Policy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 51, Room 6360, Silver Spring, MD 20993, 301–796–2500, email: *cder-rwe@fda.hhs.gov,* or Philip

Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240–402–7911, email: *industry.biologics@fda.hhs.gov* with the subject line ''Patient-level data for drugs and biologics submissions containing real-world data and real-world evidence.''

SUPPLEMENTARY INFORMATION:

I. Background

The rapid advancement of technologies and innovative methods (*e.g.,* super intelligence, digital health technologies, and RWD) in drug development presents both opportunities and challenges for regulatory decision-making. Aligned with the U.S. Department of Health and Human Services (HHS) priorities, the FDA is committed to realizing the full potential of fit-for-use RWD to generate RWE that advances the development and safety of regulated products. RWD are data relating to patient health status and/or the delivery of health care routinely collected from a variety of sources. RWE is the clinical evidence about the usage and potential benefits or risks of a medical product derived from analysis of RWD. Despite increasing submissions to the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) that include RWD and RWE for consideration in regulatory decision-making for drug and biological products, challenges persist with submission of patient-level data to allow FDA review and verification of study results during the regulatory review process.

For clinical trials, patient-level data are routinely submitted to CDER and CBER to conduct independent analyses and assess the adequacy of study results as part of the regulatory review process for drug and biological products. Sponsors must ensure they are able to submit patient-level data for any RWD that have been analyzed as part of clinical studies included in a marketing application, when required under 21 CFR 314.50 and 21 CFR 601.2.[1] Frequently, sponsors do not own the RWD used in studies submitted to FDA and, therefore, lack authorization to submit patient-level information to the Agency. When certain RWD are owned and controlled by entities other than the sponsor, sponsors should establish agreements with those entities to ensure that relevant patient-level data can be provided to FDA and that source data[2] necessary to verify the RWD are made available for inspection, as applicable.

In the United States, where privacy protections including the Health Insurance Portability and Accountability Act (HIPAA) Security Rule exist[3] and public scrutiny of digital privacy continues to intensify, the sharing of clinical data presents significant challenges. These challenges are further compounded by patient privacy considerations related to data sharing and the transfer of data across multiple jurisdictions, particularly from the European Union due to the General Data Protection Regulation (GDPR).[4]

When an appropriate justification exists for a sponsor's inability to directly submit patient-level data to FDA in support of a marketing application, regulatory pathways are available for third parties to provide this data to FDA in support of a sponsor's marketing application. For example, third-party data providers, including other federal agencies, may currently elect to open either a pre-investigational new drug application (pre-IND), or FDA may receive the information through a Type V drug master file (DMF).[5] In such cases the sponsor provides to FDA a letter of authorization from the third-party data provider permitting FDA to reference the data contained in the third party's DMF or pre-IND for the purpose of reviewing their application.[6] FDA does not currently accept links to external databases for such data submissions.

Even when a sponsor or third party is authorized to submit patient-level RWD to the Agency, real-world datasets are often substantially larger than typical clinical trial datasets, particularly when they include longitudinal data, imaging, or multi-omics information, and submission via traditional channels is often difficult—creating significant technical challenges for data transfer, storage, and processing within FDA's existing infrastructure.

When a sponsor or third party seeks to submit patient-level RWD to the Agency as part of an NDA or BLA submission (or in a DMF or pre-IND), they often encounter challenges because FDA cannot sign a data-use agreement that potentially conflicts with existing legal obligations of the Agency. The agency's ability to commit to the agreements that are often required by third party data vendors is frequently limited because they contain terms that do not align with the agency's legal obligations (*e.g.,* data destruction requirements that may conflict with the agency's federal record keeping obligations; data ownership or access terms that may conflict with the agency's obligation to preserve data informing a regulatory decision as part of an administrative record; limitations on sharing that conflict with FDA's obligations under the Freedom of Information Act).

FDA is exploring potential solutions to address these challenges while ensuring alignment with existing agency policies regarding RWD and applicable legal requirements. The purpose of this RFI is to solicit input from interested parties on innovative solutions to address the challenges FDA encounters in accessing patient-level data for submissions containing RWD and RWE. FDA aims to develop a comprehensive understanding of the current landscape of available solutions and emerging approaches, while gathering insights regarding potential barriers and facilitators to implementation. Information obtained through this RFI will inform the Agency's strategic planning and policy development concerning RWD/RWE utilization, assist in identifying opportunities for any potential collaborative frameworks, and support FDA's ongoing efforts to modernize its information technology capabilities while maintaining the highest standards of patient privacy protection and data stewardship.

II. Request for Information

FDA is requesting public comments on the questions below.

A. Patient-Level Data Access

1. CDER and CBER are committed to ensuring patient-level data is available for regulatory submissions using RWE. What opportunities and/or challenges do you see for the pharmaceutical industry regarding the current requirement to submit patient-level data collected from RWD sources to FDA for submissions proposing the use of RWE?

2. When a sponsor or third party submits patient-level RWD to the Agency as part of an NDA, BLA, DMF,

[1] *See* FDA Guidance for Industry, Considerations for the Use of Real-World Data and Real-World Evidence To Support Regulatory Decision-Making for Drug and Biological Products, August 2023, *available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/considerations-use-real-world-data-and-real-world-evidence-support-regulatory-decision-making-drug.*

[2] For the purposes of this RFI, source data include all information in original records and certified copies of original records of clinical findings, observations, or other activities in a clinical investigation used for reconstructing and evaluating the investigation.

[3] For further information on the HIPPA Security Rule *see* 45 CFR part 160 and Part 164, Subparts A and C.

[4] For further information on General Data Protection Regulations *see https://gdpr-info.eu/.*

[5] *See* 21 CFR 314.420(a)(5), describing Type V DMF's.

[6] *See* 21 CFR 314.420(b), referencing the need for a written authorization from the DMF holder prior to the incorporation by reference of the DMF into any particular IND or application for marketing.

or pre-IND submission, they often encounter challenges because FDA cannot sign a data-use agreement that potentially conflicts with existing legal obligations of the FDA. What potential solutions exist to address current industry practices around data-use agreements that would allow for more efficient sharing of patient-level RWD with FDA?

3. What solutions could assist FDA in addressing current challenges associated with receiving and retaining patient-level data, technical interoperability, and conducting independent reviews of submissions that include RWD?

4. How might FDA work with external parties to develop solutions to the challenges associated with patient level data submission for regulatory submissions proposing the use of RWE?

To help FDA review comments efficiently, please identify the question to which you are responding by its associated category and number. If you are responding to more than one question, please identify each question to which you are responding, and categorize each response by question. FDA is issuing this request for information pursuant to its authority at 21 U.S.C. 393(b).

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–22996 Filed 11–10–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–12575]

Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary Qualified Importer Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with FDA's Voluntary Qualified Importer Program.

DATES: Either electronic or written comments on the collection of information must be submitted by January 11, 2027.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 11, 2027. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2026–N–12575 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary Qualified Importer Program.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Voluntary Qualified Importer Program

OMB Control Number 0910–0840—Reinstatement

This information collection supports implementation of FDA's Voluntary Qualified Importer Program (VQIP), a voluntary fee-based program that provides expedited review and import entry of human and animal foods into the United States. Program participants may import products to the United States with greater speed and predictability, avoiding unexpected delays at the point of import entry. Importers interested in applying can start their application (Form FDA 4041) by submitting a notice of intent to participate after setting up an account through the FDA Industry Systems (FIS) website at *https://www.access.fda.gov,* which includes a VQIP Portal User Guide. To participate, importers must meet eligibility criteria and pay a user fee that covers costs associated with FDA's administration of the program. Consistent with section 743(b)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379j–31(b)(1)), FDA annually publishes a schedule of fees applicable to VQIP in the **Federal Register**.

Respondents to the information collection are persons that bring food, or cause food to be brought, from a foreign country into the customs territory of the United States (section 806 of the FD&C Act (21 U.S.C. 384b)) as a VQIP importer. A VQIP importer can be located outside the United States. Persons who may be a VQIP importer include the manufacturer, owner, consignee, and importer of record of a food, provided that the importer can meet all the criteria for participation.

To assist respondents with the information collection, we developed the guidance document entitled ''FDA's Voluntary Qualified Importer Program'' (November 2024), available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-fdas-voluntary-qualified-importer-program*. The guidance document is prepared in a question-and-answer format and discusses eligibility criteria; includes instruction for completing a VQIP application; explains conditions that may result in revocation of participation as well as criteria for reinstatement; and communicates benefits VQIP importers can expect to receive under the program. The guidance also discusses preparation of the ''Quality Assurance Program (QAP),'' a compilation of written policies and procedures used to ensure adequate control over the safety and security of foods being imported. The November 2024 guidance revision clarified FDA's approach to VQIP inspections, allowed participants to add new foreign suppliers and foods to their existing VQIP programs throughout the year, and extended the deadline for submitting a notice of intent and application. The guidance document was developed and issued consistent with FDA good guidance practice regulations in 21 CFR 10.115, which provides for public comment at any time.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Reporting using FIS VQIP portal/form FDA 4041	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Initial VQIP application	7	1	7	180	1,260
Application Renewals—subsequent year	10	1	10	20	200
Requests for reinstatement	2	1	2	10	20
Total					1,480

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

VQIP participant records consistent with implementing guidance	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Quality Assurance Program (QAP) preparation	7	1	7	160	1,120
QAP maintenance and updates	10	1	10	16	160
Total					1,280

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated burden for this information collection reflects an overall increase of 2,740 hours and 34 responses. The figures in the tables have been updated to reflect anticipated VQIP participation.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–22965 Filed 11–10–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–12280]

Agency Information Collection Activities; Proposed Collection; Comment Request; Veterinary Feed Directive

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting, recordkeeping, and third-party disclosure burden associated with the veterinary feed directive regulations.

DATES: Either electronic or written comments on the collection of information must be submitted by January 11, 2027.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 11, 2027. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2026–N–12280 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Veterinary Feed Directive.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

FOR FURTHER INFORMATION CONTACT: Kelly Covington, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–402–5661, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites

comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Veterinary Feed Directive—21 CFR 558.6

OMB Control Number 0910–0363—Extension

This information collection helps support implementation of FDA statutory and regulatory requirements. Section 504 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 354) establishes a regulatory category for certain new animal drugs called veterinary feed directive (VFD) drugs. Our VFD regulation is set forth at § 558.6 (21 CFR 558.6). VFD drugs are new animal drugs, intended for use in or on animal feed, which are limited to use under the professional supervision of a licensed veterinarian in the course of the veterinarian's professional practice. An animal feed containing a VFD drug or a combination VFD drug may be fed to animals only by or upon a lawful VFD issued by a licensed veterinarian.

Distributors of medicated feed containing VFD drugs must notify FDA of their intent to distribute such feed via U.S. Postal mail, email, or fax and must maintain records of the receipt and distribution of all medicated feeds containing VFD drugs. Veterinarians issue three copies of the VFD: one for their own records, one for their client, and one to the client's VFD feed distributor. For third-party disclosures, FDA regulation requires that veterinarians include specific information on the VFD. A distributor may only distribute a VFD feed to another distributor for further distribution if the originating distributor (consignor) first obtains a written acknowledgment letter from the receiving distributor (consignee) before the feed is shipped.

We developed the guidance document ''Guidance for Industry (GFI) #233 Veterinary Feed Directive Common Format Questions and Answers'' (September 2016) (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/cvm-gfi-233-veterinary-feed-directive-common-format-questions-and-answers*) to provide guidance concerning the elements that must be included on the VFD and the elements that may be included on the VFD as described in § 558.6. The guidance also provides examples that illustrate how a common VFD format might appear.

Additionally, we developed the guidance document ''GFI #120 Veterinary Feed Directive Regulation Questions and Answers (revised) (April 2024) Small Entity Compliance Guide'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/cvm-gfi-120-veterinary-feed-directive-regulation-questions-and-answers*) to aid industry in complying with the requirements of the 2015 VFD final rule.

Agency guidance documents are issued in accordance with our good guidance practice regulations in 21 CFR 10.115, which provide for public comment at any time.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
558.6(c)(5) requires a distributor to notify FDA prior to the first time it distributes a VFD feed.	91	1	91	0.12 (7 minutes)	10.92
558.6(c)(6) requires a distributor to notify FDA within 30 days of any change in ownership, business name, or business address.	97	1	97	0.12 (7 minutes)	11.64
Total	188	.....	.....	.....	22.56

[1] There are no capital, start-up, operating or maintenance costs associated with this information collection.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR part/activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
558.6(a)(4), (c)(3), (4), and (8); requires recordkeeping by veterinarians, producers, and distributors to maintain their copy of the VFD Order, their receipt and distribution records, and their manufacturing records and acknowledgement letters, if applicable, for 2 years..	29,500	175.2	5,168,400	0.02 (1 minute)	103,368

[1] There are no capital, start-up, operating or maintenance costs associated with this information collection.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR part/activity	Number of Record-keepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
558.6(b)(3)–(5) and (b)(7)–(9); requires veterinarians to disclose information on a VFD.	5,145	34	174,930	0.12 (7 minutes)	20,991.6
558.6(c)(8); requires acknowledgment letter from one distributor to another.	2,422	5	12,110	0.12 (7 minutes)	1,453
Total	7,567	.....	.....	.....	22,444.6

[1] There are no capital, start-up, operating or maintenance costs associated with this information collection.

The numbers have been adjusted to reflect current (2024–2025) updated numbers. Since last reauthorization of the collection, the Center for Veterinary Medicine developed an internal database to more accurately capture VFD distributor requests for new distributors and changes to distributor information. A review of updated American Veterinary Medical Association information provided new numbers of licensed veterinarians and we continue to use the estimate of 70 percent will write VFDs. We also continue to see downward trends in the use of some VFD medicated feeds, and the numbers were reduced to reflect that trend.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–22964 Filed 11–10–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Purchased/Referred Care Delivery Area Redesignation for the Kewa Pueblo

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Final notice.

SUMMARY: Notice is hereby given that the Indian Health Service (IHS) has decided to expand the geographic boundaries of the Purchased/Referred Care Delivery Area (PRCDA) for the Kewa Pueblo (''Kewa Pueblo'' or ''Tribe'') to include Bernalillo County, New Mexico. The final PRCDA includes Bernalillo, Sandoval, and Santa Fe Counties, New Mexico. This expansion will authorize additional Kewa Pueblo Tribal members and beneficiaries to receive Purchased/Referred Care (PRC) services.

DATES: This expansion is effective as of the date of publication of this notice.

ADDRESSES: This notice can be found at *https://www.federalregister.gov.* Written requests for information should be delivered to: CDR Tracy Sanchez, Acting Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop 06SEH03, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: CDR Tracy Sanchez, Acting Director, Office of Resource Access and Partnerships by email at *Tracy.Sanchez@ihs.gov,* or by phone at (301) 443–0969 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The IHS provides services under regulations in effect as of September 15, 1987, and republished at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a PRCDA, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the PRCDA. Residence within a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed, but not available at an IHS/Tribal facility, are provided under the PRC program depending on the availability of funds, the relative medical priority of the services to be provided, and the actual availability and accessibility of alternate resources in accordance with the regulations.

The regulations at 42 CFR part 136, subpart C, provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). The regulations also provide that after Consultation with the Tribal governing body or bodies on those reservations included within the PRCDA, the Secretary may, from time to time, redesignate areas within the United States for inclusion in or exclusion from a PRCDA. 42 CFR 136.22(b). The regulations require that certain criteria must be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the Tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC.

Additionally, the regulations require that any redesignation of a PRCDA be made in accordance with the procedures of the Administrative Procedure Act (5 U.S.C. 553). 42 CFR 136.22(c). In compliance with this requirement, the IHS published a notice of proposed redesignation and requested public comments on June 25, 2026 (91 FR 38449). The IHS did not receive any comments in response to the notice of proposed redesignation.

In support of this expansion, the IHS makes the following findings:

1. By expanding the PRCDA to include Bernalillo County, New Mexico, the Kewa Pueblo estimates that the Tribe's PRC eligible population would increase by an estimated 200 Tribal members.

2. As part of their expansion request, the Kewa Pueblo submitted a resolution from the Tribe's governing body. The resolution indicates that the requested expansion is intended to serve their members living in Bernalillo County, New Mexico. During Tribal Consultation, the Kewa Pueblo verified that those members are socially and economically affiliated with the Tribe.

3. Bernalillo County is approximately 30 miles from the Tribe's reservation. The requested expansion would form a contiguous area with the existing PRCDA. Tribal members of the Kewa Pueblo reside in the county proposed

for inclusion in the expanded PRCDA. For these reasons, the IHS has determined the additional county proposed for inclusion to be geographically proximate, meaning ''on or near,'' to the Tribe's reservation.

4. Through the Kewa Pueblo's request to expand its PRCDA, the Tribe has indicated that the PRC program can continue providing the same level of care to the PRC eligible population if the PRCDA is expanded as proposed, without requiring additional funding from the IHS or reduction of the current medical priority level.

An updated listing of the PRCDAs for all federally recognized Tribes may be accessed via the Purchased/Referred Care Delivery Areas link on the IHS PRCDA Redesignation website (*https://www.ihs.gov/prc/prcda-expansion*).

Accordingly, the IHS finalizes the redesignation of the Kewa Pueblo PRCDA to include Bernalillo County, New Mexico.

Mark Cruz,

Director, Indian Health Service.

[FR Doc. 2026–23036 Filed 11–10–26; 8:45 am]

BILLING CODE 4166–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Purchased/Referred Care Delivery Area Redesignation for Ysleta Del Sur Pueblo

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Final notice.

SUMMARY: Notice is hereby given that the Indian Health Service (IHS) has decided to expand the geographic boundaries of the Purchased/Referred Care Delivery Area (PRCDA) for Ysleta Del Sur Pueblo (''YDSP'' or ''Tribe'') to include Dona Ana County, New Mexico. The final PRCDA includes Dona Ana County, New Mexico, and El Paso and Hudspeth Counties, Texas. This expansion will authorize additional YDSP Tribal members and beneficiaries to receive Purchased/Referred Care (PRC) services.

DATES: This expansion is effective as of the date of publication of this notice.

ADDRESSES: This notice can be found at *https://www.federalregister.gov.* Written requests for information should be delivered to: CDR Tracy Sanchez, Acting Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop 06SEH03, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: CDR Tracy Sanchez, Acting Director, Office of Resource Access and Partnerships by email at *Tracy.Sanchez@ihs.gov,* or by phone at (301) 443–0969 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The IHS provides services under regulations in effect as of September 15, 1987, and republished at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a PRCDA, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the PRCDA. Residence within a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed, but not available at an IHS/Tribal facility, are provided under the PRC program depending on the availability of funds, the relative medical priority of the services to be provided, and the actual availability and accessibility of alternate resources in accordance with the regulations.

The regulations at 42 CFR part 136, subpart C, provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). The regulations also provide that after Consultation with the Tribal governing body or bodies on those reservations included within the PRCDA, the Secretary may, from time to time, redesignate areas within the United States for inclusion in or exclusion from a PRCDA. 42 CFR 136.22(b). The regulations require that certain criteria must be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the Tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC.

Additionally, the regulations require that any redesignation of a PRCDA be made in accordance with the procedures of the Administrative Procedure Act (5 U.S.C. 553). 42 CFR 136.22(c). In compliance with this requirement, the IHS published a notice of proposed redesignation and requested public comments on July 1, 2026 (91 FR 40009). The IHS received no comments in response to the notice of proposed redesignation.

In support of this expansion, the IHS makes the following findings:

1. By expanding the PRCDA to include Dona Ana County, New Mexico, the IHS and YDSP estimate that the Tribe's PRC-eligible population would increase by an estimated 500 Tribal members.

2. As part of their expansion request, YDSP submitted a resolution from the Tribe's governing body. The resolution explains that the expansion is intended to serve their Tribal members living in Dona Ana County, New Mexico, and it describes those Tribal members as being socially and economically tied to the Tribe's reservation. The resolution also states that YDSP intends to include other eligible American Indians and Alaska Natives who maintain close economic and social ties with the Tribe, consistent with 42 CFR 136.23(a)(2)(ii).

3. The requested expansion would form a contiguous area with the existing PRCDA. Tribal members of YDSP reside in the county proposed for inclusion in the expanded PRCDA. Through their expansion request, the Tribe described how close Dona Ana County, New Mexico, is to their reservation and health clinic, approximately 45 miles. The Tribe explained that it is close enough for their Tribal members residing in Dona Ana County to utilize the YDSP Health Clinic as their primary site of care. For these reasons, the IHS has determined the additional county proposed for inclusion to be geographically proximate, meaning ''on or near,'' to the Tribe's reservation.

4. Through YDSP's request to expand its PRCDA, the Tribe has indicated that the PRC program can continue providing the same level of care to the PRC eligible population if the PRCDA is expanded as proposed, without requiring additional funding from the IHS or reduction of the current medical priority level.

An updated listing of the PRCDAs for all federally recognized Tribes may be accessed via a link on the IHS PRCDA Redesignation website (*https://www.ihs.gov/prc/prcda-expansion*).

While recent PRCDA listings have not included Hudspeth County, this was a clerical error and unintentional omission that the IHS has corrected.

Accordingly, the IHS finalizes the redesignation of the YDSP PRCDA to include Dona Ana County, New Mexico.

Mark Cruz,

Director, Indian Health Service.

[FR Doc. 2026–23038 Filed 11–10–26; 8:45 am]

BILLING CODE 4166–14–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; Training and Career Development: Clinical Scientists, Oncology, Cardiology, Bioengineering, Surgery and Imaging.

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: Vera A Cherkasova, Ph.D., Scientific Review Officer, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443–8351, *vera.cherkasova@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Informatics, Data Management, and Analysis.

Date: December 3, 2026.

Time: 10:00 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: Paul Hewett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–0092, *hewettmarxpn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Auditory System.

Date: December 3, 2026.

Time: 11:00 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: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Clinical Trials and Biomarker Studies in Stroke and Neurological Disorders.

Date: December 3, 2026.

Time: 2:00 p.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: Iqbal Sayeed, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8258, *iqbal.sayeed@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Virology.

Date: December 3, 2026.

Time: 12:00 p.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: Kumud Singh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–1002, *kumud.singh@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Computational Neuropathology.

Date: December 3, 2026.

Time: 12:00 p.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: Rachel Anne Kane, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 496–0221, *kanera@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Topics on Informatics Technologies for Cancer Research and Management.

Date: December 4, 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: Philip Owens, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 594–7394, *owensp2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Medical Imaging Technologies and Applications.

Date: December 4, 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: Saejeong J. Kim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 402–9363, *saejeong.kim@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–ES–25–002: Environmental Health Sciences Core Centers Program (P30).

Date: December 4, 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: Yuanyi Feng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 594–1180, *fengy7@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Health Technology and Methodologies—H (10).

Date: December 4, 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: Paul Hewett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive Room, Bethesda, MD 20892, (301) 827–0092, *hewettmarxpn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Imaging, Technology, and Neuroscience.

Date: December 4, 2026.

Time: 9:30 a.m. to 7:30 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: Soyoun Cho, Ph.D., Scientific Review Officer, Center for

Scientific Review, 6701 Rockledge Drive, RM 1011–G National Institutes of Health, Bethesda, MD 20892, (301) 594–6593, *Soyoun.cho@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Blueprint MedTech Translator (UG3/UH3—Clinical Trial Optional).

Date: December 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: Tori Stone, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7549, *tori.stone@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 6, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–23063 Filed 11–10–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Privacy Act of 1974; System of Records

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Rescindment of a System of Records Notice.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS), through the National Institutes of Health (NIH), is rescinding a system of records notice (SORN) titled ''NIH Business System (NBS), HHS/NIH,'' system number 09–25–0217. The records still exist in the NIH Business System Cloud (NBSC) but are now covered by other SORNs. Those SORNs and NIH's purposes for use are: 09–90–0024, HHS Financial Management System Records, 09–90–0777, HHS Facility and Resource Access Control Records, and GSA/GOVT–4, Contracted Travel Services Program (E–TRAVELGSA/GOVT–6, SmartPay Purchase Charge Card Program.

DATES: In accordance with 5 U.S.C. 552a(e)(4), this notice is applicable upon publication.

ADDRESSES: The public may submit written comments on this notice, by mail or email, to the NIH Privacy Act Officer, Office of Management Assessment, National Institutes of Health, 6705 Rockledge Drive, Suite 601, Bethesda, MD 20892, or email *privacy@mail.nih.gov.*

FOR FURTHER INFORMATION CONTACT: General questions about the system of records may be submitted to the NIH Privacy Act Officer, Office of Management Assessment, National Institutes of Health, 6705 Rockledge Drive, Suite 601, Bethesda, MD 20892, telephone 301–496–4606, email *privacy@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: SORN ''NIH Business System (NBS), HHS/NIH,'' was identified for rescindment from NIH's SORN inventory for being duplicative and the NBSC is now covered by existing Government-wide and HHS-wide SORNs. NBSC facilitates and supports the scientific and research mission of the National Institutes of Health (NIH), an Operating Division of the U.S. Department of Health and Human Services (HHS). NBS is the central electronic business system of the NIH including the general ledger, finance, budget, procurement, supply, travel, and property management systems. These use cases are already covered under the following SORNs:

- 09–90–0024, HHS Financial Management System Records: Allows NIH personnel to use the records on a need-to-know basis to process and track payments made and monies owed to or by individuals and NIH, and to ensure that payments by NIH are proper (*i.e.,* comply with the Do Not Pay Initiative) and are based on an official commitment and obligation of government funds.
- 09–90–0777, Facility and Resource Access Control Records: The primary purposes of the records are to ensure the safety and security of NIH facilities, systems, or information through the tracking of NIH property (*e.g.* Government Furnished Equipment) and NIH supply inventory.
- GSA/GOVT–4, Contracted Travel Services Program (E–TRAVEL): Providing comprehensive beginning-to-end travel services, containing information to enable travel service providers under contract to NIH to authorize, issue, and account for travel and travel reimbursements provided to individuals on official Federal Government business.
- GSA/GOVT–6, SmartPay Purchase Charge Card Program: Used for the operation, control, and management of the NIH purchase charge card program involving commercial purchases by authorized NIH employees and contractors.

SYSTEM NAME AND NUMBER:

NIH Business System (NBS), HHS/NIH, system number 09–25–0217.

HISTORY:

67 FR 54441 (Aug. 22, 2002), 83 FR 6591 (Feb. 14, 2018).

Alfred Johnson,

Deputy Director for Management, National Institutes of Health.

[FR Doc. 2026–23008 Filed 11–10–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Privacy Act of 1974; System of Records

AGENCY: National Institutes of Health, HHS.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS) is publishing notice of modifications to an existing system of records maintained by the National Institutes of Health (NIH), ''Administration: National Library of Medicine, User Services and Collection Division (NIH Library),'' System No. 09–25–0005. The modifications affect the: System name, Routine uses, System location, System manager(s), Purpose of the system, Categories of individuals covered, Categories of records, Retention and disposal, Policies and practices for retrieval, and Record source categories. The changes to the System of Records Notice (SORN) are fully explained in the ''Supplementary Information'' section of this notice.

DATES: The modified system of records is November 12, 2026, subject to a 30-day period in which to comment on the routine uses, described below. Please submit any comments by December 14, 2026.

ADDRESSES: You may submit comments, identified by the Privacy Act SORN No. 09–25–0005, by any of the following methods: Email: *privacy@mail.nih.gov.* Mail or hand-delivery: NIH Privacy Act Officer, Office of Management Assessment, National Institutes of Health, 6705 Rockledge Drive, Ste. 601, MSC 7901, Bethesda, MD 20892. Comments received will be available for

public inspection at this same address from 9:00 a.m. to 3:00 p.m., Monday through Friday, except federal holidays. Please call (301) 496–4606 for an appointment.

FOR FURTHER INFORMATION CONTACT: General questions about the proposed modified system of records may be submitted to Dustin Close, NIH Privacy Act Officer, Office of Management Assessment, Office of the Director, National Institutes of Health (NIH), 6705 Rockledge Drive, Ste. 601, MSC 7901, Bethesda, MD 20892.

SUPPLEMENTARY INFORMATION: The revised SORN published in this notice for system No. 09–25–0005 is in accordance with 5 U.S.C. 552a(e)(4) and (11), and includes the following significant changes:

- The system's name has been changed from Administration: Library Operations and NIH Library User I.D. File to Administration: National Library of Medicine, User Services and Collection Division (NIH Library).
- The System Locations have been updated to remove old locations that no longer exist, update the room number for building 38, and update the name and room number for building 10.
- The System Managers section has been updated to reflect the new names for the System Manager's roles, remove old designations, and update department locations.
- The purpose section has been updated to remove two purposes (previously 2 and 4) that are no longer done by the program or NIH (providing user documentation and managing invoice and billing transactions). The remaining purposes have been re-numbered accordingly and updated to add clarity.
- An additional category of individuals was added to cover authors and other responsible individuals associated with works in the National Library of Medicine (NLM) and NIH Library collections.
- Category types were updated to cover citations and other bibliographic information, while removing record types that are no longer collected (user codes and photographs).
- Record sources were added to cover data that comes from source systems, including the NLM catalog and NIH Library systems and other federal agency systems.
- Routine Use 4 was removed because the NIH Library system no longer provides the function of billing.
- The new Routine Uses 4 and 5 were added in 2018 as an HHS-wide SORN modification and have been explicitly included in this SORN for additional transparency.
- The policies and practices for retention and disposal of records have been updated to remove dated and superseded records retention schedules.

Alfred C. Johnson,

Deputy Director for Management, National Institutes of Health.

SYSTEM NAME AND NUMBER:

National Library of Medicine, User Services and Collection Division, and Office of Research Services, Division of Library Services (NIH Library), 09–25–0005.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate System Manager listed below for list of current contractor locations.

NIH Library, Building 10, Room 1L19A, 10 Center Drive, Bethesda, MD 20892.

National Library of Medicine, Building 38, Room B1E04, 8600 Rockville Pike, Bethesda, MD 20894.

SYSTEM MANAGER(S):

Management Analyst, Office of Administration, National Library of Medicine, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894.

Chief, Library Technology Services Branch, Division of Library Services, Office of Research Services, Office of the Director (OD), Building 10, Room 1L19A, 10 Center Drive, Bethesda, MD 20892.

Chief, Collection Branch, National Library of Medicine, Building 38, Room B1E04, 8600 Rockville Pike, Bethesda, MD 20894.

Access Program Manager, Collection Branch, National Library of Medicine, Building 38, Room B1E04, 8600 Rockville Pike, Bethesda, MD 20894.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 286, National Library of Medicine; 42 U.S.C. 241—Research and Investigations Generally (Public Health Service (PHS) Act 401); 42 U.S.C. 282—Director of National Institutes of Health (PHS Act 402); 42 U.S.C. 284—Directors of National Research Institutes (PHS Act 405).

PURPOSE(S) OF THE SYSTEM:

Records are used within the agency for these purposes:

1. Monitoring library material for circulation to library users (including providing access information to users and library material copying services).

2. Preservation and security of library material to ensure availability for future generations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Users of library services.

2. Authors and other responsible individuals associated with works in the NLM and NIH Library collections: individuals whose names or other identifying information appear in the NIH Library and/or the NLM catalogs, archival, or other descriptive records and associated bibliographic or authority files, including authors, contributors, editors, compilers, and other responsible parties associated with works in the collections.

CATEGORIES OF RECORDS IN THE SYSTEM:

For library users: name, organization, address, phone number, issue date, email address, signature, identification number, primary identifier, and user group code.

For authors and other responsible individuals associated with works in the NLM and NIH Library collections: bibliographic, archival, and descriptive and associated identifying information, including names; standardized name authority forms; variant names; dates; and other cataloging or archival data used for identification, indexing, and disambiguation purposes.

RECORD SOURCE CATEGORIES:

Individuals, NLM catalog and NIH Library systems, and publicly available bibliographic, archival, and name authority records maintained by federal agencies and other authoritative sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Under the Privacy Act of 1974, as amended, NIH may disclose information about an individual from this system of records to parties outside HHS, without the individual's prior written consent, pursuant to the following routine uses.

1. To a congressional office from the record of an individual in response to an injury from the congressional office made at the request of that individual.

2. To the Department of Justice (DOJ), or to a court or other tribunal, when (a) HHS, or any component thereof; (b) any HHS employee in his or her official capacity; (c) any HHS employee in his or her individual capacity where the DOJ (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof is a party to

litigation or has an interest in such litigation, where HHS determines that the litigation is likely to affect HHS or any of its components, and HHS determines that the use of such records by the DOJ, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. To contractors and staff to monitor library material, services, circulation control; to provide user documentation; and to process or refine the records. Recipients are required to maintain Privacy Act safeguards with respect to those records.

4. To appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records; (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

5. To another federal agency or federal entity, when HHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored on computer tape and disk, paper file cards, and in IT systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, user group code and/or identification number, or other unique identifier assigned to library users. Catalog, archival, and authority records may be retrieved by the name of an author, contributor, or other responsible individual; by title; by subject; by control number or other bibliographic identifier; or by other descriptive metadata elements associated with works or collections maintained by the NIH Library and the NLM.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Retention Period: DAA–0443–2026–0001: Unscheduled. In accordance with 36 CFR 1225 and 44 U.S.C. Chapter 33, Records are retained indefinitely pending approval of a National Archives and Records Administration (NARA) records schedule. Records must be preserved and may not be destroyed until disposition authority is approved by NARA.

1. Scientific Bibliographic Master Database: Master bibliographic records containing citation data, indexing terms, abstracts, metadata, authority records, persistent identifiers, and related information documenting the agency's scientific information dissemination mission. Permanent. Transfer a copy to NARA when no longer needed for current agency business or according to an approved transfer agreement.

2. Database Change History and Audit Records: Records documenting additions, deletions, corrections, indexing updates, authority control changes, and quality assurance activities affecting master records. Destroy 10 years after superseded or no longer needed for business use.

3. Data Dictionaries and Metadata Specifications: Documentation describing data elements, schemas, indexing standards, controlled vocabularies, relationships, and database structures. Permanent. Transfer with the master database or according to approved transfer instructions.

4. System Documentation: System design records, technical specifications, interfaces, file layouts, user manuals, and system architecture documentation. Destroy 5 years after system retirement or transfer permanent documentation with the master files, as appropriate.

5. Input Source Files: Publisher submissions, data imports, indexing worksheets, and other source records used to create or update bibliographic records. Destroy 5 years after successful verification and incorporation into the master database.

6. Routine Outputs and Reports: Ad hoc reports, extracts, statistical reports, and working copies generated from the database. Destroy when no longer needed for agency business.

7. Backup and Recovery Copies: Backup copies maintained solely for disaster recovery and continuity purposes. Delete when superseded or no longer required for recovery operations.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to NIH Library staff members who need to verify that NIH Library identification cards have been issued to those library users requesting services such as reference and interlibrary loans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager. The contractor maintains a list of personnel having authority to access records to perform their duties.

Physical Safeguards: The offices housing the cabinets and file drawers for storage of records are locked during all library off-duty hours. During all duty hours offices are attended by employees who maintain the files. The contractor has secured records storage areas which are not left unattended during the working hours and file cabinets which are locked after hours.

Procedural Safeguards: Access to the file is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized employees. Access to computerized records is controlled by the use of security codes known only to authorized users. Contractor personnel receive instruction concerning the significance of safeguards under the Privacy Act.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, ''Safeguarding Records Contained in Systems of Records,'' supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official at the address specified under Notification Procedures above and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information that is incomplete, irrelevant, incorrect, or obsolete.

NOTIFICATION PROCEDURES:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Privacy Act, subject to a five thousand dollar fine.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

67 FR 60742 at 60744 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

[FR Doc. 2026–23010 Filed 11–10–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2509–014–004–125222.1]

Direct Sale of Public Land for Affordable Housing Purposes in Clark County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell a 10-acre parcel of public land located in Clark County, Nevada, under the authority of section 203 of the Federal Land Policy and Management Act of 1976, as amended (FLPMA); applicable BLM land sale regulations; and the Southern Nevada Public Land Management Act of 1998, as amended (SNPLMA). The BLM intends to conduct a direct sale of the parcel to Clark County, a political subdivision of the State of Nevada, at less than the appraised fair market value, for affordable housing purposes, consistent with the SNPLMA and applicable BLM policy.

DATES: Submit written comments regarding this direct sale until December 28, 2026.

ADDRESSES: Mail written comments to the BLM Las Vegas Field Office, Assistant Field Manager, Division of Lands, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130.

FOR FURTHER INFORMATION CONTACT: Stephen (Brad) Gallimore, Supervisory Realty Specialist, email at *BLM_NV_LVFO_LandTenureTeam@blm.gov* or by telephone at (702) 515–5017. For general information about BLM affordable housing land disposals, visit: *https://www.blm.gov/snplma.*

Information concerning the affordable housing sale parcel—including encumbrances of record, appraisals, reservations, procedural requirements, conditions, and documentation related to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9620(h)—as well as other environmental records, are available for public review by appointment during business hours, Monday through Friday, 8 a.m. to 4 p.m. Pacific Time, excluding federal holidays, at the BLM Las Vegas Field Office.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Clark County has nominated this parcel of land, case file number NVNV106739419, for direct sale under applicable BLM authorities to support the development of the proposed Flamingo & Riley Affordable Housing Development. In Nevada, affordable housing land disposals are conducted pursuant to section 7(b) of the SNPLMA (Pub. L. 105–263) and in accordance with BLM Instruction Memorandum (IM) NV–2025–007, which establishes a nominal disposal price of $100 per acre for eligible nominations received during fiscal year 2025, representing a price below fair market value.

For purposes of SNPLMA, affordable housing must serve low-income families, as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704). Under this definition, ''low-income families'' are those whose incomes do not exceed 80 percent of the Area Median Income, as determined annually by the U.S. Department of Housing and Urban Development (HUD).

The subject public lands are legally described as:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 17, SE¼SW¼SE¼.

The area described contains 10 acres, according to the official plats of the surveys of the said land on file with the BLM.

This direct sale is in conformance with the BLM Las Vegas Resource Management Plan, Record of Decision LD–1, approved on October 5, 1998. The parcel was previously analyzed in the Las Vegas Valley Disposal Boundary Environmental Impact Statement and Record of Decision, issued on December 23, 2004, and further evaluated in the Las Vegas In-Valley Area Multi-Action Analysis Environmental Assessment (DOI–BLM–NV–S010–2016–0054–EA), available at *https://eplanning.blm.gov/eplanning-ui/project/60096/510.*

A parcel-specific Determination of National Environmental Policy Act (NEPA) Adequacy (DOI–BLM–NV–S010–2026–0007–DNA) has been completed in connection with this Notice of Realty Action. The parcel has been reviewed and determined not to be required for any Federal purpose.

Under section 7(b) of the SNPLMA, the Secretary of the Interior—acting in consultation with the Secretary of HUD—may authorize the conveyance of BLM-administered public lands in the State of Nevada for affordable housing purposes at less than fair market value.

Pursuant to IM NV–2025–007, *Fiscal Year 2025 Price for Affordable Housing Land Disposals and Incorporation of the Memorandum of Understanding for Affordable Housing,* the BLM has established a nominal disposal price of $100 per acre for eligible affordable housing land nominations in Nevada received during fiscal year 2025 (October 1, 2024, through September 30, 2025). This reduced, non-market-based rate reflects Federal policy to lower land acquisition costs to the minimum practicable level to support affordable housing development. The total sale price for the 10-acre parcel is $1,000. Although the conveyance will proceed at the established nominal rate, a formal appraisal will be conducted to determine the parcel's fair market value in accordance with Federal land disposal procedures.

Clark County nomination includes a comprehensive plan assessing the need for and feasibility of the proposed Flamingo & Riley Affordable Housing Development. As required under the SNPLMA section 7(b), HUD reviewed the nomination and, in a consultation letter dated September 30, 2025, confirmed that the project will dedicate 100 percent of the parcel to serve low-income families—as defined by 42 U.S.C. 120704. HUD further affirmed that both the project's location and intended use are consistent with section 7(b) of the SNPLMA and the Cranston-Gonzalez National Affordable Housing Act.

In accordance with 43 CFR 2710.0–3(a)(2), the BLM has determined that disposal of the subject parcel would serve important public objectives, including the expansion of communities and economic development, which cannot be achieved prudently or feasibly on non-public lands, and which outweigh other public objectives and values. Therefore, because the tract would be sold to a local government, the BLM is offering the parcel by direct sale to Clark County pursuant to 43 CFR 2711.3–3(a). The proposed use is further documented in the County's Disposition and Development Agreement for Flamingo & Riley Affordable Housing Development.

Under SNPLMA section 4(c), lands located within the Las Vegas Valley Disposal Boundary are withdrawn from location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws, subject to valid existing rights, until such time as the Secretary of the Interior terminates the withdrawal or the lands are patented.

Per 43 CFR 2711.1–2(d), upon publication of this Notice in the **Federal Register**, the subject parcel will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. During the segregation period, the BLM will not accept new land use applications affecting the parcel. However, previously filed applications may still be processed if the BLM determines they would have no adverse effect on the marketability of title or the fair market value of the parcel. The segregative effect of this notice will terminate upon issuance of a patent or other conveyance document, or after a segregation period of one year.

The subject public land will not be offered for sale to the Clark County prior to 60 days from the date of publication of this notice in the **Federal Register**. In addition, this Notice of Realty Action will be published once a week for 3 consecutive weeks in the *Las Vegas Review-Journal* newspaper.

The patent, if issued, will be subject to the following covenants, terms, and conditions:

1. *Affordable Housing:* Pursuant to section 7(b) of Southern Nevada Public Land Management Act of 1998, as amended, the term ''affordable housing'' as used in this sale patent, means housing that serves low-income families as defined in section 104 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12704).

2. *Certificate of Occupancy:* For purposes of this sale patent, the term ''Certificate of Occupancy'' means a document issued by a State or local governmental entity with jurisdiction upon completion of a structure designed and permitted for immediate occupancy after completion and final approval of all permitted work, including all planned residential living units. This term does not include temporary certificates which require a final certificate to be issued upon completion of all permitted work. Certificates of Occupancy are issued by Clark County Building Official or Building Division in Clark County, Nevada.

3. *Covenant and Restriction:* Clark County is hereby bound and covenants for itself and all successors-in-interest to use the land as approved by the U.S. Department of the Interior, the BLM in consultation with HUD, and as conveyed by this sale patent, only for affordable housing purposes. Clark County further hereby covenants and binds itself and all successors-in-interest to develop the subject parcel according to a binding development agreement, also known as a Disposition and Development Agreement, between Clark County and its co-developers that has received concurrence by the BLM in consultation with HUD. As in this patent, the agreement shall have a provision stating that in the event of any conflict between the terms of the agreement and the patent and applicable laws, the patent and applicable laws will control. This covenant will be deemed appurtenant to and to run with the land.

4. *Limited Reversion of Title:* If, at the end of 5 years from the date of this sale patent, except as provided herein, the affordable housing project described in the aforementioned development agreement between Clark County and its co-developers is not authorized for residential occupancy through a final Certificate of Occupancy then, at the option of the United States, the lands, or parts thereof, will revert to the United States, or, in the alternative, the United States may require payment by the owner to the United States of the then-current fair market value. Patentee may request in writing to have additional time under this paragraph to obtain residential occupancy through a final Certificate of Occupancy. The United States, through the BLM, shall have sole discretion to grant or deny patentee's request.

5. *Time Limit:* The United States will retain the option to revert title to the land until a final Certificate of Occupancy is issued for the applicable affordable housing project.

6. *Fair Market Value:* Clark County or then current landowner may request at any time to purchase the reserved interests of the United States at the then-current fair market value. The requestor will be responsible for paying all costs of the United States, which is under no obligation to agree to sell, to process such a request.

7. *Enforcement:* The covenant/use restriction and the limited reversionary interest may be enforced by the BLM or HUD, or their successors-in-interest, after reasonable notice, which includes an opportunity to cure any default within 90 days, to Clark County and the landowner of record. If any necessary cure has not been completed and is shown to be impossible to complete by the end of the 90 days, and diligent and substantial efforts are underway to cure such default, a request for a reasonable extension of time to complete cure of such default may be considered by the BLM or HUD.

8. *Indemnification and Hold Harmless:* By accepting this sale patent, Clark County, subject to the limitations of law and to the extent allowed by law, will be responsible for the acts or omissions of its officers, directors, and employees in connection with the use or occupancy of the patented real property. Upon transfer as described above, successors-in-interests to Clark County of the patented real property, will indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the successors-in-interest, or its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the successor-in-interest's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the successor-in-interest, and its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of Federal, State, and local laws and regulations that are now or may in the future become applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other

interests of the United States; (5) Other activities by which solid or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant will be construed as running with the parcel of land patented or otherwise conveyed by the United States and may be enforced against successors-in-interest by the United States in a court of competent jurisdiction. No representation or warranty of any kind, express or implied, is given or will be given by the United States as to the title, the physical condition, or the past, present, or potential uses of the land proposed for sale. However, to the extent required by law, such land is subject to the requirements of section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act, as amended 42 U.S.C. 9620(h).

9. Additional terms and conditions that the authorized officer deems appropriate.

If patented, title to the land will be subject to the following reservations to the United States:

1. All minerals are reserved to the United States. Permittees, licensees, and lessees of the United States retain the right to prospect for, mine, and remove such leasable and saleable minerals under applicable law and any regulations prescribed by the Secretary of the Interior, together with all necessary rights of access and egress.

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. A reversionary interest, as defined in the covenants, conditions, and restrictions referenced in this Notice.

In addition, title to the land will be subject to the following valid existing rights and encumbrances of record:

1. Valid existing rights, including but not limited to those documented on the BLM public land records at the time of sale;

2. A right-of-way for public roads, spandrels and bus turnouts to the Clark County, its successors and assigns, by right-of-way number N–59691, pursuant to title V of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

3. A right-of-way for an underground natural gas pipeline and construction staging area granted to Southwest Gas Corporation, its successors and assigns, by right-of-way number N–60971, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);

4. A right-of-way for a natural gas pipeline with below and above ground appurtenances to Southwest Gas Corporation, its successors and assigns, by right-of-way number N–88267, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);

5. A right-of-way for geotechnical study (Soil borings) granted to Clark County, its successors and assigns, by right-of-way number NVNV106739472, pursuant to title V of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

6. A right-of-way for Temporary Fencing granted to Clark County, its successors and assigns, by right-of-way number NVNV106745704, pursuant to title V of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

The parcel is subject to limitations prescribed by law and regulation, and certain encumbrances in favor of third parties.

Clark County will have until 4 p.m. Pacific Time, 30 calendar days from the date of receiving the official sale offer, to submit a formal written offer to purchase the parcel. If Clark County elects to proceed, the full purchase price must be received by the BLM Las Vegas Field Office no later than 4:00 p.m. Pacific Time 30 calendar days from receipt of the sale offer, regardless of when Clark County's formal offer to purchase is submitted. Payment must be made in U.S. dollars and submitted by certified check, postal money order, bank draft, cashier's check, or electronic funds transfer (EFT), payable to the ''Department of the Interior—Bureau of Land Management.'' If paying by EFT, arrangements must be made with the BLM at least 14 calendar days prior to the payment deadline to ensure processing. Failure to submit a timely offer or full payment by the stated deadline will result in the sale being voided, and any funds received will be forfeited to the United States.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any offer to purchase or withdraw any parcel of land or interest therein from sale within 30 days, if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full price is paid.

To the extent required by law, the parcel is subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h), as amended. Accordingly, notice is hereby given that the lands have been examined, and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor that any hazardous substances have been disposed of or released on the subject properties.

It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations, and policies that may affect the subject land, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the land will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed uses. It is the responsibility of the buyer to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for uses. The buyer should make itself aware of any Federal or State law or regulation that may impact the use of the property.

Public comments regarding the sale may be submitted in writing to the address in the **ADDRESSES** section. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including any personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Information concerning the sale parcel, including encumbrances of record, appraisal (when available), reservations, procedures and conditions, Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h), and other environmental documents that may appear in the BLM public files for the sale parcel, are available for review.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711.1–2)

Bruce Sillitoe,

Field Manager Las Vegas Field Office.

[FR Doc. 2026–23080 Filed 11–10–26; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7615; NPS–WASO–NAGPRA–NPS0044154; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Parks and Recreation intends to repatriate certain cultural items that meet the definition of sacred objects and that have a known lineal descendant.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Dr. Leslie L. Hartzell, NAGPRA Coordinator, California Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA 94296–0001, email *Leslie.Hartzell@parks.ca.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California Department of Parks and Recreation, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 39 lots of cultural items have been requested for repatriation. The 39 lots of sacred objects are Abqo regalia and associated items, including missing or identified items.

California Department of Parks and Recreation records indicate that the sacred objects were taken from the ceremonial dance house at the Sulfur Bank Rancheria without permission. About 1958, the sacred objects were donated to the State of California Department of Natural Resources Division of Beaches and Parks, now the California Department of Parks and Recreation. Although the donation was made anonymously, in 1979, F.A. Riddell, State Indian Museum curator, identified A.E. Treganza as the donor. The sacred items are associated with Sarah Brigham who died in 1949 or before. These objects are integral to present-day religious traditions associated with the Maru beliefs. In 2023, the California Department of Parks and Recreation repatriated another group of sacred objects that were also taken from the ceremonial dance house at the Sulfur Bank Rancheria without permission and associated with Sarah Brigham, to lineal descendant Robert Geary. On December 24, 2002, the sacred objects were published in a Notice of Intent to Repatriation in the **Federal Register** (67 FR 78508, December 24, 2002) and that notice was amended on March 21, 2023 (88 FR 17007, March 21, 2023).

Determinations

The California Department of Parks and Recreation has determined that:

- The 39 lots of sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.
- Robert Geary is connected to the cultural items described in this notice.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the California Department of Parks and Recreation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The California Department of Parks and Recreation is responsible for sending a copy of this notice to all requestors and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22976 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7618; NPS–WASO–NAGPRA–NPS0044157; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Longyear Museum of Anthropology, Colgate University, Hamilton, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Longyear Museum of Anthropology (LMA) at Colgate University intends to repatriate certain cultural items that meet the definition of unassociated funerary objects, sacred objects, and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Kelsey Olney-Wall, Repatriation Manager, Longyear Museum of Anthropology, Colgate University, 13 Oak Drive, Hamilton, NY 13346, email *nagpra@colgate.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LMA and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 220 lots (approx. 55,062) of cultural items have been requested for repatriation.

The 60 lots of unassociated funerary objects were removed from the Buyea,

Cameron (Ond–8), Chittenango Falls, Diable, Dungey (Msv–6), Goff, Lanz-Hogan, Marshall (Msv–7), Nichols Pond, Olcott, Spear (#49), Sullivan (Ond–3), Thurston (Msv–1), Upper Hogan, Vaillancourt archaeological sites in Madison and Oneida Counties, New York. The types of items include worked antler, bone combs, faunal bone awls, mammal teeth, bone beads, bone figurines, faunal bone fragments, calcified mammal bone fragments, charcoal, chert flakes, pot sherds, glass beads, shell ornaments, wampum, lithics, metal tools, metal buckles, rings, nutshells, and plant materials. The collectors and donors include Herbert Bigford Sr. (Purchased:1959), Walter Bennett (Donated:1965), Gordon Ginther (Donated:1998), Dr. John Munro Longyear III (Unknown collection date), Elizabeth and Jerome Wayland-Smith (Donated: 1983), Theodore Whitney (Donated: 1980), and Jordan Kerber (Collected: 2006–2007).

The seven lots of sacred objects were removed from the Buyea, Diable, Eaton, Nichols Pond, Olcott, Spear, Stone Quarry (formerly Frost Quarry, Msv–4), Sullivan (Ond–3), Upper Hogan, Valliancourt and Wilson archaeological sites in Chenango and Madison counties, New York. The types of items include bone effigy, clay effigy faces, effigy pipe, pipes, pipe bowls, pipe stems, pipe fragments, and pot sherds. The collectors and donors include Herbert Bigford Sr. (Purchased:1959), Walter Bennett (Donated:1965), and Gordon Ginther (Donated:1998).

The 153 lots of objects of cultural patrimony were removed from the Alfalfa, Bach, Beecher, Buyea, Casey, Castle Hill, Chesbro #2 (Nine Mile Swamp), Clark and Wilcox, Crain Lake, Diable, Eager Beaver, Earlville, Eaton, Estes, Goff, Jamba, Jenne, Jenne #2, Lamb, Lamb Gravel, Leland's Pond, Marshall, Meads Pond, Mulligan's Onion Farm, Nichols Pond, Norwich Airport, Nower, Oclott, Poolville, Poolville Lake, Primes Hill, Sacco, Sangerfield, Schapiro, Siloam, Spear (#49), Stewart-Fuller, Stone Quarry, Sullivan, Upper Hogan, Valliancourt, White, Wilcox, Wilson, and Zimmer archaeological sites from Chenango, Madison, and Oneida counties, New York. The collectors and donors include Mortimer Cooley Howe (Donated: 1947), Herbert Bigford Sr. (Purchased:1959), Walter Bennett (Donated:1965), Gordon Ginther (Donated:1998), Dr. John Munro Longyear III (Unknown collection date), Elizabeth and Jerome Wayland-Smith (Donated: 1983), Theodore Whitney (Donated: 1980), Reginald Bigford (Purchased: 2009), and Jordan Kerber (Collected: 1991–1996). The types of items include worked antler, worked faunal bone tools, faunal bone fragments, carbonized corn, charcoal, clag, brass pendants, chert flakes, beads, nails, kaolin pipe fragments, metal tools, metal jewelry, gun parts, nutshell, seeds, potsherds, shell discs, soil samples, float, lithics, and stone tools. The LMA staff continues to look for items from these sites and collections that are identified as missing in the museums database, any items discovered will be included in this notice. There is no evidence of any potentially hazardous substances used to treat any of the cultural items.

Additional information: All Ancestors and associated funerary objects previously identified from these sites were repatriated to the Oneida Indian Nation in 2003, 2020, 2022, and 2024 (see Notice of Inventory Completion published in **Federal Register** on December 1, 2003 (03–29772); Notice of Inventory Completion published in **Federal Register** on April 20, 2020 (2020–08326); Notice of Intended Repatriation published in **Federal Register** on August 3, 2022 (2022–16568); Notice of Inventory Completion published in the **Federal Register** on March 8, 2024 (2024–04981) and May 13, 2024 (2024–10332)). The remaining items included in this notice were not repatriated, as they were believed to not be subject to NAGPRA at the time. New evidence and determinations have qualified these items to be repatriated under NAGPRA.

Determinations

The LMA has determined that:

- The 60 lots of unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.
- The seven lots of sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.
- The 153 lots of objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a connection between the cultural items described in this notice and the Oneida Indian Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the LMA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The LMA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22986 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7613; NPS–WASO–NAGPRA–NPS0044152; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Berkeley intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a known lineal descendant.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Alexandra Lucas, Government and Community Relations, Office of the Chancellor. University of California, Berkeley, 200 California Hall, Berkeley, CA 94720, email *nagpra-ucb@berkeley.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Berkeley, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 57 cultural items have been requested for repatriation. The 57 unassociated funerary belongings were removed from a family cemetery in Alameda County between 1950 and 1951 by Arnold Pilling, Cherie N. Gregoire, Michael Sitnik, Gordon L. Grosscup, and Mary Elizabeth Jane Hal and subsequently accessioned into the University of California Museum of Anthropology (Phoebe A. Hearst Museum of Anthropology). The 57 unassociated funerary belongings are beads (three missing), a cross (grave marker), fastener, faunal remains, iron, marble, nail, pendant, porcelain fragments, potsherds, shells (three missing), and tiles.

Collections and collection spaces at the Phoebe A Hearst Museum of Anthropology were treated with substances for preservation and pest control, some potentially hazardous. No records have been found to date at the Museum to indicate whether or not chemicals or natural substances were used prior to 1960.

Determinations

The University of California, Berkeley has determined that:

- The 57 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.
- Known lineal descendants (names withheld per request) are connected to the cultural items described in this notice.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the University of California, Berkeley must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California, Berkeley is responsible for sending a copy of this notice to all requestors and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22974 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7623; NPS–WASO–NAGPRA–NPS0044164; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Texas at San Antonio Center for Archaeological Research, San Antonio, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Texas at San Antonio Center for Archaeological Research (CAR) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Emily Moes, Center for Archaeological Research, One UTSA Circle, San Antonio, TX 78249, email *emily.moes@utsa.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the CAR, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, 17 individuals have been identified. The 916 associated funerary objects are beads, lithic debitage, projectile points, faunal bones, clay nodules, and soil matrix. These individuals and associated funerary objects were excavated from five sites in Texas: three in Fort Bend County (41FB28, 41FB42, 41FB223), one in Harris County

(41HR422), and one in Waller County (site unknown).

The sites in Fort Bend County were seasonal occupation areas spanning the precolonial periods, approximately 8000–2000 BP. From 41FB28, six sets of human remains and 17 associated funerary objects are housed at CAR. The funerary objects consist of soil matrix, faunal remains, and lithic flakes. From 41FB42, there are two sets of human remains and 891 associated funerary objects consisting of beads, faunal remains, lithic flakes, and soil. From 41FB223, one ancestor is represented, along with four associated funerary objects, consisting soil matrix and clay nodules.

The site in Harris County was a precolonial shell midden site on the marsh of Galveston Bay, with an occupation sequence dating approximately 5000–500 BP. Seven ancestors and four associated funerary objects are currently housed at CAR from this site. The sites from Fort Bend and Harris Counties were excavated by the Houston Archaeological Society (HAS) between 1980–1999. Some of the human remains and associated funerary objects were housed at Rice University, Sam Houston University, and or the HAS for at least part of the time following excavation, although their complete provenance is unknown. In 2019, the human remains and objects were transferred to UTSA–CAR by the HAS.

One ancestor found at in an unknown site in Waller County was privately donated to UTSA–CAR in 1996, possibly as part of a private collection after it was found in 1993 eroding out of the bank of the Brazos River near Hempstead, TX. The original time period for this individual is unknown. The ancestor is not associated with any funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The CAR has determined that:

- The human remains described in this notice represent the physical remains of 17 individuals of Native American ancestry.
- The 916 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Cheyenne and Arapaho Tribes, Oklahoma; Comanche Nation, Oklahoma; Coushatta Tribe of Louisiana; Kiowa Tribe (previously listed as Kiowa Indian Tribe of Oklahoma); Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; and the Tonkawa Tribe of Indians of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the CAR must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The CAR is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22982 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7628; NPS–WASO–NAGPRA–NPS0044179; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: William S. Webb Museum of Anthropology, University of Kentucky, Lexington, KY, and U.S. Department of Agriculture, Forest Service, Daniel Boone National Forest, Winchester, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the William S. Webb Museum of Anthropology, University of Kentucky (WSWM) and the U.S. Department of Agriculture, Forest Service, Daniel Boone National Forest (USDA FS DBNF) have completed an inventory of human remains and associated funerary objects and have determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Dr. Celise Chilcote-Fricker, William S. Webb Museum of Anthropology, University of Kentucky, 1020 Export St., Lexington, KY 40504, email *celise.fricker@uky.edu* and H. Scott Ray, Daniel Boone National Forest Supervisor's Office, 1700 Bypass Rd., Winchester, KY 40392, email *harvey.ray@usda.gov*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the WSWM, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. The 14 associated funerary objects are two lots faunal, three lots lithic, two lots shell, two lots textiles, two lots botanics, one lot charcoal, one lot sherds and one drilled carapace fragment. Site

15McY1138, Rock Creek Mummy Shelter, in McCreary County, Kentucky was excavated by a private collector in the 1960s and then donated to the WSWM in 1991, the site was then surface collected in 1988 by the USDA FS DBNF as part of a Storm Salvage Survey and again in 2014 as part of a site monitoring project which also includes a donation by a private collector in 2011. No known hazardous substances are present.

Human remains representing, at least, one individual has been identified. No associated funerary objects are present. Site 15McYxx, is an unknown site in McCreary County, Kentucky. These remains were donated at an unknown time, by an unknown person and found in an envelope addressed to Professor Charles Snow. No known hazardous substances are present.

Human remains representing, at least, three individuals have been identified. The 52 associated funerary objects are three antler awls, one antler flaker, one lot unmodified antler, one lot modified antler, one elk tooth pendant with plaited string, two lots unmodified faunal, five bone awls, two bone flakers, one modified bone, one lot turtle shell, three lots sherds, one hematite axe, one lot bifaces, eight celts, three lots lithic, one lot lithic hoes, one lot projectile points, three lithic scrapers, one lithic gorget, three stone plummets, one drilled banner stone, one lot textile, one lot shell, three lots botanics, one wooden awl, one cradle board and one wooden awl. Sites 15MF1 Newt Kash Shelter, 15MF2 Ash Cave, 15MF3 Dark Hollow Shelter, 15MF4 Hog Creek Shelter, 15MF5 Brashford Shelter, 15MF6 Edwards Branch Shelter, 15MF7 Amos Branch Shelter, 15MF8 Flint Cave, and 15MF9 Brier Branch Shelter, in Menifee County, Kentucky were excavated by Webb and Funkhouser of the University of Kentucky in 1935 as part of their 'Rock Shelters in Menifee County, Kentucky' Survey. Artifacts from all nine sites were catalogued in a single series and cannot be individually reconciled. In 1978, the USDA FS DBNF accepted a donation from 15MF1 by a private collector and in 1993, the site was surface collected by the USDA FS DBNF as part of a site monitoring project. No known hazardous substances are present.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The WSWM has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The 66 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the WSWM and the USDA FS DBNF must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The WSWM and the USDA FS DBNF are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–23000 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7633; NPS–WASO–NAGPRA–NPS0044184; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Gregg Museum of Art & Design, Raleigh, NC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Gregg Museum of Art & Design intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Lee Chavis-Tartaglia, North Carolina State University, Gregg Museum of Art & Design, 1903 Hillsborough Street, Campus Box 7330, Raleigh, NC 27695, email *lgtartag@ncsu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Gregg Museum of Art & Design, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one lot of cultural items have been requested for repatriation. The one lot of objects of cultural patrimony consists of shell and claystone beads, from an unknown location in Sacramento County, from an unknown year. These objects came to the Gregg Museum as a transfer in 2015. It was a part of a larger transfer from what used to be known as North Carolina Wesleyan College, established in 1956, and is now known as North Carolina Wesleyan University as of 2022. Based on consultation with Tribes, the Gregg Museum of Art & Design identifies these as objects of cultural patrimony based on Tribal Traditional Knowledge. They are affiliated with Wilton Rancheria,

Shingle Springs Band of Miwok Indians, United Auburn Indian Community of the Auburn Rancheria, and the Ione Band of Miwok Indians. The Gregg Museum of Art & Design records indicate no known hazardous substances.

Determinations

The Gregg Museum of Art & Design has determined that:

- The one lot of objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Wilton Rancheria, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the Gregg Museum of Art & Design must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Gregg Museum of Art & Design is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: November 5, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22999 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7634; NPS–WASO–NAGPRA–NPS0044185; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Auburn University at Montgomery, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Auburn University at Montgomery has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Elizabeth Brazelton, Auburn University at Montgomery, P.O. Box 244023, Montgomery, AL 36124, email *nagpra@aum.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Auburn University at Montgomery, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. The 99 associated funerary objects include 47 lithics, 48 faunal bone, and four metal. 1CT8, Little Bear Creek Cave, is located near Little Bear Creek in Colbert County, AL. In 1963, David Chase conducted a surface survey along the mouth of the creek and in the cave. At this time the human remains were removed and then later housed in the AUM Archaeology Laboratory at an unknown time. No known hazardous substances were used to treat any of the human remains or associated funerary objects.

Cultural affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

Auburn University at Montgomery has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 99 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians; Kialegee Tribal Town; Poarch Band of Creek Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, Auburn University at Montgomery must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Auburn University at Montgomery is responsible for

sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22991 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7619; NPS–WASO–NAGPRA–NPS0044158; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Gregg Museum of Art & Design, Raleigh, NC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Gregg Museum of Art & Design intends to repatriate a certain cultural item that meets the definition of an object of cultural patrimony and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural item in this notice to Lee Chavis-Tartaglia, North Carolina State University, Gregg Museum of Art & Design, 1903 Hillsborough Street, Campus Box 7330, Raleigh, NC 27695, email *lgtartag@ncsu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Gregg Museum of Art & Design, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one cultural object is a ''Group of 23 small blue and white rounded glass beads,'' ca. 1700–1730. This item came to the Gregg Museum as a transfer in 2015. This item was a part of a larger transfer from what used to be known as North Carolina Wesleyan College, established in 1956, and is now known as North Carolina Wesleyan University as of 2022. Based on consultation with the Lumbee Tribe of North Carolina, the Gregg Museum of Art & Design identifies this item as an object of cultural patrimony of the Lumbee Tribe of North Carolina. Gregg Museum of Art & Design records indicate no known hazardous substances.

Determinations

The Gregg Museum of Art & Design has determined that:

- The one object of cultural patrimony described in this notice has ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural item described in this notice and the Lumbee Tribe of North Carolina.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the Gregg Museum of Art & Design must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The Gregg Museum of Art & Design is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22978 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7620; NPS–WASO–NAGPRA–NPS0044159; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Land Management, Alaska State Office, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, Alaska State Office (BLM) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Robin O. Mills, Bureau of Land Management, 222 W 7th Avenue, #13, Anchorage, AK 99513, email *rmills@blm.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the BLM, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing at least 35 individuals have been reasonably identified at Arizona State University's Center for Archaeology and Society Repository (ASU). No associated funerary objects are present. The ancestors were excavated or collected between 1970–1973 from four known sites on Akun and Akutan islands in the eastern Aleutian Islands, Alaska, including Amatanan (49–UNI–00056)

(MNI=2), Chulka (49–UNI–00002) (MNI=20), Saa (49–UNI–00048) (MNI=10), Siskena (49–UNI–00008) (MNI=2), and one more from either Saa or Siskena. A clear coat of an unknown substance had been applied to some of the ancestral remains. The substance may be polyvinyl acetate, given that we know this substance was used by ASU's Laboratory of Physical Anthropology in the 1980s.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

BLM has determined that:

- The human remains described in this notice represent the physical remains of at least 35 individuals of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Native Village of Akutan.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, BLM must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. BLM is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22979 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7616; NPS–WASO–NAGPRA–NPS0044155; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Verde Valley Archaeology Center and Museum, Campe Verde, AZ, and Museum of Northern Arizona, Flagstaff, AZ

AGENCY: National Park Service.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Verde Valley Archaeology Center and Museum (VVAC) and the Museum of Northern Arizona (MNA) have completed an inventory of human remains and associated funerary objects and determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Monica Buckle, Executive Director, Verde Valley Archaeology Center and Museum, 460 W Finnie Flat Road, Camp Verde, AZ 86322, email *director@verdevalleyarchaeology.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the VVAC and MNA, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified from the Dyck Cliff Dwelling. The 78 associated funerary objects are 58 textile fragments, 13 cordage fragments, two shell ankle bracelets, one gourd, one faunal bone, one ceramic sherd, one sample of tree bark, and one vegetal sample. No known potentially hazardous substances were used to treat the human remains or associated funerary objects.

The Dyck Cliff Dwelling is on private land owned by Paul Dyck at the time of excavation, in Yavapai County, Arizona. The site was occupied by the Southern Sinagua between A.D. 1050 and A.D. 1300. The dwelling was excavated by the Southwest Museum between 1962 and 1972. The collection was housed at the Southwest Museum for analysis and preparation of a report. In 1964, the Southwest Museum returned the burial to Paul Dyck, who then traded the burial to Clay Lockett, who then donated the burial to MNA. A total of 52 associated funerary objects were also donated to MNA but six objects were retained by Paul Dyck. The remaining collection at the Southwest Museum was transferred to the Paul Dyck Foundation Research Institute of American Indian Culture in 1986 and stored on his land in Arizona. The Paul Dyck Foundation donated the collection, including the six funerary objects from this burial, to the VVAC in 2014. Both the VVAC and MNA care for objects associated with the burial.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The VVAC and MNA have determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 78 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Hopi Tribe of Arizona.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the VVAC and MNA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The VVAC and MNA are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22977 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7629; NPS–WASO–NAGPRA–NPS0044180; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: William S. Webb Museum of Anthropology, University of Kentucky, Lexington, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the William S. Webb Museum of Anthropology, University of Kentucky (WSWM) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Dr. Celise Chilcote-Fricker, William S. Webb Museum of Anthropology, University of Kentucky, 1020 Export Street, Lexington, KY 40504, email *celise.fricker@uky.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the WSWM, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is one lot ceramic. Site 15CWxx, an unknown site from Calloway County, Kentucky, was looted by a private collector who donated to Webb in 1932. No known hazardous substances are present.

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is one lot ceramic. Site 15FUxx, an unknown site in Fulton County, Kentucky was looted by a private collector in 1900 who donated to Webb at an unknown time. No known hazardous substances are present.

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is a ceramic vessel. This vessel was taken from a grave at site 15FU03, the Sassafras Ridge/Tyler Mound site in Fulton County, Kentucky, under unknown circumstances and donated to the Tennessee Division of Archaeology in 1989, who then donated it to the WSWM in 2016. No known hazardous substances are present.

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is an effigy sherd. Site 15FU04, the Adams site in Fulton County, Kentucky, was surveyed and surface collected from 1978 to 1979 as part of the Great River Road project by the Department of Transportation. No known hazardous substances are present.

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is one lot ceramic. Site 15HIxx, an unknown site in Hickman County, Kentucky was looted by a private collector who donated to Webb at an unknown time. No known hazardous substances are present.

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is one lot ceramic. Site 15HI01, the McLeod Bluff Site in Hickman County, Kentucky was looted at an unknown time and artifacts donated to Webb in 1932. No known hazardous substances are present.

Determinations

The WSWM has determined that:

- The six unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.
- There is a connection between the cultural items described in this notice and the Miami Tribe of Oklahoma and The Chickasaw Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the WSWM must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The WSWM is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22994 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7621; NPS–WASO–NAGPRA–NPS0044161; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Antelope Valley College, Lancaster, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Antelope Valley College (AVC) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Dr. Darcy L. Wiewall, Antelope Valley College, Department of Anthropology, 3041 W Ave. K, Lancaster, CA 93536, email *darcy.wiewall@avc.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of AVC, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains, representing at least one individual, have been identified from the Red Rock Canyon Rockshelter (CA–KER–147/AVC–12) site. The two lots of associated funerary objects are one lot of shell beads and one lot of flaked stone. The site located in Red Rock Canyon State Park on the western edge of the Mojave Desert, Kern County. The site was recorded by Alex Apostolides in 1963 and was designated trinomial CA–KER–147. This site was excavated by Roger W. Robinson, Antelope Valley College (AVC) in April 1973. The site was mapped, collected and tested under the auspices of the California Department of Parks and Recreation. Work at the site was initiated after a report of vandalism that included the disturbance of human burials. The project was designed to stabilize the vandalized area, discourage further vandalism, and determine the age, extent, and content of the site deposit. In 2009, Mark Q. Sutton, Roger W. Robinson and Jill Gardner published ''*Excavations at the Red Rock Canyon Rockshelter (CA–KER–147), Western Mojave Desert, California*''. This is the final report published on the 1973 excavations. The publication states that the human remains recovered from the site were repatriated by State Parks in 2008. The site chronology was addressed by several means, including radiocarbon dating, obsidian hydration, and the use of temporally diagnostic artifacts such as projectile points, shell and glass beads, and ceramics. A radiocarbon assay of 630 ± 90 years BP was obtained on charcoal from a possible hearth. No hazardous substances are known to have been used to treat any of the human remains.

Human remains, representing at least one individual, have been identified from Bakersfield (CA–KER–676/AVC–176) site. The one lot of associated funerary objects are one lot of shell beads and shell fragments. The site located southwest of the city of Bakersfield, Kern County, was exposed by a storm in December 1977. Extensive local media coverage, including publication of the site's location and an invitation for public viewing, resulted in extensive vandalism. In March 1978, an emergency salvage excavation was conducted over a three-day weekend under the direction of Bob Schiffman (Bakersfield College) and Roger Robinson (Antelope Valley College). The human remains were transferred to Andy Greene, a Nüwa (Kawaiisu) elder living in Tehachapi, California. In 2025, Robinson returned collection materials to AVC, which included human remains and documentation, which permitted site provenience to be determined. There are no known publications or chronometric data from the site. No hazardous substances are known to have been used to treat any of the human remains.

Archaeologists have asserted that both the Kitanemuk and Kawaiisu peoples have continuously occupied and used areas on the northwestern and northern margins of the Antelope Valley for at least the past 2500 years BP. Ethnographic evidence documents that the Kitanemuk and the Kawaiisu were known to hunt, gather, and trade together, and they also intermarried. It is highly likely that the two territories overlapped. Linguistic sources demonstrate a strong continuous shared group identity between these ancestral populations and present-day Native American communities of Kitanemuk, Serrano and Tataviam descent. Traditional knowledge identifies the northwestern Antelope Valley as the ancestral homeland of Kitanemuk and Kawaiisu peoples since time immemorial. Based on this evidence and consultation with representatives of the Tejon Indian Tribe and Yuhaaviatam of San Manuel Nation (previously listed as the San Manuel Band of Mission Indians) and non-federally recognized California Tribes including the Fernandeño Tataviam Band of Mission Indians and the San Fernando Band of Mission Indians, these individuals are Native American.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice. The following types of information were used to reasonably trace the relationship: anthropological information, archaeological information, geographical information, folkloric, historical, kinship, linguistic, oral traditional, and expert opinion, including Tribal Traditional Knowledge.

Determinations

AVC has determined that:

- The human remains described in this notice represent the physical remains of at least two individuals of Native American ancestry.
- The three lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the cultural items described in this notice and the Tejon Indian Tibe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, AVC must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. AVC is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22980 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7614; NPS–WASO–NAGPRA–NPS0044153; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Los Angeles County Museum of Natural History, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Los Angeles County Museum of Natural History (LACMNH) intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Amy E. Gusick, NAGPRA Officer, Los Angeles County Museum of Natural History, 900 Exposition Boulevard, Los Angeles, CA 90007, email *agusick@nhm.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LACMNH, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 333 cultural items have been requested for repatriation. The 333 objects of cultural patrimony are flakes, shatter, manos, pestles, bowl fragments, metates, charcoal, projectile points, and historic artifacts. Between 2010 and 2012, Sapphos Environmental Inc. removed the cultural items from CA–LAN–360, an archaeological site at Vasquez Rocks in Agua Dulce, Los Angeles County, CA, ahead of construction of the Vasquez Rocks Natural Area Park and Nature Center. At the direction of the Los Angeles County Department of Parks and Recreation, the cultural material was deposited at the Los Angeles County Museum of Natural History for curation.

In consultation with the Yuhaaviatam of San Manuel Nation and non-federally recognized California Indian groups including the Fernandeño Tataviam Band of Mission Indians, these items were identified as culturally affiliated with the Serrano and Tataviam peoples based on Tribal Traditional Knowledge, genealogical information, geographical location within Serrano and Tataviam ancestral territory, and ethnographic, historical, and archaeological records.

Determinations

The LACMNH has determined that:

- The 333 objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a connection between the cultural items described in this notice and the Morongo Band of Mission Indians, California and the Yuhaaviatam of San Manuel Nation (previously listed as San Manuel Band of Mission Indians, California).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the LACMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The LACMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22975 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7631; NPS–WASO–NAGPRA–NPS0044182; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Indiana State University, Terre Haute, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Indiana State University (ISU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects

in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Hansen-Speer, Indiana State University, Earth and Environmental Systems Department, 600 N. Chestnut Street, Terre Haute, IN 47809, email *karla.hansen-speer@indstate.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Indiana State University, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified from site 12-Gi-0011 (Berry Site aka Mussel Knoll) in Gibson Co., IN. The six associated funerary objects are lots of red ochre, chert, animal bone, rocks, ceramic sherds, and mussel shell. This site was a shell midden with a strong Middle Archaic component and a historic house built on top. It was surveyed by C. Dean Higgenbotham in 1978.

Human remains representing, at least, one individual has been identified from site 12-Gi-0014 in Gibson Co., IN. The five associated funerary objects are lots of chert, ceramic sherds, mussel shell, hardstone, and animal bone. The site is an Archaic shell midden that was surveyed by C. Dean Higgenbotham in 1978.

Human remains representing, at least, 16 individuals have been identified from 12-Gi-0017/0180 (Moore Bluff/Moore Rockshelter) in Gibson Co., IN. The eight associated funerary objects are lots of ceramic sherds, mussel shell, animal bone, chert, red ochre, rock, charcoal, and soil. The bluff and rockshelter are geographically close and material from the sites became co-mingled; therefore, they are treated as one site. The site is multicomponent, with evidence from the Archaic and Woodland periods. The region was excavated by C. Dean Higgenbotham in 1978.

Human remains representing, at least, one individual has been identified from site 12-Gi-0031 (White Pasture) in Gibson Co., IN. The two associated funerary objects are lots of chert and mussel shell. The Archaic (Riverton) site was surveyed by ISU staff in 1983 who surface collected material.

Human remains representing, at least, two individuals have been identified from site 12-Gi-0035 in Gibson Co., IN. There are no associated funerary objects. The site is pre-contact with no diagnostic artifacts. It was surveyed by Higgenbotham in 1978 and ISU staff in 1983.

Human remains representing, at least, one individual has been identified from site 12-Gi-0049 (Dripping Springs Hill) in Gibson Co., IN. The four associated funerary objects are lots of hardstone, chert, red ochre, and charcoal. The Archaic site was excavated by C. Dean Higgenbotham in 1978.

Human remains representing, at least, one individual has been identified from 12-Gi-0331 in Gibson Co, IN. There are no associated funerary objects. The pre-contact site had no diagnostic artifacts and was excavated by C. Dean Higgenbotham in 1979.

There are no known hazardous materials associated with any of the sites or materials.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

Indiana State University has determined that:

- The human remains described in this notice represent the physical remains of 23 individuals of Native American ancestry.
- The 25 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Quapaw Nation; Shawnee Tribe; and The Osage Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, Indiana State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Indiana State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22990 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7617; NPS–WASO–NAGPRA–NPS0044156; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Verde Valley Archaeology Center and Museum, Camp Verde, AZ

AGENCY: National Park Service.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Verde Valley Archaeology Center and Museum (VVAC) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Monica Buckle, Executive Director, Verde Valley Archaeology Center and Museum, 460 W Finnie Flat Road, Camp Verde, AZ 86322, email *director@verdevalleyarchaeology.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the VVAC, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual, have been identified, plus one lock of human hair from the Dyck Cliff Dwelling. The 38 associated funerary objects are one woven item containing human hair, five ceramic vessels, 25 basket fragments, one gourd bowl, and six soil samples. The basket fragments have been sprayed with clear Krylon for preservation.

The Dyck Cliff Dwelling is on private land owned by Paul Dyck at the time of excavation, in Yavapai County, Arizona. The dwelling was excavated by the Southwest Museum between 1962 and 1972. The collection was housed at the Southwest Museum for analysis and preparation of a report. The collection was transferred to the Paul Dyck Foundation Research Institute of American Indian Culture in 1986 and stored on his land in Arizona. The Paul Dyck Foundation donated the collection to the VVAC in 2014.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The VVAC has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 38 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Hopi Tribe of Arizona.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the VVAC must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The VVAC is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22985 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7622; NPS–WASO–NAGPRA–NPS0044162; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Sonoma State University, Rohnert Park, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Sonoma State University intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Kirsten Twork, Sonoma State University, 1801 E Cotati Avenue, Rohnert Park, CA 94928, email *tworkk@sonoma.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Sonoma State University, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 52 cultural items have been requested for repatriation. The 52 objects of cultural patrimony are groundstone, flaked stone tools, and debitage.

A total of 10 lots of objects of cultural patrimony were taken from Cazadero, CA in Sonoma County. The cultural items include groundstone, flaked stone tools, and debitage. The cultural items are part of two accessions at Sonoma State University. In March 1976 Sonoma State University completed a project in Cazadero for the University Environmental Studies Department and the resulting items were accessioned. In 1988 a single additional item from Cazadero was accessioned, which was located during trenching for an unknown project.

A total of 29 lots of objects of cultural patrimony were taken from Navarro Ranch near Cazadero, CA in Sonoma County. The cultural items include groundstone and debitage. In 1974 Sonoma State University conducted an evaluation of Navarro Ranch due to proposed land development. Following the completion of the review of the ranch site all material collected was accessioned at Sonoma State University in 1974 where it has resided since that time.

A total of 13 lots of objects of cultural patrimony were taken from CA–SON–1828, near Centennial Mountain in Sonoma County, CA. The cultural items include modified stone tools and debitage. The material was removed from the site during an archaeological investigation related to a housing

development. Following the completion of the review all material collected was accessioned at Sonoma State University in 1990 where it has resided since that time.

Determinations

Sonoma State University has determined that:

- The 52 lots of objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a connection between the cultural items described in this notice and the Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, Sonoma State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Sonoma State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: October 29, 2026

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22981 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7632; NPS–WASO–NAGPRA–NPS0044183; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Eiteljorg Museum of American Indian and Western Art, Indianapolis, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Eiteljorg Museum of American Indian and Western Art (Eiteljorg Museum) intends to repatriate a certain cultural item that meets the definition of an object of cultural patrimony and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural item in this notice to Kathryn Haigh, President/CEO, Eiteljorg Museum of American Indians and Western Art, 500 W Washington Street, Indianapolis, IN 46204, email *khaigh@eiteljorg.com.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Eiteljorg Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one object of cultural patrimony is one Tenskwatawa Prayer Stick. Tenskwatawa, also known as The Shawnee Prophet, and the brother of Tecumseh, was removed with the Shawnee Tribe to the Shawnee Reservation in Kansas, where he resided until his death in 1836. Tenskwatawa is buried in Kansas on the Shawnee reservation. Today, the Shawnee hold the legal title to the property where he was reportedly laid to rest. It was recorded that Tenskwatawa made several of these prayer sticks to hand out to the holders of the war bundles with the Winnebago in 1805 at the Prophet Town near Greenville, Ohio. Documentation regarding the removal and/or subsequent transfers prior to being donated to the Eiteljorg Museum's collection is scarce.

According to museum records, the incised wood prophet stick is a carved wooden invitation stick with a pointed tip possibly made by Tenskwatawa. Different incised shapes fill the front surface. An unbleached cotton or linen storage sleeve provided by the donor accompanies the stick. The Dimensions: 15¼ × 1¾ × ½ in. (38.7 × 4.4 × 1.3 cm). Storage sleeve: 21½ × 2¼ × ½ in. (54.6 × 5.7 × 1.3 cm). Also, according to museum records the carved wooden invitation or prophet stick was originally in the Loren Herrington Collection, Royal Oak, Michigan; Richard Pohrt Jr., Ann Arbor, Michigan acquired the stick from Loren Herrington and donated March 19, 2019, to the Eiteljorg Museum of American Indians and Western Art. The carved wooden invitation stick was never formally accession into the collection and has been in their care as a temporary hold labeled TH.2019.7.14 since March 19, 2019.

During consultation with representatives of the Shawnee Tribe of Oklahoma Business Council which included Shawnee citizen and Business Council Member Malichi Sears who is a lineal descendant and the 5-x great grandson of Tenswatawa along with Shawnee Tribal Historic Preservation Officer Tonya Tipton Central Council identified the carved wooden invitation stick as a Tenskwatawa Prayer Stick and an object of cultural patrimony.

Determinations

The Eiteljorg Museum has determined that:

- The one object of cultural patrimony described in this notice has ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a connection between the cultural item described in this notice and the Shawnee Tribe.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not

identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the Eiteljorg Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The Eiteljorg Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22993 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7636; NPS–WASO–NAGPRA–NPS0044187; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Auburn University at Montgomery, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Auburn University at Montgomery has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Elizabeth Brazelton, Auburn University at Montgomery, P.O. Box 244023, Montgomery, AL 36124, email *nagpra@aum.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Auburn University at Montgomery, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Unknown Location in Alabama

Human remains representing, at least, 11 individuals have been identified. The 75 associated funerary objects include 61 pottery sherds, 12 lithics, and two faunal bones. The human remains and funerary objects were found by AUM personnel in the Archaeology Lab without provenience information. They are a part of AUM's David Chase Collection and are believed to be from the state of Alabama. No known hazardous substances were used to treat any of the human remains or associated funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

Auburn University at Montgomery has determined that:

- The human remains described in this notice represent the physical remains of 11 individuals of Native American ancestry.
- The 75 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Absentee Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians; Kialegee Tribal Town; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians; Seminole Tribe of Florida; Shawnee Tribe; The Muscogee (Creek) Nation; and The Seminole Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, Auburn University at Montgomery must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Auburn University at Montgomery is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22995 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7625; NPS–WASO–NAGPRA–NPS0044166; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Fremont-Winema National Forest, Lakeview, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of Agriculture, Forest Service, Fremont-Winema National Forest has completed an inventory of human remains and associated funerary

objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Merv George, Forest Supervisor, Fremont-Winema National Forest, 1301 South G Street, Lakeview, OR 97630, email *merv.george@usda.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Fremont-Winema National Forest and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least two individuals have been identified. A minimum of 365 associated funerary objects include beads; obsidian and chert pieces, flakes and tools; modified and unmodified shells; basalt bowl fragments; faunal and fish bone fragments; bone needles; charred matting fragments; a metal knife point; a wood pendent; buttons; charred wood; an antler fragment; brass casing; and stones. The human remains and associated funerary objects comprise the Medicine Rock Cave (35KL08) assemblage that was excavated in 1947 from Klamath County, Oregon.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The Fremont-Winema National Forest has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The 365 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Klamath Tribes.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the Fremont-Winema National Forest must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Fremont-Winema National Forest is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22984 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7630; NPS–WASO–NAGPRA–NPS0044181; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: William S. Webb Museum of Anthropology, University of Kentucky, Lexington, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the William S. Webb Museum of Anthropology, University of Kentucky (WSWM) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Dr. Celise Chilcote-Fricker, William S. Webb Museum of Anthropology, University of Kentucky, 1020 Export Street, Lexington, KY 40504, email *celise.fricker@uky.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the WSWM, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. The four associated funerary objects are one lot sherds, one lot daub, one lot faunal, and one lot lithic. Site 15CE06, the Turk Site in Carlisle County, Kentucky, was surveyed and surface collected in 1961 by WSWM staff. No known hazardous substances are present.

Human remains representing, at least, two individuals have been identified. The nine associated funerary objects are two lots sherds, two lots daub, two lots faunal, one lot historics, and two lots lithics. Site 15FU03, the Sassafras Ridge/Tyler Mound site in Fulton County, Kentucky, was surveyed and surface collected from 1978 to 1979 as part of the Great River Road project by the Department of Transportation and then surveyed and surface collected again in 1981 and 1982 by Murray State University personnel. No known hazardous substances are present.

Human remains representing, at least, one individual have been identified. The six associated funerary objects are one lot faunal, one lot ceramic, one lot historic, one lot lithic, one lot daub and one lot shell. Site 15HI01, the McLeod Bluff Site in Hickman County, Kentucky was surveyed and surface collected from

1978 to 1979 as part of the Great River Road project by the Department of Transportation. No known hazardous substances are present.

Human remains representing, at least, three individuals have been identified. The six associated funerary objects are three lots sherds, two lots lithic and one soil sample. Site 15LV30, the Carrsville Mound in Livingston County, Kentucky was recorded in 1977 by the Louisville Archaeological Survey then surveyed and investigated by the Kentucky Archaeological Survey in 1992 after being contacted about looting. No known hazardous substances are present.

Human remains representing, at least, six individuals have been identified. The three associated funerary objects are one lot ceramic, one lot faunal and one lot charcoal. Site 15TRxx, an unknown site from Trigg County, Kentucky was excavated by a private collector in the 1950s who then donated the remains to the Wyoming Historical and Geological Society in 1987 who in turn donated them to the WSWM in 1993. No known hazardous substances are present.

Cultural affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The WSWM has determined that:

- The human remains described in this notice represent the physical remains of 13 individuals of Native American ancestry.
- The 28 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Miami Tribe of Oklahoma and The Chickasaw Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the WSWM must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The WSWM is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22998 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7624; NPS–WASO–NAGPRA–NPS0044165; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Texas at San Antonio Center for Archaeological Research, San Antonio, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Texas at San Antonio Center for Archaeological Research (UTSA–CAR) has completed an inventory of human remains and has determined that there is no lineal descendant and no Indian Tribe or Native Hawaiian organization with cultural affiliation.

DATES: Upon request, repatriation of the human remains in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Emily Moes, Center for Archaeological Research, One UTSA Circle, San Antonio, TX 78249, email *emily.moes@utsa.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the UTSA–CAR, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, three individuals have been identified. No associated funerary objects are present. In 1985, 250 boxes of archaeological objects and ancestral remains were brought to UTSA–CAR by the wife of C.D. Orchard upon his death. C.D. Orchard was an amateur archaeologist and collector in the first half of the 20th century in Texas, especially focused on pre-European settlement history in Bexar County, TX and the surrounding areas. Very little provenience information is known. The ancestral remains were commingled with cultural materials throughout the boxes from multiple archaeological contexts upon arrival at UTSA–CAR. Based on the geographical interest of C.D. Orchard, the ancestral remains likely originated in Texas, but neither location nor time period can be determined.

Consultation

Invitations to consult were sent to the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Apache Tribe of Oklahoma; Caddo Nation of Oklahoma; Cherokee Nation; Cheyenne and Arapaho Tribes, Oklahoma; Chitimacha Tribe of Louisiana; Comanche Nation, Oklahoma; Coushatta Tribe of Louisiana; Delaware Nation, Oklahoma; Fort Sill—Chiricahua—Warm Springs—Apache Tribe (previously listed as Fort Sill Apache Tribe of Oklahoma): Jena Band of Choctaw Indians; Jicarilla Apache Nation, New Mexico; Kialegee Tribal Town; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Oklahoma; Kiowa Tribe (previously listed as Kiowa Indian Tribe of Oklahoma); Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Mississippi Band of Choctaw Indians; Shawnee Tribe; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Osage Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; Tonkawa Tribe of Indians of Oklahoma; Tunica-Biloxi Indian Tribe; United Keetoowah

Band of Cherokee Indians in Oklahoma; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma; and the Ysleta del Sur Pueblo.

The following Tribes responded to the invitation and participated in consultation: the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Caddo Nation of Oklahoma; Cherokee Nation; Cheyenne and Arapaho Tribes, Oklahoma; Comanche Nation, Oklahoma; Delaware Nation, Oklahoma; Jena Band of Choctaw Indians; Kickapoo Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Mississippi Band of Choctaw Indians; Shawnee Tribe; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Osage Nation; The Seminole Nation of Oklahoma; Tonkawa Tribe of Indians of Oklahoma; Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma; and the Ysleta del Sur Pueblo.

Cultural Affiliation

The following types of information about the cultural affiliation of the human remains in this notice are available: geographical. The information, including the results of consultation, identified:

1. No earlier group connected to the human remains.
2. No Indian Tribe or Native Hawaiian organization connected to the human remains.
3. No relationship of shared group identity between the earlier group and the Indian Tribe or Native Hawaiian organization that can be reasonably traced through time.

Determinations

The UTSA–CAR has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- No known lineal descendant who can trace ancestry to the human remains in this notice has been identified.
- No Indian Tribe or Native Hawaiian organization with cultural affiliation to the human remains described in this notice has been clearly or reasonably identified.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Upon request, repatriation of the human remains described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the UTSA–CAR must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The UTSA–CAR is responsible for sending a copy of this notice to the Indian Tribes or Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22983 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7635; NPS–WASO–NAGPRA–NPS0044186; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Auburn University at Montgomery, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Auburn University at Montgomery has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Elizabeth Brazelton, Auburn University at Montgomery, P.O. Box 244023, Montgomery, AL 36124, email *nagpra@aum.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Auburn University at Montgomery, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. No associated funerary objects are present. The Montgomery Museum of Fine Arts (MMFA) donated this Ancestor to the AUM Archaeology Lab in 1975. The associated note indicates that an unidentified donor removed this Ancestor from a burial of an ''Indian of the late 18th Century.'' The donor also found, but did not remove, additional remains and brass and copper ornaments located next to the removed remains. No known hazardous substances were used to treat any of the human remains or associated funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

Auburn University at Montgomery has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Absentee Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians; Kialegee Tribal Town; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians; Seminole Tribe of Florida; Shawnee Tribe; The Muscogee (Creek) Nation; and The Seminole Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, Auburn University at Montgomery must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Auburn University at Montgomery is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–23001 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7626; NPS–WASO–NAGPRA–NPS0044167; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Bernardino County Museum, Redlands, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Bernardino County Museum has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after December 14, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Gabrielle Carpentier, San Bernardino County Museum, 2024 Orange Tree Lane, Redlands, CA 92374, email *gabrielle.carpentier@sbcm.sbcounty.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of San Bernardino County Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. There is no provenance information with this individual. The records we have state this individual was ''from midden at the mouth of Tomales Bay, Dillon Beach'' and was donated to San Bernardino County Museum by Robert B. Sanders in September 1975.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

San Bernardino County Museum has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains in this notice and the Federated Indians of Graton Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, San Bernardino County Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. San Bernardino County Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: October 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22987 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7627; NPS–WASO–NAGPRA–NPS0044168; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: University of Illinois Urbana-Champaign, Champaign, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Illinois Urbana-Champaign intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after December 14, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Krystiana Krupa, University of Illinois Urbana-Champaign, 601 E John Street, Champaign, IL 61802, email *klkrupa@illinois.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Illinois Urbana-Champaign, and additional information on the determinations in this notice, including

the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 20 cultural items have been requested for repatriation. The 20 unassociated funerary objects are an incised ceramic beaker, a shell pendant, pieces of red ochre, and pieces of shell. These objects were removed from the following archaeological sites in Schuyler County, Illinois: Meyer Site (11SC1) and Jennings Site (11SC5) by John C. McGregor in 1954; Vincent Rock Shelter (11SC9) by Elain Bluhm in 1957; and an unknown site from which the incised beaker was later acquired by collector Harold W. Mohrman at an unknown date. The University of Illinois Urbana-Champaign is not aware of the presence of any potentially hazardous substances used to treat any of the cultural items.

Determinations

The University of Illinois Urbana-Champaign has determined that:

- The 20 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.
- There is a connection between the cultural items described in this notice and the Miami Tribe of Oklahoma and the Peoria Tribe of Indians of Oklahoma.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after December 14, 2026. If competing requests for repatriation are received, the University of Illinois Urbana-Champaign must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of Illinois Urbana-Champaign is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: November 3, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–22988 Filed 11–10–26; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Notice of Availability of the Draft Environmental Assessment and Finding of No Significant Impact for Reconstruction of the Fort Hancock-El Porvenir International Bridge, Rio Grande Rectification Project, Hudspeth County, Texas

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC).ACTION: Notice of availability.

SUMMARY: The USIBWC hereby gives notice that the *Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Reconstruction of the Fort Hancock-El Porvenir International Bridge, Rio Grande Rectification Project, Hudspeth County, Texas* is available.

FOR FURTHER INFORMATION CONTACT: Elizabeth Verdecchia, Natural Resources Specialist, Telephone: (915) 832–4701, email: *elizabeth.verdecchia@ibwc.gov.*

ADDRESSES: The electronic version of the Draft EA and FONSI is available at the USIBWC web page: *https://www.ibwc.gov/reports-studies/eis-ea-public-comment/.* Public comments may be submitted to Elizabeth Verdecchia, Natural Resources Specialist, USIBWC, 4191 N Mesa, El Paso, Texas 79902; email: *elizabeth.verdecchia@ibwc.gov.*

SUPPLEMENTARY INFORMATION: The USIBWC is proposing to construct a new bridge section on the U.S. side of the Fort Hancock—El Porvenir International Bridge that would tie-in to the Mexican section of the bridge, in order to address structural and safety issues with the bridge. Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, and the USIBWC Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, USIBWC developed a Draft EA that analyzed the Action Alternative (Preferred Alternative) and the No Action Alternative. The Action Alternative—U.S. Side Rebuild to Same Profile would construct a new bridge section on the U.S. side to address with the structural integrity of the substructure and bridge deck. The new bridge section on the U.S. side would tie-in to the Mexican section of the bridge, which is in good condition. The new bridge section would generally match the existing bridge with regard to having the same height and width, similar roadway and sidewalk, but with an improved floodgate. Under the No Action Alternative, USIBWC would not construct a new bridge section, and the safety issues would not be addressed.

Potential impacts on natural, cultural, and other resources were evaluated. A Finding of No Significant Impact for the Proposed Action, based on a review of the facts and analyses contained in the EA. An environmental impact statement will not be prepared.

Dated: November 9, 2026.

Rebecca Rizzuti,

USIBWC Deputy Chief Counsel, International Boundary and Water Commission, United States Section.

[FR Doc. 2026–23077 Filed 11–10–26; 8:45 am]

BILLING CODE 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 Handheld Three-Dimensional (''3D'') Drawing Devices, DN 3948;* 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 WobbleWorks Inc. on November 6, 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 handheld three-dimensional (''3D'') drawing devices. The complaint names as respondents: Guangzhou JER Education of China; MyFirst USA Inc. of City of Industry, CA; and MyFirst Tech Asia Pte. Ltd. of Singapore. 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. 3948'') 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 7, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–22967 Filed 11–10–26; 8:45 am]

BILLING CODE 7020–02–P

[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.*

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 Organ Preservation Systems and Components Thereof, DN 3949;* 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 Paragonix Technologies, Inc. on November 6, 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 organ preservation systems and components thereof. The complaint names as a respondent: Traferox Technologies Inc. of Canada. 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. 3949'') 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

[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.

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 9, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–23043 Filed 11–10–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Traci B. Lujan, A.P.R.N.; Decision and Order

On June 26, 2026, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Traci B. Lujan, A.P.R.N., of Holladay, Utah (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 4. The OSC proposed the revocation of Registrant's Certificate of Registration No. ML5284815 CFR, alleging that Registrant is ''currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Utah, the state in which [she is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of her right to file a written request for hearing, and that if she failed to file such a request, she would be deemed to have waived her right to a hearing and be in default. *Id.* at 2–3 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing, and the Agency finds her to be in default. RFAA, at 2.[1] ''A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC].'' 21 CFR 1301.43(e).

Further, ''[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] 1316.67.'' *Id.* 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), and 1301.46. RFAA, at 4; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are deemed admitted. 21 CFR 1301.43(e). According to the OSC, effective April 21, 2026, the Utah Division of Professional Licensing revoked Registrant's Utah Registered Nurse (RN) license, Registrant's Utah Advanced Practice Registered Nurse (APRN) license, and Registrant's Utah APRN controlled substance license. RFAAX 2, at 2. According to Utah online records, of which the Agency takes official notice,[2] Registrant's Utah RN, APRN, and APRN controlled substance licenses are all revoked. Utah Division of Professional Licensing License Lookup & Verification System, *https://secure.utah.gov/llv/search/index.html* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice nursing, to practice as an APRN, nor to handle controlled substances in Utah, the state in which she is registered with DEA.[3]

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales* v. *Oregon,* 546 U.S. 243, 270 (2006) (''The Attorney General can register a physician to dispense controlled substances 'if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.' . . . The very definition of a 'practitioner' eligible to prescribe includes physicians 'licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices' to dispense controlled substances. 802(21).'').[4] The Agency has applied these principles consistently. *See, e.g., Thomas Andr'e Endicott, D.D.S.,* 90 FR 13892 (2025); *Gerald M. Baltz, N.P.,* 87 FR 6749 (2022); *Paul E. Pilgram, M.D.,* 82 FR 11058 (2017).

According to Utah statute, ''[e]very person who . . . distributes, prescribes, dispenses, [or] administers . . . any controlled substance in Schedules I through V within [the] state . . . shall obtain a license issued by the [Division of Professional Licensing].'' Utah Code Ann. § 58–37–105(2)(a)(i) (West 2026).

Here, the undisputed evidence in the record is that Registrant lacks authority to handle controlled substances in Utah because Registrant's Utah APRN controlled substance license is revoked. As discussed above, an individual must

[4] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

[1] Based on the Government's submissions in its RFAA dated August 18, 2026, the Agency finds that service of the OSC on Registrant was adequate. The included declaration from a DEA Diversion Investigator (DI) indicates that on June 29, 2026, the DI, along with other DEA personnel, traveled to Registrant's registered location to personally serve Registrant, but they were unsuccessful because no one was at the facility, the lights were off, and the doors were locked. RFAAX 2, at 2. On the same day, the DI sent a copy of the OSC to Registrant via certified mail and to Registrant's registered email address. *Id.; see also id.,* Attachment C. On or about July 3, 2026, Registrant responded to the DI's email indicating her receipt of the OSC. *Id.; see also id.,* Attachment D.

[2] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

[3] Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' The material fact here is that Registrant, as of the date of this Order, is not licensed to practice nursing, to practice as an APRN, nor to handle controlled substances in Utah. Accordingly, Registrant may dispute the Agency's findings by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the Office of the Administrator, Drug Enforcement Administration, at *dea.addo.attorneys@dea.gov.*

[4] This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., Elias Garcia Garcia, P.A.,* 90 FR 31242 (2025); *Jason Weakley, R.N., A.P.R.N.,* 90 FR 10085 (2025); *Khursheed Haider, M.D.,* 90 FR 21950 (2025).

hold a Utah controlled substance license to dispense a controlled substance in Utah. Thus, because Registrant lacks authority to handle controlled substances in Utah, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. ML5284815 issued to Traci B. Lujan, A.P.R.N. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Traci B. Lujan, A.P.R.N., to renew or modify this registration, as well as any other pending application of Traci B. Lujan, A.P.R.N., for additional registration in Utah. This Order is effective December 14, 2026.

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. 2026–22954 Filed 11–10–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Troy R. Lehman, D.O.; Decision and Order

On January 19, 2026, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Troy R. Lehman, D.O., of Woodward, Oklahoma (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 6. The OSC proposed the revocation of Registrant's Certificate of Registration No. BL7481649, alleging that Registrant lacks state authority to handle controlled substances in Oklahoma and materially falsified his registration renewal applications. *Id.* at 2–4 (citing 21 U.S.C. 824(a)(1), 824(a)(3)).

On March 6, 2026, the Government submitted an RFAA to the Administrator requesting that the Agency issue a default final order revoking Registrant's registration. RFAA, at 3. After carefully reviewing the entire record and conducting the analysis as set forth in detail below, the Agency finds that Registrant is in default, finds that Registrant is without state authority, and finds that Registrant materially falsified his applications. Accordingly, the Agency grants the Government's RFAA and revokes Registrant's registration.

I. Default Determination

Under 21 CFR 1301.43, a registrant entitled to a hearing who fails to file a timely hearing request ''within 30 days after the date of receipt of the [OSC] . . . shall be deemed to have waived their right to a hearing and to be in default'' unless ''good cause'' is established for the failure. 21 CFR 1301.43(a), (c)(1). In the absence of a demonstration of good cause, a registrant who fails to timely file an answer also is ''deemed to have waived their right to a hearing and to be in default.'' 21 CFR 1301.43(c)(2). Unless excused, a default constitutes ''an admission of the factual allegations of the [OSC].'' 21 CFR 1301.43(e).

The OSC notified Registrant of his right to file a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. RFAAX 1, at 5 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing, and the Agency finds him to be in default. RFAA, at 2.[1] ''A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC].'' 21 CFR 1301.43(e). Because Registrant is in default and has not moved to excuse the default, the Agency finds that Registrant has admitted to the factual allegations in the OSC. 21 CFR 1301.43(c)(1), (e), (f)(1).

Further, ''[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] 1316.67.'' *Id.* at 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), and 1301.46. RFAA, at 3; *see also* 21 CFR 1316.67.

II. Lack of State Authority

A. Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are deemed admitted. According to the OSC, the Oklahoma State Board of Osteopathic Examiners (Board) suspended Registrant from the practice of osteopathic medicine in Oklahoma on September 18, 2025. In addition, Registrant's Oklahoma osteopathic medical license expired by its own terms on June 30, 2026. RFAAX 1, at 3. Further, on October 31, 2025, Registrant's Oklahoma Bureau of Narcotics and Dangerous Drug (OBNDD) license expired by its own terms. According to Oklahoma online records, of which the Agency takes official notice,[2] Registrant's OBNDD registration is inactive. OBNDD, Registrant Search, *https://obnddc.us.thentiacloud.net/webs/obnddc/register* (last visited date of signature of this Order).[3] Accordingly, the Agency finds that Registrant is not licensed to practice medicine nor to handle controlled substances in Oklahoma, the state in which he is registered with DEA.[4]

[1] Based on the Government's submissions in its RFAA dated March 6, 2026, the Agency finds that service of the OSC on Registrant was adequate. The included declaration from a DEA Diversion Investigator (DI) indicates that on January 21, 2026, the DI and other DEA personnel traveled to Registrant's registered address and personally served the OSC on Registrant. RFAAX 2, at 1.

[2] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

[3] Registrant admits that he previously held a State of Oklahoma Board of osteopathic medical license that expired by its own terms on June 30, 2026. Registrant also admits that on September 18, 2025, he was issued a Joint Final Order from the Board, suspending him from the practice of osteopathic medicine in the state of Oklahoma. According to Oklahoma online records, of which the Agency takes official notice, Registrant's state osteopathic license is expired (Status: ''Cancelled''). Oklahoma State Board of Osteopathic Examiners, Physician Search, *https://osboe.portalus.thentiacloud.net/webs/portal/register* (last visited date of signature of this Order).

[4] Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' The material fact here is that Registrant, as of the date of this Order, is not licensed to practice medicine in Indiana. Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for

Continued

B. Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales* v. *Oregon,* 546 U.S. 243, 270 (2006). (''The Attorney General can register a physician to dispense controlled substances 'if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.' . . . The very definition of a 'practitioner' eligible to prescribe includes physicians 'licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices' to dispense controlled substances. § 802(21).''). The Agency has applied these principles consistently. *See, e.g., Ashley Vermillion, N.P.,* 91 FR 35270, (2026); *Henry-Norbert O. Ndekwe, M.D.,* 90 FR 15990 (2025); *Lawrence Rudolph, D.M.D.,* 89 FR 79310 (2024).[5]

Pursuant to Oklahoma's Uniform Controlled Dangerous Substances Act, ''[e]very person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within or into this state . . . shall obtain a registration issued by the Director of the [OBNDD], in accordance with rules promulgated by the Director.'' Okla. Stat. tit. 63, § 2–302(A) (2026).[6]

Here, the undisputed evidence in the record is that Registrant currently lacks authority to handle controlled substances in Oklahoma because his OBNDD registration is expired and his medical license was suspended, expired, and is now cancelled. As discussed above, a person must hold a valid OBNDD registration to dispense a controlled substance in Oklahoma. Thus, because Registrant lacks authority to practice medicine and handle controlled substances in Oklahoma, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

III. Material Falsification

A. Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are deemed admitted. 21 CFR 1301.43(e). Accordingly, Registrant is deemed to have admitted to each of the following facts.[7] On September 17, 2001, Registrant applied for and was subsequently granted a DEA registration as a practitioner in Schedules II through V. RFAAX 1, at 4. On December 9, 2010, the Oklahoma State Board of Osteopathic Examiners (Board) issued an Order of Probation with Conditions, placing Registrant's Oklahoma medical license on probation until September 22, 2011. *Id.* Thereafter, Registrant applied to renew his DEA registration multiple times on the following dates: March 28, 2013; March 22, 2016; February 27, 2019; March 2, 2022; and March 31, 2025. *Id.*

Each of the five renewal application forms contained Liability Question 3 which asks: ''[h]as the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?'' *Id.* On each of the five renewal applications, Registrant answered ''no'' to Liability Question 3. *Id.* Registrant's ''no'' answers was false in light of the 2010 probation on his Oklahoma medical license. *Id.* Accordingly, the Agency finds that Registrant falsely answered Liability Question 3 on five renewal applications.

B. Discussion

A DEA registration may be denied, suspended, or revoked upon a finding that the applicant or registrant materially falsified any application filed pursuant to or required by the Controlled Substances Act (CSA). 21 U.S.C. 824(a)(1).[8] To present a *prima facie* case for material falsification, the Government's record evidence must show (1) the submission of an application, (2) containing a false statement and/or omitting information that the application requires, (3) when the submitter knew or should have known that the statement is false and/or that the omitted information existed and the application required its disclosure, and (4) the false statement and/or required but omitted information is material, that is, it ''connect[s] to at least one of [the section 823] factors that, according to the CSA, [the Administrator] 'shall' consider'' when analyzing ''whether issuing a registration 'would be inconsistent with the public interest.' '' *Frank Joseph Stirlacci, M.D.,* 85 FR 45229, 45238 (2020) (citing 21 U.S.C. 823 and *Kungys,* 485 U.S. at 771). The Government must establish material falsification with record evidence that is clear, unequivocal, and convincing. *Kungys,* 485 U.S. at 772; *Stirlacci,* 85 FR at 45230–39.

First, the Government must prove that the applicant or registrant submitted an application for registration pursuant to the CSA. 21 U.S.C. 824(a)(1); *see also* 21 U.S.C. 822 (persons required to register); 21 U.S.C. 823(g)(1) (registration requirements).

Second, the Government must prove that the application contained a false statement or omitted information that

reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the Office of the Administrator, Drug Enforcement Administration, at *dea.addo.attorneys@dea.gov*.

[5] This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., Elias Garcia Garcia, P.A.,* 90 FR 31242 (2025); *Jason Weakley, R.N., A.P.R.N.,* 90 FR 10085 (2025); *Khursheed Haider, M.D.,* 90 FR 21950 (2025).

[6] Although there are limited circumstances under which a person ''may lawfully possess controlled dangerous substances'' without a registration issued by the Director of the OBNDD, based on the information furnished by the Government, none are applicable here. *Id.* § 2–302(H).

[7] According to the Controlled Substances Act (CSA), ''[f]indings of fact by the [DEA Administrator], if supported by substantial evidence, shall be conclusive.'' 21 U.S.C. 877. Here, where Applicant is found to be in default, all the factual allegations in the OSC are deemed to be admitted. These uncontested and deemed admitted facts constitute evidence that exceeds the ''substantial evidence'' standard of 21 U.S.C. 877; it is unrebutted evidence.

[8] A statutory basis to deny an application pursuant to section 823 is also a basis to revoke or suspend a registration pursuant to section 824, and vice versa, because doing ''otherwise would mean that all applications would have to be granted only to be revoked the next day . . . .'' *Robert Wayne Locklear, M.D.,* 86 FR 33738, 33744–45 (2021) (collecting cases). The Supreme Court's decision in *Kungys* v. *United States,* 485 U.S. 759 (1988), and its progeny, guide the Agency's implementation of these CSA provisions.

the application required, either of which may constitute a material falsity. *See, e.g., Emed Medical Company LLC and Med Assist Pharmacy,* 88 FR 21719, 21720 (2023) (applicant falsely answered ''no'' to Liability Question 3 on seventeen applications when the true answer was ''yes''); *Richard J. Settles, D.O.,* 81 FR 64940, 64945–46 (2016) (applicant failed to disclose an interim consent agreement restricting his license based on findings that he issued controlled substance prescriptions without federal or state legal authority to do so). In making this assessment, the Agency will examine the entire application, including registrant's ''yes/no'' answers to the liability questions and any follow-up response(s). *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74802, 74808–09 (2015). To establish an omission, the Government must show both that omitted information existed and that the application required inclusion of that information. *See, e.g., Richard A. Herbert, M.D.,* 76 FR 53942, 53956 (2011) (omission of a probation which the application required to be identified); *Michel P. Toret, M.D.,* 82 FR 60041, 60042 (2017) (Voluntary Surrender Form alone is insufficient evidence to find material falsification based on registrant's ''no'' answer to the question regarding ''surrender[s] (for cause)'').

Third, the Government must prove that the applicant or registrant knew or should have known that the statement is false and/or that the omitted information existed and the application required its disclosure. *See John J. Cienki, M.D.,* 63 FR 52293, 52295 (1998) (''[I]n finding that there has been a material falsification of an application, it must be determined that the applicant knew or should have known that the response given to the liability question was false.''); *Samuel Arnold, D.D.S.,* 63 FR 8687, 8688 (1998) (''It is also undisputed that Respondent knew that his Ohio dental license had previously been suspended.''); *Bobby Watts, M.D.,* 58 FR 46995, 46995 (1993) (''Respondent knew that the Tennessee Board of Medical Examiners had suspended his medical license on May 7, 1987, and had placed his state medical license on probation on May 2, 1988.''); *see also Stirlacci,* 85 FR at 45236–37 & nn.22–23 (collecting cases).

Fourth, the Government must prove that the false statement and/or required but omitted information is ''material.'' *Kungys* holds that a statement is material if it is ''predictably capable of affecting, *i.e.,* had a natural tendency to affect, the [Agency's] official decision,'' or stated differently, ''had a natural tendency to influence the decision.'' *Kungys,* 485 U.S. at 771–72. However, ''[i]t makes no difference that a specific falsification did not exert influence so long as it had the capacity to do so.'' *United States* v. *Alemany Rivera,* 781 F.2d 229, 234 (1st Cir. 1985). As already discussed, materiality, for the purposes of the CSA, is tied to what the Administrator ''shall'' consider when determining whether issuance of a registration ''would be inconsistent with the public interest.'' 21 U.S.C. 823; *Kungys,* 485 U.S. at 771–72; *Stirlacci,* 85 FR at 45234, 45238.

The Government has the burden of proof in this proceeding. 21 CFR 1301.44. Here, the Agency finds based on clear, unequivocal, and convincing record evidence that the Government presents a *prima facie* case that Registrant submitted a materially false application. 21 U.S.C. 823, 824(a)(1).

Registrant is deemed to have admitted that he applied to renew his DEA registration five times following Oklahoma's placement of Registrant's state license on probation in 2010. RFAAX 1, at 4. On each occasion, the renewal application contained Liability Question 3 which asked whether Registrant had surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or if any such action was pending. *Id.* Each renewal application clearly required Registrant to answer yes or no to Liability Question 3. Registrant answered ''no'' each time when the correct answer was ''yes.'' *Id.* Thus, Registrant falsified five renewal applications by failing to acknowledge his 2010 state license probation when he knew or should have known that the response given to the liability question was false each time he renewed his registration. *Id.*

In addition, the falsities were material. Liability Question 3 is intended to obtain information relevant to conduct the analysis required by 21 U.S.C. 823 and 824. Specifically, 21 U.S.C. 824(a)(3) and (4) require the Administrator to consider whether the applicant has had a state license or registration suspended, revoked, or denied by state authority, whether the applicant is authorized to dispense controlled substances under state law, and whether the applicant has committed acts inconsistent with the public interest. Further, the public interest factors require the Administrator to consider the recommendation of state licensing boards, the applicant's experience in handling controlled substances, the applicant's compliance with state laws related to controlled substances, and other conduct which may threaten public safety. 21 U.S.C. 823(g)(1)(A), (B), (D), (E). Liability Question 3, in other words, is tethered to provisions which the Administrator is required by statute to consider when reviewing applications for registration. *Stirlacci,* 85 FR at 45238. Thus, a false answer to Liability Question 3 is material.

By omitting the 2010 probation of his state license, Registrant ''deprived [DEA] of information potentially relevant to'' the analysis that the Administrator is statutorily mandated to conduct. *Stirlacci,* 85 FR at 45234–35; 21 U.S.C. 823(g)(1), 824(a). Thus, omission of this information directly affected the public interest analysis that DEA was required to make when it reviewed his registration application. 21 U.S.C. 823(g)(1), 824(a); *Stirlacci,* 85 FR at 45238. Stated differently, the omissions were material because they were ''predictably capable of affecting . . . [DEA's] official decision'' regarding whether Registrant met ''the requirements for'' registration. *Kungys,* 485 U.S. at 771.

In sum, the Agency finds clear, unequivocal, and convincing record evidence that Registrant's response to Liability Question 3 was materially false for failure to disclose the 2010 probation of his state medical license. 21 U.S.C. 824(a)(1); 21 CFR 1301.43(e). The Agency further finds that the Government has established a *prima facie* case for material falsification, that Registrant did not rebut that *prima facie* case, and that there is clear, unequivocal, and convincing record evidence supporting revocation. 21 U.S.C. 824(a)(1).

C. Sanction

Where, as here, the Government has presented a *prima facie* case showing that a registrant submitted a materially false renewal application, the burden shifts to Registrant to show why he can be trusted with a registration. *Morall* v. *Drug Enf't Admin.,* 412 F.3d 165, 181 (D.C. Cir. 2005); *Jones Total Health Care Pharmacy, LLC* v. *Drug Enf't Admin.,* 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.,* 83 FR 18882, 18904 (2018). The issue of trust is a fact-dependent determination based on the circumstances presented by the individual practitioner. *Jeffrey Stein, M.D.,* 84 FR 46968, 46972 (2019); *see also Jones Total Health Care Pharmacy,* 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts

and demonstrate that the registrant will not engage in future misconduct. *Jones Total Health Care Pharmacy,* 881 F.3d at 833; *ALRA Labs, Inc.* v. *Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995). Historically, the Agency has considered acceptance of responsibility, egregiousness, and deterrence when making this assessment. *See Michael Bouknight,* 90 FR 31247, 31250 (2025); *Sasha Melissa Ikramelahai,* 90 FR 32017, 32020–21 (2025); *Frank Joseph Stirlacci, M.D.,* 85 FR 45229, 45239–40 (2020). Acceptance of responsibility must be unequivocal. *Janet S. Pettyjohn, D.O.,* 89 FR 82639, 82641 (2024); *Mohammed Asgar, M.D.,* 83 FR 29569, 29573 (2018); *see also Jones Total Health Care Pharmacy,* 881 F.3d at 830–31.

In addition, a registrant's candor during the investigation and hearing, if one is requested, is an important factor in determining acceptance of responsibility and the appropriate sanction. *See Jones Total Health Care Pharmacy,* 881 F.3d at 830–31; *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 483–84 (6th Cir. 2005). Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Jones Total Health Care Pharmacy,* 881 F.3d at 833 n.4, 834. The Agency also considers the need to deter similar acts by a registrant and by the community of registrants. *Stein,* 84 FR at 46972–73.

Here, Registrant did not timely request a hearing, and was therefore deemed to be in default. 21 CFR 1301.43(c)(1), (e), (f)(1); RFAA, at 1–4. To date, Registrant has not filed a motion with the Office of the Administrator to excuse the default. 21 CFR 1301.43(c)(1). Registrant has thus failed avail himself of the opportunity to refute the Government's case. As such, Registrant has not accepted responsibility for the proven violations, has made no representations regarding his future compliance with the CSA, and has not made any demonstration that he can be trusted with registration.

Moreover, the evidence presented by the Government shows that Registrant repeatedly supplied DEA with materially false information for over a decade in five renewal applications. This further demonstrates that Registrant cannot be trusted with the responsibilities of holding a controlled substances registration. Accordingly, the Agency will order the revocation of Registrant's registration.[9]

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a)(1) and (a)(3), I hereby revoke DEA Certificate of Registration No. BL7481649 issued to Troy R. Lehman, D.O. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Troy R. Lehman, D.O., to renew or modify this registration, as well as any other pending application of Troy R. Lehman, D.O., for additional registration in Oklahoma. This Order is effective December 14, 2026.

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. 2026–22955 Filed 11–10–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1797]

Importer of Controlled Substances Application: NSI Lab Solutions LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: NSI Lab Solutions LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 14, 2026. Such persons may also file a written request for a hearing on the application on or before December 14, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 9, 2026, NSI Lab Solutions LLC, 7212 ACC Boulevard, Raleigh, North Carolina 27617, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Amineptine (7-[(10,11-dihydro-5H dibenzo[a,d]cyclohepten-5-yl)amino]heptanoic acid)	1219	I
Mesocarb (N-phenyl-N′-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate)	1227	I
3-Fluoro-N-methylcathinone (3-FMC)	1233	I

[9] In this matter there are two separate and distinct grounds by which the Government proposed denial, Registrant's lack of state authority and his material falsification; each ground, standing alone, supports the Agency's decision to revoke.

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4-FMC)	1238	I
4-Chloromethcathinone	1239	I
para-Methoxymethamphetamine (PMMA); 1-(4-methoxyphenyl)-N-methylpropan-2-amine	1245	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4-MEC)	1249	I
Naphyrone	1258	I
3-methylmethcathinone (2-(methylamino)-1-(3-methylphenyl)propan-1-one)	1259	I
N-Ethylamphetamine	1475	I
4-Fluoroamphetamine (4-FA, 1-(4-fluorophenyl)propan-2-amine, para-fluoroamphetamine)	1476	I
Methiopropamine (N-methyl-1-(thiophen-2-yl)propan-2-amine)	1478	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
4,4′-Dimethylaminorex (4,4′-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine).	1595	I
Ethylphenidate (ethyl 2-phenyl-2-(piperidin-2-yl)acetate)	1727	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
Bromazolam (8-bromo-1-methyl-6-phenyl-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2778	I
Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine	2780	I
Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2785	I
Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2786	I
Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2788	I
Diclazepam (7-chloro-5-(2-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-benzo[e][1,4]diazepin-2-one	2789	I
Cannabimimetic agents	7000	I
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR-144 and XLR11 ([1-(5-Fluoro-pentyl)1H-indol-3-yl] (2,2,3,3-tetramethylcyclopropyl)methanone)	7011	I
AB-FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
(1-(4-Fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7014	I
MDMB-FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB-AMB, MMB-FUBINACA, AMB-FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate)	7021	I
AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-)3-carboxamide	7023	I
THJ-2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl) methanone)	7024	I
5F-AB-PINACA (N-(1-amino-3methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7025	I
ADB-BUTINACA (N-(1-amino-3,3-dimethyl-1-oxobutan2-yl)-1-butyl-1H-indazole-3-carb	7027	I
AB-CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB-CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F-AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F-ADB; 5F-MDMB-PINACA (Methyl 2-(1-(5 fluoropentyl)-1H-indazole-3-carboxamido)-3,3 dimethylbutanoate)	7034	I
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
5F-ADB; 5F-MDMB-PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7036	I
Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate	7041	I
MDMB-CHMICA, MMB-CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7042	I
4F-MDMB-BINACA (4F-MDMB-BUTINACA or methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate).	7043	I
MMB-CHMICA, AMB-CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
N-(Adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3 carboxamide	7047	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	7048	I
5F-APINACA; 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
1-(5-Fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide	7083	I
5F-CUMYL-P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1 H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4-CN-CUMYL-BUTINACA (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1 H-indazole-3-carboxamide)	7089	I
MDMB-4en-PINACA (methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1H-indazole-3-carboxamido)butanoate)	7090	I
4F-MDMB-BUTICA (methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate)	7091	I
ADB-4en-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1H-indazole-3-carboxamide)	7092	I
CUMYL-PEGACLONE (5-pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one)	7093	I
5F-EDMB-PICA (ethyl 2-[[1-(5-fluorophentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate)	7094	I
MMB-FUBICA (methyl 2-(1-(4-fluorobenzyl)-1H-indole-3-carboxamido)-3-methyl butanoate)	7095	I
JWH-018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
UR-144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7144	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
6,6,9-Trimethyl-3-pentyl-6a,7,8,9,10,10a-hexahydro-6H-benzo[c]chromen-1-ol	7220	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7221	I
PB-22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F-PB-22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
4-Methyl-alpha-ethylaminopentiophenone (4-MEAP)	7245	I
N-Ethylhexedrone	7246	I
Alpha-ethyltryptamine	7249	I

Controlled substance	Drug code	Schedule
Ibogaine	7260	I
2-Fluorodeschloroketamine	7284	I
2-(Ethylamino)-2-(3-methoxyphenyl) cyclohexan-1-one (methoxetamine)	7286	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)	7348	I
Marihuana extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C-T-2)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
Peyote	7415	I
5-Methoxy-N,N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
4-chloro-alpha-pyrrolidinovalerophenone (4-chloro-a-PVP)	7443	I
4′-Methyl-alpha-pyrrolidinohexiophenone (MPHP)	7446	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
3-Methoxyphencyclidine	7457	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-Methyl-alphapyrrolidinopropiophenone (4-MePPP)	7498	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C-D)	7508	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C-E)	7509	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C-H)	7517	I
2C-I (2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C-C)	7519	I
2C-N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-4)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B-NBOMe)	7536	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe)	7537	I
2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethylpentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
alpha-Pyrrolidinohexanophenone (α-PHP)	7544	I
α-PVP (alpha-pyrrolidinopentiophenone)	7545	I
α-PBP (alpha-pyrrolidinobutiophenone)	7546	I
Ethylone	7547	I
PV8, alpha-Pyrrolidinoheptaphenone	7548	I
Eutylone	7549	I
α-PiHP (4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one)	7551	I
1-(1,3-Benzodioxol-5-yl)-2-(dimethylamino)pentan-1-one	7552	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I

Controlled substance	Drug code	Schedule
Codeine methylbromide	9070	I
8-(1-(4-Chlorophenyl)ethyl)-1-phenyl-1,3,8-triazaspiro [4.5] decan-4-one	9093	I
3-(3-(1-(1-(4-Chlorophenyl)ethyl)piperidin-4-yl)-2-oxo-2,3-dihydro-1H-benzo[d]imidazol-1-yl)propanenitrile	9094	I
5,6-Dichloro-1-(1-(4-chlorobenzyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one	9096	I
1-(1-(1-(4-Bromophenyl)ethyl)piperidin-4-yl)-5,6-dichloro-1,3-dihydro-2H-benzo[d]imidazol-2-one	9097	I
Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one)	9098	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I
Drotebanol	9335	I
U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH-7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Isotonitazene (N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9614	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
2-Methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one)	9664	I
O-Desmethyltramadol	9667	I

Controlled substance	Drug code	Schedule
Methyl (E)-2-((1′S,6′S,7′S)-6′-ethyl-4-methoxy-3-oxo 3′,5′,6′,7′,8′,8a′-hexahydro-2′H-spiro[indoline-2,1′-indolizine]-7′-yl)-3-methoxyacrylate.	9672	I
Methyl (E)-2-((2S,3S,7aS,12aR,12bS)-3-ethyl-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate.	9673	I
Methyl (E)-2-((2S,3S,7aS,12aR,12bS)-3-ethyl-9-fluoro-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate.	9674	I
Tilidine	9750	I
Butonitazene (2-(2-(4-butoxybenzyl)-5-nitro-1Hbenzimidazol-1-yl)-N,N-diethylethan-1	9751	I
Flunitazene (N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro1H-benzimidazol-1-yl)ethan-1-amine)	9756	I
Metonitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9757	I
N-pyrrolidino etonitazene; etonitazepyne (2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole)	9758	I
Metodesnitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine)	9759	I
N-Desethyl isotonitazene (N-ethyl-2-(2-(4-isopropoxylbenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amin)	9760	I
N-Piperidinyl etonitazene (2-(4-ethoxybenzyl)-5-nitro-1-(2-(piperidin-1-yl)ethyl-1H-benzimidazole)	9761	I
2-(4-Methoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole (N-pyrrolidino metonitazene)	9762	I
5-Nitro-2-(4-propoxybenzyl)-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole (N-pyrrolidino protonitazene)	9763	I
Metodesnitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine)	9764	I
Etodesnitazene; etazene (2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine)	9765	I
2-(2-(Benzodioxol-5-ylmethyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine	9766	I
2-(2-(4-Ethoxybenzyl)-5-methyl-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine	9767	I
2-(2-(4-Ethoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N-ethylethan-1-amine	9768	I
N-Ethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine	9769	I
2-(2-((2,3-Dihydrobenzofuran-5-yl)methyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine	9770	I
2-(2-(4-Ethoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-dimethylethan-1-amine	9771	I
2-(4-Isopropoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole	9772	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-Methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl) propionamide	9816	I
para-Methylfentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide; also known as 4-methylfentanyl)	9817	I
para-Chlorofentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide)	9818	I
4′-Methyl acetyl fentanyl (N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide)	9819	I
ortho-Methyl methoxyacetyl fentanyl (2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide)	9820	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
ortho-Chlorofentanyl (N-(2-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide)	9828	I
beta-Hydroxyfentanyl	9830	I
beta-Hydroxy-3-methylfentanyl	9831	I
alpha-Methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
para-Methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Thiofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide; also known as 2-thiofuranyl fentanyl; thiophene fentanyl).	9839	I
Valeryl fentanyl	9840	I
Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylbenzamide; also known as benzoyl fentanyl)	9841	I
beta′-Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide; also known as β′-phenyl fentanyl; 3-phenylpropanoyl fentanyl).	9842	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide)	9843	I
Crotonyl fentanyl ((E)-N-(1-phenethylpiperidin-4-yl)-Nphenylbut-2-enamide)	9844	I
Cyclopropyl Fentanyl	9845	I
ortho-Fluorobutyryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide; also known as 2-fluorobutyryl fentanyl).	9846	I
Cyclopentyl fentanyl	9847	I
ortho-Methyl acetylfentanyl (N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide; also known as 2-methyl acetylfentanyl).	9848	I
ortho-Methylcyclopropylfentanyl (N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide)	9849	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Fentanyl carbamate (ethyl (1-phenethylpiperidin-4-yl) (phenyl) carbamate)	9851	I
ortho-Fluoroacryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide)	9852	I
ortho-Fluoroisobutyryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9853	I
para-Fluoro furanyl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9854	I
2′-Fluoro ortho-fluorofentanyl	9855	I

Controlled substance	Drug code	Schedule
beta-Methyl fentanyl (N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide; also known as β-methyl fentanyl)	9856	I
meta-Fluorofentanyl (N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide)	9857	I
meta-Fluoroisobutyryl fentanyl (N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9858	I
para-Methoxyfuranyl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9859	I
3-Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-3-carboxamide)	9860	I
2′,5′-Dimethoxyfentanyl (N-(1-(2,5-dimethoxyphenethyl) piperidin-4-yl)-N-phenylpropionamide)	9861	I
Isovaleryl fentanyl (3-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide)	9862	I
ortho-Fluorofuranyl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9863	I
alpha′-Methyl butyryl fentanyl (2-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide)	9864	I
para-Methylcyclopropylfentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide)	9865	I
beta-Methylacetyl fentanyl (N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)acetamide)	9868	I
Tetrahydrothiofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrothiophene-2-carboxamide)	9869	I
para-Fluoro valeryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)pentanamide)	9870	I
meta-Fluorofuranyl fentanyl (N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9871	I
Zipeprol (1-methoxy-3[-4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol)	9873	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Dronabinol in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration	7365	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Norfentanyl (N-phenyl-N-(piperidin-4-yl)propionamide)	8366	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Coca Leaves	9040	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine-intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Oliceridine (N-[(3-methoxythiophen-2-yl)methyl] ({2-[(9R)-9-(pyridin-2-yl)-6-oxaspiro [4.5]decan-9-yl]ethyl{time})amine fumarate).	9245	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Opium, raw	9600	II
Opium extracts	9610	II
Opium fluid extract	9620	II
Opium tincture	9630	II
Opium, powdered	9639	II
Opium, granulated	9640	II
Levo-alphacetylmethadol	9648	II
Opium poppy	9650	II
Oxymorphone	9652	II
Noroxymorphone	9668	II

Controlled substance	Drug code	Schedule
Poppy Straw Concentrate	9670	II
Phenazocine	9715	II
Thiafentanil	9729	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to import the listed controlled substances for sale to its customers using them for analytical and research purposes only. In reference to drug codes 7360 (Marihuana) and 7370 (Tetrahydrocannabinols) the company plans to import a synthetic cannabidiol and a synthetic tetrahydrocannabinol. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Deputy Assistant Administrator.

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DEPARTMENT OF JUSTICE

[OMB Number 1105–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection; Global Trade & Commerce Enforcement Section Lead Intake Form

AGENCY: National Fraud Enforcement Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The National Fraud Enforcement Division (FRD), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 11, 2027.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Darwin Arceo, Management & Program Analyst, 145 N St. NE, Washington, DC 20530, *darwin.arceo@usdoj.gov,* 202–255–1925.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the (component), including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *The Title of the Form/Collection:* Global Trade & Commerce Enforcement Section Lead Intake Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* 105–0NEW, as well as a brief abstract: Affected Public: Primary: Government, State, or Tribal.

Brief abstract: The Global Trade & Commerce Enforcement Section (GTCES) will be using the form to provide investigative leads in the trade fraud space. The GTCES will be working with several different law-enforcement agencies to vet, triage, and deconflict the information they receive. The form will not be posted on a website but provided directly to inter-agency partners, non-governmental organizations, attorneys for industry, and other sources that generate leads.

4. *Obligation to Respond:* Voluntary.

5. *Total Estimated Number of Respondents:* 144.

6. *Estimated Time per Respondent:* 10 minutes.

7. *Frequency:* Once.

8. *Total Estimated Annual Time Burden:* 1,440 minutes.

9. *Total Estimated Annual Other Costs Burden:*

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: November 9, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–23059 Filed 11–10–26; 8:45 am]

BILLING CODE 4410–WZ–P

DEPARTMENT OF JUSTICE

[Docket No. OLP188]

Attorney General Memorandum on Implementing English as the Official Language; Request for Information

AGENCY: Department of Justice.

ACTION: Notice; request for information.

SUMMARY: This notice announces the Department of Justice's (''Department'') issuance of a memorandum titled ''Guidance on Implementing English as the Official Language,'' consistent with Executive Order 14224, titled *Designating English as the Official Language of the United States.* The Department invites public comments on the memorandum.

DATES: Electronic comments must be submitted on or before January 11, 2027.

ADDRESSES: You may submit comments, identified by Docket No. OLP188 through the Federal eRulemaking Portal: *https://www.regulations.gov.* The Department's general policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *https://www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: James G. Meslener, Counsel, Office of Legal Policy, Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530; telephone: (202) 514–4601.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to provide comments or feedback by submitting written data, views, or arguments on the attached memorandum.

Please note that all comments received are considered part of the public record and made available for public inspection at *https://www.regulations.gov.* Such information includes personally identifiable information (such as your name, address, etc.) voluntarily submitted by the commenter.

The Department may withhold from public viewing information provided in comments that it determines is offensive, that may adversely impact the privacy of a third party, or for other legitimate reasons. For additional information, please read the privacy notice that is available through the link in the footer of *https://www.regulations.gov.*

II. Discussion

On March 6, 2025, President Trump issued Executive Order 14224, titled ''Designating English as the Official Language of the United States,'' 90 FR 11363. The Attorney General subsequently issued a memorandum to all Federal agencies about the implementation of E.O. 14224. *See* Memorandum from the Attorney General, *Implementation of Executive Order No. 14,224: Designating English as the Official Language of the United States of America* (July 14, 2025), *https://www.justice.gov/ag/media/1407776/dl.* Per that memorandum, on September 1, 2026, the Attorney General issued to all Executive departments and agencies a memorandum titled ''Guidance on Implementing English as the Official Language.'' That notice was subsequently revised on October 22, 2026, in light of Executive Order 14434, ''Inaugurating the Era of Super Intelligence,'' 91 FR 63129. The memorandum is attached as an appendix to this Notice.

Through this Notice, the Department is publishing the October 22, 2026, memorandum and invites public comment on it. As the memorandum states, after reviewing the comments, the Department will determine whether modifications are necessary or desirable, but the Department will not respond to the comments.

Daniel E. Burrows,

Assistant Attorney General, Office of Legal Policy.

Appendix

MEMORANDUM FOR ALL EXECUTIVE DEPARTMENTS AND AGENCIES
FROM: THE ATTORNEY GENERAL
SUBJECT: *Guidance on Implementing English as the Official Language*

Background

On March 6, 2025, President Trump issued Executive Order 14224, titled ''Designating English as the Official Language of the United States,'' 90 FR 11363. The Attorney General then issued a memorandum to all Federal agencies about the implementation of E.O. 14224. *See* Memorandum from the Attorney General, *Implementation of Executive Order No. 14,224: Designating English as the Official Language of the United States of America* (July 14, 2025), *https://www.justice.gov/ag/media/1407776/dl.* To satisfy a directive from that memorandum, on September 1, 2026, the Attorney General issued a memorandum titled ''Guidance on Implementing English as the Official Language.'' *See* Memorandum from the Attorney General, *Guidance on Implementing English as the Official Language* (Sept. 1, 2026) (initial English Language Guidance). Thereafter, on October 2, 2026, President Trump issued Executive Order 14434, titled ''Inaugurating the Era of Super Intelligence,'' 91 FR 63129. To ensure compliance with E.O. 14434, the Attorney General has revised the English Language Guidance as set forth below.

Before developing the initial English Language Guidance, the Office of Legal Policy (OLP) sought input and recommendations from Federal agencies about programs and policies to be implemented in an English-only format. OLP solicited feedback from several Department components and fifty-three Federal agencies. OLP received responses from twenty Federal agencies and one component.

The respondents provided OLP with valuable feedback concerning the implementation of E.O. 14224. The responses fell into the following categories: (a) actions taken to implement E.O. 14224; (b) notification of compliance with E.O. 14224; (c) background information on languages other than English being used or supported, with an explanation; (d) future plans to comply with E.O. 14224; and (e) ''no input.'' These responses assisted OLP in developing the initial English Language Guidance.

The below revised English Language Guidance incorporates the principles of E.O. 14424 and other non-substantive revisions.

The Department seeks public comments on the English Language Guidance and, after reviewing the comments, will determine whether modifications are necessary or desirable. The Department will not respond to public comments.

Executive Departments and Agencies should update any relevant regulations that are inconsistent with E.O. 14224 and these Guidelines.

Guidance Pursuant to Executive Order 14224, Titled ''Designating English as the Official Language of the United States''

I. Introduction [1]

Though not officially designated in the past, English has been our common language since before this Nation's founding. This fact is reflected in our Nation's governing documents, history and tradition, and daily interactions. Our shared national language has played an indispensable role in forming a cohesive society and ensuring consistency across government operations.

E.O. 14224 designated English as the official language of the United States. This English Language Guidance helps Federal agencies implement E.O. 14224 by providing clear, practical guidelines on how to prioritize the English language in government operations.[2] The English Language Guidance also provides guidelines to assist agencies in determining when multilingual assistance may be required by law or necessary to

[1] The English Language Guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Nothing in the English Language Guidance alters or supersedes any legal obligation imposed upon an agency.

[2] ''Agency'' has the meaning given to it in section 3502 of title 44, United States Code, except that such term does not include the Executive Office of the President or any components thereof.

accomplish an agency's mission, and how to provide such assistance.

II. English Is the Sole Official Language

English is now the official language of the United States. Consequently, agencies should prioritize the English language over all other languages. After evaluating feedback from Department components and Federal agencies, the Department has identified opportunities where agencies should solely use English. For example, agencies should conduct official business, communicate with the public, develop forms and publications, administer programs, and provide services solely in English—unless, as explained further below, multilingual assistance is required by law or necessary to accomplish an agency's mission. The following is a non-exhaustive list of when agencies should solely use English:

a. official correspondence;
b. regulations, guidance documents, and policy statements;
c. public notices and announcements;
d. forms and applications;
e. Websites and digital services;
f. outreach and educational materials;
g. internal agency communications and training materials; and
h. super intelligence tools.

Agencies should strive to operate solely in English. For example, on August 17 of this year, the Department of Housing and Urban Development removed non-English languages from all departmental business and services. Feedback from Department of Justice components and Federal agencies revealed that websites and digital services are some of the quickest and most significant opportunities where an agency should prioritize English. In addition to the Department of Housing and Urban Development, the Departments of Homeland Security, Education, and Treasury have already begun removing materials from their website that were previously provided in languages other than English. The Department encourages other agencies to identify and remove non-English languages from their services.

Moving forward, agencies should promptly identify and review all multilingual assistance programs. Agencies should then determine whether multilingual assistance is required by law or necessary to accomplish an agency's mission. If multilingual assistance is neither legally required nor necessary to accomplish the agency's mission, then the agency should eliminate assistance in favor of English-only operations. If multilingual assistance is legally required or necessary to accomplish the agency's mission, then the English language version of any agency communication shall constitute the official and authoritative version unless otherwise required by law.

III. When and How To Provide Multilingual Assistance

Agencies should consult the below to determine when multilingual assistance may be required by law or necessary to accomplish an agency's mission and how to provide such assistance.

A. When Multilingual Assistance Is Required by Law

Agency feedback identified various instances where multilingual assistance is required by law. Agencies must provide multilingual assistance when it is required by law. Agencies should, however, only provide multilingual assistance to the extent that it is legally required. Examples of legal authorities that may require multilingual assistance are:

a. the Constitution;
b. federal statutes;
c. binding judicial orders;
d. binding regulations; and
e. international obligations having the force of law.

Furthermore, until recently, Executive Order No. 13166, 65 FR 50121 (Aug. 16, 2000) directed agencies to enhance access to federal programs for persons with limited English proficiency and required them to tailor guidance for recipients of federal funding under Title VI of the Civil Rights Act of 1964. However, E.O. 14224 rescinded E.O. 13166 and thus multilingual assistance predicated on E.O. 13166 is no longer legally required. Feedback indicated that most agencies have discontinued, or are in the process of discontinuing, multilingual assistance predicated on E.O. 13166. For example, several agencies reported that the recission of E.O. 13166 allowed them to amend or fully remove their agency's Language Access Plans. Accordingly, agencies should continue evaluating whether multilingual assistance predicated on E.O. 13166 is necessary to accomplish the agency's mission and if not, agencies should eliminate the assistance in favor of English-only operations.

B. When Multilingual Assistance Is Necessary To Accomplish an Agency's Mission

Multilingual assistance may be necessary when an agency determines that the inability to communicate in a language other than English would materially impair the agency's ability to carry out its statutory responsibilities, administer programs, protect the public, or deliver efficient government services. The following are instances where multilingual assistance may be necessary:

a. national security activities;
b. immigration enforcement activities;
c. law enforcement and security operations;
d. emergency preparedness and disaster response;
e. communications related to public health, public safety, or emergencies;
f. healthcare services;
g. surveys and data collection;
h. communications with foreign officials;
i. court proceedings; and
j. communications with crime victims or witnesses, or cooperating individuals.

For example, the Department of Homeland Security reported that given the security mission of the Transportation Security Administration (TSA) and the large volume of international travelers who may have limited English proficiency, the TSA will continue to utilize an automated helpline that is available in several languages. However, when an agency determines that multilingual assistance is necessary to accomplish the agency's mission, as in this instance, the agency should provide that assistance only to the extent needed to accomplish its mission.

C. How To Provide Multilingual Assistance

When multilingual assistance is legally required or necessary to accomplish the agency's mission, an agency should select the least burdensome and most cost-effective method available. When multilingual assistance is necessary to accomplish the agency's mission, such information should be translated accurately and include a clear disclaimer—in both English and the non-English language—that English is the official language and the authoritative version of all federal information.

Technological advances in translation services permit agencies to produce cost-effective methods for bridging language barriers and reducing inefficiencies with the translation process. For example, the Environmental Protection Agency and Department of Homeland Security are currently evaluating, developing, and testing superintelligence and machine translation programs that would allow them to more efficiently communicate with individuals who may have limited English proficiency. The Department encourages other agencies to consider the use of superintelligence and machine translation to communicate with individuals who may have limited English proficiency.

IV. Conclusion

This English Language Guidance is intended to equip agencies with practical guidelines to implement E.O. 14224, while complying with the law and upholding their core missions. The Department appreciates the agencies who provided critical feedback on how they have thus far implemented E.O. 14224. The Department looks forward to partnering with agencies to fully implement English as the official language of the United States.

[FR Doc. 2026–22966 Filed 11–10–26; 8:45 am]

BILLING CODE 4410–BB–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2027–010]

Records Management; General Records Schedule (GRS)

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Discontinuation of Issuance of General Records Schedules by **Federal Register** Notice.

SUMMARY: NARA is discontinuing the practice of publishing a separate notice in the **Federal Register** to announce the issuance of a new General Records Schedule (GRS) Transmittal. New GRS Transmittals, which provide mandatory disposition instructions for records

common to several or all Federal agencies, will continue to be issued and made immediately available on NARA's website. Agencies will be notified of new Transmittals directly via email and other established communication channels.

DATES: This transmittal is effective November 12, 2026.

ADDRESSES: You can find all GRS schedules and FAQs at *http://www.archives.gov/records-mgmt/grs.html* (in Word, PDF, and CSV formats). You can download the complete current GRS, in PDF format, from the same location.

FOR FURTHER INFORMATION CONTACT: For more information about this notice contact Dina Herbert, Archivist, by email at *regulation_comments@nara.gov* or by telephone at 202–357–5265.

SUPPLEMENTARY INFORMATION:

1. Background

For a number of years, NARA has used a **Federal Register** notice (Transmittal Notice) to announce the issuance of revisions or updates to the General Records Schedule (GRS). The GRS provides mandatory disposition instructions for records common to all or several Federal agencies.

2. Discontinuation of Federal Register Transmittal Notices

NARA is discontinuing the practice of issuing separate **Federal Register** notices to announce a new GRS Transmittal. This change reflects NARA's ongoing commitment to modernizing communication and records management processes.

Agencies will be notified of the issuance of new GRS Transmittals through NARA's primary communication methods, including email notifications and announcements on the NARA website. All newly issued GRS schedules will be made immediately available on the GRS web page at *http://www.archives.gov/records-mgmt/grs.html* concurrently with their effective date. Anyone wanting to receive email notifications may do so at *https://share.hsforms.com/1JRQl-UXtTLSj5ZhbuM8F_Qchjl4.*

3. NARA's Approval Process Remains Unchanged

This administrative change to NARA's process for issuing GRS Transmittals does not change the appraisal and approval process for individual GRS. Consistent with 44 U.S.C. 3303a(a), NARA will continue to publish notices for public comment in the **Federal Register** for each GRS providing authority to dispose of federal records.

4. Agency Implementation Responsibilities Remain Unchanged

This administrative change to NARA's announcement process does not alter the mandatory requirements for Federal agencies to implement GRS changes. NARA regulations (36 CFR 1226.12(a)) still require agencies to disseminate GRS changes within six months of receipt. Additionally, the requirements under 36 CFR 1227.12 concerning mandatory adherence to GRS provisions and the process for requesting deviations remain in full effect.

Agencies should continue to cite the ''DAA'' number in the ''Disposition Authority'' column of the GRS table when communicating with NARA on records transfers or deviation requests. A GRS Disposition Authority Look-Up Table is available on NARA's website.

5. Whom should an agency contact for further information?

Please contact the GRS Team at *GRS_Team@nara.gov* with any questions related to the General Records Schedule. Your agency's records officer may also contact the NARA appraiser with whom your agency normally works for support.

Bradford P. Wilson,

Archivist of the United States.

[FR Doc. 2026–23018 Filed 11–10–26; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–614; NRC–2025–0079]

Long Mott Energy, LLC; Long Mott Generating Station; Construction Permit

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is providing notice of the issuance of Construction Permit (CP) No. CPAR–3 to Long Mott Energy, LLC (LME) for the Long Mott Generating Station (LMGS) reactor facility.

DATES: The Construction Permit No. CPAR–3 was issued on November 9, 2026.

ADDRESSES: Please refer to Docket ID NRC–2025–0079 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–0079. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* 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.

FOR FURTHER INFORMATION CONTACT: Adrian Muñiz, Office of Advanced Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4093; email: *Adrian.Muniz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 2.106 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Notice of issuance,'' the NRC is providing notice of the issuance of CP No. CPAR–3 to LME. The CP, which is immediately effective, authorizes LME to construct a power reactor facility in Calhoun County, Texas, as described in the CP application. With respect to the CP application filed by LME, the NRC found that the applicable standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations have been met. The NRC found that any required notifications to other agencies or bodies have been duly made and that, among other things, there is reasonable assurance that the activities authorized by the permit will be conducted in compliance with the rules and regulations of the Commission, that

safety questions will be satisfactorily resolved by the completion of construction, and that, taking into consideration siting criteria, the proposed facility can be constructed and operated at the proposed location without undue risk to public health and safety, subject to the conditions listed in the CP. Furthermore, the NRC found that the licensee, LME, is technically and financially qualified to construct the facility, and that issuance of the CP will not be inimical to the common defense and security or to the health and safety of the public. Finally, the NRC found that issuance of the CP was in accordance with subpart A, ''National Environmental Policy Act—Regulations Implementing Section 102(2),'' of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' and that all applicable requirements had been satisfied.

Accordingly, the immediately effective CP was issued on November 9, 2026.

II. Further Information

The NRC staff prepared a Safety Evaluation (SE) and Environmental Assessment (EA) which document the staff's evaluation of the CP application and its findings. In accordance with 10 CFR 2.390, ''Public inspections, exemptions, requests for withholding,'' of the NRC's ''Agency Rules of Practice and Procedure,'' details with respect to this action, including the SE and EA, and accompanying documentation included in the CP package, are available online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* From this site, persons can access the NRC's ADAMS, which provides text and image files of NRC's public documents.

III. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS.

Document description	ADAMS accession No.
Construction Permit No. CPAR–3, dated November 9, 2026	ML26301A133.
Safety Evaluation Related to the Long Mott Energy, LLC Construction Permit Application for Long Mott Generating Station, dated October 30, 2026.	ML26295A004 (package).
Environmental Assessment and Finding of No Significant Impact for the Construction Permit and Environmental Review Exemptions for the Long Mott Generating Station, dated May 31, 2026.	ML26112A016.
LME Construction Permit Application Documentation (Revision 0), dated March 31, 2025	ML25090A057 (package).
LME Construction Permit Application Documentation (Revision 1), dated September 18, 2026	ML26261A419 (package).
Request for Confirmation of Information (RCI–1) from Long Mott Energy, LLC to Support the Review of the Construction Permit Application for Long Mott Generating Station, dated August 14, 2026.	ML26230A155 (package).
Request for Confirmation of Information (RCI–2) from Long Mott Energy, LLC to Support the Review of the Construction Permit Application for Long Mott Generating Station, dated September 14, 2026.	ML26258A017 (package).

Authority: 42 U.S.C. 2011 *et seq.*

Dated: November 9, 2026.

For the Nuclear Regulatory Commission.

Mehdi Reisi Fard,

Director, Division of Advanced Reactor Engineering, Office of Advanced Reactors.

[FR Doc. 2026–23029 Filed 11–10–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

741st Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the U.S. Nuclear Regulatory Commission's (NRC) Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on December 3 through 4, 2026. In addition, the ACRS is implementing Section 4.(b) of Executive Order (E.O.) 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' dated May 23, 2025, which states, in part, that the functions of the ACRS shall be reduced to the minimum necessary to fulfill ACRS's statutory obligations and that review by ACRS of permitting and licensing issues shall focus on issues that are truly novel and noteworthy. The ACRS will only undertake other work as directed by the Commission in accordance with Sections 29 and 182b of the Atomic Energy Act.

The Committee will be conducting meetings that will include some Members being physically present at the headquarters of the NRC while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via Microsoft Teams or via phone at 301–576–2978, passcode 943968090#. A more detailed agenda, including the Microsoft Teams link, may be found at the ACRS public website at *www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html.* If you would like the Microsoft Teams link forwarded to you, please contact: *Quynh.Nguyen@nrc.gov* or *Lawrence.Burkhart@nrc.gov.*

Thursday, December 3, 2026

8:30 a.m.–8:35 a.m.: *Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–2:00 p.m.: *BWRX–300 Safety Strategy Topical Report* (Open/Closed)—The Committee will hear presentations from and have discussions with NRC staff and applicant representatives regarding the subject topic. [Note: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.].

2:00 p.m.–5:00 p.m.: *Planning and Procedures Session/Future ACRS Activities/Reconciliation of ACRS Comments and Recommendations/Report Preparation and Committee Deliberation* (Open/Closed)—The Committee will discuss planning and procedures topics, including items proposed for consideration by the Full Committee during future ACRS meetings; deliberate; and proceed to preparation of reports. [Note: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this session may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS.]. [Note: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Friday, December 4, 2026

8:30 a.m.–6:00 p.m.: *Report Preparation and Committee Deliberation* (Open)—The Committee will continue deliberations and proceed with preparation of reports.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on July 22, 2025 (90 FR 34522). In accordance with those procedures, oral

or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Officer (Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the ACRS Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the cognizant ACRS staff if such rescheduling would result in major inconvenience. Registration for this meeting is not required.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least three days before the meeting.

In accordance with 5 U.S.C. 552b(c) and 1009(d), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the ACRS Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

Please contact the Designated Federal Officer if you would like to submit a request for physical or electronic meeting accommodation.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* the ACRS public website, or by calling the PDR at 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is accessible from the NRC website at *www.nrc.gov/reading-rm/adams.html* or *www.nrc.gov/reading-rm/doc-collections/#ACRS/.*

Dated: November 9, 2026.

For the Nuclear Regulatory Commission.

Russell Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2026–23013 Filed 11–10–26; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Questionnaire for National Security Positions

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Personnel Management (OPM) requests that the Office of Management and Budget (OMB) renew a previously approved information collection request (ICR), Questionnaire for National Security Positions, Standard Form 86 (SF 86), without change.

DATES: Comments are encouraged and will be accepted until December 14, 2026.

ADDRESSES: You may submit comments on the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Joseph Knouff, Director, Suitability Executive Agent Programs, U.S. Office of Personnel Management, P.O. Box 699, Slippery Rock, PA 16057, or by email at *SuitEA@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0005) was published in the **Federal Register** on July 9, 2026, at 91 FR 42565, allowing for a 60-day public comment period. OPM received five public comments during the 60-day comment period. No changes were required in response to the commenters and no commenter specifically challenged OPM's numerical burden estimate or provided an alternative burden estimate or methodology.

Several commenters addressed the continued necessity of the SF 86 collection, including whether OPM should instead proceed directly to full implementation of the Personnel Vetting Questionnaire (PVQ). The Federal government, under Trusted Workforce 2.0 reform, is already working towards full implementation of the PVQ, which will be complete once developed and implemented in the National Background Investigation Services (NBIS). One commenter also recommended changes to the manner in which personnel vetting information is collected, including the use of incremental updates and pre-population of information, to enhance the quality and utility of the information collected and reduce respondent burden.

The recommendations concerning modernization of the personnel vetting information collection process relate primarily to the broader technological and operational framework for personnel vetting. OPM is transitioning toward the PVQ, which is currently approved and in development. Until the PVQ is implemented and the associated information systems are ready for use, the SF 86 remains necessary to support personnel vetting activities. While OPM appreciates the comments on the broader technological and operational framework, it has determined that no changes to the SF 86 are warranted as part of this renewal.

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Background

The Questionnaire for National Security Positions, Standard Form 86 (SF 86), is currently used to collect information completed by applicants for, or incumbents of, Federal Government civilian or military positions, or positions in private entities performing work for the Federal Government under contract. The information collected is used as the basis for background investigations to determine whether individuals in national security positions are suitable or fit for employment or retention; fit to

perform work on behalf of the Federal Government pursuant to a contract; and eligible for physical and logical access to federally controlled facilities or information systems. For applicants for civilian Federal employment, the SF 86 is used only after a conditional offer of employment has been made.

The National Background Investigation Services (NBIS) electronic application (eApp) is the primary system used to collect this information. The electronic format incorporates branching logic that tailors questions based on an individual's responses, thereby reducing respondent burden by limiting questions to those relevant to the individual's personal history. The eApp system contains the investigative Standard Forms used by Federal applicants and employees to submit information required for personnel background investigations. Because the electronic application uses tailored questions and instructions, the estimated burden varies depending on the relevance of questions to an individual's personal history.

This information collection is currently approved by OMB, and OPM is seeking renewal without substantive change. OPM received approval in February of 2024 for non-substantive revisions to this collection which was previously approved in November of 2023. Pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act (Pub. L. 115–174), security freezes do not restrict access to credit reports for employment, tenant, or background screening purposes; therefore, individuals are no longer required to lift a credit freeze during a background investigation and the instructions within the form were updated accordingly. Additionally, de minimis changes were made in May of 2025 to align with Executive Order 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,* January 20, 2025. These updates have already been incorporated into the eApp system.

A copy of the proposed information collection and the associated instructions are available at: *https://www.reginfo.gov/public/do/PRAMain.* Use the search function to enter either the title of the collection (Questionnaire for National Security Positions) or the OMB Control Number (3206–0005). OPM is not proposing any revisions to the form at this time. OPM recommends renewal of the form without any proposed changes due to the forthcoming plan to replace the SF 86 with the Personnel Vetting Questionnaire (87 FR 71700 and 88 FR 12703), which is currently approved and in development.

Analysis

Agency: Suitability Executive Agent Program, Office of Personnel Management.

Title: Questionnaire for National Security Positions, Standard Form 86 (SF 86).

OMB Control Number: 3206–0005.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 495,924.

Estimated Time per Respondent: 150 minutes.

Total Burden Hours: 1,239,810.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–23044 Filed 11–10–26; 8:45 am]

BILLING CODE 6325–66–P

OFFICE OF PERSONNEL MANAGEMENT

Chief Human Capital Officers Council Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

DATES: The Chief Human Capital Officers (CHCO) Council plans to meet on Tuesday, December 8, 2026. The meeting will start at 9:30 a.m. EDT and will be held on Microsoft Teams.

FOR FURTHER INFORMATION CONTACT: Alexander Bertha, Administrative Support Specialist, *CHCOCouncil@opm.gov,* 202–936–0003.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the CHCO Council to host their annual public meeting per Public Law 107–296. The CHCO Council is the principal interagency forum to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information and legislation affecting human resources operations and organizations.

Persons desiring to attend this public meeting of the Chief Human Capital Officers Council should contact OPM at least 5 business days in advance of the meeting date at the email address shown below. Note: If you require an accommodation, please contact *chcocouncil@opm.gov* no later than December 1, 2026.

(Authority: Public Law 107–296.)

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–23046 Filed 11–10–26; 8:45 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket Nos. K2026–342; MC2027–27 and K2027–28; MC2027–28 and K2027–29]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 17, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION: Table of Contents

I. Introduction
II. Public Proceeding(s)
III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).:* K2026–342; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail & USPS Ground Advantage Contract 1070 and Materials Under Seal; *Filing Acceptance Date:* November 6, 2026; *Filing Authority:* 39 CFR. 3035.105 and 39 CFR 3041.505; *Public Representative:* Arif Hafiz; *Comments Due:* November 17, 2026.

2. *Docket No(s).:* MC2027–27 and K2027–28; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1515 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 6, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* November 17, 2026.

III. Summary Proceeding(s)

1. Docket No(s).: MC2027–28 and K2027–29; *Filing Title:* USPS Request to Add New Mid-Market Standardized Distinct Product, PM–GA Contract 1125, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: November 6, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–23023 Filed 11–10–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements; Priority Mail and USPS Ground Advantage Negotiated Service Agreements

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 12, 2026.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), it filed with the Postal Regulatory Commission the following requests:

Date filed with postal regulatory commission	Negotiated service agreement product category and number	MC Docket No.	K Docket No.
11/03/26	PM–GA 1123	MC2027–25	K2027–26
11/03/26	PM–GA 1124	MC2027–26	K2027–27
11/06/26	PME–PM–GA 1515	MC2027–27	K2027–28
11/06/26	PM–GA 1125	MC2027–28	K2027–29

Documents are available at *www.prc.gov.*

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2026–22963 Filed 11–10–26; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106840; File No. SR–PHLX–2026–65]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Amend Equity 4 To Remove All References to the CORE FIX Order Entry Protocol

November 6, 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 30, 2026, Nasdaq PHLX LLC (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 4 to remove all references to the CORE FIX order entry protocol.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In September 2025 the Exchange added CORE FIX to its rulebook in Equity 4, in anticipation of making this new order entry protocol available to Exchange Participants in October of 2025.[3] In December 2025 the Exchange extended the implementation date for CORE FIX to the first quarter of 2026.[4] In March 2026 the Exchange extended the implementation date for CORE FIX to the end of 2026.[5]

In spite of its best efforts, the Exchange has been unable to generate interest in CORE FIX among Exchange Participants. Therefore, rather than deploy an order entry protocol that Participants are not even interested in testing, the Exchange proposes to abandon its plans to deploy CORE FIX.[6] This will allow the Exchange to better allocate its technological development resources. The Exchange notes that it will continue to offer all the order entry protocols that are currently available and operative on the Exchange—namely, OUCH, RASH, FLITE, and FIX.[7]

The Exchange proposes to eliminate all references to CORE FIX that are currently present in Equity 4. Specifically, these references are found in Rules 3100 (Limit Up-Limit Down Plan and Trading Halts on PSX), 3301A (Order Types), 3301B (Order Attributes), and 3307 (Processing of Orders).[8]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to promote just and equitable principles of trade because it will ensure that the Exchange's rulebook accurately reflects the order entry protocols that are available and operative on the Exchange. Removing references to CORE FIX, which the Exchange will not deploy, will avoid confusion among Participants and other market participants regarding the protocols available for order entry. The proposed rule change will not alter the operation of the Exchange's market, the treatment of orders, or the rights or obligations of Participants; the Exchange will continue to offer the OUCH, RASH, FLITE, and FIX protocols. Accordingly, the proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system, and will protect investors and the public interest by providing clear and accurate information concerning the Exchange's order entry protocols.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to ensure that the Exchange's rulebook accurately reflects the protocols that are available and operative on the Exchange. Removing references to CORE FIX will not deprive any Participant of an available order entry protocol, because CORE FIX has not been deployed on the Exchange. Participants will continue to be able to choose among the OUCH, RASH, FLITE, and FIX protocols based on their trading needs. Accordingly, the proposal will not impose any burden on competition, either among Exchange Participants or between the Exchange and other trading venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and

[3] *See* Securities Exchange Act Release No. 104020 (Sept. 23, 2025), 90 FR 46446 (Sept. 26, 2025) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PHLX Equity 4, Rules 3100, 3301A, 3301B, and 3307 To Add the CORE FIX Order Entry Protocol'') (File No. SR–PHLX–2025–46).

[4] *See* Securities Exchange Act Release No. 104297 (Dec. 3, 2025), 90 FR 56820 (Dec. 8, 2025) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PHLX Equity 4, Rule 3301A(b) To Specify That the ''Time-in-Force'' Order Attribute of 'Immediate-or-Cancel' Is Not Available to Post-Only Orders or Midpoint Peg Post-Only Orders Entered Through the CORE FIX Protocol, and To Correct a Clerical Error Regarding the Availability of the Trade Now Order Attribute for Midpoint Peg Post-Only Orders'') (File No. SR–PHLX–2025–63).

[5] *See* Securities Exchange Act Release No. 105127 (Mar. 31, 2026), 91 FR 17018 (Apr. 3, 2026) (''Notice of Filing and Immediate Effectiveness of a Proposal To Amend the Exchange's Anti-Internalization Functionality in Equity 4, Rule 3307, and To Extend the Implementation Date of the CORE FIX Order Entry Protocol'') (File No. SR–PHLX–2026–17).

[6] The Exchange already filed, and the Commission noticed, a separate fee filing to remove references to CORE FIX found in Equity 7 (Pricing Schedule). *See* Securities Exchange Act Release No. 106781 (Oct. 30, 2026) (''Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Exchange's Transaction Fees at Equity 7, Section 3, To Delete Obsolete References To the CORE FIX Order Entry Protocol'') (File No. SR–PHLX–2026–66).

[7] *See* Equity 4, Rule 3301A(a).

[8] Additionally, in a recent filing, the Exchange added to the rule text of Equity 4, Rule 3100, the online rulebook disclaimer that 'References to ''CORE FIX'' will be implemented in 2026.' *See* Securities Exchange Act Release No. 106140 (Aug. 14, 2026), 91 FR 53680 (Aug. 19, 2026) (''Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Equity 4, Rule 3100 Regarding Trading Halts'') (File No. SR–PHLX–2026–51). Therefore, as part of this filing, the Exchange proposes to delete this disclaimer in Rule 3100. The same disclaimer is also found at the top of Rules 3301A, 3301B, and 3307. However, those are only online disclaimers that the Exchange did not add to its rule text. Those online-only disclaimers will be deleted once the other references to CORE FIX are deleted from the Exchange's rule text, pursuant to this filing.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PHLX–2026–65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PHLX–2026–65. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PHLX–2026–65 and should be submitted on or before December 3, 2026.

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–22957 Filed 11–10–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106838; File No. SR–NYSE–2026–54]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 7.35 and 7.35A

November 6, 2026.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 28, 2026, New York Stock Exchange LLC (''NYSE'' or 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 amend Rules 7.35 and 7.35A to change when the Exchange begins disseminating Auction Imbalance Information for an IPO Auction. The proposed rule change is available on the Exchange's website at *www.nyse.com* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[13] 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.

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 Rule 7.35 (General) and Rule 7.35A (DMM-Facilitated Core Open and Trading Halt Auctions) to change when the Exchange begins disseminating Auction Imbalance Information for an IPO Auction. Specifically, the Exchange proposes to begin disseminating such information at the later of (A) 8:00 a.m. Eastern Time (''ET''), or (B) the earlier of (i) the time the Designated Market Maker (''DMM'') publishes the first pre-opening indication for the security pursuant to Rule 7.35A(d), or (ii) 10:00 a.m. ET.

As discussed below, the Exchange currently begins disseminating Auction Imbalance Information for an IPO Auction at 8:00 a.m. ET, the same time applicable to all other Core Open Auctions, without regard to whether the underwriting syndicate has completed the IPO distribution process. This approach differs from that taken by at least one other national securities exchange, as described below. The Exchange believes that disseminating Auction Imbalance Information before the underwriting syndicate has finalized the distribution may result in information that does not reflect material aspects of the transaction and may therefore be misconstrued by market participants as indicative of the anticipated market for the security. The proposed change would better align the dissemination of Auction Imbalance Information with the liquidity formation process, thereby increasing transparency and reducing the potential for confusion, while preserving 8:00 a.m. ET as the earliest time such information may be disseminated, consistent with all other Core Open Auctions.

Background

Rule 7.35(c) governs the Exchange's dissemination of Auction Imbalance Information. Rule 7.35(c)(1) provides that Auction Imbalance Information is updated at least every second, unless there is no change to the information. Rule 7.35(c)(2) provides that Auction Imbalance Information is disseminated until the relevant Auction begins.

Rule 7.35A(e) governs the timing, content, and pricing of Auction Imbalance Information specifically for the Core Open Auction and Trading Halt Auction facilitated by a DMM.

Rule 7.35A(e)(1)(A) currently provides that, for the Core Open Auction, unless a security is halted, the

Exchange will begin disseminating Auction Imbalance Information at 8:00 a.m.

Rule 7.35A(e)(1)(D) further provides that the Exchange will not disseminate Auction Imbalance Information for the Core Open Auction if there is no ''Opening Reference Price,'' a term defined in Rule 7.35A(a). Rule 7.35A(e)(3) provides that the Imbalance Reference Price used in Auction Imbalance Information for the Core Open Auction is the Opening Reference Price, unless a pre-opening indication has been published, in which case it is the Opening Reference Price bounded by the pre-opening indication prices.

Historically, Rule 7.35(c)(3) provided that the Exchange would not disseminate Auction Imbalance Information at all for a security that was an IPO or Direct Listing and had not yet had its IPO Auction or Direct Listing Auction. In April 2020, in connection with the impact of the COVID–19 pandemic on the Exchange's Trading Floor operations, the Exchange adopted a series of temporary rule changes suspending this restriction so that Auction Imbalance Information would instead be disseminated for an IPO or Direct Listing in the same manner as for any other Core Open Auction.[4] This temporary relief was subsequently extended on several occasions.[5]

In November 2020, the Exchange proposed to make this change permanent,[6] which the Commission approved in 2021.[7] As part of that filing, the Exchange deleted former Rule 7.35(c)(3) in its entirety such that an IPO or Direct Listing that had not yet had its IPO Auction or Direct Listing Auction would no longer be excluded from Auction Imbalance Information dissemination, and would instead be included in the same 8:00 a.m. dissemination applicable to Core Open Auctions generally. To enable the underlying calculation to function for a security with no trading history, the Exchange also amended the definition of the reference price used in that calculation to provide that, for an IPO that had not yet had its IPO Auction, the reference price would be deemed to be the security's offering price.[8] The current definition of Opening Reference Price in Rule 7.35A(a) does not include an IPO-specific value. As described further below, the Exchange proposes to add such a value as part of this filing.

Proposed Rule Change

As noted, the Exchange's current practice of disseminating Auction Imbalance Information for an IPO Auction beginning at 8:00 a.m., *i.e.,* at the same time as for any other Core Open Auction, differs from the approach taken by at least one other national securities exchange. Nasdaq, for example, does not begin disseminating its order imbalance indicator for an initial public offering until the beginning of the ''Display Only Period'' applicable to that security, and the subsequent ''Pre-Launch Period'' does not end until Nasdaq receives notice from the underwriter that the security is ready to trade.[9] In addition, once disseminated, the reference price used in Nasdaq's imbalance indicator for an IPO is the price closest to the issuer's actual initial public offering price.[10] As a result, Nasdaq's imbalance information for an IPO is not disseminated until information reflecting the completion of the underwriting syndicate's process is available.

By contrast, because the Exchange currently begins disseminating Auction Imbalance Information for an IPO Auction at 8:00 a.m. ET, that information may be published before the underwriting syndicate has been finalized and before the DMM has issued a pre-opening indication reflecting the results of that process. At that stage, the information available to the Exchange, and therefore reflected in Auction Imbalance Information under the current approach, is limited. While the offering price generally would be known, along with Auction-eligible interest entered by market participants and electronically submitted Floor broker interest, the syndicate's distribution of the offering may not yet be complete, the underwriter may not yet have entered all interest intended to participate in the IPO Auction, and the DMM may not yet have received information from the underwriter relevant to determining the likely opening range for the security. In addition, because no pre-opening indication would yet have been published, the Imbalance Reference Price would be based solely on the offering price and would not reflect the DMM's assessment of the anticipated opening range. As a result, the imbalance, paired quantity, and related Auction Imbalance Information would reflect only a partial view of the interest ultimately expected to participate in the IPO Auction and would be measured against a reference price that has not yet been informed by the DMM's price discovery process. For a security with no trading history, the Exchange is concerned that Auction Imbalance Information disseminated under these circumstances may create confusion among market participants, who may reasonably view published imbalance information as representative of overall market interest when material aspects of the offering process remain incomplete.

The Exchange believes that disseminating Auction Imbalance Information for an IPO Auction at the later of 8:00 a.m. ET or the earlier of the DMM's first pre-opening indication or 10:00 a.m. ET would address these concerns. A DMM's pre-opening indication is generally the mechanism by which an informed assessment of where an IPO security is likely to open is first made public. Under Rule

[4] *See* Securities Exchange Act Release No. 88705 (April 21, 2020), 85 FR 23413 (April 27, 2020) (SR–NYSE–2020–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add Commentary .04 to Rule 7.35A to Provide DMMs, for a Temporary Period, with Limited Remote Access to Floor-based Systems); Securities Exchange Act Release No. 88725 (April 22, 2020), 85 FR 23583 (April 28, 2020) (SR–NYSE–2020–37) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add Commentary .01 to Rule 7.35).

[5] *See* Securities Exchange Act Release No. 88933 (May 22, 2020), 85 FR 32059 (May 28, 2020) (SR–NYSE–2020–47) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Temporary Period for Specified Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C); Securities Exchange Act Release No. 89086 (June 17, 2020), 85 FR 37712 (June 23, 2020) (SR–NYSE–2020–52) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Add, for a Temporary Period that Begins on June 17, 2020, Commentary .06 to Rule 7.35A; Commentary .03 to Rule 7.35B; Supplementary Material .20 to Rule 76; and An Amendment to Supplementary Material .30 to Rule 36 to Support the Partial Return of Designated Market Makers to the Trading Floor); & Securities Exchange Act Release No. 90795 (December 23, 2020), 85 FR 86608 (December 30, 2020) (SR–NYSE–2020–106) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Temporary Period for Specified Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and Temporary Rule Relief in Rule 36.30).

[6] *See* SR–NYSE–2020–93 (filed November 3, 2020).

[7] *See* Securities Exchange Act Release No. 92373 (July 12, 2021), 86 FR 37779 (July 16, 2021) (SR–NYSE–2020–93) (Notice of Filing of Partial Amendment No. 2 and Order Granting Accelerated Approval to Proposed Rule Change, as Modified by Partial Amendment No. 2, to Amend NYSE Rules 7.35 and 7.35A).

[8] The Exchange subsequently renumbered former Rule 7.35(a)(11)(A) as Rule 7.35(a)(12)(A), and separately restructured Rule 7.35A to replace certain references to ''Consolidated Last Sale Price'' with the newly-defined term ''Opening Reference Price.'' *See* Securities Exchange Act Release No. 91143 (February 17, 2021), 86 FR 11024 (February 23, 2021) (SR–NYSE–2021–13) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.35C To Change the Auction Reference Price for Exchange-Facilitated Core Open Auctions); Securities Exchange Act Release No. 104856 (February 18, 2026), 91 FR 8550 (February 23, 2026) (SR–NYSE–2026–08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change for Amendments to Rule 7.35A and Rule 7.35C).

[9] *See* Nasdaq Rule 4120(b)(4)(c)(i).

[10] *See* Nasdaq Rule 4753(a)(3).

7.35A(d), a pre-opening indication identifies the security and the price range within which the Auction Price is anticipated to occur. It is disseminated through the securities information processor and the Exchange's proprietary data feeds so that it is available to all market participants simultaneously, and its publication requires supervision and approval of a Trading Official. A published indication must be updated if the anticipated Auction Price would fall outside the published range, the DMM generally must wait a prescribed period after publishing an indication before opening the security, and the Exchange will not permit a security to open outside the most recently published indication range.[11]

Moreover, Rule 7.35A(d) does not prescribe an earliest time at which a DMM may publish a pre-opening indication. Accordingly, if a DMM receives sufficient information from an underwriter before 8:00 a.m. ET to formulate an anticipated opening range, the DMM could publish an indication before that time. Under the proposal, Auction Imbalance Information would nevertheless begin to be disseminated no earlier than 8:00 a.m. ET. In those circumstances, because the Imbalance Reference Price is bounded by the prices contained in a published indication, the first disseminated Auction Imbalance Information would already reflect the DMM's publicly disclosed assessment of the anticipated opening range. Because the indication would already be publicly available, market participants would have access to the DMM's anticipated pricing range before any Auction Imbalance Information is disseminated. The proposal therefore would not withhold from the market the information that the Exchange believes is most relevant to understanding where an IPO security is expected to open.

The Exchange believes that 8:00 a.m. ET is the appropriate floor for the dissemination of Auction Imbalance Information for IPO Auctions. Under Rule 7.35A(e)(1)(A), 8:00 a.m. ET is the time at which the Exchange begins disseminating Auction Imbalance Information for all other Core Open Auctions, and market participants and their systems are accustomed to receiving auction information beginning at that time. Retaining that start time for IPO Auctions preserves a uniform and predictable framework for the dissemination of Core Open Auction information across all securities rather than introducing an IPO-specific dissemination schedule. In addition, because the 8:00 a.m. ET floor can only defer, and never accelerate, the dissemination of Auction Imbalance Information relative to current practice, the proposal cannot result in information for an IPO Auction being disseminated earlier than it is today.

Similarly, the Exchange believes that 10:00 a.m. ET is the appropriate backstop. Because a DMM is not required to publish a pre-opening indication in every IPO Auction, the Exchange believes a time-based backstop is necessary to ensure that Auction Imbalance Information continues to be disseminated even where no indication is published. Absent such a provision, Auction Imbalance Information could potentially be withheld indefinitely solely because a pre-opening indication was not required under Rule 7.35A(d). The Exchange therefore believes that a fixed dissemination deadline promotes transparency while preserving the benefits of linking dissemination to the publication of a pre-opening indication where one is available.

In addition, 10:00 a.m. ET is thirty minutes after the commencement of Core Trading Hours, which is the point after which, under Rule 7.35A(a)(4)(A), an opening is considered a Delayed Opening for which the DMM should consult with a Trading Official. By that time, the Exchange believes the underwriter generally will have had a substantial opportunity to complete the syndicate's distribution of the offering and to enter interest intended to participate in the IPO Auction. The Exchange also believes that market participants would reasonably expect Auction Imbalance Information to be available at that stage of the opening process.

If no pre-opening indication has been published by 10:00 a.m. ET, the Exchange would begin disseminating the same Auction Imbalance Information currently disseminated for any Core Open Auction under Rule 7.35A(e)(2), including the total imbalance and its side, the paired quantity, and the Continuous Book Clearing Price calculated using all interest eligible to participate in the IPO Auction at that time, including Floor broker interest, plus the Imbalance Reference Price. Because no pre-opening indication would have been published, the Imbalance Reference Price would be the Opening Reference Price alone, which for an IPO that has not yet opened would be the security's offering price unbounded by an indication range. This is the same information the Exchange currently disseminates beginning at 8:00 a.m. ET. Accordingly, the proposal would modify only the timing of dissemination for an IPO Auction, not the content of the information disseminated. However, the Exchange believes that by 10:00 a.m. ET, such information is more likely to reflect the interest that will participate in the IPO Auction than information disseminated at 8:00 a.m. ET before the underwriting process has matured. In the absence of a published DMM indication, the Exchange believes that the offering price remains the most appropriate available reference point against which to measure that interest.

In short, the Exchange believes the proposal appropriately balances transparency and accuracy in IPO Auctions. Retaining 8:00 a.m. ET as a floor preserves the dissemination schedule applicable to all other Core Open Auction, while the 10:00 a.m. ET backstop ensures that Auction Imbalance Information will not be withheld indefinitely in the absence of a pre-opening indication. The Exchange therefore believes the proposal would improve the usefulness of Auction Imbalance Information and reduce the potential for investor confusion arising from the dissemination of imbalance data before the IPO price discovery process has sufficiently developed.

To effectuate these changes, the Exchange proposes to amend Rules 7.35 and 7.35A as follows.

First, the Exchange proposes to add new Rule 7.35(c)(3) to provide that, for an IPO Auction, the Exchange will begin disseminating Auction Imbalance Information at the later of (A) 8:00 a.m. ET, or (B) the earlier of (i) the time the DMM publishes the first pre-opening indication for the security pursuant to Rule 7.35A(d), or (ii) 10:00 a.m. ET. Once the Exchange begins disseminating such information, it will be disseminated in accordance with Rule 7.35A(e)(1)–(3) and updated as provided in Rule 7.35(c)(1).

Second, the Exchange proposes to amend Rule 7.35A(e)(1)(A) to exclude an IPO Auction from the general rule that Auction Imbalance Information for the Core Open Auction begins disseminating at 8:00 a.m., and to cross-reference new Rule 7.35(c)(3) for the timing applicable to an IPO Auction.

[11] A DMM is not required to publish a pre-opening indication in every IPO Auction. Under Rule 7.35A(d)(1), a DMM must publish a pre-opening indication if the anticipated Auction Price is expected to differ from the Indication Reference Price, which for an IPO is the offering price, by more than the Applicable Price Range specified in Rule 7.35A(d)(3). A DMM may also publish a pre-opening indication in other circumstances. Accordingly, where a DMM anticipates that an IPO will open within the Applicable Price Range of the offering price, the security may open without a pre-opening indication having been published.

Third, the Exchange proposes to amend the definition of ''Opening Reference Price'' in Rule 7.35A(a) to provide that, for an IPO that has not had its IPO Auction, the Opening Reference Price means the security's offering price. This amendment ensures that the Imbalance Reference Price calculation in Rule 7.35A(e)(3) functions as intended once Auction Imbalance Information begins disseminating for an IPO Auction under new Rule 7.35(c)(3), consistent with how the corresponding reference price for an IPO was defined before the rule's subsequent renumbering and restructuring, as described above.

The proposed change is limited to IPO Auctions and does not apply to Direct Listings, which are not priced through an underwritten offering and whose reference price under Rule 7.35A(d)(2)(A) does not depend on completion of a syndicate's book-building process. In addition, Auction Imbalance Information disseminated under the proposal would be available to all market participants in the same manner as for any other Core Open Auction.

Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation of this change by Trader Update. The Exchange is prepared to implement the proposed rule change no later than the first quarter of 2027.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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 and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that aligning the timing of Auction Imbalance Information dissemination for an IPO Auction with the availability of the DMM's pre-opening indication, subject to an 8:00 a.m. ET floor and a 10:00 a.m. ET backstop, would promote just and equitable principles of trade and protect investors and the public interest by reducing the likelihood that market participants receive and rely upon Auction Imbalance Information that does not yet reflect material information about the offering process, such as the completion of the underwriting syndicate's process. The Exchange believes that the current practice of disseminating such information at a fixed time without regard to whether that process has concluded creates the potential for investor confusion regarding the reliability of the information disseminated, and that the proposed rule change would remove that potential source of confusion. As described above, the current rule was adopted and made permanent during the pandemic. With the passage of time, the Exchange is in a better position to fully appreciate the potential disadvantages of this approach to the investing public. The Exchange further believes that retaining the 8:00 a.m. ET floor and the 10:00 a.m. ET backstop appropriately balances the goal of disseminating more reliable information against the importance of timely transparency into the auction process: the floor ensures that Auction Imbalance Information for an IPO Auction is never disseminated earlier than for any other Core Open Auction, and the backstop ensures that such information is not withheld indefinitely absent a pre-opening indication.

The Exchange also believes that the proposed floor and backstop times are reasonably designed to protect investors and the public interest. The 8:00 a.m. ET floor is the same time at which auction information is first disseminated for every other Core Open Auction, and any pre-opening indication published earlier would already be publicly available through the securities information processor and proprietary data feeds. The 10:00 a.m. ET backstop coincides with the point, thirty minutes after the start of Core Trading Hours, after which the Exchange's rules treat an opening as delayed, and the information disseminated at that time in the absence of a pre-opening indication would be the same Auction Imbalance Information that is disseminated today. As a result, the proposal would not reduce the content of the information available to market participants; it would defer, by a defined and limited period, the initial dissemination of that information at a time when it is most likely to be unrepresentative.

Further, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by more closely aligning the Exchange's practice with that of at least one other national securities exchange for a comparable product, thereby reducing a source of inconsistency that market participants may otherwise encounter when comparing the reliability of imbalance information for IPOs across trading venues.[14]

Finally, the Exchange believes that amending the definition of Opening Reference Price to include an IPO-specific value is necessary and appropriate to ensure that the Auction Imbalance Information disseminated pursuant to the proposed rule change best reflects a defined and predictable reference price, consistent with the manner in which the Exchange previously defined the analogous reference price for an IPO before that provision was renumbered and restructured. The Exchange believes that this amendment removes impediments to and perfects the mechanism of a free and open market and a national market system by ensuring that the rule operates as intended and does not leave the calculation of the Imbalance Reference Price for an IPO Auction undefined.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is limited to the timing of Auction Imbalance Information dissemination for an IPO Auction and does not otherwise alter the manner in which DMMs or any other market participants interact with the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition, because the proposed timing would apply equally to all IPO Auctions on the Exchange, and the resulting Auction Imbalance Information would be made available to all market participants at the same time and in the same manner. The proposed rule change does not create any special or differential

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Nasdaq Rule 4120(b)(4)(c)(i) and text accompanying notes 9–10, *supra.*

treatment for any category of market participant.

The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition. To the contrary, the Exchange believes that the proposed rule change may reduce a source of intermarket inconsistency by more closely aligning the Exchange's practice for IPO Auction Imbalance Information with that of at least one other national securities exchange, thereby facilitating more consistent expectations among market participants trading IPOs across multiple venues.

Accordingly, for the foregoing reasons, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] 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 SR–NYSE–2026–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2026–54. 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–NYSE–2026–54 and should be submitted on or before December 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

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[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 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.

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106841; File No. SR–KALSHIEX–2026–03]

Self-Regulatory Organizations; KalshiEX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Listing Standards for Security Futures Products

November 6, 2026.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on November 4, 2026, KalshiEX LLC (''Kalshi'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. Kalshi also has certified the proposed rule change with the Commodity Futures Trading Commission (''CFTC'') under Section 5c(c) of the Commodity Exchange Act (''CEA'') [3] on November 4, 2026.

I. Self-Regulatory Organization's Description and Text of the Proposed Rule Change

Kalshi proposes to revise certain of its listing standards applicable to the underlying securities of perpetual security futures products listed on Kalshi (''Perpetual SFPs'' and such underlying securities, ''Underlying Securities'') to reduce the time to market for the listing and trading of Perpetual SFPs on certain covered securities following their initial public offering (''IPO''). The scope of this filing is limited solely to the application of the proposed rule change to Perpetual SFPs that may be traded on Kalshi. The text of the rule change is provided in Exhibit 4 to the filing.

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

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 7 U.S.C. 7a–2(c).

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

Kalshi is registered with the Commodity Futures Trading Commission (''CFTC'') as a designated contract market (''DCM'') under the Commodity Exchange Act (''CEA'') and notice-registered with the Commission as a national securities exchange for security futures products pursuant to the notice registration provisions of Section 6(g) of the Act.[4]

Under its notice-registration, Kalshi lists as security futures cash-settled contracts that convey exposure to the price of an underlying equity security, have no pre-specified expiration date and are designated as Perpetual SFPs in their respective contract specifications, pursuant to listing standard rules for security futures products that it has adopted under a separate rule filing under Section 19(b)(7) of the Act[5] and Rule 19b–7 thereunder[6] filed on September 18, 2026.[7]

In light of anticipated trading interest, Kalshi plans to reduce the time to market for the listing and trading of Perpetual SFPs on certain covered securities following their initial public offering (''IPO''). To effect this plan, Kalshi proposes to adopt certain rule changes to the introductory language in Rule 14.3 and Rules 14.3(c) and 14.3(d) of Chapter 14 of the Kalshi Rulebook.

Description of Proposed Rule Change

Rule 14.3 of Kalshi's Rulebook sets forth the initial listing eligibility criteria for Underlying Securities of Perpetual SFPs listed on the Exchange. Rule 14.3 requires that an Underlying Security that is common stock satisfy several criteria at the time of initial listing in order to be eligible for a Perpetual SFP on the Exchange, including that the Underlying Security must (i) pursuant to Rule 14.3(a), be registered and listed on a U.S. national securities exchange and must be an ''NMS security'' as defined in Section 11A of the Exchange Act[8] and Rule 600(b) of SEC Regulation NMS,[9] (ii) pursuant to Rule 14.3(b), have a market capitalization of not less than $100,000,000,000 (one hundred billion U.S. dollars), (iii) pursuant to Rule 14.3(c), have an average daily value of transactions (''ADTV'') of not less than $450,000,000 (four hundred and fifty million U.S. dollars) over the six months immediately preceding the New Product Committee's review, except where the Underlying Security has been listed for trading for less than six months, in which case the Underlying Security must have an ADTV of not less than $1,000,000,000 (one billion U.S. dollars) over the prior month, (iv) pursuant to Rule 14.3(d), if the Underlying Security is a ''covered security'' as defined in Section 18(b)(1)(A) of the Securities Act of 1933,[10] have had a closing price of at least $3.00 for the previous five consecutive business days preceding the listing of a Perpetual SFP on such Underlying Security (or a closing price of at least $7.50 for the same period if the Underlying Security is not a ''covered security''), (v) pursuant to Rule 14.3(e), have a public float of not less than 7,000,000 (seven million) shares, (vi) pursuant to Rule 14.3(f), have an estimated deliverable supply in excess of 20,000,000 (twenty million) shares, (vii) pursuant to Rule 14.3(g), have an issuer that is current in all periodic reporting obligations under Sections 13 or 15(d) of the Act,[11] and (viii) pursuant to Rule 14.3(j), have at least 2,000 security holders (whether of record or beneficial).

The initial eligibility criterion regarding trading volume history of potential Underlying Securities in Rule 14.3(c) is framed in terms of ADTV over the prior month, so does not contemplate Underlying Securities with exchange-trading histories of less than one month. Accordingly, under the current rule, if an IPO occurs on a given day, the earliest date that the Exchange could list a Perpetual SFP on such security would be one month following such date. The Exchange therefore proposes to amend Rule 14.3(c) to provide that, ''where the Underlying Security has been listed for trading for less than one month, . . . the Underlying Security must have had a trading volume (in all markets in which it is traded) of at least 2,400,000 shares since the Underlying Security's initial public offering day.'' The Exchange also proposes to include a definition of ''initial public offering day'' in the introductory language in Rule 14.3, which would define ''initial public offering day'' of an Underlying Security as ''the first day on which the Underlying Security trades 'regular way' on a national securities exchange.''

As proposed, this rule change would permit the Exchange to list a Perpetual SFP on an Underlying Security with a trading volume of 2,400,000 shares since its IPO, regardless of the length of time between the IPO and the New Product Committee's review of the Underlying Security, subject to satisfaction of all other initial eligibility criteria in Rule 14.3, as amended herein. This proposed amendment is consistent with the trading volume criteria adopted by securities options exchanges with respect to the eligibility criteria for underlying securities of securities options, which require such underlying securities to have had a total trading volume of 2,400,000 shares in the preceding twelve months without specifying a monthly ADTV requirement or any minimum lookback period.[12]

Additionally, the minimum share price criterion in Rule 14.3(d) requires the market price per share of an underlying covered security to have been at least $3.00 for the previous five consecutive business days preceding the date on which the Exchange commences to list and trade a Perpetual SFP on such Underlying Security (the ''five-day lookback period''). Under the current rule, even assuming adoption of the proposed amendment to Rule 14.3(c) discussed above, if an IPO occurs on a Monday, the earliest date the Exchange could list a Perpetual SFP on the relevant security would be the following Monday, with the market price determined by the closing price over the five-day lookback period from the Monday of the IPO through the following Friday.

The Exchange proposes to waive the five-day lookback period in Rule 14.3(d) for certain covered securities for the first three business days following their IPO and accelerate the listing of Perpetual SFPs on such securities by up to three business days.[13] As proposed, the

[4] 15 U.S.C. 78f(g).

[5] 15 U.S.C. 78s(b)(7).

[6] 17 CFR 240.19b–7.

[7] *See* Self-Regulatory Organizations; KalshiEx LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Listing Standards for Security Futures Products, Exchange Act Release No. 34–106422 (Sept. 18, 2026) (SR–KALSHIEX–2026–02).

[8] 15 U.S.C. 78k–1.

[9] 17 CFR 242.600(b).

[10] 15 U.S.C. 77r(b)(1)(A).

[11] 15 U.S.C. 78m, 78o(d).

[12] *See, e.g.,* Nasdaq ISE LLC, Options 4, 3(b)(4); NYSE Am. LLC r. 915(b)(3). As discussed below, these exchanges specifically amended their rules to permit options trading on a security two business days after the security's IPO, which means that the security can satisfy the minimum 2,400,000 share trading volume requirement via trading during those business days without waiting 12 months.

[13] The proposed waiver of the five-day lookback period would only apply during the first three business days following the IPO day. Thereafter, Rule 14.3(d), including the five-day lookback

Exchange would permit, starting on or after the second business day following the covered security's IPO day (*i.e.,* not inclusive of the day of the IPO), the listing and trading of Perpetual SFPs on such security if it had a market capitalization of at least $3,000,000,000 (three billion U.S. dollars) based upon the offering price of its IPO. For example, under the proposed rule, if an IPO for a company with a market capitalization of $3 billion (based upon its offering price) occurs on a Monday, the Exchange could list a Perpetual SFP for trading on Wednesday, subject to the Underlying Security satisfying all other eligibility criteria in Rule 14.3, which could accelerate the listing and trading of Perpetual SFPs on IPO securities by up to three business days. This proposed amendment is also consistent with the listing standards of securities options exchanges, which have adopted parallel amendments to their rules in order to ''provide investors the opportunity to hedge their interest in IPO investments in a shorter amount of time than what [was then] permitted.'' [14] The Exchange submits that, like securities options on recently IPO'd securities, Perpetual SFPs on such securities will serve as valuable hedging tools to the trading community and help markets function efficiently by mitigating risks, thereby reducing volatility in the markets for such securities.

Other listing standards would apply, including the minimum $100,000,000,000 (one hundred billion U.S. dollars) current market capitalization requirement in Rule 14.3(b), which would be distinct from amended Rule 14.3(d) because it takes into account secondary trading after the IPO.

2. Statutory Basis

The Exchange believes that the proposed amendments to Rule 14.3 are consistent with Section 6 of the Act and, in particular, further the objectives of Sections 6(b)(1) [15] and 6(b)(5) [16] of the Act insofar as they are designed to ensure the compliance of the Exchange and its members with applicable provisions of the Act and Commission and Exchange rules, to prevent fraudulent and manipulative acts and to promote just and equitable principles of trade. The Exchange further believes that the proposed rule changes are consistent with Section 6(h)(3) [17] of the Act which contains detailed requirements for listing standards and conditions for trading security futures products.

Section 6(h)(3)(C) of the Act [18] requires that Kalshi's listing standards for Perpetual SFPs be no less restrictive than comparable listing standards for options traded on a national securities exchange. For the reasons discussed above, Kalshi believes that the eligibility standards for Underlying Securities for Perpetual SFPs under the proposed rule change are no less restrictive than comparable listing standards for exchange-traded options. Since certain securities options exchanges have a comparable listing standard,[19] Kalshi believes that the proposed rule change meets the requirement of Section 6(h)(3)(C) of the Act.

As discussed above, the Exchange proposes to reduce the time to market for the listing and trading of Perpetual SFPs on Underlying Securities that are covered securities following their IPO if they have a trading volume of 2,400,000 shares since their IPO and market capitalization of at least $3 billion based upon the offering price. Taken together, the amendments would reduce the time to market for Perpetual SFPs on such securities, as Perpetual SFPs on such securities would be permitted to be listed and traded on Kalshi starting on or after the second business day following the IPO (not including the day of the IPO) if all listing criteria in Rule 14.3 are satisfied, including the $100 billion market capitalization requirement in Rule 14.3(b).

The proposed rule change would require IPO securities to have had a trading volume of 2,400,000 shares since their IPO to list Perpetual SFPs on such securities prior to such securities having one month of trading history, and would only waive the five-day lookback period for covered securities following their IPO if they have a market capitalization of at least $3 billion based upon their IPO offering price.

The proposed change with respect to the trading volume criteria is equally stringent as the trading volume requirement in Staff Legal Bulletin No. 15 (''SLB 15''),[20] except in that it does not require an Underlying Security to have a 12 month trading history. Specifically, SLB 15 itself notes that its requirement for a security underlying a security futures product to have an average daily trading volume of at least 109,000 shares for the preceding 12 months ''is comparable to the requirement that a security underlying an option have a minimum monthly trading volume of 2.4 million shares for the preceding 12 months.'' [21]

The proposed change with respect to minimum share price would only waive the five-day lookback period for covered securities following their IPO if they have a substantial market capitalization of at least $3 billion based upon their IPO offering price. The Exchange believes that securities with such substantial market capitalizations at the IPO offering price are likely to satisfy the $3.00 market price per share five-day lookback period requirement. Further, the proposed market capitalization requirement of $3 billion based on the IPO offering price would ensure an objective qualification process for the waiver that would prevent market participants from being able to influence whether an IPO security qualifies for the waiver through trading in the security, which could be a concern if the threshold price was based on the market price of the shares following the IPO.

In accelerating the time to market for Perpetual SFPs on the types of large, high-profile IPO securities that would satisfy Exchange listing standards under the proposed amendments, the proposal does not materially change the listing process for Perpetual SFPs, nor does it propose to change any other eligibility criteria for Underlying Securities.

In addition, the Exchange represents that trading in IPO securities is subject to real-time market surveillance administered by the Exchange, with information sharing and coordination through its arrangements with the Intermarket Surveillance Group. The Exchange represents that these surveillances are designed to detect violations of Exchange rules and applicable federal law. Vigilant surveillance can help deter and detect violations of Exchange rules and the federal securities rules and regulations, and in so doing can help prevent fraudulent and manipulative acts and

period, would continue to apply as currently written.

[14] *See, e.g.,* NYSE American LLC, Form 19b–4, File No. SR–NYSEAMER–2023–27, 4 (Apr. 21, 2023); Nasdaq ISE, LLC, Form 19b–4, File No. SR–ISE–2023–16, 5–6 (Aug. 4, 2023). We note that the corresponding rule changes by the securities options exchanges were adopted in coordination with the Listed Options Market Structure Working Group, which identified the rule changes to help accelerate the time to market of options on covered securities with market capitalizations of at least $3 billion based on the IPO offering price and intended them to be ''harmonized across options exchanges.'' *Id.*

[15] 15 U.S.C. 78f(b)(1).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(h)(3).

[18] 15 U.S.C. 78f(h)(3)(C).

[19] *See supra* notes 12, 14.

[20] SEC Division of Market Regulation, Staff Legal Bulletin No. 15: Listing Standards for Trading Security Futures Products (Sept. 5, 2001), available at *https://www.sec.gov/interps/legal/mrslb15.htm.*

[21] SLB 15 at note 6.

practices, and, in general, protect investors and the public interest.[22]

Finally, the proposed rule changes are established criteria used by securities options exchanges. The Exchange believes that the experience of those options exchanges establishes that the proposed rule changes, along with the other initial eligibility criteria in Rule 14.3, are designed to provide investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

Kalshi does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposed rule change will promote competition by allowing Kalshi to list a broader array of single stock futures, without jeopardizing investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective on November 19, 2026.

At any time within 60 days of the effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) 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 (*http://www.sec.gov/rules/sro.shtml*);
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–KALSHIEX–2026–03 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 No. SR–KALSHIEX–2026–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of 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 No. SR–KALSHIEX–2026–03 and should be submitted on or before December 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–22958 Filed 11–10–26; 8:45 am]

BILLING CODE 8011–01–P

[22] 15 U.S.C. 78f(b)(5).

[23] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36384; File No. 812–16082]

Fidus Investment Corporation, et al.

November 9, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d&1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs''), closed-end management investment companies, and open-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Fidus Investment Corporation, Fidus Credit Opportunities, L.P., Fidus Equity Opportunities Fund, L.P., Fidus Mezzanine Capital, L.P., Fidus Mezzanine Capital II, L.P., Fidus Mezzanine Capital III, L.P., Fidus Mezzanine Capital IV, L.P., FIC Funding, LLC, Fidus Investment Holdings, Inc., and Fidus Investment Advisors, LLC.

FILING DATES: The application was filed on August 28, 2026, and amended on October 21, 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 December 4, 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: Edward H. Ross, Fidus Investment Corporation, *eross@fidusinv.com;* with copies to: Steven B. Boehm, Anne G. Oberndorf, Payam Siadatpour, Eversheds Sutherland (US) LLP, *stevenboehm@eversheds-sutherland.us, anneoberndorf@eversheds-sutherland.us, payamsiadatpour@eversheds-sutherland.us.*

FOR FURTHER INFORMATION CONTACT: Trace W. Rakestraw, 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' amended application, filed October 21, 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. 2026–23061 Filed 11–10–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106842; File No. SR–PHLX–2026–71]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Transaction Fees at Equity 7, Section 3

November 6, 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 30, 2026, Nasdaq PHLX LLC (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at PHLX Equity 7, Section 3.

These amendments are effective upon filing. However, they will become operative on November 2, 2026.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at PHLX Equity 7, Section 3. The Exchange proposes to streamline its schedule of credits to member organizations providing displayed liquidity on Nasdaq PSX, and to eliminate the supplemental credit to member organizations providing displayed liquidity on Nasdaq PSX .

First Change

Currently, the Exchange pays a credit to a member organization that provides liquidity on Nasdaq PSX through displayed quotes/orders. This credit currently has four separate tiers. The tiers are not labeled in the rule text, but this filing will refer to them as Tier 1 through Tier 4:

Tier 4	$0.0033 per share executed for Quotes/Orders entered by a member organization that provides 0.15% or more of total Consolidated Volume during the month.
Tier 3	$0.0032 per share executed for Quotes/Orders entered by a member organization that provides 0.07% or more of total Consolidated Volume during the month.
Tier 2	$0.0030 per share executed for Quotes/Orders entered by a member organization that provides 0.05% or more of total Consolidated Volume during the month.
Tier 1	$0.0020 per share executed for all other Quotes/Orders.

The Exchange proposes to eliminate Tiers 2, 3, and 4. Therefore, the Exchange would pay a member organization providing displayed liquidity on Nasdaq PSX a credit of $0.0020 per share executed for displayed quotes/orders entered by a member organization—regardless of how much volume the member organization provides during the month.

Second Change

The Exchange currently pays a supplemental credit to a member organization that provides liquidity on Nasdaq PSX through displayed quotes/orders. This is a supplemental credit of $0.00005 per share executed for displayed quotes/orders entered by a member organization that: (i) provides 0.10% or more of total Consolidated Volume during the prior month; and (ii) provides 0.10% or more of total Consolidated Volume during the month. The Exchange proposes to eliminate this supplemental credit.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4) and (5).

regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''[5]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[6]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal reflects the Exchange's ongoing assessment of how to allocate its limited incentive resources in a competitive market and how to maintain a schedule of credits that is understandable and administrable for member organizations.

First Change

The Exchange believes that eliminating the three volume-based displayed liquidity credit tiers and retaining the existing $0.0020 per share executed credit for all displayed Quotes/Orders is reasonable because it will streamline the schedule and make the applicable credit easier for member organizations to understand and apply. The Exchange has limited resources to devote to incentive programs, and it is appropriate for the Exchange to periodically reallocate those incentives in a manner that best achieves its overall mix of objectives. The proposal is equitable and not unfairly discriminatory because, after the change, each member organization that provides displayed liquidity on Nasdaq PSX will be eligible for the same $0.0020 per share executed credit for displayed Quotes/Orders, regardless of the member organization's monthly volume. Although member organizations that could have previously qualified for one of the eliminated higher tiers would receive a lower credit, those member organizations will remain eligible for the same displayed-liquidity credit as all other similarly situated member organizations, and any participant that views the Exchange's pricing as unattractive may route order flow to competing venues that offer more favorable pricing or less stringent qualifying criteria. Furthermore, because the eliminated credit tiers have experienced zero utilization for an extended period of time, the elimination serves primarily to streamline the Exchange's fee schedule without impacting any active participant behavior.

Second Change

The Exchange also believes that eliminating the supplemental displayed-liquidity credit is reasonable, equitable, and not unfairly discriminatory. The supplemental credit is an additional incentive layered on top of the displayed-liquidity credit described above and is available only when a member organization satisfies both a prior-month and current-month Consolidated Volume threshold. Eliminating that additional incentive will further simplify the fee schedule and allow the Exchange to allocate its limited incentive resources in the manner it believes best serves the Exchange's current needs. The change is equitable and not unfairly discriminatory because the supplemental credit will be eliminated in its entirety and will no longer be available to any member organization, while member organizations that provide displayed liquidity will remain eligible for the generally applicable displayed-liquidity credit. Moreover, any member organization that is dissatisfied with the elimination of the supplemental credit may route its order flow to competing venues that provide more favorable incentives or less stringent qualifying criteria.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

First Change

In terms of intramarket competition, the Exchange does not believe that eliminating the three volume-based displayed-liquidity credit tiers will place any category of Exchange participant at a competitive disadvantage. The change will apply uniformly to all member organizations that provide displayed liquidity on Nasdaq PSX because the same $0.0020 per share executed credit will apply to all displayed Quotes/Orders. To the extent that the change reduces credits for member organizations that previously satisfied one of the higher volume thresholds, the Exchange believes any burden is limited by the voluntary and competitive nature of the Exchange's execution services, the availability of competing exchanges and off-exchange venues, and the ability of market participants to modify their order routing practices in response to credit changes. The Exchange therefore does not believe that the First Change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

Second Change

The Exchange likewise does not believe that eliminating the supplemental displayed-liquidity credit will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of intramarket competition, the supplemental credit will be eliminated in its entirety and will no longer be available to any member organization,

[5] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782–83 (Dec. 9, 2008) (SR–NYSEArca–2006–21)).

[6] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

and member organizations that provide displayed liquidity will continue to be eligible for the generally applicable displayed-liquidity credit. In terms of intermarket competition, the change concerns an optional credit in a market where exchange execution services are subject to extensive competition from other exchanges and off-exchange venues. If the elimination of the supplemental credit is unattractive to market participants, they may adjust their order routing practices, and competing venues may modify their own fees and credits in response. Accordingly, the Exchange does not believe that the Second Change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PHLX–2026–71 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PHLX–2026–71. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PHLX–2026–71 and should be submitted on or before December 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–22959 Filed 11–10–26; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21952 and #21953; NEW MEXICO Disaster Number NM–20027]

Presidential Declaration Amendment of a Major Disaster for the Pueblo of Zuni

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Pueblo of Zuni (FEMA–4954–DR), dated October 7, 2026.

Incident: Severe Storms and Flooding.

DATES: Issued on November 6, 2026.

Incident Period: July 16, 2026 through July 21, 2026.

Physical Loan Application Deadline Date: December 14, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: July 7, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the Pueblo of Zuni, dated October 7, 2026, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to December 14, 2026.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008).

(Authority:13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery.

[FR Doc. 2026–23014 Filed 11–10–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #22044 and #22045; TEXAS Disaster Number TX–20085]

Presidential Declaration of a Major Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Correction.

SUMMARY: This is a correction to the notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–4935–DR), dated October 30, 2026.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

DATES: Issued on November 6, 2026.

Incident Period: July 12, 2026 through August 4, 2026.

Physical Loan Application Deadline Date: December 29, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: July 30, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Milton Murphy, Office of Disaster Recovery, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Texas, dated October 30, 2026, published November 4, 2026 at 91 FR 69630, is hereby corrected to update the incident period as July 12, 2026 through August 4, 2026 and to update the physical loan

application deadline date to December 29, 2026. All other information remains the same. Applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Bandera, Bexar, Comal, Crockett, Dimmit, Frio, Gillespie, Kendall, Kerr, Kimble, Kinney, La Salle, Maverick, Medina, Real, Schleicher, Sutton, Uvalde, Val Verde, Zavala.

Contiguous Counties (Economic Injury Loans Only):

Texas: Atascosa, Blanco, Concho, Crane, Duval, Edwards, Guadalupe, Hays, Irion, Llano, Mason, McMullen, Menard, Pecos, Reagan, Terrell, Tom Green, Upton, Webb, Wilson.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 220446 and for economic injury is 220450.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery.

[FR Doc. 2026–23016 Filed 11–10–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #22049 and #22050; TENNESSEE Disaster Number TN–20038]

Administrative Declaration of a Disaster for the State of Tennessee

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Administrative declaration of a disaster for the state of Tennessee dated November 6, 2026.

Incident: Severe Storms and Straight-Line Winds.

DATES: Issued on November 6, 2026.

Incident Period: August 22, 2026.

Physical Loan Application Deadline Date: January 5, 2027.

Economic Injury (EIDL) Loan Application Deadline Date: August 6, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Milton Murphy, Office of Disaster Recovery, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary County: Shelby.

Contiguous Counties:

Tennessee: Fayette, Tipton.

Arkansas: Crittenden, Mississippi.

Mississippi: Desoto, Marshall.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	6.000
Homeowners without Credit Available Elsewhere	3.000
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 22049B and for economic injury is 220500.

The states which received an SBA Administrative declaration are Arkansas, Mississippi, Tennessee.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery.

[FR Doc. 2026–23019 Filed 11–10–26; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2026–11749; Summary Notice No. 2026–30]

Petition for Exemption; Summary of Petition Received; Heavenbound Aviation

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and

must be received on or before December 2, 2026.

ADDRESSES: Send comments identified by docket number FAA–2026–11749 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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, 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 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrew Thai, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, at 202–267–9677.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan A. Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2026–11749.

Petitioner: Heavenbound Aviation.

Section(s) of 14 CFR Affected: § 22.100(a)(7).

Description of Relief Sought: Petitioner seeks a one-year exemption from § 22.100(a)(7) to allow light sport category aircraft to continue being certificated under the ASTM International standards that were previously accepted by the FAA in Light-Sport Aircraft, Notice No. NOA–21–01 [87 FR 10275] published on February 23, 2022, and in effect prior to July 24, 2026, while manufacturers transition to the new 14 CFR part 22 rules.

[FR Doc. 2026–22960 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2026–02: Advanced Chemistry Battery Hazards in Passenger Railcar Operations

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of Safety Advisory.

SUMMARY: FRA is issuing Safety Advisory 2026–02 to alert the passenger rail industry to the severe safety risks associated with advanced chemistry batteries, such as lithium-ion battery (LiB) power sources, carried aboard passenger railcars within electric micromobility vehicles (EMVs). Recent full-scale testing shows that thermal runaway in these battery systems poses rapid and potentially catastrophic thermal, toxicological, and visibility hazards inside passenger railcars. This Safety Advisory recommends specific operational, training, and emergency planning and response mitigations to protect passengers and crew members.

FOR FURTHER INFORMATION CONTACT: Michael Hunter, Staff Director, Passenger Rail Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 579–5508, *Michael.Hunter@dot.gov.*

Disclaimer: This Safety Advisory is considered guidance pursuant to 49 CFR part 5, subpart C. Except when referencing laws, regulations, policies, or orders, the information in this Safety Advisory does not have the force and effect of law and is not binding in any way. This document does not revise or replace any previously issued guidance.

SUPPLEMENTARY INFORMATION:

Background and Electrochemical Failure Mechanisms

Underwriters Laboratories Fire Safety Research Institute (UL FSRI) Test Report [1]

EMVs, which encompass e-bicycles, e-scooters, e-unicycles, and hoverboards, have experienced a surge in popularity for first- and last-mile transit connectivity. The rapid integration of passenger transit with EMV travel has introduced high-energy-density electrochemical storage systems (*i.e.,* the LiB power sources on the EMVs) directly into occupied passenger railcars. While these vehicles provide notable societal benefits, their power systems represent a unique hazard in enclosed transport environments. The primary safety vulnerability stems from the potential for one of the high-energy-density electrochemical storage systems, such as a LiB pack, to undergo thermal runaway, an uncontrolled, self-sustaining exothermic reaction that occurs when internal heat generation exceeds the battery's ability to dissipate that heat.

LiB failures are typically initiated by three distinct abuse modes:

- *Electrical Abuse:* Overcharging, over-discharging, or experiencing internal or external electrical short-circuits.
- *Thermal Abuse:* Exposure to high temperatures, environmental overheating, or external fire exposure.
- *Mechanical Abuse:* Physical damage, structural crushing, shock or impact, or localized penetration of individual battery cells.

To quantify these hazards, researchers at the UL FSRI conducted full-scale experiments inside an 85-foot, 72-passenger railcar to evaluate the dangers of EMV battery fires. They triggered thermal runaway (an uncontrollable, self-heating battery failure) in four common EMVs (a standing e-scooter, an e-bicycle, and two seated e-scooters) placed in standard passenger storage locations to measure heat, smoke, and toxic gas buildup.

UL FSRI Findings

The UL FSRI report uncovered two main immediate threats to passengers: (1) extreme heat experienced within 10 feet of the device; and (2) toxic asphyxiant gases filling the passenger car. The UL FSRI report explained that when the devices were forced into thermal runaway, the failing batteries suddenly vented flammable gas that

[1] FRA does not discuss the UL FSRI test report in its entirety in this Safety Advisory. For more information, visit *https://doi.org/10.60752/102376.32136697.*

ignited into a fireball with little to no warning. Extreme heat within 10 feet (3 meters) created life-threatening conditions for nearby passengers in 20 to 60 seconds. Also, hot smoke traveled end-to-end through the 85-foot railcar in just 19 to 34 seconds. Complete loss of visibility occurred across the car between 1 minute 48 seconds and 4 minutes 6 seconds, which can severely hinder passenger and crew egress speeds. In addition to loss of visibility, the researchers found that dangerous asphyxiant gases accumulated quickly. Based on fractional effective dose, a standard fire safety engineering calculation used to estimate human incapacitation, the air throughout the entire railcar became toxic to breathe in 3 minutes 37 seconds to 7 minutes 8 seconds.

The test report demonstrates that failing LiBs create severe, life-threatening conditions very quickly. Occupants (passengers and crew members) within 10 feet of a failing LiB that enters thermal runaway are exposed to both threats immediately (toxic gas and extreme heat) that can overcome an individual within 20 to 60 seconds. But what is more concerning is that the majority of occupants are exposed to toxic asphyxiant gas without immediately recognizing the threat. Those located away from the immediate proximity of a LiB entering thermal runaway will be exposed to those gases and incapacitated quickly.

FRA Regulations

Fire Safety

Under 49 CFR 238.103, railroads are required to execute a written fire safety analysis (FSA) utilizing a formal safety methodology, such as MIL–STD–882, to identify inherent design hazards, evaluate emergency egress and ventilation systems, assess overheat protection, and determine the necessity of automatic fire suppression and smoke detection systems.[2] Further, railroads must adopt and strictly adhere to written procedures for the inspection, testing, and maintenance of all onboard fire safety systems and equipment to maintain continuous compliance.[3]

When a passenger railroad permits transportation of EMVs powered by LiB onboard passenger equipment, it introduces high-energy combustible fuel loads and severe thermal runaway ignition sources into the passenger car environment.[4] Because LiB failures can trigger rapid self-sustaining thermal reactions, intense heat generation, and toxic gas release that exceed baseline interior material flammability assumptions, accommodating these devices alters the overall risk profile and available ignition sources.[5] Under § 238.103(c) and (d), the railroad must conduct or update its FSA to re-evaluate whether existing mitigations remain sufficient to ensure safe passenger evacuation during a battery-initiated fire.[6] If the FSA indicates that the risk of personal injury from onboard LiB hazards is non-negligible or unacceptable within that operating environment, the railroad is required under § 238.103(c)(2) and (d)(1)(ii) to implement effective remedial safety measures, such as establishing fire-isolated containment areas, prohibiting onboard battery charging, enforcing capacity thresholds, or instituting operational restrictions, to mitigate the fire risk to an acceptable level.

Passenger Train Emergency Preparedness

Under 49 CFR part 239, FRA prescribes minimum safety standards requiring passenger railroads and host railroads to adopt, implement, and comply with a written passenger train emergency preparedness plan (PTEPP) designed to reduce the magnitude and severity of casualties during emergency situations.[7] To manage effectively the unique hazards associated with onboard EMVs, passenger railroads should leverage their required PTEPP as a flexible, proactive tool. By voluntarily integrating micromobility risk mitigation procedures, such as designated stowage locations, LiB fire hazard training for onboard personnel, and tailored emergency response protocols, into their written plans, railroads can enhance overall system safety and operational readiness.[8]

Recommended Actions

Considering the above discussion, FRA recommends that railroads providing passenger rail service:

1. *Review Safety Research:* Review the UL FSRI report, ''Recommendations to Improve Passenger Railcar Safety During Electric Micromobility Vehicle Fires'' *available at https://doi.org/10.60752/102376.32136697.*

2. *Update FSAs:* Update their FSA under 49 CFR 238.103 to account for the increased on-board fire load if the railroad permits EMVs containing a LiB power source. Railroads should also implement mitigations developed as part of updating the FSA that reduce the level of risk to acceptable levels. For example, railroads could install non-combustible liners in designated storage locations to help mitigate the spread of fire to adjacent material.

3. *Prohibit Seat and Underseat Storage:* Prohibit storage of these devices at seat or underseat locations where devices are in proximity to interior materials that may contribute to the spread and severity of any potential onboard fire and where devices cannot be easily monitored by train crews or passengers for signs of overheating.

4. *Update Emergency Plans and Conduct Training:* Update written PTEPPs under 49 CFR part 239 with specific procedures for dealing with devices that appear to be overheating or have entered thermal runaway, especially while trains are operating in tunnels or on elevated structures. Those procedures should include instructions to crew members and other onboard employees to prioritize emergency egress of passengers away from the threat over attempting to extinguish or otherwise fight the thermal event. Once updated, conduct training for employees.

5. *Prohibit LiB-Powered Devices in End Cars:* Prohibit lithium-ion powered devices in the forward- or rear-most cars as a localized fire or thermal runaway event in these end cars could severely impede or entirely block critical egress vestibules and end-frame doors.

6. *Prohibit Onboard Battery Charging:* Prohibit the charging of these devices during passenger operations to eliminate a potential thermal runaway ignition source.

FRA encourages the railroad industry to take actions consistent with the preceding recommendations, and to take all actions that help ensure the safety of the Nation's railroad employees and the public. Nothing in this Safety Advisory alters any existing regulatory requirements, operating rules, or obligations under Federal law. FRA may modify this Safety Advisory 2026–02, issue additional safety advisories, or take other appropriate actions it deems necessary to ensure the highest level of safety on the Nation's railroads, including pursuing enforcement or other corrective measures under its rail safety authority.

Issued under authority delegated in 49 CFR 1.89.

John Karl Alexy,

Associate Administrator for Railroad Safety and Chief Safety Officer.

[FR Doc. 2026–23024 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–06–P

[2] § 238.103(c).

[3] § 238.103(e).

[4] § 238.103(c)(1).

[5] § 238.103(d)(5).

[6] § 238.103(c)(3) and (c)(6).

[7] §§ 239.1, 239.3, 239.101(a).

[8] § 239.1(b).

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–1849]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V BELLA VITA

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before December 14, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–1849 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search the above DOT Docket Number and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Ye Tian, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: *smallvessels@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.[1]

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at *https://www.regulations.gov.* Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at *https://www.regulations.gov,* keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–23056 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–81–P

[1] The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–1850]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V BRISEA

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before December 14, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–1850 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search the above DOT Docket Number and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Ye Tian, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: *smallvessels@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.[1]

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at *https://www.regulations.gov.* Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at *https://www.regulations.gov,* keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–23055 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–81–P

[1] The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0027]

Agency Information Collection Activities; Notice and Request for Comment; National Impaired Driving Paid Media Campaign Evaluation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comment on request for approval of a new collection of information.

SUMMARY: NHTSA invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. *This document describes a collection of information for which NHTSA intends to seek OMB approval on a national evaluation of NHTSA's impaired driving paid media campaign.*

DATES: Comments must be submitted on or before January 11, 2027.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2025–0027 through any of the following methods:

- *Electronic submissions:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W58–213, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Dr. DeReece Smither, Contracting Officer's Representative, Office of Behavioral Safety Research (NPD–310), *NHTSA.Alcohol@dot.gov,* National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–4000.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: National Impaired Driving Paid Media Campaign Evaluation.

OMB Control Number: New.

Form Number(s): NHTSA Forms 2054, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109.

Type of Request: New information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information: NHTSA is seeking approval to conduct an evaluation of its national paid media campaigns ''Drive Sober or Get Pulled Over'' and ''If You Feel Different, You Drive Different.'' The evaluation will consist of administering and collecting survey data from a random sample of drivers who at least occasionally drink alcohol and are aged 18 and overusing a nationally representative online survey panel. Panelists aged 18–34 will be oversampled as this population typically has lower survey response rates. Participation will be voluntary and the estimated completion time for the survey will be 20 minutes.

The purpose of the questionnaire is to assess public awareness of the risks of alcohol- and other drug-impaired driving, campaign messaging effectiveness, and self-reported behavior change related to alcohol- and other drug-impaired driving. The questionnaire will be administered in English and Spanish. Cognitive testing of the English version of the survey was conducted to identify any problems and determine appropriate wording and sequencing of the questionnaire items by evaluating the quality of questions and the extent to which the questions gather the intended information. Cognitive testing consisted of one-on-one cognitive interviews with each of nine individuals selected from the general public. The cognitive interview participants were all drivers who had consumed at least one alcoholic beverage in the past month and spanned the age distribution 18 years and older with three participants aged 18–34 years old. Data collection will occur in four waves, with proposed timeframes for now and exact timeframes to be finalized at a later date:

- Wave 1 is the first pre-campaign survey, conducted immediately prior to the Labor Day paid media campaign run.
- Wave 2 is the post-campaign survey, immediately following the Labor Day paid media campaign run.
- Wave 3 is the second pre-campaign survey, conducted immediately prior to

the winter holiday paid media campaign run.

- Wave 4 is the post-campaign survey, immediately following the winter holiday paid media campaign run.

Description of the Need for the Information and Proposed Use of the Information: NHTSA's mission is to reduce deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of our mission, NHTSA (by delegation from the Secretary of Transportation) is authorized to conduct research for the development of traffic safety programs. Title 23, United States Code, Section 403 gives the Secretary of Transportation (NHTSA by delegation) authorization to use funds appropriated to conduct research and development activities. The agency develops, promotes, and implements educational, engineering, and enforcement programs with the goal of ending preventable tragedies and reducing economic costs associated with vehicle use and highway travel. Impaired driving is a long-standing highway safety problem.

This project will support NHTSA's efforts to decrease alcohol- and drug-impaired driving by evaluating impaired driving countermeasures to gauge effectiveness. The most recent evaluation was conducted in 2012, using telephone surveys. This project will update the survey methodology, as well as the questionnaire. Given that phone survey response rates have declined significantly in recent years, NHTSA intends to use a nationally representative online panel to conduct this survey. NHTSA will conduct pre- and post-campaign survey data collection to evaluate public awareness of the risks of alcohol- and drug-impaired driving and the campaign messaging, as well as self-reported behaviors related to alcohol- and drug-impaired driving. The Agency will update the questionnaire to focus on not just alcohol-impaired driving, but drug-impaired, specifically cannabis, driving as well as it was not evaluated in previous surveys. NHTSA will use the findings from this study to assess how public awareness (of impaired driving and the media campaigns) relates to self-reported impaired driving behaviors. The study's findings will also be used to improve NHTSA's future safety messaging campaigns and to inform other agency programmatic efforts to reduce impaired driving.

Affected Public: Ipsos will randomly select 10,400 respondents from KnowledgePanel®, an online national panel of 60,000 members. The selected participants—drivers aged 18 or older who self-report consuming alcohol at least occasionally—will complete the web survey in English or Spanish.

Estimated Number of Respondents: NHTSA aims to collect 2,600 completed surveys per wave of the study, of which there are four waves, for a total of 10,400 total completed surveys. The sampling plan also accounts for invited panelists who are screened out during initial eligibility checks. It is expected that about 5% of sampled panelists start a survey, but do not complete it. These are considered nonresponders, along with about 35% in the KnowledgePanel who generally do not start surveys at all. The total nonresponse rate is about 40%, although completion rates may be higher or lower depending on the survey. Based on panel profile data, an estimated 73% of KnowledgePanel adults aged 18 and older meet the preliminary eligibility criteria—holding a driver's license (used as a proxy for regular driving) and self-reporting alcohol use in the past month. Screening will focus on adult drivers who at least occasionally consume alcohol or other substances, ensuring 2,600 completed surveys per wave. The estimated number of participants who will be screened out during any single wave is 3,168. Across four waves, this totals 12,672 panelists. Therefore, the total expected reach is 23,072 panelists (10,400 completed responses and 12,672 incomplete or nonresponses).

Frequency: This is a one-time data collection occurring in four waves consisting of survey administration before and after two campaign deployments.

Estimated Total Annual Burden Hours: The total burden hours for those completing the survey are estimated to be 3,467 (rounded—10,400 respondents × 0.333 hours). The estimated completion time for the survey is 20 minutes. Therefore, the total annual burden hours for the study are estimated to be 1,156 hours (rounded).

NHTSA estimates the opportunity cost to respondents using an average hourly wage. The May 2024 mean hourly wage for all occupations in the Unites States was $32.66 per hour.[1] To ensure labor costs are inclusive of benefits, an additional 31.5% is added to equate to a fully loaded hourly labor cost of $42.95. Therefore, NHTSA estimates the total annual opportunity cost to be approximately $49,650.20 ($42.95 × 1,156 hours).

TABLE 1—SUMMARY OF TOTAL BURDEN HOURS AND ESTIMATED COSTS BY RESPONDENT STATUS

Information collection year (wave)	Number of respondents	Burden per response (minutes)	Hourly opportunity cost	Opportunity cost per response	Total opportunity costs	Total burden hours
2027 (Wave 1)	2,600	20	$42.95	$14.31	$37,223.33	866.67.
2028 (Waves 2–4)	7,800	20	42.95	14.31	111,670.00	2,600.00.
Total	10,400	20	42.95		148,893.33	3,466.67.
Annual Estimates across 3-Year Approval.	3,467 (rounded)				49,650.20	1,156 (rounded).

*U.S. Bureau of Labor Statistics. (2025, September 18). Occupational employment and wage estimates. Industry: Cross-industry, private, federal, state, and local government. May 2024. Hourly opportunity cost is the fully loaded wage inclusive of a 31.5% addition to the base hourly wage to account for fringe benefits.

Estimated Total Annual Burden Cost: Participation in this study is voluntary, and there are no costs to respondents beyond the time spent hearing about the study and participating in data collection if they decide to participate. Participants will incur no burden related to annual reporting or record keeping due to the collection of this new information.

Public Comments Invited: You are asked to comment on any aspects of this

[1] U.S. Bureau of Labor Statistics. (2023, April 25). May 2024 National Occupational Employment and Wage Estimates. *https://data.bls.gov/oes/#/industry/000000.*

information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Gamunu Ukwattege Wijetunge,

Acting Associate Administrator, Research and Program Development.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2026–0529]

Pipeline Safety: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), PHMSA is forwarding the information collection request described below to the Office of Management and Budget (OMB) for review and comment. PHMSA published a **Federal Register** notice with a 60-day comment period soliciting comment on this information collection on June 18, 2026.

DATES: Submit comments by December 14, 2026.

ADDRESSES: Submit comments regarding this information collection request by mail to Office of Management and Budget (OMB), Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503. Comments can also be submitted electronically at *www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: Angela Hill, Standards and Rulemaking Division, by email at *angela.hill@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under 5 CFR 1320.8(d), PHMSA must provide interested members of the public and affected agencies with the opportunity to comment on information collection and recordkeeping requests before the agency submits them to OMB for approval. In accordance with this requirement, PHMSA published a **Federal Register** notice providing a 60-day comment period on its intent to request OMB approval of the information collection requests described below.[1]

During the 60-day comment period, PHMSA received 10 comments—a joint comment from the American Gas Association (AGA) and the American Public Gas Association (APGA); a joint comment from the American Petroleum Institute (API) and the Liquid Energy Pipeline Association (LEPA); a joint comment from the Interstate Natural Gas Association of America (INGAA) and API; a comment from GPA Midstream Association (GPA Midstream); a comment from Summit Utilities Inc. (SUI); a comment from Environmental Defense Fund (EDF); a comment from National Association of Pipeline Safety Representatives (NAPSR); a comment from Pipeline Safety Trust (PST); and two comments from individual stakeholders.[2] Below is a summary of the comments received and PHMSA's responses.[3]

[1] *Pipeline Safety: Information Collection Activities,* 91 FR 36946 (June 18, 2026).

[2] AGA and APGA, Comment, Docket ID PHMSA–2026–0529–0015 (Aug. 18, 2026); API and LEPA, Comment, Docket ID PHMSA–2026–0529–0018 (Aug. 19, 2026); INGAA and API, Comment, Docket ID PHMSA–2026–0529–0013 (Aug. 18, 2026); GPA Midstream, Comment, Docket ID PHMSA–2026–0529–0010 (Aug. 18, 2026); SUI, Comment, Docket ID PHMSA–2026–0529–0011 (Aug. 18, 2026); EDF, Comment, Docket ID PHMSA–2026–0529–0016 (Aug. 18, 2026); NAPSR, Comment, Docket ID PHMSA–2026–0529–0014 (Aug. 18, 2026); PST, Comment, Docket ID PHMSA–2026–0529–0012; A. Rehman, Comment, Docket ID PHMSA–2026–0529–0009 (Jun. 29, 2026); Anonymous, Comment, Docket ID PHMSA–2026–0529–0017 (Aug. 18, 2026).

[3] The initial information collection concerns two topics: (1) annual reports, and (2) incident and accident reports. PHMSA is addressing the comments received in response to the initial information collection in two separate **Federal Register** notices. This notice addresses comments received on annual reports. PHMSA will address the comments received in response to incident and accident reports in a separate **Federal Register** notice.

A. Form PHMSA F 7100.1–1 Annual Report for Gas Distribution Pipeline Systems

1. Diameter-Based Reporting

PHMSA proposed eliminating diameter-based reporting of main miles and the number of services. Instead, operators would report cast and wrought iron pipelines six inches or less in diameter and two types of plastic pipe widely regarded as having poor material properties: polyvinyl chloride (PVC) and acrylonitrile-butadiene-styrene (ABS). The proposal would simplify parts B2 and B3 to focus only on higher-risk materials.

Comments Received

AGA and APGA support PHMSA's broader data revitalization effort and recommend that PHMSA remove terms and definitions from the instructions that are no longer relevant under the proposed amended report fields. AGA and APGA assert that such amendments will reduce confusion.

NAPSR, EDF, and PST do not support the proposed amendments and believe that there is still value in collecting distribution pipe diameter data. NAPSR asserted that larger-diameter pipes pose higher safety risks because they are easier for third parties to strike, carry more gas, and take longer to isolate during a shutdown. NAPSR further commented that comparing annual diameter data helps target inspections toward recent construction activity. EDF commented that diameter data is valuable to understand the scope of an operator's overall system and potential safety risks. PST commented that PHMSA's claim that pipe diameter is not a significant risk factor to pipeline integrity is unsubstantiated as American Society of Mechanical Engineers (ASME) B31.8S, incorporated by reference in 49 CFR part 192, lists pipeline diameter as a data element necessary for risk assessment.

PHMSA Response

PHMSA is proceeding with its proposal to eliminate diameter-based reporting of main miles and the number of services. PHMSA notes that the Federal Pipeline Safety Regulations governing distribution integrity management programs (DIMP) under part 192, subpart P, do not reference ASME B31.8S. Though it is important for pipeline operators to know the diameter of individual gas distribution pipelines, gas distribution integrity decisions are not strongly influenced by pipeline diameter. Commenters did not raise additional pipeline materials that PHMSA should include in parts B2 and

B3 of the annual report. In addition to the changes already proposed, PHMSA requests that OMB approve adding ''other plastic'' to parts B2 and B3. Any plastic other than polyethylene (PE) is considered a higher risk material and warrants individual reporting in part B. Contrary to comments, all portions of the instructions for part B are relevant and needed for part B.

2. PE Brittle-Like

PHMSA proposed updating the annual report instructions to define ''PE Brittle-Like'' materials based on Advisory Bulletin 07–01.[4] Under the proposal, operators would report the total mileage for ''PE Brittle-Like'' distribution mains and services, as well as the number of ''PE Brittle-Like'' fittings installed on pipelines that are not ''PE Brittle-Like.''

Comments Received

AGA and APGA support PHMSA's objective and acknowledge that ''PE Brittle-Like'' mains and services can provide meaningful information but question the utility of tracking ''PE Brittle-Like'' fittings installed on pipelines that are not ''PE Brittle-Like.'' Because historical component records are often incomplete or unverifiable, AGA and APGA state that immediate reporting would yield unreliable data and recommend removing or deferring the fitting-level requirement. NAPSR supports the explicit tracking of ''PE Brittle-Like'' materials but commented that PHMSA should provide guidance on how operators should report information if the operator does not have the manufacturer details available. PST commented in support of PHMSA's proposal as they believe these specific PE materials have a well-documented history of brittle-like failure.

PHMSA Response

PHMSA is proceeding with its proposal to collect ''PE Brittle-Like'' main miles and service lines. However, PHMSA is withdrawing its proposal to require separate counts for ''PE Brittle-Like'' fittings installed on pipelines that are not ''PE Brittle-Like.'' In addition to the records issue noted by commenters, PHMSA, at this time, doubts that a ''PE Brittle-Like'' fitting would be connected to a pipeline that is not ''PE Brittle-Like.'' PHMSA will monitor the ''PE Brittle-Like'' main miles and service lines data and will evaluate the need for fitting-level reporting in the future.

[4] *Pipeline Safety: Updated Notification of the Susceptibility to Premature Brittle-Like Cracking of Older Plastic Pipe,* 72 FR 51301 (Sept. 6, 2007).

3. Unaccounted for Gas

PHMSA proposed removing and reserving part G of the gas distribution annual report where operators report the percentage of gas unaccounted for over a one-year period. PHMSA considers unaccounted for gas a financial accounting consideration for ratemaking purposes rather than a meaningful indicator of pipeline integrity.

Comments Received

AGA and APGA support removing and reserving part G, asserting that this data collection is onerous and does not relate to pipeline safety.

NAPSR states that there may be value in keeping this data collection, noting that some small operators may rely on this data to demonstrate compliance with pipeline safety requirements mandated under section 114 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, Public Law 116–260 (Dec. 27, 2020) (2020 PIPES Act).

EDF opposes the removal, asserting that lost and unaccounted for (LAUF) gas serves as a valuable metric for the public and stakeholders evaluating the economic and environmental impacts of gas losses. EDF asserts that significant progress has been made toward distinguishing the proportion of LAUF gas attributable to measurable system leakage versus other factors.

Similarly, PST asserts that PHMSA should cite multiple sources to support its position rather than its own report. PST further recommends that PHMSA retain and modify the reporting requirement to account for the nuances between measurement uncertainty, leaks, and other sources of LAUF gas rather than delete it.

PHMSA Response

PHMSA is proceeding with its proposal to remove the percentage of unaccounted-for gas from the annual report. Regarding NAPSR's comment, PHMSA notes that operators can continue calculating LAUF gas to the extent that is necessary to demonstrate compliance with any other applicable laws and regulations, including section 114 of the 2020 PIPES Act. As for the comments provided by EDF and PST, PHMSA notes that neither offers a methodology for distinguishing the economic and environmental portions of LAUF gas, and PHMSA is unaware of any such method. As such, PHMSA is proceeding with its proposal.

4. Contact Information

PHMSA proposed changing the title of part I from ''PREPARER'' to ''CONTACT FOR QUESTIONS'' to receive the name and contact information of the person most knowledgeable about the report or the person to be contacted for more information.

Comments Received

NAPSR supports the clarification but recommends that PHMSA strengthen the accompanying reporting instructions to reinforce compliance expectations and promote consistent identification of the appropriate contact.

In addition to the proposals set forth by PHMSA, AGA and APGA commented that the reporting instructions contain outdated definitions. They further noted that the instructions for part D retain outdated implementation language—specifically, the phrase ''will be implemented for CY 2024 submittals'' and recommended its removal.

PHMSA Response

PHMSA is proceeding with the proposal, including strengthening the reporting instructions. PHMSA has updated the instructions to further reinforce expectations and promote consistent identification of contacts across all operators.

PHMSA will remove standalone definitions from the reporting instructions and instead insert direct cross-references into part 192. This ensures regulatory consistency and eliminates potential conflicts between the instructions and the regulatory text. PHMSA will also revise the instructions to strike all obsolete implementation references, including outdated language regarding prior calendar year submittals.

B. Form PHMSA F 7100.2–1 Annual Reports for Natural and Other Gas Transmission and Gathering Pipeline Systems

1. Volume of Gas Transported

PHMSA proposed removing and reserving part C of the annual report, eliminating the requirement for gas transmission operators to submit the volume of gas transported during the calendar year. PHMSA does not consider the aggregate volume of gas transported across a transmission system to be a pertinent indicator of pipeline safety, and interstate gas transmission lines must already report such information to the Federal Energy Regulatory Commission under 18 CFR 260.1.

Comments Received

INGAA and API support the proposal, echoing PHMSA's underlying justification. GPA Midstream also supports the change, noting further that

eliminating this requirement aligns with the principles of the Paperwork Reduction Act (PRA).

EDF opposes the removal, contending that it ignores PHMSA's role as the Federal pipeline safety regulator and its removal will increase the burden on stakeholders who have to consult databases maintained at multiple agencies that have varying disclosure methods and timeframes.

PHMSA Response

PHMSA is proceeding with its proposal to remove and reserve part C. PHMSA has determined that the aggregate volume of gas transported across a transmission system is not a relevant indicator of pipeline safety. Furthermore, because other Federal agencies already collect this volume data and it remains publicly accessible, retaining part C is duplicative and unnecessary.

2. Number of Anomalies Reported

PHMSA proposed removing the number of anomalies reported from all sections of part F, including the number of anomalies an operator excavates in a given calendar year; the total number of anomalies an operator repairs based on each assessment method; and the number of anomalies repaired or eliminated by pipe replacement based on the class location or high consequence area (HCA) designation of the location of the anomaly.

Comments Received

INGAA and API support the proposal. They also recommend PHMSA remove all references to anomalies in the reporting instructions on pages 8, 10, 16, and 24. SUI supports the change, stating that anomaly count results in inconsistent data and the time and resources required to gather this data does not yield a proportional benefit in enabling meaningful industry-wide comparisons. GPA Midstream also favors the removal, noting that eliminating the requirement aligns with the principles of the PRA.

NAPSR opposes the complete elimination of anomaly counts. NAPSR urged PHMSA to retain high-level anomaly reporting or provide a clear alternative data source, emphasizing that anomaly metrics serve as a vital annual integrity management signal for State regulators to monitor operator performance and prioritize inspections. PST also opposes the proposal, arguing that anomaly data helps gauge the efficacy of different inspection methods. PST questioned the proposal's regulatory consistency, noting PHMSA separately proposed adding anomaly tracking to accident/incident reports.

PHMSA Response

PHMSA proposed to add anomaly questions to accident and incident reports while simultaneously eliminating anomaly tracking from the annual report. Gas transmission pipeline operators are currently required to report the number of anomalies identified and repaired across various pipeline inspection methods. Though Federal Pipeline Safety Regulations do not formally define ''anomaly,'' the term generally refers to a deviation—or an indication of a deviation—from sound material that requires further investigation. In addition to the number of anomalies, operators also report the number of conditions repaired in part F. Section 192.933(d) defines specific types of conditions inside HCAs, and a single repaired condition may encompass one or multiple anomalies. Outside HCAs, conditions are defined in § 192.714(d). Furthermore, while advancements in inspection technology have improved the detection of anomalies, many of these identified anomalies do not constitute actionable conditions that require repair. As such, PHMSA is proceeding with its proposal to remove the reporting of anomaly counts. Part F of the annual report will continue to capture condition repairs, which PHMSA clearly defines in its regulations and provide the needed information to gauge the efficacy of different inspection methods.

3. Pipeline Diameter

Currently, gas transmission pipeline operators submit pipeline diameter data to PHMSA through two mechanisms: part H of the annual report, and as a spatial attribute within the National Pipeline Mapping System (NPMS). To eliminate duplicative reporting, PHMSA proposed removing part H from the annual report. Under the proposal, PHMSA would leverage NPMS submittals to generate tabular diameter data in the same format currently derived from the annual report. The agency would then publish this NPMS-sourced tabular data on its public website to ensure uninterrupted access for stakeholders.

Comments Received

INGAA and API support the proposal and concurred with PHMSA's justification for eliminating duplicative reporting. NAPSR cautioned that removing part H would cause transmission and gathering pipeline diameter data to be reported in separate systems, potentially creating confusion for users attempting to access the data. NAPSR urged PHMSA to ensure that the proposal does not further delay the information becoming publicly available.

EDF opposed the amendment, arguing that PHMSA failed to justify the change and that pipeline diameter is relevant to determine the potential impact radius. EDF also asserted that the current NPMS format makes it difficult for the public to navigate and extract meaningful information about pipeline infrastructure.

PHMSA Response

PHMSA is proceeding with its proposal to remove part H from the annual report. While processing NPMS submittals may require additional time to update pipeline diameter, PHMSA finds that avoiding this minor delay does not justify retaining duplicative reporting requirements. To maintain public access and continuity, PHMSA will convert NPMS Geographic Information System (GIS) diameter data into tabular format and integrate it directly into the file containing data from the other parts of the annual report.

4. Pipeline Mileage by MAOP

PHMSA proposed modifying the reporting instructions for part Q, where gas transmission operators report pipeline mileage by maximum allowable operating pressure (MAOP) determination method. The proposed revision clarifies the proper timing for transitioning mileage from the § 192.619 portion of part Q to the § 192.624 portion as operators implement MAOP reconfirmation.

Comments Received

AGA and APGA recommend that PHMSA remove the rows for ''Class 1 (not in HCA or MCA)'' and ''Class 2 (not in HCA or MCA)'' from the § 192.624 table. They noted that mileage not subject to § 192.624(a) should remain under the § 192.619 section of part Q. They further recommended PHMSA strike the words ''is completed'' from the phrase ''Pressure test in accordance with § 192.624(c)(1), and material testing in accordance with § 192.607 is completed.'' AGA and APGA expressed concern that the current wording could cause confusion as it implies an operator must fully finalize all material verification activities under § 192.607 before it can report mileage as reconfirmed via pressure testing.

PHMSA Response

PHMSA is accepting the AGA and APGA recommendation in part. PHMSA will remove the rows for ''Class 1 (not in HCA or MCA)'' and ''Class 2 (not in HCA or MCA)'' from the § 192.624 table in part Q, as mileage not subject to § 192.624(a) appropriately belongs in the § 192.619 portion. However, PHMSA will retain the phrase ''is completed'' regarding material verification under § 192.624(c)(1). PHMSA maintains that an operator must fully finalize material properties records verification in conjunction with pressure testing under § 192.624(c)(1). Operators with traceable, verifiable, and complete records meet the material properties records requirement without testing pipeline facilities. If material properties verification testing is required, the specific required tests are in § 192.607. Operators without traceable, verifiable, and complete records must excavate as needed to obtain material properties test results.

PHMSA has modified the instructions to remove the presumption that material testing is required but retains ''is completed.'' The new text describing when reconfirmation under § 192.624(c)(1) is completed is ''Pressure test in accordance with § 192.624(c)(1) and verification of material property records in accordance with § 192.607 is completed.''

5. Class 3 Pipe Mileage

PHMSA proposed to modify part K by requiring operators to report the total miles of eligible Class 3 pipe with MAOP confirmed or restored pursuant to § 192.624(a)(4).

Comments Received

INGAA and API, SUI, GPA Midstream, and AGA and APGA all point out a typographical error in the regulatory citation provided in the proposal (§ 192.624(a)(4)). They all request that PHMSA cite the correct regulatory reference—§ 192.611(a)(4)—across both the annual report form and its accompanying instructions. NAPSR supports collecting this data, asserting that it is relevant to recent regulatory requirements and assists PHMSA and State regulators in monitoring implementation.

PHMSA Response

PHMSA is proceeding with the proposal to modify part K and will correct the regulatory reference to § 192.611(a)(4) across all applicable form fields and reporting instructions.

C. Form PHMSA F 7000–1.1, Annual Report for Hazardous Liquid and Carbon Dioxide Pipeline Systems

1. Pipeline Diameter and Breakout Tank Data

Currently, hazardous liquid pipeline operators submit pipeline diameter data (part H) and breakout tank data (part M) to PHMSA in two separate filings: the annual report and NPMS. To eliminate duplicative reporting, PHMSA proposes removing part H and part M from the annual report. Under this proposal, PHMSA will leverage NPMS submittals to generate tabular data matching the current annual report format. PHMSA will publish this NPMS-sourced tabular data on its public website to maintain uninterrupted access for stakeholders.

Comments Received

NAPSR commented that it has noticed significant delays in NPMS data updates compared to the current process. NAPSR urged PHMSA to ensure that transitioning data to NPMS does not introduce publication delays or make accessing the information more difficult for State oversight authorities. PST opposes the proposal, arguing that shifting data collection to NPMS reduces public transparency because significant portions of the NPMS database are restricted or not fully accessible to the general public.

PHMSA Response

PHMSA is proceeding with its proposal to remove part H and part M from the annual report. To preserve public transparency and ensure data accessibility, PHMSA will convert NPMS GIS data into a tabular format and integrate it directly into the file containing data from the other parts of the annual report. While processing NPMS submittals may require additional time to update pipeline diameter and breakout tank data, PHMSA finds that avoiding this minor delay does not justify retaining duplicative reporting requirements.

2. Anomaly Reporting

PHMSA proposed removing the number of anomalies reported from all sections of part F, including the number of anomalies an operator excavates in a given calendar year; the total number of anomalies an operator repairs based on each assessment method; and the number of anomalies repaired or eliminated by pipe replacement based on the HCA designation of the location of the anomaly.

Comments Received

API and LEPA support the proposal to eliminate anomaly counts, agreeing with PHMSA's goal of streamlining reporting requirements.

NAPSR opposes eliminating anomaly counts and urged PHMSA to retain high-level anomaly reporting or establish a clear alternative data source, arguing that anomaly metrics serve as a critical annual integrity management signal for State regulators to monitor operator performance and prioritize inspections. Similarly, PST commented that anomaly count data helps evaluate the overall efficacy of various inline inspection methods and questions PHMSA's proposal to add anomaly questions to accident and incident reports while simultaneously removing them from the annual report.

PHMSA Response

PHMSA is proceeding with its proposal to remove the reporting of anomaly counts. Part F of the annual report will continue to capture condition repairs for each inspection method. The Federal Pipeline Safety Regulations clearly define conditions. Since PHMSA collects condition repairs for each inspection method, stakeholders can use the number of repairs to gauge the efficacy of different inspection methods.

3. Cathodic Protection Recommendation From Commenter

A. Rehman submitted a comment, recommending that PHMSA expand the annual report requirements to collect additional data on cathodic protection (CP). Specifically, the commenter suggested adding reporting fields for miles of pipeline under CP, the type of monitoring technology utilized, and the frequency of CP checks performed remotely versus physically.

PHMSA Response

PHMSA is not adopting the commenter's suggestion to collect miles under CP, monitoring technology, or check frequencies in the annual report. Collecting such information would constitute a substantive change outside the scope of the 60-day notice. PHMSA cannot implement such a change without first affording the public an opportunity to review and comment. In addition, operators are already required to maintain comprehensive CP records and conduct regular inspections in accordance with part 192, subpart I, which State and Federal inspectors verify during routine regulatory oversight.

D. Form PHMSA F 7100.3–1, Annual Report for Liquefied Natural Gas (LNG) Facilities

1. LNG Facility Duplicative Reporting

Currently, operators of LNG facilities report to PHMSA in two places: the annual report and NPMS submittals. PHMSA proposed adding the latitude and longitude of an LNG plant to the annual report. Once this change is implemented, PHMSA intends to eliminate the requirement in § 191.29 for LNG operators to submit to NPMS. These changes would preserve PHMSA's ability to generate maps showing the location of LNG plants and eliminate duplicative reporting.

Comments Received

NAPSR opposes the amendment, stating that NPMS data is used by emergency response officials. EDF commented that NPMS should continue collecting relevant information regarding LNG facilities.

PHMSA Response

PHMSA is proceeding with the proposal to add the latitude and longitude of an LNG plant to the annual report. PHMSA will use data collected through the annual report to construct an LNG GIS layer within NPMS. PHMSA will make this LNG GIS layer available to all stakeholders, including emergency response officials. This process mirrors PHMSA's established practice for underground natural gas storage (UNGS) facilities, ensuring consistent GIS mapping and data integration without imposing additional submittal burdens on operators.

2. Define ''Retired''

PHMSA proposed to define ''retired'' in the annual report instructions and remove the abandoned status code option from the report. An abandoned LNG plant would no longer be included in the annual report. To accommodate the possibility of facilities with varying status codes, PHMSA proposes adding the reporting of status code at the facility level. The operator would not enter the status code for the plant but it will be inferred from the status entered by the operator for each facility comprising the plant. These changes would ensure consistent reporting across the industry.

Comments Received

INGAA and API commented that using both ''facility'' and ''plant'' within part B creates confusion and recommends that PHMSA select a single term for reporting purposes. They further recommend adopting the term ''out of service'' rather than ''retired,'' commenting that ''out-of-service'' provides greater granularity and is easier for operators to apply to specific assets.

PHMSA Response

PHMSA will continue using both ''plant'' and ''facility'' in its annual report form and accompanying instructions. As per § 193.2007, an ''LNG plant'' is typically multiple ''LNG facilities'' functioning as a unit. Operators need to understand the difference between ''plant'' and ''facility'' to properly complete the annual report. PHMSA is proceeding with its proposal to define ''retired'' in the instructions, remove the ''abandoned'' status code, and collect status at the facility level to infer overall plant status. PHMSA disagrees with the recommendation to replace ''retired'' with ''out-of-service.'' The term ''retired'' connotes an intentional decision to no longer use a facility, whereas ''out-of-service'' is appropriate for a facility temporarily not in service, such as due to waiting for parts or funding.

3. Defining ''Maximum Liquefaction Rate'' and ''Maximum Vaporization Capacity''

Currently, part B of the LNG annual report requires operators to submit data for ''maximum liquefaction rate'' and ''maximum vaporization capacity.'' The annual report instructions, however, do not formally define these terms. To eliminate ambiguity and promote uniform, accurate reporting across regulated entities, PHMSA proposed to add explicit definitions for both terms to the reporting instructions.

Comments Received

INGAA and API stated that baseload LNG operators typically measure their liquefaction rate in terms of LNG produced rather than volumetric gas measurements. NAPSR submitted comments supporting defining the terms.

PHMSA Response

PHMSA is proceeding with its proposal to establish explicit definitions for ''maximum liquefaction rate'' and ''maximum vaporization capacity'' in the annual report instructions. While larger LNG plants may measure the liquefaction rate in terms of the liquid produced, PHMSA continues to propose the ''maximum liquefaction rate'' in cubic feet of gas. However, PHMSA erroneously proposed ''of LNG'' as part of the instructions for ''maximum liquefaction rate.'' PHMSA proposes striking ''of LNG'' from ''(MMCF/D) of feed gas of LNG'' on the instructions for the liquefaction rate. Specifying ''MMCF/D of feed gas'' provides a clear, standardized metric for gas volume prior to liquefaction, ensuring consistent reporting across operators while eliminating ambiguity in the instructions.

4. Unit of Measurement Recommendation by Commenter

INGAA and API recommend that PHMSA use cubic meters instead of barrels when measuring liquid, as barrels are used primarily to measure crude oil and other hazardous liquids. INGAA and API also recommended reorganizing part B to position ''Type'' and ''Function'' fields directly beneath the location section to streamline data entry and logically group facility identification parameters.

PHMSA Response

PHMSA proposes implementing both recommendations. Grouping all plant data at the beginning of part B may help operators recognize the transition from plant data to facility data. For the same reason, PHMSA proposes replacing the term ''Process'' with ''Facilities'' in part B and modifying the instructions to emphasize the transition from plant to facility. As to the barrels versus cubic meters, implementing cubic meters for liquid volume aligns the annual report with standard commercial and operational accounting practices.

5. Vibration and Mechanical Fatigue

Recognizing that vibration and mechanical fatigue are documented causes of LNG piping and weld failures, PHMSA proposed adding ''vibration- or fatigue-related'' in part C. The amendment will improve root-cause data collection and safety tracking.

Comments Received

INGAA and API request that PHMSA adopt the broader term ''operational-related'' instead of ''vibration- or fatigue-related'' to categorize these piping and weld leaks. INGAA and API also recommended removing ''Excavation Damage'' as a cause category for leaks in part C, arguing that excavation activity within an LNG plant boundary is rare or handled under different operational controls. NAPSR also submitted comments supporting adding ''vibration- or fatigue-related'' in part C.

PHMSA Response

PHMSA is proceeding with its proposal to add ''vibration- or fatigue-related'' as a fourth cause category for

leaks from piping or welds in part C and is retaining ''Excavation Damage'' as a cause category for leaks in part C. The agency determined that ''vibration- or fatigue-related'' provides specific, actionable safety data on known mechanical stress factors unique to plant piping systems, whereas a broad ''operational-related'' category would be overly generic and could obscure mechanical stress factors. Furthermore, retaining ''Excavation Damage'' ensures consistency across PHMSA reporting forms and maintains coverage for ground-disturbing activities that could occur within facility boundaries.

6. Emergency Shutdown Actuations

PHMSA proposed removing emergency shutdown (ESD) actuations that resulted from conditions other than an actual emergency from part D. Because a plant shutdown occurring in the absence of a genuine emergency does not directly reflect a safety threat or pipeline integrity issue, PHMSA proposed removing non-emergency ESD actuations from part D to streamline reporting requirements.

Comments Received

INGAA and API commented in support of the proposal, reiterating that non-emergency ESD actuations do not indicate a safety issue.

NAPSR commented in opposition to the proposal, asserting that tracking non-emergency ESD actuations provides a useful reliability indicator for a critical safety system. NAPSR noted that a high frequency of false or non-emergency ESD events can foster operator complacency and lead to dangerous response lags during actual emergency events.

PHMSA Response

PHMSA is proceeding with its proposal to remove ESD actuations resulting from conditions other than an actual emergency from part D. While PHMSA acknowledges NAPSR's concerns regarding safety system reliability and potential operator complacency, PHMSA maintains that routine or maintenance-related shutdowns do not directly correlate with active safety hazards or operational failures. Removing non-emergency ESD actuations focuses part D data collection on genuine safety events, reducing administrative burden while ensuring PHMSA and State oversight authorities retain visibility over true emergency operations and system performance.

7. Physical Security and Cybersecurity

PHMSA proposed to modify the annual report form and instructions to ensure that only physical security, not cybersecurity, breaches are reported in part D to ensure consistent reporting across the industry.

Comments Received

NAPSR expresses concern over excluding cybersecurity events, asserting that State pipeline safety programs require consistent annual visibility into cybersecurity incidents which could impact the safe operation of LNG facilities.

INGAA and API recommended eliminating the security breach reporting requirement entirely. They stated that operators already report security incidents to other Federal entities—such as the U.S. Coast Guard under the Maritime Transportation Security Act (MTSA)—and argued that a disaggregated annual count without context does not provide a meaningful indicator of safety. They further recommended that PHMSA limit reporting physical breaches and exempt Coast Guard-regulated facilities if it retains physical security breach reporting.

PHMSA Response

PHMSA is proceeding with its proposal to limit part D security breach reporting to physical security incidents only. PHMSA is not adopting INGAA and API's request to eliminate security breach reporting entirely or exempt facilities regulated under MTSA. Annual tracking of physical security breaches provides PHMSA and State inspection personnel with vital baseline trend data to evaluate physical facility security controls over time. As to NAPSR's concerns, there is an inherent time lag between the occurrence of a cyber event and the submittal of an annual report, rendering an annual metric ineffective for real-time cybersecurity response and oversight. Cybersecurity threats require immediate notification and mitigation, which operators already perform under mandatory reporting protocols established by other Federal authorities, such as the Transportation Security Administration and the Cybersecurity and Infrastructure Security Agency. In 2010, TSA issued the initial edition of its Pipeline Security Guidelines to assist operators of gas pipelines and LNG facilities in the development and evaluation of comprehensive security programs at their facilities. TSA's Pipeline Security Guidelines, which have been updated several times (most recently in April 2021), set forth non-binding guidance pertaining to corporate security policies, security vulnerability assessments, physical security measures, and cybersecurity efforts.[5] TSA conducts voluntary visits with pipeline operators as part of its Corporate Security Review Program. TSA personnel work with operator personnel during these visits to analyze FSPs and policies and compare practices against the Pipeline Security Guidelines.

Restricting part D strictly to physical security events eliminates redundant multi-agency reporting burdens while maintaining appropriate physical security visibility.

E. National Pipeline Mapping System (NPMS) (2137–0596)

1. Interstate or Intrastate Breakout Tank

PHMSA proposed adding an attribute indicating whether a breakout tank is interstate or intrastate to eliminate duplicative reporting.

Comments Received

NAPSR commented that they do not oppose the amendment.

PHMSA Response

PHMSA is proceeding with the proposal.

II. Summary of Impacted Collection

Pursuant to 5 CFR 1320.8(d), PHMSA provides interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will submit to OMB for revision.

The following information is provided for these information collections: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. PHMSA will request a three-year term of approval for these information collections. PHMSA requests comments on the following information:

1. *Title:* Annual Report for Gas Distribution Operators.

OMB Control Number: 2137–0629.

Current Expiration Date: 9/30/2026.

Type of Request: Revision.

Abstract: This mandatory information collection covers the collection of data from operators of gas distribution pipeline systems for annual reports. 49 CFR 191.11 requires operators of gas distribution systems to submit an

[5] TSA, *Pipeline Security Guidelines* (Apr. 2021), *https://www.tsa.gov/sites/default/files/pipeline_security_guidelines.pdf.*

annual report by March 15 for the preceding calendar year. PHMSA proposes revisions modifying Parts B2, B3, G, and I of DOT Form PHMSA F 7100.1–1 by removing certain data elements and clarifying others. As a result, PHMSA expects the time burden for completing this report to decrease by two hours, from 20 hours to 18 hours per report.

Affected Public: Operators of Gas Distribution Pipeline Systems.

Annual Reporting and Recordkeeping Burden:

Estimated Number of Responses: 1,446.

Estimated Annual Burden Hours: 26,028.

Frequency of Collection: Annually.

2. *Title:* Annual Reports for Gas Pipeline Operators.

OMB Control Number: 2137–0522.

Current Expiration Date: 9/30/2026.

Type of Request: Revision.

Abstract: This mandatory information collection covers the requirements for operators of natural gas pipelines (not distribution systems), underground natural gas storage facilities, and liquefied natural gas facilities to submit annual reports to PHMSA. 49 CFR 191.17 requires operators of UNGS facilities, gas transmission systems, LNG facilities, and gas gathering systems to submit an annual report by March 15 for the preceding calendar year.

For Form PHMSA F 7100.2–1, *Annual Report for Natural and Other Gas Transmission and Gathering Pipeline Systems,* PHMSA proposes to remove parts C and H, modify parts F and K, and revise the instructions for part Q to improve clarity. PHMSA expects the time burden for completing Form PHMSA F 7100.2–1 to decrease by four hours, from 54 hours to 50 hours per report. PHMSA has also updated the estimated number of annual submissions for this form from 1,810 to 1,461 based on a three-year average. For Form PHMSA F 7100.3–1, *Annual Report for Liquefied Natural Gas (LNG) Facilities,* PHMSA proposes to modify parts B, C, and D. These modifications are not expected to change the per-report time burden. PHMSA has updated the estimated number of annual submissions for this form, from 113 to 184 based on a three-year average.

Affected Public: Operators of Natural Gas Pipelines, Underground Natural Gas Storage Facilities, and Liquefied Natural Gas Facilities

Annual Reporting and Recordkeeping Burden:

Estimated Number of Responses: 2,167.

Estimated Annual Burden Hours: 80,758.

Frequency of Collection: Annually.

3. *Title:* Annual Report for Hazardous Liquid and Carbon Dioxide Pipeline Systems.

OMB Control Number: 2137–0614.

Current Expiration Date: 3/31/2029.

Type of Request: Revision.

Abstract: 49 CFR 195.49 requires operators of hazardous liquid pipelines to submit specific data on the safety of their pipelines by annually completing Form PHMSA F 7000–1.1. This mandatory information collection requires operators to submit data on the preceding year electronically by June 15 of each calendar year.

PHMSA proposes to modify Form PHMSA F 7000–1.1 to remove parts H and M, and revise part F to remove the requirement to report on anomalies. As a result, PHMSA expects the time burden for completing this report to decrease by two hours, from 20 hours to 18 hours per report. PHMSA has updated the estimated number of annual submissions from 475 to 678 based on a three-year average. In addition, PHMSA is removing a one-time burden of 18 hours per operator previously allotted for system updates related to excavation damage data, resulting in a reduction of 475 responses and 8,550 hours.

Affected Public: Operators of Hazardous Liquid and Carbon Dioxide Pipeline Facilities.

Annual Reporting and Recordkeeping Burden:

Estimated Number of Responses: 678.

Estimated Annual Burden Hours: 12,204.

Frequency of Collection: Annually.

4. *Title:* National Pipeline Mapping Program.

OMB Control Number: 2137–0596.

Current Expiration Date: 3/31/2029.

Type of Request: Revision.

Abstract: The Pipeline Safety Improvement Act of 2002 (Pub. L. 107–355), 49 U.S.C. 60132, requires an operator of a pipeline facility (except distribution lines and gathering lines) to submit to PHMSA geospatial data appropriate for use in NPMS, including operator contact information. PHMSA proposes to modify this data collection to require an operator to indicate whether a hazardous liquid breakout tank is intrastate or interstate when submitting geospatial data. PHMSA does not expect a change in burden due to this modification.

Affected Public: Operators of Hazardous Liquid and Carbon Dioxide Pipeline Facilities.

Annual Reporting and Recordkeeping Burden:

Estimated Number of Responses: 1,346.

Estimated Annual Burden Hours: 162,208.

Frequency of Collection: Annually.

Comments are invited on:

(a) The need for the renewal and revision of these information collections for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(b) The accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected.

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Thomas Correll,

Associate Administrator for Pipeline Safety.

[FR Doc. 2026–23022 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2026–3961 (Notice No. 2026–05)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on two Office of Management and Budget (OMB) control numbers pertaining to hazardous materials transportation. PHMSA intends to request renewal and extension for these two control numbers from OMB.

DATES: Interested persons are invited to submit comments on or before January 11, 2027.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA–2026–3961 (Notice No. 2026–05) by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2026–3961) for this notice at the beginning of the comment. To avoid duplication, please use only one of these methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Requests for a copy of an information collection should be directed to Ryan Larson or Steven Andrews, Standards and Rulemaking Division, (202) 366–8553, *ohmspra@dot.gov,* Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform its rulemaking process. 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 *www.dot.gov/privacy.*

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 this notice 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 notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN'' for ''proprietary information.'' PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Ryan Larson or Steven Andrews, Standards and Rulemaking Division, and addressed to the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or *ohmspra@dot.gov.* Comments received by PHMSA which are not specifically designated as ''CBI'' will be placed in the public docket for this notice.

FOR FURTHER INFORMATION CONTACT: Ryan Larson or Steven Andrews, Standards and Rulemaking Division, (202) 366–8553, *ohmspra@dot.gov,* Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires the Pipeline and Hazardous Materials Safety Administration (PHMSA) to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** upon OMB's approval. PHMSA requests comments on the following information collections:

Title: Hazardous Materials Security Plans.

OMB Control Number: 2137–0612.

Summary: To assure public safety, shippers and carriers must take reasonable measures to plan and implement procedures to prevent unauthorized persons from taking control of, or attacking, hazardous materials shipments. Part 172 of the HMR requires persons who offer or transport certain hazardous materials to develop and implement written plans to enhance the security of hazardous materials shipments. The security plan requirements as prescribed in § 172.800(b) apply to specific types of shipments. Such shipments include but are not limited to: shipments greater than 3,000 kg (6,614 pounds) for solids or 3,000 liters (792 gallons) for certain liquids and gases in a single packaging such as a cargo tank motor vehicle, portable tank, tank car, or other bulk container; any quantity of a Division 1.1, 1.2, or 1.3 material; a large bulk quantity of a Division 2.1 material; or any quantity of a poison-by-inhalation material. A security plan will enable shippers and carriers to reduce the possibility that a hazardous materials shipment will be used as a weapon of opportunity by a terrorist or criminal.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
New Security Plan—Large Companies	30	90	50	4,500
New Security Plan—Small Companies	170	170	25	4,250
Updating Security Plan—Large Companies	6,300	18,900	10	189,000
Updating Security Plan—Small Companies	35,700	35,700	5	178,499
Compilation of Commodity Data—Class I Railroads	6	6	40	240
Compilation of Commodity Data—Class II Railroads	32	32	40	1280
Compilation of Commodity Data—Class III Railroads	100	100	40	4,000
Primary Route Analysis—Class I Railroads	6	51	80	4,080
Primary Route Analysis—Class II Railroads	32	128	80	10,240

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Primary Route Analysis—Class III Railroads	100	200	40	8,000
Alternate Route Analysis—Class I Railroads	6	51	120	6,120
Alternate Route Analysis—Class II Railroads	32	96	120	11,520
Alternate Route Analysis—Class III Railroads	100	50	40	2,000
Route Selection and Completion of Route Analysis—Class I Railroads	6	6	16	96
Route Selection and Completion of Route Analysis—Class II Railroads	32	32	16	512
Route Selection and Completion of Route Analysis—Class III Railroads	100	100	8	800
Storage, Delays in Transit, and Notification—Class I Railroads	6	6	8	48
Storage, Delays in Transit, and Notification—Class II Railroads	32	32	8	256
Storage, Delays in Transit, and Notification—Class III Railroads	100	100	4	400
Notifying a Consignee in the Event of a Significant Delay—Class I Rail roads	6	10	.50	5
Notifying a Consignee in the Event of a Significant Delay—Class II Rail roads	32	12	.50	6
Notifying a Consignee in the Event of a Significant Delay—Class III Rail roads	100	2	.50	1
Inspection—Large Companies	100	100	.008	1

Affected Public: Shippers and carriers of hazardous materials in commerce.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 43,128.

Total Annual Responses: 55,974.

Total Annual Burden Hours: 425,854.

Frequency of Collection: On occasion.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 2137–0640.

Summary: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Department's commitment to improving service delivery. Qualitative feedback is information that provides useful insights on perceptions and opinions, not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insight into customer or stakeholder perceptions, opinions, experiences, and expectations, as well as an early warning of issues with service, or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between PHMSA and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback or information collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population.

The Department will submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary.
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government.
- The collections are non-controversial and do not raise issues of concern to other Federal agencies.
- Any collection is targeted at the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future.
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained.
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the Department. If released, the Department must indicate the qualitative nature of the information.

This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data requires more rigorous designs that address: the target population to which generalizations will be made; the sampling frame; the sample design (including stratification and clustering); the precision requirements or power calculations that justify the proposed sample size; the expected response rate; methods for assessing potential nonresponse bias; the protocols for data collection; and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Affected Public: Individuals and households, businesses and organizations, State, Local or Tribal Governments.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 6,000.

Total Annual Responses: 6,000.

Total Annual Burden Hours: 3,000.

Frequency of Collection: One-time requirement.

Issued in Washington, DC, on November 9, 2026, under authority delegated in 49 CFR 1.97.

Matthew Nickels,

Director, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2026–23067 Filed 11–10–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on November 6, 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 6, 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

1. 1380079 BC LTD (a.k.a. AMIN EXCHANGE VANCOUVER; a.k.a. SARAFI AMIN), 104–1700 Marine Drive, North Vancouver, British Columbia V7P 2Z8, Canada; Montreal, Quebec, Canada; website *aminexchange.ca*; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 26 Sep 2022; Organization Type: Other monetary intermediation; Digital Currency Address—TRX TLyRLC NwBhaXkYak1bTFUYTj72crbgN5Vy; alt. Digital Currency Address—TRX THauYJJEaFGLpEknoKnYmXmT5TCe QGKjDE; alt. Digital Currency Address—TRX TJT3JZKJWVHVkKRK SmWmg5UYHhAqBM7mfP; Business Registration Number 700268402 (Canada); Registration Number BC1380079 (Canada); MSB Registration Number M23258996 (Canada) [IRAN–EO13902].

Designated pursuant to Executive Order 13902 of January 10, 2020, ''Imposing Sanctions With Respect to Additional Sectors of Iran,'' 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for operating in the digital asset sector of the Iranian economy.

2. 2397639 ONTARIO LTD (a.k.a. FARAH EXCHANGE), 6039 Yonge St, North York, Ontario M2M 3W2, Canada; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 27 Nov 2013; Organization Type: Other monetary intermediation; Digital Currency Address—TRX TW5NEaa oPHXC1rt5PaYgG474gQ49oiZ2F5; Registration Number 2397639 (Canada); MSB Registration Number M19648033 (Canada) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

3. B GALAXY INC (a.k.a. C EXCHANEG; a.k.a. CRYPTOYAL; a.k.a. ''C EXCHANGE''), 6118 Yonge Street, Unit B, North York, Ontario M2M 3W7, Canada; 3118 Yonge Street, Unit B, North York, Ontario M2M 3W7, Canada; 7181 Yonge Street, Unit 4, Thornhill, Ontario L3T 0C7, Canada; website *cryptoyal.net*; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 13 Aug 2019; Organization Type: Other monetary intermediation; Registration Number 2711268 (Canada); MSB Registration Number N300001022 (Canada) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

4. CCC INC (a.k.a. CCURRENCY EXCHANGE; a.k.a. CRYPTOYAL; a.k.a. SARAFI C; a.k.a. ''C EXCHANGE''; a.k.a. ''PARSIS EXCHANGE''; a.k.a. ''SALAM EXCHANGE''; a.k.a. ''SARAFI CAPITAL''), 6118 Yonge Street, Unit B, North York, Ontario M2M 3W7, Canada; website *sarafic.com*; alt. Website *cryptoyal.net*; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 22 May 2020; Organization Type: Other monetary intermediation; Digital Currency Address—TRX TCreRMz GspdHNEkqkasejS6xTzqXNkYJJZ; Registration Number 2756992 (Canada); MSB Registration Number N300000785 (Canada) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

5. DARVISH EXCHANGE (a.k.a. KANATA MD INC; a.k.a. ''CANADA EXCHANGE''), 10144 Yonge Street, Richmond Hill, Ontario L4C 1T6, Canada; 6093 Yonge Street, North York, Ontario M2M 3W2, Canada; website *darvishexchange.com*; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 03 May 2022; Organization Type: Other monetary intermediation; Business Registration Number 729493502 (Canada); Registration Number 1400801–4 (Canada); MSB Registration Number N300000169 (Canada) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

6. DIVERSE TRADE INC (a.k.a. MILLION EXCHANGE; a.k.a. MILLION MONEY EXCHANGE; a.k.a. MILLIONEX), 2–10097 Yonge St, Richmond Hill, Ontario L4C 1T7, Canada; 65 Wellesley Street East, Unit 200, Toronto, Ontario M4Y 1G7, Canada; 1405 Blvd. De Maisonneuve Ouest, Montreal, Quebec H3G 1M6, Canada; website *millionex.ca*; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 07 May 2018; Organization Type: Other monetary intermediation; Digital Currency Address—TRX TJHZswi siMgjioAVpmpMSWXCeQGCPjcTMK; Business Registration Number 755878287 (Canada); Registration Number 2634119 (Canada); MSB Registration Number M19315656 (Canada) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

7. NIA NATIONS CURRENCY LTD (a.k.a. NIA EXCHANGE; a.k.a. NIA NATIONS CURRENCY EXCHANGE; a.k.a. NIA NATIONS EXCHANGE), 806 W Hastings St, Vancouver, British Columbia V6C 3L3, Canada; 2–987 Marine Dr, North Vancouver, British Columbia V7P 1S4, Canada; 905–158 13th St W, North Vancouver, British Columbia V7M 0A7, Canada; website *nnce.ca*; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 09 Oct 2019; Organization Type: Other monetary intermediation; Business Registration Number 766820930 (Canada); Registration Number BC1226308 (Canada); MSB Registration Number M21153461 (Canada) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

8. TOP PC TECHNICIAN INC (a.k.a. 2840711 ONTARIO INC; a.k.a. AMIN EXCHANGE TORONTO; a.k.a. AMINEX TORONTO), A1–6174 Yonge Street, North York, Ontario M2M 3X1, Canada; 7181 Yonge St, Unit 164, Thornhill, Ontario L3T 0C7, Canada; Secondary sanctions risk: See Section 2 of E.O. 13902; Organization Established Date 17 May 2021; Organization Type: Other monetary intermediation; Registration Number 2840711 (Canada); MSB Registration Number M21487848 (Canada) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

(Authority: E.O. 13902)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026–23009 Filed 11–10–26; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

Correction

Notice document 2026–22802, appearing on pages 70987, in the issue of Monday, November 9, 2026,

published in error and should not have appeared in the **Federal Register**.

[FR Doc. C1–2026–22802 Filed 11–10–26; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF THE TREASURY

FY27 Social Impact Partnerships To Pay for Results Act Notice of Funding Opportunity

1. Basic Information

A. Federal Agency. Office of Economic Policy, United States Department of the Treasury.

B. Funding Opportunity Title. FY27 Social Impact Partnerships to Pay for Results Act Notice of Funding Opportunity.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: UST–SIPPRA–2027–003.

E. Assistance List Number: 21.017.

F. Funding Details. Treasury has made up to $11.8 million available for projects under this NOFO. Treasury may revise the amount available under this NOFO if additional SIPPRA funds become available during the application period.

G. Key Dates. Applicants have five months to submit an application. Treasury intends to make an award decision no later than six months after applications are received. After an Applicant receives a Notice of Award, Treasury will require the Applicant to complete all necessary final documents, including the project plan, partnership agreements, evaluation design, and outcome valuation, within nine months of receiving the Notice of Award.

H. Executive Summary. The Department of the Treasury (''Treasury'') is issuing this Notice of Funding Opportunity (''NOFO'') to invite applications from State and local governments for awards under the Social Impact Partnerships to Pay for Results Act (''the SIPPRA statute''). An award recipient (''Awardee'') will receive payment if a specified outcome of the social impact partnership project is achieved as determined by the project's independent evaluator. The payment to the Awardee must be less than or equal to the value of the outcome to the federal government over a period not exceeding ten years from the start of the project. Awards made under this NOFO will be administered by Treasury or by another federal agency with expertise in the social benefits addressed in the proposed project. Treasury expects to award up to approximately $10.2 million in competitive project grants under this NOFO. State and local governments receiving project grants will be eligible to receive a separate grant for up to 15 percent of the project grant amount to pay for all or a portion of the cost of a statutorily required independent evaluation, which will be paid regardless of whether outcomes have been met. Treasury expects up to approximately $1.6 million to be available to pay for the costs of independent evaluations under this NOFO.

I. Agency contact information. Please contact Matthew Cook, SIPPRA Director, at *sippra@treasury.gov* or 202–821–5030.

2. Eligibility

The SIPPRA statute provides that only States, including the District of Columbia, each commonwealth, territory, or possession of the United States; federally recognized Indian tribes; and local governments are eligible applicants (''Applicant''); applications from any other entity will not be reviewed.[1] See 2 CFR part 200 for definitions of State, local government, or federally recognized Indian tribe.[2] Multiple agencies within a state or local government are eligible to apply, or interjurisdictional groups of state or local governments may apply together. See Section 4.A.10. Interjurisdictional Applications for a description of the requirements for interjurisdictional applications. Each agency must have its own UEI number.

There is no cost sharing required.

3. Program Description

In 2018, Congress appropriated $100 million to Treasury to implement the SIPPRA program. The program funds social impact projects based on achieving results.[3] Treasury has offered two previous funding opportunities for pay for results projects.[4] Under this NOFO, Treasury announces the availability of $10.2 million for awards to implement a pay for results project. The SIPPRA statute requires that each project achieve one or more specific, measurable outcomes that benefit society and reduce governmental outlays (*i.e.,* provide ''savings''). Identifying suitable outcomes that meet SIPPRA requirements is a critical first step for any potential Applicant considering the SIPPRA program.

Under the pay for results model, the government makes a payment only if an evaluation (explained in Section 3.C, Evaluation Methodology) demonstrates that the project caused the agreed-upon outcomes. Applicants must use non-federal funds to cover the initial costs of the project.

The outcome payment will not be more than the value of the outcome to the government over a maximum period of ten years from the start of the project. Applicants can propose one or more outcomes and may receive separate payments at different times for each one achieved, depending on the project design and payment requests.

The Applicant must procure an independent evaluator to confirm the project achieved the agreed-upon outcomes. Treasury will have a separate agreement with the Awardee to pay for evaluation activities. This separate agreement cannot exceed 15 percent of the total funding awarded to the Awardee. Treasury will fund this award even if the project does not meet its goals. This separate award can only be used for evaluation activities and not for other project costs. See Section 3.C.d. Independent Evaluation Activities for a discussion of evaluation activities. The evaluator must be objective and must not have any financial or other connections to the project that could create a potential conflict of interest.

The independent evaluator must determine whether the project achieved the expected outcome(s) following the evaluation design plan (see Section 3.C, Evaluation Methodology). If Treasury determines that the evaluation shows the applicant was successful, the federal government will make a payment or payments to the Awardee based on the agreed-upon payment schedule. Treasury will not make a payment to the Awardee if the independent evaluator has violated the terms of the award.

Eligible outcomes for an approved project are set out in Section 2052(b) of the SIPPRA statute.

The SIPPRA statute provides a nonexclusive list of types of eligible projects. One-fifth of the projects in this list are types of workforce development projects, yet only one workforce development project has thus far been funded. Under this NOFO, Applicants proposing workforce development projects will be given particular consideration to help ensure that an appropriate range of subject matters are covered by SIPPRA projects and that the statutorily highlighted outcomes related to workforce development are appropriately funded. Examples of

[1] 42 U.S.C. 1397n–1, 1397n–12(6).

[2] *https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-A/subject-group-ECFR2a6a0087862fd2c/section-200.1.*

[3] For more information, see the program web page at *https://home.treasury.gov/services/social-impact-partnerships/sippra-pay-for-results.*

[4] SIPPRA—Pay for Results | U.S. Department of the Treasury

workforce development outcomes listed in the SIPPRA statute include:

- Increasing work and earnings by individuals in the United States who are unemployed for more than 6 consecutive months.
- Increasing employment and earnings of individuals who have attained 16 years of age but not 25 years of age.
- Increasing employment among individuals receiving Federal disability benefits.

Additional possible outcomes outside of those listed in statute include:

- Improving the employment and well-being of returning United States military members.
- Increasing the persistence in paid, self-sufficient employment for individuals who have exited a federally funded public workforce program in the last six months.
- Increasing the number of individuals in the United States who participate in a registered apprenticeship while co-enrolled in the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) program.

Workforce development projects may affect eligible outcomes other than those directly related to work and earnings.

Treasury does not expect to provide further funding opportunities under the current SIPPRA appropriation.

A. Limitations

a. Directly Benefit Children

The SIPPRA statute requires that ''[n]ot less than 50 percent of all Federal payments made to carry out agreements under this section shall be used for initiatives that directly benefit children.'' [5] Treasury has met this requirement through the first two rounds of funding but must still collect information to show the overall percent of funding that directly benefits children, as defined further under Section 4.A.f.(9), Whether the project will directly benefit children.

B. Outcome Valuation Methodology

To determine the value to the federal government, Applicants must provide a budget impact analysis (BIA) as the outcome valuation methodology.[6] BIA is a financial evaluation technique that estimates the anticipated changes in spending (savings) and revenue resulting from the proposed project. Reliance on BIA as the outcome valuation methodology is a change from the FY24 NOFA, which used Benefit Cost Analysis (BCA) as the outcome valuation methodology. Having used both BCA and BIA in past funding rounds, Treasury has determined that BIA is simpler to implement and better captures the value to the federal government of the project. The statute requires the federal payment for each specified outcome to be less than or equal to the value of the outcome to the federal government over a specified period we refer to as the ''valuation period.'' The valuation period is selected by the Applicant but may extend for no more than ten years after the start of the intervention.[7] See Section 4.A.f.(3), the project timeline, for a definition of valuation period.

The Applicant must also select a period during which it will conduct outcome tracking for the project. We refer to the period beginning with the start of the intervention through the last day of outcome tracking as the ''period of performance.'' In some cases, the outcome tracking may continue beyond the intervention period; in other cases, the intervention period and period of performance may be the same. The period of performance must end by September 2032. After the period of performance, if an outcome has been met, Treasury will provide payment based on the demonstrated value of the outcome to the federal government over the entire valuation period, which may extend beyond the period of performance in order to show the projected value of an outcome for up to 10 years. For that reason, payment may be made before the end of the valuation period. The valuation period is simply a time limiting function of the BIA calculation process.

For each specified outcome, the Applicant must provide the estimated savings and value over the valuation period and the period of performance.

Over the course of the period of performance, the project must provide savings to the State or local government or to the federal government, in the form of reduced outlays.[8]

For the purposes of payment, the Applicant must only include estimates of federal savings and revenue. If the project is expected to affect state and local savings or revenue, those estimates must be presented, but *will not* be included in the outcome payment cap.

For applicants who plan to use savings from Medicaid or CHIP, see Appendix II: Integration of Managed Care Information/Data for the integration of managed care information/data. This information is required to certify such changes in spending.

The following shows the steps of the calculation of BIA. Applicants must document the underlying literature, assumptions, and justifications for how the intervention will achieve the estimated savings and value in each step of the BIA calculation. The estimates must be derived from the existing research or data on the topic with clear citations for reviewers. The Applicant must detail how the existing research can be reasonably applied to their approach (*e.g.,* why effect sizes from a project in Denver are relevant for the target population in Boise).

Step 1: Estimate Target Population Baseline

A. Estimate Total Amount of Federal Outlays Expended on Target Population During the Valuation Period in Dollars (Includes Cost of All Federal Programs Used by Target Population)

The Applicant must document existing federal outlays that support the target population during the valuation period. This includes, but is not limited to, programs such as the Earned Income Tax Credit (EITC), Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other relevant federal anti-poverty initiatives. This section will establish a baseline by estimating the total federal resources currently allocated to the target population in the absence of the proposed intervention. The Applicant must document the existing federal outlays over the period of performance and the valuation period.

B. Estimate Total Amount of Federal Revenue Generated by Target Population During the Valuation Period, in Dollars, if Applicable

The Applicant must estimate the total amount of federal revenue generated by the target population during the valuation period. The Applicant must estimate the existing federal revenues over the period of performance and the valuation period.

For purposes of this section, ''federal revenue'' means revenues or governmental receipts collected by the federal government from the public through its sovereign power to tax or

[5] 42 U.S.C. 1397n–2(f).

[6] Examples of budget impact analysis may be found in appendices of Congressional Budget Office publications. *See, e.g.,* The Effects of Potential Cuts in SNAP Spending on Households With Different Amounts of Income (2015), *https://www.cbo.gov/publication/49978;* Possible Higher Spending Paths for Veterans' Benefits (2018), *https://www.cbo.gov/publication/44995.* An additional reference to calculate federal outlays and revenues is available from the National Bureau of Economic Research TAXSIM at *http://users.nber.org/~taxsim/.*

[7] *See* 42 U.S.C. 1397n–2(c)(1)(B).

[8] See 42 U.S.C. 1397n–1(b).

otherwise compel payment. Federal revenue may include individual income taxes, corporate income taxes, social insurance taxes, excise taxes, customs duties, estate and gift taxes, regulatory fees, compulsory user charges, court fines, certain license fees, remittances from the Federal Reserve, and other fees or fines, as applicable. Applicants should include only federal revenue expected to be generated by the target population during the valuation period and should identify the data source and assumptions used to estimate that amount.

Step 2: Estimate Project Intervention Impact

C. Estimate How Much the Total Amount of Federal Outlays Expended on the Target Population Will Change as a Direct Result of the SIPPRA Intervention

The Applicant must document how federal outlays will change due to achieving the outcome targets as a result of the intervention. The outcome valuation must include increases in costs due to intended or unintended impacts of the intervention. The Applicant must carefully consider how the project intervention may cause the substitution of benefits delivered through one social program for another. Specifically, the Applicant must consider how the intervention will affect eligibility for other federal programs and how this will affect the change in outlays. For example, an intervention that increases employment could decrease participation in government assistance programs while increasing eligibility for reimbursable employment-based tax credits. Both the decrease in assistance outlays and the increase in refundable tax credit expenditures are changes in government outlays resulting from the project intervention and must be considered.[9]

In estimating the project intervention's effect on the outlays of a government program, the Applicant must carefully consider the funding structure of the program and spillover effects. For instance, if the program has more eligible individuals than funding available for services, such that when one individual is removed from the program another eligible individual replaces that individual, then it is unlikely that there is a reduction in outlays. There may also be spillover effects of providing this training to the target population to participants outside of the target population. For example, a job training program may cause the displacement of workers currently employed resulting in lower wages and higher benefit uptake for those individuals.

The Applicant must clearly show the intervention effect over the period of performance and the valuation period.

For applicants who plan to use savings from Medicaid or CHIP, see Appendix II: Integration of Managed Care Information/Data for the integration of managed care information/data. This information is required to certify such changes in spending.

D. Estimate How Much Total Federal Taxes Paid by Target Population Will Change as a Result of the Intervention

The Applicant must document how the federal taxes will change if the project reaches the assumed outcome target. Applicants must take into account tax credits and deductions when estimating changes to federal taxes paid by the target population. The changes in federal tax revenues should be shown over the period of performance and the valuation period. Changes in federal tax revenues are not required for a project to be funded.

Step 3: Estimate Value of the Intervention to the Federal Government

The Applicant must measure the difference between the baseline and impact estimates. The Applicant must detail the savings (post-intervention federal outlays (C) minus baseline federal outlays (A) and the change in revenues (post-intervention federal revenues (D) minus baseline federal revenues (B). The ''value to the federal government'' is calculated as the sum of the savings plus the change in revenues. Treasury will pay no more than the value estimated in this step. As a formula, this is:

$$\text{Value} = \text{Change in Spending} + \text{Change in Revenue} = (C - A) + (D - B)$$

Applicants must include the estimated total savings, estimated savings per project participant, and estimated savings per dollar spent on the intervention. Applicants must also provide the estimated total savings over the period of performance and the valuation period.

The Applicant must also include the estimated value, estimated value per project participant, and estimated value per dollar spent on the intervention over the valuation period. Applicants must provide the estimated total value over the period of performance and the valuation period.

a. Outcome Valuation Spreadsheet

Applicants must document and submit their estimates of baseline federal revenues and outlays and estimated changes to federal revenues and outlays as a direct result of each proposed intervention in a spreadsheet so that the analyses can be replicated.

The spreadsheet must include all formulas used and describe all data sources, such as related literature, assumptions, and justifications, used to arrive at the estimates of the changes in federal revenues and outlays as a direct result of the proposed intervention.

The estimates in the spreadsheet must include the annual and cumulative net effect of each intervention on federal revenues and outlays overall, per dollar of intervention, and per participant over the period of performance and the valuation period.

The estimates of baseline federal outlays and revenues and the estimated federal outlays and revenues after the intervention must be rounded to the nearest hundred, rounding up any number that ends in a number greater than $50 to the nearest $100.

b. State and Local Outlays and Revenues

As required by SIPPRA statute, if the project's outcome target will result in changes to the state or local outlays and revenues, the Applicant is required to submit these estimates. They should be presented in a similar manner to the federal savings and value calculation explained above.

However, these estimates *will not* be incorporated into the value to the federal government calculation. Treasury will use these estimates as a part of the scoring rubric (see Section 6.B, Review Criteria), and they will be presented alongside the federal estimates when selecting the final awardees.

If the investor (see Section 4.A.g.(3), Partner Qualifications for a description of investor) is a state or local government, the program costs must be included in the assessment of state and local outlays and revenues.

While state and local outlays and revenues will not be incorporated into the calculation of value to the federal government, applicants may provide separate state or local outcome payments alongside federal outcome payments, if applicable. Such payments will not increase the federal outcome payment cap.

C. Evaluation Methodology

This section addresses the evaluation design and research methodologies.

[9] If the intervention's results would make the Awardee eligible for other federal payments during the intervention period, the estimated cost of those payments must be included in the BIA.

a. Evaluation Design Plan

The Applicant must provide an evaluation design plan summary that includes a range of information related to design, implementation, statistics, and data. The full list of requirements is available in Section 4.A.g(4), Evaluation design plan summary. The summary should provide information demonstrating that the proposed evaluation will be designed to determine whether the outcomes were achieved as a result of the intervention.

After the Applicant is awarded, the Awardee must, in coordination with the independent evaluator, develop a final evaluation design plan. The full evaluation design plan requirements are available in Appendix III. Elements of the evaluation design plan will be posted on Treasury's website.

b. Evaluation Requirements

The SIPPRA statute requires the Awardee demonstrate that outcomes ''have been achieved as a result of the intervention.'' The evaluation must use rigorous methods that can reliably show this direct link. These methods are either experimental designs with random assignment or other strong, evidence-based research methods approved by the Interagency Council when random assignment is not feasible.[10] These other approaches are commonly called quasi-experimental designs. The main goal of the project's independent evaluation is to determine how strongly the project can say that it caused the observed outcomes and not something else.

Randomized controlled trials (RCTs) are generally considered to be the most rigorous type of experimental design. In RCTs, a sample is randomly split into two groups–treatment and control. One group will receive the intervention and the other will continue as normal. Because people are randomly assigned to these groups, RCTs help minimize the chance that any differences in outcomes we see are due to other factors, rather than the project itself.

If randomization is not feasible, Treasury will also accept other reliable, evidence-based research methodologies often called quasi-experimental designs. These methods compare the outcomes of the group receiving the project to a similar group that did not. While they do not use random assignment, these designs use careful planning and analysis to create a comparison group that is as similar as possible to the project group. Applicants that cannot implement an RCT study will not be deemed less competitive or penalized for implementing a quasi-experimental design. These methods include regression discontinuity design, difference-in-differences, and propensity score matching, among others.

The application must clearly explain why randomization is not feasible. For example, reasons that randomization is not feasible could include:

- The program is not sufficiently oversubscribed to support random assignment with an adequate sample size.
- The cost, operational complexity, or administrative burden of implementing random assignment would be disproportionate to the expected benefits of that evaluation design.
- The structure, timing, setting, or delivery model of the project would make random assignment difficult to administer without materially disrupting implementation.

If randomization is not feasible, the Applicant must show how the Applicant plans to control for other factors without using random assignment. This could include who was selected for the project, other policies that were in place, changes in the economy, or other factors that might have influenced the results. The Applicant shall also describe how the services received by the project group will be different from what the comparison group receives.

A key part of both types of evaluations will be showing that the results are likely due to a causal effect and not chance. This is often done using a concept called statistical significance. The evaluation needs to show that the difference in outcomes between the project group and the comparison group is unlikely to have happened randomly. For purposes of the SIPPRA program, the result will be considered statistically significant if the null hypothesis falls outside of the 80 percent confidence interval. The choice of how to best calculate standard errors and confidence intervals is left to the independent evaluator, who must follow best practices based on the identification strategy submitted in the application.

Applicants may use classical statistical analysis or Bayesian statistical analysis. For applicants using Bayesian statistical analysis, the appropriate Bayesian tests must be used to show the equivalent of classical statistical significance at the 80 percent level. Additionally, applicants using Bayesian statistical analysis must conduct prior sensitivity analysis to ensure any causal result is not due only to an overly strong assumption (a dominant prior) in the prior distribution. Applicants using this approach must use high-quality experimental or quasi-experimental evidence to justify the prior distribution.

c. Evidence Standard

The SIPPRA statute requires Treasury to consider the likelihood, based on evidence provided in the application and other evidence, that the partnership will achieve the specified outcomes. This proof must come from well-designed studies that use experiments or other reliable methods to show that the approach causes the desired results and well-conducted studies with many participants in different settings that also show the approach works.

The level of improvement the project estimates it will achieve must be based on existing research.

For each project application, a Subject Matter Expert Panel (''Panel'') will determine the strength of the evidence provided. Projects with strong or moderate evidence are generally the best fit for the SIPPRA program, but all applications will be considered.

- *Strong evidence* means that the evidence base can support causal conclusions for the specific program proposed by the applicant with the highest level of confidence. The evidence must support causal conclusions (*i.e.,* studies with high internal validity) and include enough of the range of participants and settings to support scaling up to the state, regional, or national level (*i.e.,* studies with high external validity). Examples include:

(1) More than one well-designed and well-implemented experimental study or well-designed and well-implemented quasi-experimental study that supports the effectiveness of the practice, strategy, or program; or

(2) One large, well-designed and well-implemented randomized controlled, multi-site trial that supports the effectiveness of the practice, strategy, or program.

- *Moderate evidence* means that there is a reasonably developed evidence base that can support causal conclusions. There must be evidence from previous studies on the program, the designs of which can support causal conclusions (*i.e.,* studies with high internal validity) but have limited generalizability (*i.e.,* moderate external validity). This also can include studies for which the reverse is true—studies that only support moderate causal conclusions but have broad general applicability. The following would constitute moderate evidence:

(1) At least one well-designed and well-implemented experimental or

[10] 42 U.S.C. 1397n–4(c).

quasi-experimental study supporting the effectiveness of the practice strategy, or program, with small sample sizes or other conditions of implementation or analysis that limit generalizability; or

(2) At least one well-designed and well-implemented experimental or quasi-experimental study that does not demonstrate equivalence between the intervention and comparison groups at program entry but that has no other major flaws related to internal validity; or

• *Preliminary evidence* means that the evidence base can support conclusions about the program's contribution to observed outcomes. The evidence base must consist of at least one non-experimental study. A study that demonstrates improvement in program beneficiaries over time on one or more intended outcomes OR an implementation (process evaluation) study used to learn about and improve program operations would constitute preliminary evidence. Examples of research that meet the standards include:

(1) Correlational research with strong statistical controls for selection bias and for discerning the influence of internal factors;

(2) pre- and post-test research that determines whether beneficiaries have improved on an intended outcome; or

(3) rigorous implementation studies.

d. Independent Evaluation Activities

By statute, SIPPRA projects must have evaluations conducted by independent evaluators.

The federal government will fund up to 15 percent of the amount of the estimated project award (not including the cost of the evaluation) for independent evaluation activities of the project, regardless of whether outcomes are met. The federal government will not pay for pre-award costs or the portion of an evaluator's contract contemplating evaluation work that is not completed in the event a project terminates earlier than expected.

Any activities reasonably related and necessary to the evaluation are eligible to be funded through this award. This includes paying for staff time, purchasing data access, or travel related to the project. The expected evaluation activities will need to be listed when finalizing the award.

e. Independent Evaluator

Treasury will assess the independence and experience of the evaluator. The Applicant is required to show the evaluator's experience in conducting rigorous evaluations of program effectiveness including RCTs or quasi-experimental methods on the intervention or similar interventions. Treasury may determine there is not sufficient independence or experience and request a change in the independent evaluator before making an award.

f. Agreement With Independent Evaluator

The agreement between the Awardee and the independent evaluator must address the following:

• An evaluation design and methodology that will return the causal effect of the program.

• Plan to obtain relevant datasets from various sources, for example, local agencies, state agencies, or other federal agencies, including the responsibilities of the grantee and evaluator in accomplishing this task;

• Design and coding of a management information system, as needed, that is tailored for research or evaluation, to track participants and obtain individual level data;

• Collection or assessment of individual-level data. The independent evaluator must work directly with the Applicant and other organizations to enter into one or more agreements for the access and use of the data. These agreements must include assuring data quality and adherence to all federal and state data privacy statutes and policies and data security standards;

• Institutional Review Board (IRB) approval or a plan to get IRB approval to ensure the protection of human subjects, to the extent applicable; and

• Submission of progress reports to Treasury, the Interagency Council, and the head of the relevant agency in accordance with the reporting requirements described in Section 8.B.b, Evaluation Progress Reports and Section 8.B.c, Final Evaluation Report.

If the Applicant is unable to execute an agreement prior to the application deadline, Treasury will require the Applicant to detail how it will procure the evaluator in the application. This shall include a potential list of suitable evaluators, the steps for procuring the evaluator's contract (*e.g.,* approval by city council), and a reasonable timeframe for procuring the evaluator's contract. The process to procure the evaluator must detail how the Applicant will ensure it will meet statutory guidelines. If the Applicant is selected, it will be expected to finalize this agreement before the award will be finalized. See Section 4.A.g.(9) Requirements for Applications with Partners Not Yet Selected for the minimum requirements for documenting a process.

4. Application Contents and Format

A. Application Contents

Applications submitted in response to this NOFO must include the following:

(a) SF–424, Application for Federal Assistance;

(b) SF–424A, Budget Information for Non-Construction Programs (if applicable);

(c) SF–424C, Budget Information for Construction Programs (if applicable);

(d) SF–LLL, Disclosure of Lobbying Activities;

(e) *Grants.gov* Lobbying Form;

(f) Project Narrative.

The project narrative (page limit is 15 pages) must include the following:

(1) A one-page executive summary that follows the format as laid out in Appendix I.

(2) The outcome goals of the project.

This section shall cite available research to explain how the project will achieve the specified outcome goals. This description must include the unmet need in the target population that the intervention is trying to fulfill. The Applicant must provide the highest outcome level that it reasonably expects to achieve. The Applicant may provide a reasonable estimated range that it expects to achieve, and the outcome payment cap will be set at the highest end of that range. This section must also include a theory of change and logic model for how the intervention will lead to these outcome goals building from the available research.

• *Theory of Change:* This explains the logical steps and the evidence-based reasoning behind why the program's actions will lead to the intended outcomes including any assumed intermediate outcomes not being measured.

• *Logic Model:* This visually maps out the project, showing the resources the Applicant will use, the activities, the immediate outputs, the short-term outcomes, and the long-term impacts. It helps connect the project design to how the Applicant will measure and track progress.

The Applicant must also provide a summary of the value of the anticipated outcomes that is laid out in detail in Section 4.A.g.(7) of the project narrative attachments.

(3) The project timeline.

The project timeline must include an estimated duration for each phase of the project. Be sure to include the following periods:

Procurement and Ramp-up Periods:

• *Procurement Period:* The time needed to hire or contract with external partners, such as service providers, intermediaries, or evaluators.

• *Ramp-up Period:* The time required to prepare the project for implementation, which may include finalizing documents, hiring staff, creating data sharing agreements, and other administrative tasks. The ramp-up period concludes when the target population starts the intervention.

Key Project Timeframes:

• *Intervention Period:* The period during which participants are actively involved in the project, from the first day they receive services to the last day they participate.

• *Period of Performance:* The timeframe from the start of the intervention period through the last day of outcome tracking. (In some cases, the outcome tracking may continue beyond the intervention period; in other cases, the intervention period and period of performance may be the same.)

• *Valuation Period:* The specific timeframe used to calculate the total financial value of a project's outcome to the federal government. This calculated value sets the cap on the maximum payment the federal government can make for that outcome.

(4) A description of each intervention in the project and a service delivery plan for delivering the intervention through a social impact partnership model.

The Applicant must provide details for how each of the chosen interventions will affect the target population. The outcome goals described above must be referenced for each of the interventions.

The service delivery plan must detail how the project will implement each intervention and include a discussion of how the project will incorporate feedback from the evaluation into its ongoing operations.

If procuring services is required, the Applicant must detail what the procurement process will look like and how long that process typically takes.

If the Applicant does not have all funding secured at the time of application submission, the Applicant must provide a detailed fundraising plan to meet all funding requirements.

(5) The proposed payment terms.

This section must include the payment schedule, the methodology used to calculate outcome payments, and performance thresholds for defining success. These must be reasonably derived from the outcome valuation completed in Project Narrative Attachment #7. This section may include details as to how the Applicant plans to incorporate assumptions about value that is produced outside of the period of performance. The proposed payment terms must include the following:

• *Payment Schedule:* Propose a schedule for how and when payments will be made. An Applicant may propose a single payment at the end of the project or multiple payments throughout the project duration.

• *Payment Methodology:* Provide a clear formula for calculating payments, which may include potential tiers, bonuses, or penalties. This methodology must reference the evaluation design plan, including specific metrics used to measure outcomes, how the level of the outcome will be translated into value, and the independent verification process that will confirm outcomes.

• *Performance Thresholds:* Define measurable performance thresholds that will trigger payments, ranging from the minimum payment required to the maximum cap. The Panel will consider the extent to which robust payment structures incentivize desired outcomes through a well-defined methodology, schedule, and performance thresholds.

(6) The target population that will be served by the project.

This section must include a description of the target population and the criteria used to determine the eligibility of an individual for the project, including how the target population will be identified, how individuals will be referred to the project, how they will be enrolled in it, and the extent to which affected stakeholders will be engaged in the development and implementation of the project and evaluation.

(7) Social benefits.

The Applicant must also detail the expected social benefits to participants who receive the intervention and others who may be impacted.

(8) A description of whether and how the Applicant and service providers plan to sustain the intervention.

This section must include a description of whether and how the Applicant and service providers plan to sustain the intervention beyond the period of performance. The Applicant must detail the strategies for leveraging data and evidence generated from the project's activities to inform adaptation, continuation, or scaling of the project.

(9) Whether the project will directly benefit children.

This section must include a description of whether the project will directly benefit children. If so, the Applicant must specify how the project will benefit children and provide an estimate of the percentage of project participants who are expected to be children. Treasury will consider a project to ''directly benefit children'' if (1) the target population is children (aged 0–19 at the beginning of the intervention); or (2) the target population is parents of children or non-parental primary caregivers if the application presents strong evidence demonstrating a close logical, causal, and consequential relationship between the project's effect on parents or caregivers and the resulting positive effect on the parents' or caregivers' children. For projects where the target population is parents or primary caregivers, being a parent or primary caregiver must be part of the intervention's eligibility criteria in order to qualify as directly benefiting children. Portions of projects can directly benefit children without having the entire project directly benefit children. If a project directly benefits children, the Applicant must detail what percent of its value directly benefits children.

(g) Project Narrative Attachments

(1) *Project budget:* The Applicant must use SF–424A or SF–424C (for construction-related projects) to draft the programmatic budget, including amounts expected to be expended by partners. This is a complete estimate of how much will be spent over the course of the project. The Applicant must also provide a brief narrative for the budget, including descriptions of each line item. Please limit this narrative to 5 pages or fewer.

(2) *Partnership agreements:* The Applicant may provide an executed or draft partnership agreement between the Applicant and all project partners. If the Applicant must use a procurement process to select project partners, the Applicant may submit the process they will use to select the partners and verify that process meets the requirements listed below. See Section 4.A.g(9) Requirements for Applications With Partners Not Yet Selected. This will include a timeline for how long this process will take. The partnership agreement must address each of the following:

i. Clearly defined roles and responsibilities of each partner;

ii. A plan for sharing data among the partners, including a Memorandum of Understanding or Memorandum of Agreement, which may be conditioned on the award of a grant, that appropriately safeguards the privacy of individuals in the targeted population in accordance with applicable laws;

iii. A representation that all project partners have reviewed an independent evaluation plan for the project and an agreement by all the partners to

cooperate in the implementation of the evaluation plan as necessary; and

iv. A payment arrangement between the applicant and project partners (including the intermediary and/or investors, as applicable), demonstrating that all partners understand that payment by the federal government is conditioned upon the independent evaluator's verification that the project's pre-determined outcome(s) and value generated have been met. This payment arrangement must include a plan and timeline describing each payment point that the project partners have agreed on, and the corresponding outcome targets that will be evaluated in the impact evaluation. Although the federal government generally will make payments to the grantee if the independent evaluator determines that the project achieved the specified outcome as a result of the intervention and the payment is less than or equal to the value of the outcome to the federal government, the federal government is not responsible for making payments to the Awardee's partners other than the independent evaluator.

(3) *Partner qualifications.* Please limit this to 5 pages or fewer. The Applicant must provide a description of the expertise of the project partners. If the Applicant must use a procurement process to select project partners, the Applicant may submit the process they will use to select the partners and how that process will ensure the partner has the necessary expertise.

i. *Service provider.* Describe the expertise of each service provider that will administer the intervention, including a summary of the experience of the service provider in delivering the proposed intervention or a similar intervention, or demonstrating that service provider has the expertise necessary to deliver the proposed intervention. This description must include a discussion of the capacity of the service provider to deliver the intervention to the number of participants the State or local government proposes to serve in the project.

ii. *Intermediary.* Describe the intermediary's mission and goals; its experience and capacity for providing or facilitating the provision of the type of intervention proposed; information on whether the intermediary is already working with service providers that provide this intervention or an explanation of the capacity of the intermediary to begin working with service providers to provide the intervention; its experience working in a collaborative environment across government and non-governmental entities to implement evidence-based programs; its previous experience collaborating with public or private entities to implement evidence-based programs; its ability to raise or provide funding to cover operating costs, as applicable; its capacity and infrastructure to track outcomes and measure results, including its capacity to track and analyze program performance and assess program impact; its experience with performance-based awards or performance-based contracting and achieving milestones and targets; and an explanation of how the intermediary would monitor program success.

iii. *Investor.* To the extent the Applicant intends to use investors and has not already identified and received commitments from them, the application must discuss the experience of the State or local government, intermediary, if any, or service provider in raising private and philanthropic capital to fund social service investments.

(4) *Evaluation design plan summary*: Provide an evaluation design plan summary by following the following guidelines. Limit this to 3 pages or fewer. The summary should provide information demonstrating that the proposed evaluation will be designed to determine whether the outcomes were achieved as a result of the intervention.

The summary must address the following six topics:

i. *Outcome metrics and data sources.* Identify the outcome metric or metrics that will be used to determine whether the project achieved its outcome goals. For each metric, identify the data source, data owner, expected outcome target or payment threshold, and why the metric is an independent, objective indicator of impact that is not subject to manipulation by the service provider, intermediary, investors, or other project partners.

ii. *Evaluation design and comparison group.* Identify the proposed evaluation design, such as a randomized controlled trial, regression discontinuity design, difference-in-differences design, matched comparison design, or another rigorous methodology. Describe the treatment group, the control or comparison group, how each group will be formed, and the expected difference in services received by each group. Briefly explain how the design will support causal conclusions.

iii. *Randomization feasibility.* State whether random assignment is feasible. If random assignment is feasible, briefly describe how it would occur. If random assignment is not feasible, explain why and identify the strongest feasible alternative evaluation method.

iv. *Preliminary power calculation.* Provide a preliminary power calculation for each primary outcome or payment metric. Identify the expected treatment and control or comparison group sizes, the expected effect the intervention is designed to achieve, and whether the proposed sample is large enough to detect that effect. Briefly state the main assumptions that affect the calculation, such as attrition, missing data, take-up, clustering, or repeated observations.

v. *Data access.* Identify the data needed to conduct the evaluation, including data needed to measure outcomes, construct the treatment and control or comparison groups, and assess baseline characteristics. State the status of access to each major data source, including whether data-use agreements, memoranda of understanding, consent forms, or other approvals are in place or will be needed. If federal administrative data are required, identify the federal data source, expected access pathway, and any known gaps or risks.

vi. *Main risks to the evaluation.* Identify the most important risks to the evaluation's ability to produce credible causal estimates, such as insufficient sample size, missing data, attrition, weak service contrast, contamination, changes in policy or service availability, implementation challenges, or inability to access required data. Briefly describe how the Applicant and independent evaluator expect to mitigate these risks.

At the application stage, Applicants are not required to provide final regression equations, final covariate specifications, minimum detectable impact estimates, final hypothesis testing procedures, or a full implementation evaluation protocol. If selected for an award, the Awardee must submit a full Evaluation Design Plan after award, in the form and timeline required by Treasury. See Appendix III for a description of what will be required in the final evaluation design plan.

(5) *Independent evaluator qualifications*: Provide a summary explaining the independence of the evaluator from the other entities involved in the project and the evaluator's experience in conducting rigorous evaluations of program effectiveness including, where available, well-implemented RCTs and quasi-experimental analyses on the intervention or similar interventions. When discussing experience, please note both personnel and organization experience. Applicants must address the

following qualifications of the evaluator. Please limit this to 3 pages or fewer.

i. Experience working with the datasets the project expects to use;

ii. Prior work in conducting implementation and causal impact evaluation and how their past methodologies and evaluation design experience will be used in the proposed project. Please provide examples of evaluations that they have completed of similar size, scope and complexity;

iii. Qualifications of the key personnel designing and overseeing the evaluation and ensuring its quality, including their education or training and type and years of experience;

iv. Experience in managing similar evaluation protocols (*e.g.,* type of sampling, data collection, analysis); and

v. Experience dealing with unforeseen data or implementation issues in other program evaluations. Provide specific examples and experiences dealing with unforeseen data or implementation issues.

(6) Independent evaluator contract or agreement. Provide a copy of the contract or agreement to be entered into between the State or local government and the independent evaluator. The contract or agreement must address the following information.

i. Plan to obtain relevant datasets from various sources, for example, local agencies, state agencies, or other federal agencies, including the responsibilities of the grantee and evaluator in accomplishing this task;

ii. Design and coding of a management information system, as needed, that is tailored for research or evaluation, to track participants and/or to obtain individual level data;

iii. Collection or assessment of individual-level data. The independent evaluator must work directly with the Applicant and other organizations to enter into one or more agreements for the access and use of the data. These agreements must include assuring data quality and adherence to all federal and state data privacy statutes and policies and to all applicable data security standards;

iv. Institutional Review Board (IRB) approval or a plan to get IRB approval to ensure the protection of human subjects, to the extent applicable; and

v. Submission of progress reports to Treasury, the Interagency Council, and the head of the relevant agency in accordance with the reporting requirements described in Section 8.B.b, Evaluation Progress Reports and Section 8.B.c, Evaluation Final Report.

vi. A payment plan that details the annual payment schedule that aligns with the other requirements of the independent evaluator.

The selection of an independent evaluator is subject to the procurement requirements of the Uniform Guidance, including those related to competitive procurement.[11]

An independent evaluator's experience and independence are considered in the review process. If you are unable to submit the name and qualifications of the independent evaluator when you submit the application to Treasury, you may submit in the SIPPRA application a description of the process you will use to choose an independent evaluator. See Section 4.A.g.(9) Requirements for Applications With Partners Not Yet Selected.

(7) *Outcome valuation:* Provide an attachment detailing the outcome valuation of the anticipated outcomes, as described in Section 3.B, Outcome Valuation Methodology. Applicants must provide the estimated total value and savings, estimated value and savings per project participant, estimated value and savings per dollar spent on the intervention, as well as the methodology used by the Applicant in arriving at such estimates. Applicants must cite evidence that the reviewers can assess when deriving the savings and value. Treasury requires that the Applicant provide an unprotected spreadsheet that allows a reviewer to view and manipulate all underlying data. Please limit this to 10 pages or fewer.

(8) *Legal compliance for projects that include construction (if applicable):* Applicants proposing a project including a construction component must identify applicable State and federal environmental laws, regulations, policies, and required environmental documents. Applicants proposing a project including a transportation component must identify applicable federal, State, and local laws relating to that component, and required permitting and licensing documents. The applicant must identify laws applying to the population being served and verify that the project will be in compliance with those laws. The applicant must comply with applicable federal, State, and local privacy laws. The applicant must identify any approved waivers, including but not limited to environmental or transportation laws or regulations, required by the intervention design; if waivers are pending, the applicant must include documentation that it has sought the waiver and when approval is expected. Failure to obtain a necessary waiver may be grounds for termination of a grant.

(9) *Requirements for Applications With Partners Not Yet Selected:* An Applicant that has selected a service provider, intermediary, independent evaluator, or other project partner at the time of submission must provide the partner-specific information required elsewhere in this NOFO. If applicable procurement or partner-selection requirements prevent the Applicant from selecting a partner before submission, the Applicant may identify that partner as ''to be determined'' and submit a process application for that role.

For each partner not yet selected, the process application must describe the proposed scope of work, estimated budget or contract value, expected agreement type, and the procurement or selection process the Applicant will use. At a minimum, the process application must include:

(a) The procurement or selection timeline, including major steps, required approvals, and the expected date for selecting the partner and executing an agreement;

(b) The selection criteria, including any relative weights or priority factors, and how those criteria will assess the partner's qualifications, experience, capacity, and ability to perform the proposed role;

(c) The official, body, or committee with decision-making authority, and the roles of any reviewers, procurement staff, or evaluation committee members;

(d) Safeguards for full and open competition, impartial review, and conflicts of interest, including any justification required for a noncompetitive procurement;

(e) For an independent evaluator, the required qualifications, including independence from the Applicant's implementation partners and experience conducting rigorous impact and implementation evaluations using the proposed data and methods;

(f) For a service provider, intermediary, or other implementation partner, the minimum qualifications needed to deliver the proposed intervention model with fidelity and at the scale described in the application; and

(g) The Applicant's plan for maintaining continuity between the proposed intervention model, theory of change, evaluation design, payment terms, data-sharing approach, and the partners ultimately selected.

Selection of a partner after application submission must not materially weaken

[11] There are specific circumstances in which noncompetitive procurement can be used. *See* 2 CFR 200.320(c).

the proposed intervention, evaluation design, outcome valuation, payment structure, or compliance with this NOFO. Before Treasury finalizes an award, or at another time specified by Treasury, the Applicant must provide the selected partner's name, qualifications, role, executed or final proposed agreement, updated budget information, and documentation sufficient to show that the selection process was completed consistent with applicable Federal, State, local, and Tribal procurement requirements.

(10) I*nterjurisdictional Applications:* Two or more eligible Applicants may jointly propose a single project serving multiple jurisdictions. Each participating jurisdiction must submit an application. The applications may be substantially identical, but each application must identify all participating jurisdictions and describe the interjurisdictional partnership. Each participating jurisdiction or agency must have its own UEI.

The applications must describe how the participating jurisdictions will govern and implement the partnership, including the roles and responsibilities of each jurisdiction; how required application materials, reports, and other documentation will be submitted; how the independent evaluator will be selected, contracted with, and paid; how outcomes will be measured across jurisdictions; and how any outcome payments will be calculated, allocated, and paid.

The applications may propose that Treasury make separate outcome payments to each participating jurisdiction or that Treasury make outcome payments to one participating jurisdiction, which would then distribute funds to the other participating jurisdictions under the partnership's agreement. Treasury may request additional information or documentation before finalizing an award. If selected, each participating jurisdiction will be responsible for ensuring that all program requirements and award terms are met.

(11) An application may contain additional supporting documentation as attachments, such as an existing feasibility study.

B. Application Format

The project application must be prepared using the following formatting and organizational guidelines:

1. Number all pages.

2. Be double-spaced, with text in a single column.

3. Be a standard 12-point font, such as Times New Roman.

4. Use 1-inch margins.

5. Not exceed 15 pages in length, excluding the table of contents, appendices, or attachments. See each individual attachment for page limits.

6. As appropriate, include graphics, charts, or lists to make the information easier to review.

7. If possible, provide website links to supporting documentation rather than copies of these supporting materials. It is important to ensure that the website links are currently active, accessible, and working. Non-working links may negatively affect the review of the application.

8. If supporting documents are submitted, applicants must clearly identify within the application the relevant portion of the application that each supporting document supports.

9. Use appropriately descriptive file names (*e.g.,* ''Application,'' ''Budget Workbook,'' ''Letter of Support'') for all attachments.

10. All file names must be prefaced with the applicant's name or initials.

5. Submission Requirements and Deadlines

A. Submission Requirements

a. Request Application Package

Applicants must apply using *Grants.gov*. Applicants can find this opportunity and all application materials and instructions in the announcement at *Grants.gov* under number 21.017. General information for registering and submitting applications through *Grants.gov* can be found at *https://www.grants.gov/register.* Once you have located the funding opportunity in *Grants.gov*, you can find the full application under the ''Package'' tab. It will include a series of required forms. Information on how to apply for grants can be found at *https://www.grants.gov/applicants/applicant-registration.*

Registration is a multi-step process that may take several weeks to complete before an application may be submitted. *Grants.gov* scheduled maintenance and outage times are announced on *Grants.gov*. The deadline will not be extended due to scheduled maintenance or outages. Applicants may incur significant risk by waiting to the last day to submit by *Grants.gov*. Only applications submitted through *Grants.gov* will be reviewed. Applications submitted through email or other methods will not be reviewed.

Applications may withdraw from consideration by providing written notice to *SIPPRA@Treasury.gov* at any time before an award is made.

b. Unique Entity Identifier and System for Award Management (SAM.gov)

The Applicant, if they do not have an exemption under § 25.110, must

(1) Be registered in *SAM.gov* before submitting an application;

(2) Maintain a current and active registration in *SAM.gov* at all times during which it has an active Federal award as a recipient or an application under consideration by a Federal agency. The applicant or recipient must review and update its information in *SAM.gov* annually from the date of initial registration or subsequent updates to ensure it is current, accurate, and complete. If applicable, this includes identifying the applicant's or recipient's immediate and highest-level owner and subsidiaries, as well as providing information on all predecessors that have received a Federal award or contract within the last three years; and

(3) Include its UEI in each application it submits to the Federal agency.[12]

Treasury suggests finalizing a new registration or renewing an existing one at least one month before the application deadline to allow time to resolve any issues that may arise. Applicants must use their *SAM.gov*-registered legal name and address on all grant applications to Treasury. Treasury will not make an award if the Applicant has not complied with all applicable *SAM.gov* requirements.[13] If the entity is currently registered in *SAM.gov*, the UEI has already been assigned and is viewable in *SAM.gov*.

c. Submission Instructions

Submission instructions may be found here: *https://www.grants.gov/applicants/grant-applications/how-to-apply-for-grants.*

Please contact Matthew Cook, SIPPRA Program Director, at *SIPPRA@Treasury.gov* if you have any issues.

d. Submission Dates and Times

Applications must be submitted between 9:00 a.m. Eastern Time on December 9, 2026 and 9:00 p.m. Eastern Time on April 6, 2027. Applications must be submitted electronically through *Grants.gov*. Mail, email, or facsimile (FAX) submissions will not be accepted.

All applications will be reviewed after the deadline has passed. If an applicant submits multiple versions of the same application, Treasury will review the most recent submission.

[12] 2 CFR 25.200(b)(3).

[13] For more information about SAM, see the information provided by the General Services Administration at *https://sam.gov/content/about/this-site.*

e. Intergovernmental Review

This funding opportunity is subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as amended by Executive Order 12416. Some States require that applicants contact their State's Single Point of Contact (SPOC) to comply with the State's SPOC process established pursuant to Executive Order 12372. Names and addresses of the SPOCs are listed on the Office of Management and Budget's homepage at Intergovernmental Review (SPOC List). Applications from federally recognized Indian tribes are not subject to intergovernmental review.

6. Application Review Information

A. Threshold Criteria

Treasury will review all applications to determine if the applicant is a State or local government and submitted all required information in the requested format. An application received from an ineligible entity or for an ineligible project will be rejected. Incomplete applications may, at Treasury's discretion, receive further consideration. Treasury expects to afford applicants a reasonable opportunity to fix any such issues, as appropriate.

B. Review Criteria

SUBJECT MATTER REVIEW SCORING RUBRIC

Category	Subcategory	Points
I. Outcome Valuation	Savings to the federal, State, and local government	15
	Value to the federal government	10
	Payment terms	5
Subtotal		30
II. Likelihood of Achieving Outcomes	Evidence demonstrating intervention can be expected to achieve desired outcome.	15
	Project plan and service delivery plan	10
	Project budget	5
	Partnerships	10
Subtotal		40
III. Quality of Evaluation	Evaluation design and metrics	10
	Evaluator independence and experience	10
	Access to data	5
Subtotal		25
IV. Capacity and Commitment to Sustain the Intervention		5
Total		100

i. Outcome Valuation

This section has three components: value to the federal government, estimates of state and local outlays and revenues, and the proposed payment terms. The magnitude of the estimated savings or value will not be a factor in the overall score of the application.

I. Savings to Federal, State, and Local Government

SIPPRA statute requires Treasury to take into consideration the savings to the federal, State and local governments.[14] The term ''savings'' refers to reduced outlays, whether by the federal or State or local government, as applicable, as a result of the project.[15] There must be savings to the federal, State or local government, for a project to be funded through the SIPPRA program.[16] Increased revenues as a result of the intervention are not considered savings.

A Subject Matter Expert Review Panel (''Panel'') will ensure that the Applicant meets the threshold requirement of the presence of federal, State, or local savings. Then, the Panel will assess the quality of the methodology used by the Applicant to arrive at the estimates, how likely the Applicant is to achieve these savings, and the comprehensiveness of the estimated savings. Applicants will receive higher scores for comprehensive and well-justified estimates of savings. This will include an assessment of the answers to the questions in Appendix II: Integration of Managed Care Information/Data, if applicable.

Applicants must include the estimated total savings, estimated savings per project participant, and estimated savings per dollar spent on the intervention over the valuation period. Applicants must also provide the estimated total savings over the period of performance.

II. Value to the Federal Government

The federal payment to the State or local government for each specified outcome achieved as a result of the intervention must be less than or equal to the value of the outcome to the federal government over a period not exceeding ten years from the date implementation commences.[17] Value calculated for the purpose of this NOFO is discussed in Section 3.B, Outcome Valuation Methodology.

The Panel will determine how likely the project is to achieve the value, how accurate the justification is that the proposed intervention will produce the value proposed by the Applicant, and the comprehensiveness of the Applicant's estimate. The Panel will also review the data and approach to ensure it can easily be replicated and that the data would be sufficient for the analysis. Applicants will receive higher scores for comprehensive and well-justified estimates of value.

Applicants must include the estimated total value, estimated value per project participant, and estimated value per dollar spent on the intervention over the valuation period.

[14] *See* 42 U.S.C. 1397n–2(b)(4)–(5).

[15] *Id.*

[16] *See* 42 U.S.C. 1397n–1(b); 42 U.S.C 1397n–5(a)(8).

[17] *See* 42 U.S.C. 1397n–2(c)(1)(B).

III. Payment Terms

The Panel will evaluate proposed payment terms to ensure a clear link between the outcome valuation and potential payments. Applications must detail the payment schedule, the methodology for calculating outcome payments, and the performance thresholds triggering payment. Applicants may propose to have one payment at the end of the project or multiple payments throughout the duration of the project.

The terms shall specify the payment calculation formula (including potential tiers, bonuses, or penalties), reference the evaluation design plan (including the metrics used to measure outcomes, the baseline data, and the independent verification process), and clearly articulate how outcome achievement translates to payment using the outcome values over the valuation period. Clearly defined and measurable performance thresholds for the requested minimum payment to the outcome payment cap are required. The Applicant will receive a higher score for more detailed and realistic payment terms.

ii. Likelihood of Achieving Outcomes

The SIPPRA statute requires Treasury to consider the likelihood, based on evidence provided in the application and other evidence, that the State or local government in collaboration with the intermediary and the service providers will achieve the specified outcomes.[18] Projects showing a greater likelihood of achieving outcomes will receive more points from the Panel as detailed below.

I. Evidence Demonstrating Intervention Can Be Expected To Achieve Desired Outcome

The Panel will assess Applicants' compliance with the statutory requirement to provide evidence demonstrating that the intervention can be expected to produce the estimated changes in the chosen outcomes.[19] The Panel will evaluate the comprehensiveness of the presented evidence (evidence that leaves no significant gaps or unanswered questions regarding the intervention's rationale, design, feasibility, and expected outcomes) and categorize it as strong, moderate, or preliminary (see Section 3.C.c, Evidence Standard for definitions of evidence).

Panels will also assess the extent to which the theory of change and the logic model accurately represent the causal steps necessary to understand how the intervention will cause the change in outcomes in the participants.

II. Project and Service Delivery Plan

Each intervention must clearly detail the activities the program will take to improve the lives of its target population. The Panel will review the Applicant's identified target population, outcome goals, proposed intervention(s), and description of the unmet need in the area where the intervention will be delivered or among the target population that will receive the intervention.[20] [21] The Panel will assess the thoroughness and comprehensiveness of the Applicant's service delivery plan for delivering the intervention.

The Panel will review the criteria used to determine the eligibility of an individual for the project, including how the target population will be identified, how individuals will be referred to the project, and how they will be enrolled in it.[22] The Panel will also review the extent to which the target population and related community will be engaged in the development and implementation of the project and evaluation.

III. Project Budget

The Panel will assess the Applicant's project budget.[23] The Panel will closely review the project's total budget as well as the budget categories listed in each respective section. The Panel will ensure the project costs are reasonable and consistent with program objectives.

IV. Project Partners

The Panel will assess the assigned responsibilities and the qualifications of the partners. This will include an assessment of the Applicant's description of the roles and responsibilities of each entity involved in the project, including, to the extent applicable, any State or local government entity, intermediary, service provider, investor, or other stakeholder.[24] The Panel will assess the relevance and depth of expertise of each service provider and capacity of each service provider to deliver the intervention, as described by the applicant.[25] Likewise, the Panel will review the relevance and depth of experience of any project intermediary and the capacity of the intermediary to fill the roles assigned to it.

To the extent the Applicant intends to use investors and has not already identified and received commitments from them, the Panel will consider the experience of the State or local government, intermediary, or service provider in raising private and philanthropic capital to fund social service investments. While securing complete funding is not required at the time of application submission or when the period of performance begins, the Applicant must be able to provide a detailed overview of how and when it anticipates obtaining the investments needed to operate the program.

iii. Quality of Evaluation

I. Evaluation Design and Metrics

The SIPPRA statute requires Treasury to consider the expected quality of the evaluation of the proposed intervention that the independent evaluator will conduct. The Panel will assess the project's evaluation design summary, including the rigor and strength of the potential design, its capacity to determine that the outcomes were achieved as a result of the intervention, the feasibility of implementing the planned evaluation, the quality and availability of the required data, and the Applicant's explanation of how the metrics used in the evaluation are independent, objective indicators of impact. The Panel will also determine whether randomization is feasible, and if not, the Panel will assess whether the reason provided by the Applicant is sufficient to allow an alternative evaluation. This assessment will be provided to the Interagency Council, which will make the final determination as to whether an evaluation method other than randomization is allowable.

II. Evaluator Independence and Experience

Panels will review the independence of the evaluator from the other entities involved in the project and the evaluator's experience in conducting rigorous evaluations of project effectiveness. Types of experience that will be reviewed include experience with the chosen evaluation design method as applied to the intervention or similar interventions and the datasets the project expects to use, as well as experience conducting implementation and causal impact analyses, managing similar evaluation protocols, and dealing with unforeseen data or implementation issues in other program evaluations. The qualifications of the individuals designing and overseeing

[18] *See* 42 U.S.C. 1397n–2(b)(3).

[19] *See* 42 U.S.C. 1397n–1(c)(3), 1397n–2(c)(1)(D).

[20] *See* 42 U.S.C. 1397n–1(c).

[21] *Id.*

[22] *Id.*

[23] Budget Information for Non-Construction Programs (SF–424A).

[24] *Id.*

[25] *Id.*

the evaluation and ensuring its quality, including their education or training and type and years of experience, will also be considered.

If the Applicant does not provide a letter of intent from an evaluator at the time of submission, the Applicant can detail the criteria to be used to select the evaluator through a procurement process. The criteria used to select the evaluator must be aligned with the information requested of the evaluator noted above.

III. Access to Data

Panels will assess whether the Applicant has sufficiently demonstrated that it is planning to access the correct data to assess the causal result of the intervention. The SIPPRA statute requires that the Interagency Council certify that the independent evaluator has access to federal administrative data to conduct the independent evaluation.[26] If the Applicant requires federal administrative data, the Panel will assess whether the independent evaluator can reasonably expect to be able to access all relevant data or whether there are gaps in their assumptions. This assessment will be provided to the Council, which will make the certification.

iv. Capacity and Commitment To Sustain the Intervention

The SIPPRA statute requires Treasury to consider ''the capacity and commitment of the State or local government to sustain the intervention, if appropriate and timely, and if the intervention is successful, beyond the period of the social impact partnership.'' [27] The Panel will consider the Applicant's submissions with respect to State or local government and service providers' plans to sustain the intervention. Although the primary focus will be on the period of performance, the Panel will provide additional points to applications that demonstrate a commitment from the State or local government and service providers and the availability of sufficient funding to extend the project, if appropriate, beyond the project period.

a. Review and Selection Process

The following is the review process for determining the award recipients. During the review process and risk assessment evaluation, Treasury may ask the Applicant to provide confirming or clarifying information. A request for confirmation or clarification does not guarantee an award. If the Applicant does not respond by the deadline to a request for information, Treasury may remove its application from consideration. Upon request, Treasury expects to provide feedback to unsuccessful applicants after grant awards have been announced.

- Phase 1: Eligibility and Completeness Review
- Phase 2: Subject Matter Expert Panel Review
- Phase 3: Consistency Review
- Phase 4: Commission Recommendations
- Phase 5: Interagency Council Certification
- Phase 6: Treasury Determination

(1) Phase 1: Eligibility and Completeness Review

In the first review phase, Treasury will review all applications to determine eligibility and completeness, which will consist of a technical review to determine whether the applicant is a State or local government; whether the proposed project can qualify as a pay for results project; whether the proposed project qualifies as an eligible project as set forth in Section 2, Eligibility; and whether each of the application content requirements set forth in Section 5, Submission Requirements and Deadlines has been satisfied. Prospective applicants are encouraged to consult the SIPPRA FAQs on Treasury's SIPPRA website page to help them determine if their proposed project is suitable under the pay for results model.[28] An application received from an ineligible entity or for an ineligible project will be rejected. Incomplete applications may, at Treasury's discretion, receive further consideration. Treasury expects to offer applicants a reasonable opportunity to fix any such issues, as appropriate.

(2) Phase 2: Subject Matter Expert Panel Review

Treasury will assign complete applications submitted by eligible applicants to a panel of subject matter experts who will be selected based on their knowledge of the social benefits or problems, technical expertise in the type of intervention, experience working with the target population that is the subject of the application, or other considerations. Panelists will be selected from relevant federal agencies. Reviewers will be screened for conflicts of interest.

The Panel will review the applications based on the criteria laid out in Section 6, Application Review Information. Treasury estimates this will take two months depending on the number and quality of the applications.

(3) Phase 3: Consistency Review

Following the Panel review, Treasury will review application scores for consistency among subject matter experts on each Panel and across Panels and rank the applications. After this review, the reviewer scores will be averaged to create a ranking that will be provided to the Commission on Social Impact Partnerships.

(4) Phase 4: Commission Recommendations

SIPPRA statute establishes the Commission on Social Impact Partnerships (''the Commission'') whose principal obligation is to make recommendations to Treasury regarding the funding of SIPPRA program projects and feasibility studies. The nine-member advisory commission established by the Act consists of a non-federal Chair appointed by the President and eight non-federal members chosen by congressional leaders based on expertise laid out in SIPPRA statute.[29] The Commission will review eligible applications and make recommendations to Treasury. Treasury estimates this process will take two months depending on the number and quality of the applications.

(5) Phase 5: Interagency Council Certification

The Act establishes the Federal Interagency Council on Social Impact Partnerships (''the Interagency Council''). This eleven-member body is chaired by the Director of the Office of Management and Budget and its other members are representatives from the Departments of Labor, Health and Human Services, Agriculture, Justice, Housing and Urban Development, Education, Veterans Affairs, and Treasury; the Social Security Administration; and the Corporation for National and Community Service. The Interagency Council's responsibilities include certifying Federal savings, providing subject-matter expertise, and advising the Secretary of the Treasury.[30]

By statute,[31] the Interagency Council will determine whether to certify the following:

- The evaluation design uses experimental designs using random assignment or other reliable, evidence-based research methodologies that allow

[26] 42 U.S.C. 1397n–5(a)(8).

[27] 42 U.S.C. 1397n–2(b)(7).

[28] Department of Treasury, SIPPRA—Pay for Results, *https://home.treasury.gov/services/social-impact-partnerships/sippra-pay-for-results.*

[29] 42 U.S.C. 1397n–6.

[30] 42 U.S.C. 1397n–5.

[31] *Id.*

for the strongest possible causal inferences when random assignment is not feasible.

- The State or local government and its evaluator has access to federal administrative data.
- The application contains rigorous, independent data and reliable, evidence-based research methodologies to support the conclusion that the project will yield savings to the State or local government or the federal government if the project outcomes are achieved.
- For proposed projects that expect to provide savings to the federal government, the project will yield a projected savings to the federal government if the project outcomes are achieved.

Treasury estimates this will take two months depending on the number and quality of the applications. During this time, Treasury may reach out to Applicants to provide them with an opportunity to make corrections to their application in order for the Council to make a certification decision.

(6) Phase 6: Treasury Determination

Treasury, after consultation with the Interagency Council, will make a final determination regarding which projects to select. Treasury may also take into account considerations set out in Section 4 of Executive Order 14332, ''Improving Oversight of Federal Grantmaking.'' Treasury may also give particular consideration to applications that propose workforce development projects, consistent with SIPPRA's emphasis on workforce outcomes.

b. Risk Review

As required by 2 CFR.200.206, Treasury will review the risks posed by the applicants. Treasury will consider any information about an applicant that is in *SAM.gov* before making any award in excess of the simplified acquisition threshold (currently $350,000) over the period of performance.[32]

Further, as required by Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, or affirm that there is no new information to provide.[33] This applies to NFEs for which the total value of active grants, cooperative agreements, and procurement contracts received from all federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of an award or project. This means that Treasury may reject an application based on the information contained in FAPIIS even if the applicant otherwise achieves a high score under the 100-point scoring rubric discussed in Section 6.B, Review Criteria, above.

Treasury will also review the Applicant's information in the Do Not Pay system. Applicants listed in that system as not payable will not be eligible.

7. Award Notices

Before a grant is awarded, Treasury or the relevant federal agency may enter into negotiations with the applicant regarding program components, staffing and funding levels, and/or administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, Treasury or the relevant federal agency may terminate the negotiations and decline to fund the award.

Treasury expects to announce the results of this competition by October 2027. Any notice of selection prior to a Notice of Award (NoA) is not an authorization to begin performance. Treasury will provide successful applicants with a NoA that will set forth the amount of the award, the amount for the independent evaluation, and other pertinent information. The NoA is the official document issued to obligate funds and notify an applicant that an award has been made. The NoA will also include standard Terms and Conditions and any Special Award Conditions related to participation in the SIPPRA program. A copy will also be sent to the electronic mail address listed on the SF–424. After Treasury issues a NoA, Treasury or the relevant federal agency will provide the Awardee a time period to finalize pertinent documents before starting the project.

After an Applicant receives a Notice of Award, Treasury will require the Applicant to complete all necessary final documents, including the project plan, partnership agreements, evaluation design, and outcome valuation, within nine months of the Applicant and Treasury executing the Notice of Award. Treasury will approve the Applicant to begin the project after Treasury determines that these documents are complete and acceptable.

Note that any communication between Treasury, the relevant federal agency, and applicants prior to the issuance of the NoA and prior to the execution of any award agreement is not authorization to begin performance on the project. Unsuccessful applicants will be notified of their status by electronic mail to the applicant listed on the SF–424 as soon as practicable. Unsuccessful applicants may apply under subsequent NOFOs, if any.

8. Post-Award Requirements and Administration

Applicants selected for awards must agree to comply with additional applicable legal requirements upon acceptance of an award. All grants are subject to the Office of Management and Budget's (OMB's) regulatory requirements for grants, as codified in the Uniform Guidance.

A. Administrative Program Requirements

Awards under this NOFO are subject to federal laws, regulations, and policies concerning grants. Below is a non-exhaustive list of requirements with which the applicant will need to comply:

1. Lobbying Restrictions at 31 CFR part 21
2. Government-wide Debarment and Suspension Requirements at 31 CFR part 19
3. Government-wide Requirements for Drug-Free Workplace at 31 CFR part 20
4. Award Term for Trafficking in Persons at 2 CFR part 175
5. Environmental Requirements

Treasury approval of financial assistance is subject to compliance with applicable federal and State environmental requirements. As discussed under Section 4.A.g(8), Legal Compliance, the Applicant must identify the State and federal environmental laws, regulations, and policies that may apply to the project and the environmental documents that may be required under State and federal laws. Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), project applications will be evaluated in accordance with Treasury's NEPA procedures. Grantees whose projects do not fall within Treasury's categorical exclusions will be required to assist Treasury in conducting an Environmental Assessment and an Environmental Impact Statement for the project, as applicable.

[32] Each applicant may review information in the designated integrity and performance systems accessible through *SAM.gov* and comment on any information about itself that a federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through *SAM.gov*. Treasury will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in the Uniform Guidance.

[33] *See* 2 CFR part 200, appendix XII.

6. Non-Discrimination Laws and Regulations

All grantees, partners, and sub-recipients, if applicable, must comply with applicable non-discrimination statutes and regulations. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000–2000d7), which prohibits discrimination on the basis of race, color of national origin, and Treasury's implementing regulations, 31 CFR part 22; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, and Treasury's implementing regulation 31 CFR part 28; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of disability; (d) the Individuals with Disabilities Education Act, as amended (20 U.S.C. 1400 *et seq.*); (e) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age, and Treasury's implementing regulations, 31 CFR part 23; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Section 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–2), as amended, relating to confidentiality of alcohol and drug abuse patient records; and (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing.

In implementing non-discrimination statutes and regulations, recipients must take into account applicable federal guidance, including the Department of Justice Memorandum of July 29, 2025, ''Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination.'' This funding opportunity is subject to Executive Orders regarding anti-discrimination and federal rulemaking, to the extent applicable to the SIPPRA program, including Executive Order 14151, ''Ending Radical and Wasteful Government DEI Programs and Preferencing,'' Executive Order 14281, ''Restoring Equality of Opportunity and Meritocracy,'' and Executive Order 14332 ''Improving Oversight of Federal Grantmaking.''

7. Transparency Act Requirements

Applicants must ensure that they have the necessary processes and systems in place to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, as amended by § 6202 of Pub. L. 110–252) (Transparency Act). All Applicants, except for those excepted from the Transparency Act, must ensure that they have the necessary processes and systems in place to comply with the sub-award and executive total compensation reporting requirements of the Transparency Act, should they receive funding. Upon award, Applicants will receive detailed information on the reporting requirements of the Transparency Act, as described in 2 CFR part 170, Appendix A. No sub-award of an award made under this NOFO may be made to a sub-recipient that is subject to the terms of the Transparency Act unless that potential sub-recipient acquires and provides a Unique Entity Identifier.

8. Access to Records/Oversight

By accepting a project award under this NOFO, the Awardee agrees to make available to Treasury, the Comptroller General, agency Inspectors General, the administering agency, or any of their authorized representatives, all data and documents that might be needed, including contracts and agreements, regardless of whether outcomes are achieved and payment is received, in the Awardee's possession or available to the grantee. Awardees must also agree to provide timely and reasonable access to program operating personnel, project partners, and participants. This evaluation may make use of program management information system data, local administrative data, financial data, and program progress reports. It is critical that Awardees keep this information up to date and accurate for performance measurement, evaluation, and auditing purposes. Awardees may be required to: (1) provide access to pertinent documents; (2) host site visits; (3) facilitate interviews with grantee staff, partners and the independent evaluator; (4) attend grantee meetings; and (5) provide additional data. By accepting a project award under this NOFO, the Awardee also agrees to participate in a national cross-site evaluation in the event that the federal government conducts one.

9. Intellectual Property Rights

Intellectual property rights relating to the activities of the Awardee and all partners in the project, including the evaluator, intermediary, and service provider(s), are subject to 2 CFR 200.315.

10. Record Retention

Applicants must follow federal guidelines on record retention, which require Awardees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

11. Other Requirements

Awardees must comply with existing laws and regulations governing the subject area of the project and the relevant federal agency administering the project.

B. Reporting

Awardees must agree to meet the reporting requirements as listed below or as otherwise specified in the award agreement. Administrative reports must be submitted electronically to Treasury or to the relevant federal agency, as specified in the award agreement.

a. Performance Reports

Treasury or the relevant federal agency will require programmatic progress reports twice a year. A performance report form must be submitted within 30 days of June 30 and December 31 each year of the project. A final performance report is due 90 calendar days after the period of performance end date. Each report must summarize project activities, including the current stage of program implementation; progress towards achieving the outcome goals, including number of people served; significant milestones of the Awardee, intermediary, investors, if any, and evaluator; and related results of the project. It must thoroughly document the partnership activities and decision-making structure used to implement the pay for results model. These reports may be made publicly available. Upon award, Treasury or the administering federal agency will provide detailed formal guidance about the data and other information that is required to be collected and reported on either a regular basis or special request basis.

b. Evaluation Progress Reports

Not later than two years after a project has been approved and annually thereafter, the independent evaluator must submit a written report to the head of Treasury or the relevant federal agency and the Interagency Council summarizing the progress that has been made in achieving each outcome specified in the award agreement. Data in evaluation progress reports and final reports will be made available to all

federal agencies represented on the Interagency Council, and data content requirements will be specified in the agreement between the grantee and the head of the relevant federal agency.

When an Awardee's intervention has achieved one or more outcomes, pre-defined outcome target(s) have been met, and the grantee wishes to receive an outcome payment in accordance with the outcome payment structure originally proposed, the independent evaluator must submit a written report that includes the results of the evaluation conducted to determine whether an outcome payment must be made.

The report must explain the unique factors that contributed to achieving or failing to achieve the outcome in the context of the intervention. This must include, but is not limited to, any major change in policy or law that may have affected the project intervention, and the challenges faced in attempting to achieve the outcome. The report may also include information learned during the evaluation, including how to improve future service delivery or implementation.

The report must assess the degree to which the project was delivered as intended, including a discussion of how closely the project's theory and procedures aligned with actual project implementation. The report must include information related to the intervention model, including whether it has evolved and whether the intervention was delivered with fidelity to the plan. The report must detail how staffing, recruitment/identification and screening of participants, selection, and enrollment were different from what was expected at the outset.

The progress report must include an assessment by the independent evaluator of the value to the federal government as discussed and defined in Section 3.B, Outcome Valuation Methodology.

Treasury will submit these reports to the Interagency Council and to each committee of jurisdiction in the House of Representatives and Senate within 30 days of receipt.

c. Final Evaluation Report

Within six months of project completion, and no later than March 2033, the independent evaluator must submit a final report to the head of the relevant federal agency managing the award. The report must assess the effects of the intervention and include a discussion of the findings and implications, as well as a definitive statement about whether the predetermined outcomes have been met and whether the State or local government has fulfilled each obligation of the agreement. This must include information on the unique factors that contributed to the achievement or failure to achieve outcomes, including but not limited to any major change in policy or law that may have affected the project intervention, a description of the research methods (*e.g.,* randomization of treatment and control groups, if applicable), data, sample size and characteristics, measures, and other factors, as well as findings, including impacts—for exploratory and confirmatory, short and long-term, subgroup analyses, and other findings.

The report must also assess whether, and the degree to which, the project was delivered as intended. This must include a discussion of how closely the project's theory and intended procedures aligned with actual project implementation. This portion of the report must include information related to the intervention model, including whether it has evolved and whether the intervention was delivered with fidelity; staffing; recruitment/identification and screening of participants; selection and enrollment; and how the intervention was implemented. The report must also discuss information regarding the improved future delivery of this or similar interventions.[34]

The report must also detail how the unique characteristics of the pay-for-results model assisted or hindered the implementation of the project. Potential questions include what the evaluators are learning about the feasibility/viability of the pay-for-results approach; whether the financing/managerial structure is incentivizing the right partners in the right ways; and challenges in implementing the pay-for-results model in areas such as project management, partner communication, dispute resolution, investor relations, and overseeing service provision.

The independent evaluator's final report for a project must include an assessment of the value to the federal government as discussed and defined in Section 3.B, Outcome Valuation Methodology. In calculating the value to the federal government of the completed outcome(s), the independent evaluator may only take into consideration the value from the outcome valuation.

Treasury will submit this report to the Interagency Council and to each committee of jurisdiction in the House of Representatives and Senate within 30 days of receipt. This report will be made publicly available.

d. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. This program has been assigned the following control number: 1505–0260.

9. Appendix I: Executive Summary

[Name of Applicant] [Name of Project]	
Project Award Requested Amount	$
Children/Non-Children	$/$
Requested Award as Percent of Overall Project Budget	(XX%)
Award Period	XX 20XX–XX 20XX
Period of Performance	XX 20XX–XX 20XX
Independent Evaluator	XX
IE Award Requested Amount	$XX
Independent Evaluation Date(s)	XX 20XX, etc.

Project Description:

Target Population and Eligibility Criteria (including estimated number of participants):

Partners:

Evaluation Method:

Outcome Target(s):

Summary of Value to the Federal Government:

Proposed Payment Terms:

[34] 42 U.S.C. 1397n–4(e).

10. Appendix II: Integration of Managed Care Information/Data

For Applicants Who Plan To Use Savings From Medicaid or CHIP: Integration of Managed Care Information/Data

Treasury anticipates that applicants may have projects affecting individuals who receive managed care services from Medicaid or CHIP. To ensure that the calculations of benefits from reduced health care spending in these contexts properly demonstrate that those benefits accrue to the federal government or other public payers rather than to managed care organizations, applicants proposing projects that include a managed health care component must include a section in their application entitled ''Managed Health Care Information.'' This section must include, at a minimum, answers to the following questions, as applicable:

- To what degree will participants in the intervention be covered by comprehensive, risk-based managed care during the period of the demonstration?
- For intervention participants covered by a managed care organization, how would savings accrue to the federal government rather than the entity taking on risk?
- What services, if any, will be carved out of managed care for this population?
- If multiple capitation rates are used, which rate cells (by eligibility group or other category) will be used for the SIPPRA program project participants?
- With what frequency will capitation rates for the population covered by comprehensive, risk-based managed care be redetermined during the period of the SIPPRA program project?
- How would this intervention lead to reduced capitation rates?
- While the level of impact cost and utilization data will have on a capitation rate will vary, if the anticipated intervention effect is small and/or the population impacted by the intervention makes up a relatively small proportion of the rate cell (or grouping of Medicaid beneficiaries with similar characteristics for the purposes of determining a capitation rate), it may be unlikely that the effect will be large enough to change the capitation rate, even if the cost and utilization reductions occur. Is the impact of the intervention effect (or impacted population size) meaningful relative to size of the managed care program?
- For the population covered by managed care, what proportion of individuals covered under the relevant rate cell(s) are participants in the intervention?
- Is the proportion sufficient to trigger changes in the capitation rate under current procedures? If not, please be specific about how you will work with the State Medicaid Agency to ensure cost and utilization changes among this population due to the intervention are captured and incorporated into adjustments to the capitation rate.
- Please clarify if you will have access to robust historical (*e.g.,* at least 2 years) data to ensure that the comparison group is matched as well as possible to the actual cost or claims data to accurately assess federal savings through the evaluation.
- Please note that lags in realization of governmental savings in managed care contexts, relative to those in Fee for Service contexts, will not preclude consideration so long as the savings are realized within the ten-year time period and the BIA procedures discussed above are followed.

11. Appendix III: Post Award Evaluation Design Plan Requirements

Provide an evaluation design plan by following the following guidelines. Limit this to 10 pages.

Demonstrate a high-quality design by:

i. Explaining how the proposed evaluation is best suited for the project including an explanation for why randomization is not feasible (if applicable);

ii. Documenting the project evaluation's research question(s), the data to be collected and analyzed, how data quality and integrity will be maintained (*e.g.,* how attrition will be minimized), and specify overall and subgroup samples;

iii. Describing how the project will be implemented with fidelity (*e.g.,* how random assignment to treatment and control groups will be ensured);

iv. Providing and justifying the selected evaluation strategy (*i.e.,* RCT or quasi-experimental design);

v. Explaining how the methodology will measure relevant unintended outcomes and/or negative impacts;

vi. Stating whether the design is likely to generate evidence that can support causal conclusions;

vii. Describing anticipated challenges, such as attrition, failed randomization, and oversubscription and plans to mitigate them; and

viii. Showing that the evaluation will be independent of the intervention.

Incorporate appropriate evaluation design by:

ix. Describing the metrics that will be used in the evaluation to determine whether the outcomes have been achieved as a result of the intervention including key outcomes and outcome targets; an explanation of how the metrics will be measured; and an explanation of how the metrics are independent, objective indicators of impact that are not subject to manipulation by the service provider, the intermediary, or investors, if any;

x. Describing the statistical assumptions required to infer causal effects in the research design (*e.g.,* absence of spillovers, identifying conditions for non-RCTs, etc.). Provide examples of how these assumptions could be violated;

xi. Proposing all important covariates that will be used in evaluation analysis, including how these measures will be operationalized, and the data used for them;

xii. Describing anticipated statistical and analytical methods (such as regression equations to be used), power calculations, and minimal detectable impacts for each proposed outcome. Include the actual power and minimal detectable impact estimates for each proposed outcome. Where possible include statistical software code that illustrates how the tests will be run and the variables selected;

xiii. Describing what hypothesis testing procedure will be used (*e.g.,* p-values), what hypotheses will be tested, and how the tests will be conducted (*e.g.,* robust standard error estimators, etc.)

xiv. Including the anticipated customized randomization plan if applicable;

xv. Describing an approach for coordinating all partners and required evaluation activities, including assisting the independent evaluator in collecting and accessing the necessary data, and include a timeline; and

xvi. Describing an approach that will track the costs of the program, and will generate a cost-effectiveness measure if successful.

xvii. Describing an approach for conducting an evaluation of program implementation, potentially using an implementation framework (*e.g.,* the Consolidated Framework).

Kathleen Shannon,

Executive Secretary.

[FR Doc. 2026–22989 Filed 11–10–26; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0418]

Agency Information Collection Activity: Department of Veterans Affairs Acquisition Regulation Provision 852.209–70

AGENCY: Office of Procurement, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Office of Procurement, Department of Veterans Affairs (VA), will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations on the proposed information collection should be sent by December 14, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: *www.reginfo.gov/public/do/PRAMain,* select ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0418.''

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Shunda Willis, 202–461–1569, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: Department of Veterans Affairs Acquisition Regulation Provision 852.209–70.

OMB Control Number: 2900–0418 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Extension without change of a currently approved collection.

Abstract: This Paperwork Reduction Act (PRA) submission seeks renewal without changes of Office of Management and Budget (OMB) approval No. 2900–0418 for collection of information for the Department of Veterans Affairs Acquisition Regulation (VAAR) provision 852.209–70. Performance of VA's mission requires the use of contractors. VAAR provision 852.209–70, Organizational Conflicts of Interest, implements section 8141 of the 1989 Department of Defense Appropriation Act, Public Law 100–463, 102 Stat. 2270–47 (1988). VAAR 809.507–1, Solicitation provisions, and VAAR provision 852.209–70, Organizational Conflicts of Interest, require offerors on solicitations for management support and consulting services to advise, as part of the firm's offer, whether or not award of the contract to the firm might involve a conflict of interest or potential conflict of interest, and, if so, to disclose all relevant facts regarding the conflict or potential conflict. The information is used by the contracting officer to determine whether or not to award a contract to the firm or, if a contract is to be awarded despite a potential conflict, whether or not additional contract terms and conditions are necessary to mitigate the conflict.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 91 FR 56733, September 3, 2026.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 102 hours.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: 1 per solicitation.

Estimated Number of Respondents: 102.

(Authority: 44 U.S.C. 3501 *et seq.*)

Shunda Willis,

Acting VA PRA Clearance Officer, Office of Information and Technology, Office of Data Governance and Analytics, Department of Veterans Affairs.

[FR Doc. 2026–23025 Filed 11–10–26; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

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Part II

Department of Housing and Urban Development

24 CFR Part 5
Housing and Community Development Act of 1980: Verification of Eligible Status; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 5

[Docket No. FR–6524–F–02]

RIN 2501–AE16

Housing and Community Development Act of 1980: Verification of Eligible Status

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises HUD's Section 214 regulations to require the verification of U.S. citizenship or the eligible immigration status of all applicants and recipients of assistance under a covered program regardless of age. The rule will also make prorated assistance a temporary condition pending verification of eligible status of all family members, where permitted by statute, as opposed to under HUD's current regulations where prorated assistance could continue indefinitely. These amendments bring HUD's regulations into greater alignment with the wording and purpose of Section 214 and align with the current Administration's priorities and regulatory reform efforts.

DATES: *Effective date:* December 14, 2026.

FOR FURTHER INFORMATION CONTACT:

Multifamily Housing programs: Jennifer Larson, Director, Office of Multifamily Asset Management and Portfolio Oversight, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 7th Street SW, Room 6162, Washington, DC 20410; telephone number (202) 402–7769 (this is not a toll-free number).

Public Housing and Voucher programs: Todd Thomas, Acting Deputy Assistant Secretary, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 4204, Washington, DC 20410; telephone number (202) 731–1442 (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.*

SUPPLEMENTARY INFORMATION:

I. Background

As explained in greater detail in the proposed rule (91 FR 8151), Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) (''Section 214'') prohibits HUD from making certain financial assistance available to persons other than United States citizens or specified categories of eligible noncitizens. The Section 214 requirements apply to financial assistance provided under the following HUD programs (collectively referred to in this preamble as ''Section 214 covered programs'' or ''covered programs''):

1. Section 236 of the National Housing Act (12 U.S.C. 1715z–1) (tenants paying below market rent only) (the Section 236 program); and

2. The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) which covers: HUD's Public Housing programs, the Section 8 rental assistance programs, and the Housing Development Grant programs (with respect to low-income units only).[1]

HUD's current regulations implementing Section 214 require that each family member applying for assistance under a Section 214 covered program either: (1) submit a declaration declaring that he or she is a U.S. citizen, as defined in 24 CFR 5.504(b) (which specifies that citizen means a citizen or national of the United States), or a noncitizen with eligible immigration status; [2] or (2) elect not to contend eligible immigration status and, therefore, not submit documentation for verification.[3] HUD's regulations also cover how a family with individuals whose eligibility has not been established or who are not eligible for assistance may still receive assistance: through prorated assistance, based on the number of individuals in the family for whom eligibility has been affirmatively established,[4] or in limited circumstances, through a temporary deferral of termination of assistance.[5]

II. The Proposed Rule

On February 20, 2026, HUD published the ''Housing and Community Development Act of 1980: Verification of Eligible Status'' proposed rule (the proposed rule) in the **Federal Register** (91 FR 8151). This proposed rule sought to bring the agency's regulations into greater alignment with the wording and purpose of Section 214, and to align with the current Administration's priorities and regulatory reform efforts, by revising HUD's regulations to require the verification of U.S. citizenship or the eligible immigration status of all applicants and recipients of assistance under a covered program regardless of age, and to make prorated assistance a temporary condition pending verification of eligible status of all family members, where permitted by statute.

HUD proposed numerous changes to 24 CFR part 5, which included:

—revisions to require all applicants and tenants in Section 214 covered programs to submit evidence of U.S. citizenship or eligible immigration status regardless of age, replacing outdated terminology;

—redefining or defining important terms;

—removing outdated or unnecessary language or programs;

—changes to regulatory requirements regarding which families may receive which types of assistance to better implement statutory requirements and add clarifying details;

—changes to capture the type of prorated assistance where at least one family member has verified U.S. citizenship or eligible immigration status and the remaining family members' verification is pending;

—revisions to require persons who declare themselves to have U.S. citizenship to provide a signed declaration and a verification consent form;

—removing the option for persons to elect ''do not contend'' to have eligible status of any kind (citizenship or immigration status);

—requiring responsible entities, as defined in 24 CFR 5.504, to provide notification of Section 214 requirements to certain tenants no later than 30 days after the effective date of the rule;

—providing that Public Housing Agencies (PHAs) or owners, as applicable, may meet reporting requirements by conforming with applicable **Federal Register** Notices, including Interagency Notices (such as the 2000 Interagency Notice at 65 FR 58301), regarding compliance with section 404 of Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA);

—requiring the verification consent form to notify individuals that PHAs

[1] Section 214(b). Additional limitations on noncitizen eligibility are also found in the Personal Responsibility and Work Opportunity Act of 1996, 8 U.S.C. 1611(b)(1)(E).

[2] 24 CFR 5.508(c). Family members declaring themselves eligible noncitizens must provide original documentation as evidence of their immigration status, but family members declaring to be U.S. citizens do not have to provide additional documentation.

[3] 24 CFR 5.508(e).

[4] 24 CFR 5.516(a)(1)(iii).

[5] 42 U.S.C. 1436a(c)(1)(B); 24 CFR 5.518(b).

or owners, as applicable, must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act;
—clarifying that families must submit required evidence for a family member only one time during continuously assisted occupancy under any Section 214 program;
—identifying acceptable documentation for evidence of U.S. citizenship (U.S. birth certificate, a naturalization certificate, a consular report of birth abroad (FS–240), a valid unexpired U.S. passport, a certificate of citizenship, or other appropriate documentation that HUD may specify in guidance);
—describing HUD's secondary verification procedures where a responsible entity would need to provide notice of the results of primary verification and include other information in the notice;
—requiring responsible entities to review additional information and acceptable documentation provided by individuals;
—requiring that the responsible entity must request additional verification in the Systematic Alien Verification for Entitlements (SAVE) program within 30 days of notification of the results of primary verification for secondary verification of eligible immigration status;
—clarifying that the notice of denial or termination must specify that individuals may seek a records correction with any agency that issued documents or maintains records relevant to the individual's verification of eligible status; and
—technical changes to the regulations to further conform to Section 214's statutory requirements.

See the proposed rule for a full description of all proposed regulation changes associated with this rulemaking.

III. This Final Rule

HUD reviewed and considered all public comments submitted in response to the proposed rule, which are summarized and addressed below. After considering public comments, this final rule incorporates a majority of the regulatory changes as described in the proposed rule; however, HUD is making certain revisions to Section 214 regulations different from those described in the proposed rule. HUD is also making certain additional non-substantive revisions to provide better clarity.

First, HUD is revising § 5.508(g) to allow responsible entities to grant an additional 30 days (60 days total) for a family to obtain necessary evidence. HUD is also revising 24 CFR 5.508(e)(ii) to require responsible entities to inform tenants in the notification of Section 214 requirements of the availability of extensions of up to 60 days and their right to request such extensions. HUD acknowledges the barriers individuals may face obtaining documents, so to provide more flexibility, HUD is providing a greater extension based on the circumstances of the individual case. This extension is similar to § 5.216(e)(2)(ii)(B) which provides one additional extension for the disclosure of Social Security numbers for new household members under the age of six. HUD determined that a total 60-day extension was appropriate, rather than a 90-day extension as can be granted for the disclosure of Social Security numbers for new household members under the age of six, because there is a comparatively higher risk of fraud or ineligibility when others in the family have not provided necessary evidence of citizenship or eligible immigration status.

Additionally, in § 5.508(f)(3), HUD is clarifying that a new family member must submit required evidence not later than the date the responsible entity performs verification of other aspects of eligibility for assistance, instead of when the responsible entity anticipates or has knowledge that verification of eligibility will occur.

Second, in § 5.216(e)(1)(ii), this rule is revising language to state ''Each participant subject to the disclosure requirements under paragraph (e)(1)(i) of this section must submit the following information to the processing entity when providing evidence of citizenship or eligible status under § 5.508(f)(2)(i)–(ii).'' This revision will align citizenship and eligible status disclosure at the same time as Social Security number disclosure. HUD also is revising § 5.508(b)(1) to include disclosure of an individual's assigned Social Security number as evidence which must be submitted by individual's declaring U.S. citizenship. This revision aligns with the use of an individual's Social Security number during the primary verification process. Relatedly, HUD is revising § 5.508(d) to include that the verification consent form must comply with Section 7 of the Privacy Act of 1974 given the collection of Social Security numbers.

Third, this final rule makes non-substantive changes, such as revising instances of ''citizenship'' to ''U.S. citizenship'' to be more specific and provide clarity, revising § 5.508(b) for clarity and to align closely with § 5.508 (b)(2), stating in § 5.516(a) ''hearing'' instead of ''informal hearing'' since public housing tenants are entitled to formalized grievance processes, and technical corrections throughout § 5.518 to correct grammatical errors and for consistency.

IV. Severability

Consistent with the requirements of the Administrative Procedure Act, HUD has reviewed and responded to all public comments received in response to its notice of proposed rulemaking and acted within its statutorily delegated authority in the promulgation of regulations that are consistent with the Act. Nonetheless, if any provision of this final rule, or any provision of 24 CFR part 5, is held to be invalid or unenforceable as applied to any action, that provision should be construed so as to continue to give the maximum effect to the provision permitted by law. If such holding is that the provision of this part is invalid and unenforceable in all circumstances, then HUD views each provision as severable from the remainder of this part and a finding that a provision is invalid should not affect the remaining provisions.

V. The Public Comments

The public comment period for the proposed rule ended on April 21, 2026. HUD received 16,238 comments. These comments were received from individuals, landlords, tenants, property owners (''owners''), housing authorities, housing cooperatives, non-profit housing organizations, non-profit organizations representing seniors or individuals with disabilities, housing associations, case managers for individuals experiencing homelessness, churches, law firms, etc. The public comments are discussed in various categories below. HUD notes that ''tenant(s)'' and ''participant(s)'' are used interchangeably throughout the summary and intended to reference participants under the covered programs of this rule.

A. Comments in Support of the Rule

1. General Support

Commenters expressed general support for the proposed rule and urged HUD to finalize and implement it, and stated variously that assistance should be limited to U.S. citizens and/or for people lawfully present in the United States. A commenter raised a grievance about the fairness of housing allocation by race and immigration status, disagreeing with rendering families

homeless on the basis of race while questioning why immigrants appear to receive housing, vouchers, or Section 8 assistance before Americans, veterans, or the elderly, and alleging that some recipients display signs of affluence. A commenter stated that the comment is not for or against the proposal, identifying as a law-abiding American, urging that immigrants come to the country legally, and arguing that illegal entry creates problems for low-income citizens and their families.

HUD Response: HUD appreciates commenters' support for its efforts to better align implementing regulations with Section 214, strengthen program integrity by requiring verification of all applicants and current participants, regardless of age, and protect limited housing resources for eligible US citizens and individuals with eligible immigration status.

2. Improves Statutory Alignment to Section 214 & PRWORA

Commenters argued that the proposed rule aligns HUD's regulations more closely with the text and purpose of Section 214 of the Housing and Community Development Act (42 U.S.C. 1436a), which prohibits HUD from making financial assistance available to persons other than U.S. citizens and specified eligible noncitizens in covered programs, and added that HUD's general rulemaking authority under 42 U.S.C. 3535(d) permits the Secretary to promulgate the rules necessary to carry out that mandate. Commenters characterized the rule's core changes—requiring verification of status for all household members regardless of age, eliminating the ''do not contend'' option, and limiting proration to a temporary period pending verification—as better conforming the regulations to that statutory text and closing a longstanding loophole under which ineligible noncitizens can indirectly benefit from subsidies through prorated assistance in mixed-status households. A commenter added that the rule reflects reasoned, evidence-based rulemaking that centers Section 214 and PRWORA § 1642 and operationalizes verification through SAVE. A commenter maintained that the proposal reasonably relies on DHS's SAVE, which returns status information rather than deciding eligibility, and argued that using SAVE standardizes practice and should improve accuracy, uniformity, and timeliness across PHAs and owners.

A commenter urged HUD to remove the ''do not contend'' provision swiftly, describing a decades-long practice that left 200,000 existing tenants whose citizenship status has never been verified, and argued the statute specifically requires that assistance not be provided before eligibility status is ''presented and verified,'' so that a declaration not contending eligible status is the absence of verification rather than verification itself. The same commenter argued that making prorated assistance temporary is faithful to the statute and feasible today because verification through SAVE is now nearly instantaneous, whereas Congress authorized proration when verification was a manual, paper-driven process that could take days or weeks, leaving no justification for indefinitely continuing prorated assistance. A commenter also argued that codifying PRWORA reporting and extending it to private owners is long overdue, noting that PHAs were notified more than 30 years ago to begin using SAVE for citizenship verification and have been obligated since 2000 to report individuals present in violation of the Immigration and Nationality Act. Responding to HUD's request for comment on severability, a commenter argued that the rule's provisions—elimination of the ''do not contend'' provision, removal of the age exemption, and universal SAVE verification—are substantially independent and should each be given effect to the maximum extent possible, and urged HUD to include a robust severability clause in the final rule.

To balance equity with statutory fidelity, a commenter recommended that HUD preserve temporary proration only while verification is pending, apply preservation assistance consistently for long-tenured households where allowed, and publish state-level projections to help PHAs plan rehousing supports. The same commenter asked HUD to clarify that secondary SAVE verification be completed within a target timeline such as 10 business days, and that assistance not be terminated or delayed while secondary verification is pending when acceptable documents are on file; to publish a verification workflow setting out the initial and secondary SAVE steps, evidence standards, and typical timelines; and to provide a privacy summary referencing the 2025 SAVE PIA/SORN updates explaining interagency data sharing and safeguards. A commenter contended that the safeguards in the rule—the temporary verification period and exemptions for certain vulnerable groups—mitigate concerns about family disruption or homelessness while the rule enforces the original intent of Section 214.

HUD Response: HUD appreciates commenters' support for its efforts to better align implementing regulations with Section 214. HUD is making preservation of assistance available only to the extent required by statute. HUD is electing to provide responsible entities with 30 days to request additional verification of immigration status where secondary verification is required. The rule provides for PHAs to elect to provide assistance before verification in § 5.512(b) consistent with the flexibility afforded in Section 214. The DHS–SAVE program maintains resources and tools on its website with considerable instruction and information on the use of SAVE. HUD encourages responsible entities to visit DHS's website: *https://www.uscis.gov/save/current-user-agencies* to access the tools and guides available to user agencies. HUD will consider what information it may provide to support PHAs' plans for rehousing transitions.

3. Improves Program Integrity

A commenter argued the rule strengthens program integrity by requiring verification for all household members, implementing SAVE as Congress intended, and limiting prorated assistance to the temporary verification period, so that federal housing subsidies are directed only to individuals who are legally eligible while preserving due-process protections for mixed-status families. A commenter characterized the rule as closing loopholes that have allowed federal housing assistance to flow to individuals whose eligibility has never been verified, including 25,000 deceased tenants living in HUD-subsidized properties, and urged HUD to stop fraud in taxpayer-subsidized housing and finalize the rule promptly. A commenter contended that HUD currently verifies immigration status through DHS's SAVE but does not require the same electronic verification for U.S. citizenship claims and supported requiring responsible entities to verify both citizenship and immigration status through SAVE using biographic data and a government-issued numeric identifier. A commenter, citing HUD's own Regulatory Impact Analysis that 97 percent of owners and 92 percent of PHAs have mixed-status families representing fewer than five percent of assisted households, argued the administrative burden of entering information into SAVE is an extension of processes most responsible entities already use rather than new infrastructure, and was not aware of a less burdensome alternative that would still close the statutory gaps.

Commenters supported the rule as a tool to reduce fraud, improve program

integrity, and protect limited housing resources through stronger documentation and verification standards. A commenter identified a specific residual loophole the rule does not reach: because live-in aides are not counted as ''family members,'' they are not subject to the rule, and the commenter's agency has live-in aides who may lack eligible immigration status and is uncertain how to designate their status on Form HUD–50058, with some flagged on the EIV–SAVE Tenant Matching Report as possible compliance gaps; the commenter also reported inconsistent guidance on the ''I have eligible immigration status and am 62 years of age or older'' declaration and asked HUD for definitive guidance, adding that the proposed rule and the Crosswalk of SAVE System Responses and Section 214 Eligibility promote transparency while maintaining Fair Housing compliance.

A commenter working in tax-credit and USDA farm-labor housing management identified a specific mechanism: households over the income limit add members to the household to reduce counted income by adding non-working members who show no recorded income because they cannot legally work but often work under the table, which lowers the household's counted income and qualifies it for subsidies—a pattern the commenter estimated at about 20 percent of the USDA households observed. A commenter who investigated welfare and food-stamp fraud argued that ineligible noncitizen parents receive aid for U.S.-born children while claiming no income, and identified a specific mechanism—parents using a minor child's or someone else's Social Security number for employment and failing to report those earnings, which keeps the child's benefits at the maximum and the household's HUD rent at the minimum—while seniors on small Social Security stipends wait up to five years for a rent-reduced home.

Commenters pointed to Home Forward, the housing authority in Portland, Oregon, alleging it prioritizes immigrants and refugees over Americans and maintains vacant subsidized units, and urged HUD to require every adult and child on a public-housing lease to provide immigration status and to address voucher fraud. A commenter argued that requiring documentation for all members, including children, prevents fraud and abuse and enhances national security and administrative integrity. A commenter recommended removing all noncitizens including those on Temporary Protected Status from eligibility, limiting all housing assistance to a maximum of three years, penalizing abuse with both incarceration and monetary fines equivalent to the amount fraudulently obtained, and removing equity-based eligibility guidelines.

A commenter argued the rule will help eligible families as landlords and managers who overlook American citizens in favor of ineligible tenants lose that opportunity, describing landlords charging roughly $1,200 per person, housing multiple people per unit, and not reporting the cash income. A commenter alleged a similar arrangement in San Diego County, alleging landlords collect about $1,500 per ineligible tenant in unreported cash while excluding citizens. Commenters supported vigorous enforcement, including monitoring and prosecuting responsible entity staff who circumvent the rule.

HUD Response: HUD appreciates commenters' support for its strengthening of program integrity by requiring verification of all applicants and current participants, regardless of age. HUD agrees that the final rule will protect limited housing resources through stronger documentation and verification standards. Section 214 provides for eligibility based on select immigration statuses, and HUD's implementing regulations must remain consistent with statutory requirements. As explained in the preamble to the proposed rule, the rule applies to family members receiving assistance and, as such, does not apply to live-in aides, foster adults, or foster children, who are not assisted family members. PHAs should reach out to their local HUD office for assistance with reporting on the Form HUD–50058. HUD notes that time-limiting housing assistance is beyond the scope of this rule, but HUD is undertaking separate rulemaking (91 FR 10016) to provide PHAs and multifamily housing owners with flexibility to implement work requirements and term limits.

4. Preserves Limited Resources for Eligible Citizens

Commenters supported the rule on the ground that federal housing assistance is a limited resource that should be reserved for households whose members are all eligible under federal law, arguing that long waiting lists mean prioritizing fully eligible households to ensure scarce resources reach those who meet program requirements. A commenter argued that when ineligible noncitizens can no longer access benefits even indirectly, those units become available to waiting lists filled with American citizens and legal residents, shortening wait times and reducing pressure on the private rental market. A commenter pointed to the Section 8 voucher program as already oversubscribed in most areas, with families languishing on waiting lists for years while mixed-status households receive partial benefits that could otherwise go to fully eligible applicants.

A commenter argued that ending indefinite prorated assistance is what frees units, reasoning that a household continuing to receive prorated assistance without full verification leaves that unit effectively unavailable to another fully eligible household on the waiting list, so a temporary verification period allocates housing more fairly and efficiently. A commenter tied the rule to lowering housing costs during what the commenter characterized as an unprecedented affordability crisis, citing reports from organizations such as the National Low Income Housing Coalition that millions of low- and moderate-income households are cost-burdened, spending more than 30 percent of income on rent or mortgage. A commenter argued that families are denied assistance daily because housing authorities cannot compensate rents that have risen with the market.

Commenters framed the competition for scarce units in terms of specific populations waiting for help—homeless citizens, veterans, the elderly, and people with disabilities—and named jurisdictions where they perceive the shortage most acutely, including Los Angeles and Southern California and East Boston. A commenter cited HUD data that nearly 8.46 million rental households met the worst-case-housing-needs designation—likely eligible for at least one HUD program but not receiving assistance—and that the market rate for a two-bedroom apartment rose nearly 40 percent over five years, to argue that this limited resource should go to eligible families. A commenter argued that a 5.1 million net increase in the foreign-born population from March 2022 to March 2024 coincided with increased rents and growth in housing demand—noting subsidized rents are typically discounted 60 to 70 percent below market and capped at 30 percent of tenant income—and that reserving assistance for eligible households eases that pressure. A commenter argued that subsidizing ineligible households is taxpayer money incentivizing unlawful entry rather than the economic contribution its defenders describe. A

commenter argued that mixed-status or fully ineligible families potentially at risk of losing housing must be weighed against citizens still waiting years for vouchers. A commenter cited a wait of three years and seven and a half months for a 30-percent-AMI apartment in an elderly LIHTC property in North Carolina.

Commenters argued the rule reinforces that housing programs were fundamentally intended for the American people and that eligible citizens and legal residents should not be displaced by ineligible households. A commenter argued that families made up entirely of citizens with a disabled member on SSDI, and descendants of American chattel slavery, should have priority for this housing over healthy noncitizen households, citing a waiting list decades long. A commenter cited being homeless with four children in 2004 and unable to obtain Section 8 or low-income housing despite urgent need, and supported the rule so that limited assistance reaches eligible families in crisis. A commenter alleged that in the commenter's area ineligible households occupy subsidized two-to-four-bedroom apartments renting around $3,000 per month while paying only $300 to $700 themselves, that citizens wait ten years or more for affordable units while immigrants reportedly obtain them in one to two years through expedited nonprofit assistance, and that unreported income lets these households qualify.

HUD Response: HUD thanks the commenters for their support of the rule and acknowledgment that the most significant effect of this rulemaking would be to transfer housing assistance from mixed families, which contain some ineligible individuals, to fully eligible households who take their place. As HUD's Regulatory Impact Analysis explains, this transfer occurs because there are more individuals eligible for assistance than there is available assistance, and the estimated value of the assistance transferred to incoming fully eligible households ranges from $167 million to $218 million. HUD agrees that reserving this limited resource for households whose members are all eligible under federal law directs assistance consistent with Section 214.

5. Protects Taxpayer Funds and Improves Adherence to the Rule of Law

Commenters supported the rule on the ground that taxpayer-funded housing assistance should not flow to individuals who are not lawfully present, arguing that tax dollars are collected from citizens and should benefit citizens and eligible noncitizens rather than subsidize ineligible noncitizens. A commenter argued that taxpayers fund HUD's programs with the expectation that resources reach eligible American families, and that every day the rule is not in effect, assistance that could go to a waiting eligible family may go to ineligible noncitizens. Commenters argued the current allowance of assistance to mixed-status households is a pull factor that incentivizes illegal immigration, and that removing it protects the fiscal integrity of the programs. A commenter argued that for every ineligible person who receives state or federal dollars through programs such as Section 8 or Medicaid, a citizen in need loses out. Commenters asked HUD to confine assistance to citizens and lawfully present residents and to protect taxpayer dollars given significant cost growth. A commenter asked HUD to investigate two Los Angeles city council members the commenter alleged are diverting taxpayer money to ineligible recipients.

Commenters supported the rule as a matter of upholding the law, arguing that individuals who entered or remain in the country without legal authority should not receive housing subsidized by taxpayers, whether prorated or not, and that not following the law should carry consequences even if doing so causes hardship. Commenters distinguished legal immigration, which they said they support, from illegal immigration, framing the rule as fairness to citizens and to immigrants who completed the lawful process. A commenter argued that a legal citizen can readily prove status with a birth certificate or Social Security card without waiting months, and that legal citizens and lawful immigrants who need help are shut out because application lists are closed and funds have gone to ineligible noncitizens.

A commenter argued that lawful applicants undergo an extensive documented waitlist process and questioned why an ineligible household would face a lesser process. A commenter argued that public housing should be for those lawfully present the same way other federal resources are conditioned on legal status, analogizing that the government would not allow resources to further other civil violations such as fraud or criminal violations such as drug dealing, and giving the example that a homeless veteran who served the country should take priority over an undocumented household. A commenter urged HUD not to withdraw the proposed rule and to direct assistance to those most in need but deserving. A commenter argued that widespread circumvention of immigration laws over a long period has eroded the rule of law.

HUD Response: HUD agrees that U.S. taxpayer funded housing assistance should be available only for eligible U.S. citizens and individuals with eligible immigration status as required by law and implemented in this final rule.

6. Increases Self-Sufficiency

Commenters supported the rule as consistent with values of self-reliance and work, arguing that assistance should encourage employment and self-sufficiency rather than long-term dependence. A commenter argued the rule promotes self-reliance and integration, that eligible immigrants meeting the criteria will still receive assistance, and that it restores confidence that taxpayer funds are used efficiently while encouraging legal pathways and compliance. A commenter argued that self-sufficiency is a core American value that should be expected of foreign nationals within the United States. A commenter supported reserving assistance for seniors, veterans, and people with disabilities and argued able-bodied recipients should work. A commenter framed removing assistance to ineligible households as freeing resources to subsidize families and homeless people rejoining the workforce. A commenter argued that declining to subsidize what the commenter described as ''unlawful presence'' is not unkindness but avoids enabling continued unlawful conduct.

HUD Response: HUD thanks commenters for their support and agrees that U.S. taxpayer funded housing assistance should be available only for eligible U.S. citizens and individuals with eligible immigration status as required by law and implemented in this final rule.

B. Comments in Opposition to the Rule

1. Rule Would Not Create Any New Solutions

Commenters argued that the proposed rule is unnecessary because the existing proration framework already ensures that no federal housing subsidy is provided on behalf of household members who lack eligible immigration status, so the rule's stated integrity objective is already met and the rule is unnecessary. Commenters stated that section 2(a) of Executive Order 14218 ''Ending Taxpayer Subsidization of Open Borders'' is also satisfied because ineligible members receive no assistance and instead pay their own share of rent. Commenters further argued that the rule

conflicts with congressional intent because Section 214 contains no time limit on prorated assistance, and that HUD cannot point to statutory language authorizing the indefinite-proration bar it asserts. Further commenters asserted that the current system works and that no program-integrity problem justifies the change.

Commenters objected that, because ineligible members already receive nothing, the rule addresses no actual loophole and would produce no fiscal savings while imposing new costs. Commenters contended that because proration limits the subsidy to eligible members only, mixed-status households already receive a reduced subsidy and pay a correspondingly higher share of rent, so the rule would displace paying households without freeing any assistance for others. Commenters asserted that the rule contradicts the agency's own Regulatory Impact Analysis, which projects that the number of eligible individuals receiving assistance would fall from approximately 55,100 to 24,100—a reduction of more than 56 percent. They further drew on the RIA to argue the rule would raise costs, stating HUD would need an additional $311 million to $385 million to serve the same number of households. Commenters noted that pro-rating the assistance to only provide assistance to eligible individuals mirrors how other federal benefit programs, including SNAP, operate.

Commenters argued that household members have already attested to eligibility under penalty of perjury and the existing attestation system operates without a demonstrated problem, so a new documentation mandate duplicates existing safeguards while burdening housing agencies without added resources.

Commenters contended that the higher rents paid by mixed-status households let housing providers serve more families overall and offset the cost of assistance for others, many of them citizens, so eliminating those households would reduce, not expand, available assistance. Commenters disputed the premise that vacated assistance would simply be redirected, noting that in tight markets it cannot be, and citing the HUD Housing Choice Voucher dashboard showing California housing authorities using 104.2 percent of budget authority yet able to fund vouchers for only about 88.7 percent of authorized households. Commenters added jurisdiction-specific cost detail, noting that in 2024 nearly 80,000 people in about 20,000 mixed-status families in Oregon and nationally earned an average income well below program limits, and that where an agency cannot reissue vouchers after a family exits, each replacement household would require a higher subsidy—approximately $4,900 more per person on average.

HUD Response: HUD disagrees that the existing proration framework makes this rule unnecessary. An individual without verified eligible status living in a mixed household receiving long-term prorated assistance is benefitting from HUD financial assistance in a way that is prohibited by Section 214. Section 214 applies specifically to certain HUD financial assistance and prohibits the Secretary from making financial assistance available to persons other than U.S. citizens or specified categories of eligible noncitizens. Under HUD's current regulations, prorated assistance may continue indefinitely, so an individual whose eligible status has never been verified may reside in an assisted unit and benefit from HUD financial assistance on a long-term basis. The fact that assistance is prorated does not cure that result; it is the continued, unverified receipt of a HUD-subsidized benefit that Section 214 does not permit. This rule addresses that gap by making prorated assistance a temporary condition pending verification of the eligible status of all family members, where permitted by statute, and by requiring documentation and verification of citizenship and eligible immigration status. These changes bring HUD's regulations into greater alignment with Section 214 and are consistent with section 2(a) of Executive Order 14218.

HUD disagrees with the assertion that the rule is unnecessary because household members have already attested to eligibility. This assertion does not account for the operational reality that not all household members have previously claimed eligible status. Under current regulations, individuals can choose ''not to contend'' their status or may fall under past age exemptions, meaning their eligibility has never been formally addressed. The rule closes these gaps and establishes a timeline to give these individuals the time required to establish eligibility.

The current framework allows, but does not require, the request of additional documentation from individuals who submit a declaration of U.S. citizenship. The new requirements at 24 CFR 5.508 bring uniformity by requiring all individuals, regardless of age, who declare themselves to have U.S. citizenship to provide appropriate documentation, as well as a verification consent form to consent to responsible entities' review of submitted documents. This rule requires the responsible entity to review the evidence documents to verify citizenship.

HUD does not agree that the rule produces no benefit or that its costs are unjustified. As the RIA explains, the principal economic effect of the rule is to redistribute tenant subsidies from mixed families that contain ineligible individuals to households composed solely of eligible members, providing HUD the authority to reprioritize rental assistance for households with eligible citizenship or immigration status as required by law. Because there are more individuals eligible for assistance than there is assistance available, the assistance relinquished by exiting mixed families would be provided to fully eligible households on waiting lists. HUD acknowledges these transfer and cost implications, which the RIA identifies, including quantifiable upfront costs for responsible entities and tenants estimated at $17 million to $33 million. Under HUD's default fixed-budget scenario, any supplemental subsidy needed to preserve the identical number of assisted family members is held to zero in that scenario. The obligation to comply with Section 214 applies regardless of these transfer and fiscal effects.

2. Objections to Verification Methods

A. Verification Mechanics & SAVE Process Complexity

Commenters focused on the operational mechanics of the proposed verification requirements, arguing that requiring all household members to be verified through SAVE—including U.S. citizens and participants previously eligible to self-certify—would replace a streamlined process with a complex, multi-step one prone to error and delay. Commenters argued that the multi-step design multiplies the points at which an eligible citizen can be delayed or wrongly screened out, and that the added bureaucratic steps increase the administrative burden on both participants and program staff. Commenters asked the agency to retain the simpler existing process rather than adopt the two-stage requirement.

Commenters described the two-stage primary/secondary verification structure as inherently complicated and inconsistent. A commenter argued that when primary verification fails, secondary verification is not a single uniform process but varies by the document submitted and relies on PHA or owner staff to manually review documents, producing an overly long

process with inconsistent outcomes, delays, or denials, followed by a complicated appeals process. A commenter noted that responsible-entity staff would have to learn how SAVE works, master the distinction between primary and secondary verification, and handle and retain sensitive documents. A commenter argued that HUD's administrative-burden table ignores the effectively unquantifiable burden of dealing with SAVE's inevitable failure to return accurate results, which would generate a potentially enormous volume of administrative hearings and document-production demands on both agencies and low-income tenants that the analysis never accounts for.

Commenters objected that the rule eliminates the long-standing ''do not contend'' option and signed declarations of citizenship, replacing a workable attestation with a system that cannot deliver reliable citizenship results. A commenter argued that requiring persons aged 62 and older to submit at least one document for SAVE evaluation exceeds the statutory obligations of the Housing and Community Development Act, which expressly subjects those aged 62 and older to a different, less demanding verification standard.

Commenters also objected to the verification consent form itself, noting that it would function as notice to households that responsible entities must report suspected immigration violations to DHS. A commenter explained that renters who self-certify would have to sign both the existing declaration and a newly required verification consent form agreeing to submission of their information to SAVE, and that the form doubles as notification that responsible entities must inform DHS immediately whenever staff determine a household member is present in violation of the Immigration and Nationality Act.

Commenters challenged the proposed record-correction mechanism at 24 CFR 5.514(d)(4) as inadequate, contending that a citizen falsely flagged by SAVE bears the burden of correcting the record and may be evicted on the basis of an erroneous result even while that result is being contested.

HUD Response: HUD disagrees that the requirements to utilize SAVE to verify individuals' status would be a novel operationally complex process. Responsible entities are already required to use the DHS-administered SAVE program to verify eligible immigration status and should therefore have familiarity with it. Comments that specifically object to the complexity of navigating a two-stage primary/secondary verification process, or comments that responsible entities will need to learn how to handle and process sensitive documentation, overlook that responsible entities must already be using these processes regularly for the verification of most eligible noncitizens in their programs.

HUD acknowledges that the requirement to verify more individuals' statuses in SAVE will increase administrative burden on responsible entities. The Regulatory Impact Analysis estimates that 19,660 U.S. citizens or eligible noncitizens in affected programs have not already provided proof of citizenship or eligible immigration status, and that 730 immigrants who previously chose not to contend their eligibility status would pursue verification. However, this verification is necessary to ensure that individuals are not benefiting from HUD financial assistance in a way that is prohibited by Section 214. Consequently, HUD cannot accept recommendation to retain an existing simpler process like accepting signed declarations in isolation.

The SAVE program also offers prospective, new, or current user agencies several trainings and customized tutorials to meet their specific needs, the information for which is easily accessible online at *https://www.uscis.gov/save/current-user-agencies.* SAVE tutorials help users utilize SAVE correctly and efficiently and provide information about: SAVE and the verification process, SAVE CaseCheck, commonly used immigration documents and where to find immigration enumerators, common case responses, best practices for additional verification, managing cases, and administering SAVE accounts. Additionally, SAVE users are required to review the online tutorial and certify completion of the tutorial before they will be able to create new SAVE cases.

HUD agrees that secondary verification is not a uniform process but may vary, as the requisite documents depend on an individual's immigration status. SAVE is an evolving program that may be able to utilize certain information or documents in the future, so HUD is seeking to provide enough flexibility in its regulations to account for changes in SAVE's capabilities.

However, as noted, HUD is undertaking this rulemaking to better align its regulations with the wording and purpose of Section 214. Even if requiring verification of U.S. citizens and individuals aged 62 or older involved a modest increase in the operational complexity of the verification process, HUD believes it would be warranted to ensure that housing assistance is provided only to eligible individuals.

Finally, HUD disagrees that the consent form creates a new substantive reporting obligation. Rather, it informs applicants and participants of verification requirements and of circumstances in which information may be transmitted to DHS pursuant to existing laws and regulations. The fact that an individual is required to sign the verification consent form does not itself indicate that a responsible entity suspects that the individual has violated immigration law, nor does submission of information to SAVE constitute such a determination.

To commenters arguing that the ''do not contend'' option and signed declarations of citizenship should be maintained, HUD would note that the preamble to the proposed rule explains why HUD believes the option to not contend eligible immigration status is not consistent with the wording and purpose of Section 214. The preamble to the proposed rule also explains that HUD is requiring applicants and tenants to submit evidence of U.S. citizenship to responsible entities with any declaration of U.S. citizenship. This will better align HUD's regulations with the wording and purpose of Section 214, and it will better ensure that assistance is provided only to eligible individuals.

B. Housing as an Immigration Enforcement Tool, and Data Security & Personally Identifiable Information (PII) Exposure

Commenters objected that the rule, particularly in combination with the March 2025 HUD–DHS data-sharing memorandum, would impermissibly move HUD into immigration enforcement and conscript housing providers into a federal immigration-enforcement role that lies outside their statutory mission, expertise, and capacity. Commenters argued that proposed § 5.508(d)(4) would require housing staff to inform DHS whenever personnel determine that a household member is present in violation of the Immigration and Nationality Act, but that a housing authority's expertise is in housing, not immigration enforcement, and its staff are not equipped to make such determinations, both because of lack of expertise and a lack of resources. Commenters said that this determination requirement turns housing into an immigration enforcement instrument, exceeding HUD's role and twisting the intent behind Section 214.

Commenters objected specifically to the DHS reporting requirement in § 5.508(e)(2)(vi), arguing it would

convert providers into reporting agents and damage the provider-tenant trust essential to property management. Commenters argued the rule would force owners to become extensions of federal immigration enforcement, requiring owners and PHAs to immediately report undocumented household members under § 5.508(d)(4). Commenters warned that if participants believe disclosing family composition to their property manager may result in an immigration referral, they will withhold information or conceal household members, undermining effective property and program management.

Commenters argued the rule violates the Tenth Amendment by conscripting state and local agencies into federal immigration enforcement. They raised an anti-commandeering objection, arguing that by forcing public housing agencies to administer the re-verification process and comply with enhanced DHS reporting, the rule shifts the cost and implementation of federal immigration policy onto state and local agencies in a manner that contravenes the Tenth Amendment's anti-commandeering doctrine.

Commenters argued that the new verification process creates serious privacy risks by expanding collection and cross-agency sharing of sensitive personal data. Commenters contended that DHS retains the personal information routed through SAVE for as long as a decade—even when it confirms citizenship—exposing tenants to lasting security, privacy, and misuse risks well beyond the initial verification, a concern documented in the voting-rights context. A commenter argued that a cohort of secretaries of state from twelve states has opposed SAVE's use on privacy grounds and that its use here conflicts with California laws protecting immigrants and privacy generally.

Commenters emphasized that the rule itself supplies no adequate safeguards for the data it would amass. A commenter argued that the rule is silent on how PHAs should reconcile the mandate with stricter state PII laws governing protected-information definitions, retention, and notice, and that providers need defined liability standards and safe-harbor protection when relying on federal verification outcomes outside their control. A commenter argued that proposed § 5.508(d)(3) affirmatively disclaims HUD responsibility for downstream use or disclosure despite the statute's command to protect such information ''to the maximum degree possible,'' exposing providers to legal and privacy risk over data practices beyond their control. A commenter argued that requiring responsible entities to collect, photocopy, and store sensitive biographic and government-issued data for every household member—and retain it for five years—increases the risk of identity theft and data breaches. Commenters argued that the rule undermines the Violence Against Women Act's housing protections—codified at 34 U.S.C. 12491 and implemented through 24 CFR part 5—by forcing survivors' information into DHS systems, contrary to Congress's confidentiality intent.

Commenters warned that the custodians of this data have poor track records, citing a 2024 HUD Inspector General finding that HUD maintained a significant number of PII records with limited zero-trust controls, compounding the risk of entrusting more sensitive data to the agency, that four of the six resulting OIG recommendations remain outstanding, and that HUD OIG's December 2025 top-management-challenges report reiterated these information-security weaknesses. Commenters stated that broadening SAVE access beyond a small group of employees would require expanded staff access and comprehensive agency-wide training.

Commenters argued that the rule runs headlong into the Privacy Act's computer-matching provisions. A commenter argued that the rule identifies no computer-matching agreement authorizing HUD to compare participant data against the overhauled SAVE system, so that absent such an up-to-date agreement HUD's comparison of participant records violates the Privacy Act's computer-matching restriction—the definition of a ''matching program'' reaching any computerized comparison of automated systems of records. A commenter added that HUD's earlier cross-referencing of its data with SAVE to generate the EIV–SAVE tenant matching reports itself likely exceeded the uses tenants consented to.

Commenters stressed that these risks fall hardest on vulnerable tenants. A commenter argued that the accumulation of citizenship and immigration data in federal systems poses particular risks for people with disabilities, who may rely on others to navigate administrative processes and be less able to identify or contest erroneous data. A commenter argued that, given arrests of noncitizens at court hearings, of noncitizens married to citizens, and even of U.S. citizens, qualified participants will fear that sharing documentation with HUD exposes them to DHS.

HUD Response: HUD disagrees with commenters' contention that the rule newly requires housing agencies to share tenant data with immigration authorities, and with the contention that it affirmatively converts public housing agencies into immigration enforcers by requiring them to report household members they know are unlawfully present to DHS.

The verification the rule requires is limited to confirming eligibility for Federal housing assistance. Section 27 of the United States Housing Act of 1937, added in 1996, already requires HUD to furnish DHS with the name, address, and any identifying information of any individual whom HUD knows is not lawfully present in the United States. Section 27 further requires HUD to require that public housing agencies furnish such information. This is a longstanding requirement, and additional guidance was published in the **Federal Register** over twenty-six years ago (65 FR 58301). The guidance on this longstanding reporting mandate has made clear that any finding or conclusion of unlawful presence must be supported by a determination by DHS or the Executive Office for Immigration Review, so the concern that this reporting requires housing agencies to make legal determinations they are not equipped to make is unfounded.

Responsible entities do not make immigration determinations; they rely on DHS-administered SAVE to verify U.S. citizenship and immigration status. Furthermore, under proposed § 5.512(f), a responsible entity is not liable for any action, delay, or failure of DHS in conducting verification.

SAVE responses clearly indicate U.S. citizenship or immigration status which responsible entities can map to their eligibility categories. As noted above, the SAVE program also offers prospective, new or current user agencies several trainings and customized tutorials to meet their specific needs, the information for which is easily accessible online at *https://www.uscis.gov/save/current-user-agencies.* SAVE tutorials help SAVE users utilize SAVE correctly and efficiently and provide information about: SAVE and the verification process, SAVE CaseCheck, commonly used immigration documents and where to find immigration enumerators, common case responses, best practices for additional verification, managing cases; and administering SAVE accounts. Additionally, SAVE users are required to review the online tutorial and certify to completing the review in

the SAVE system before they will be able to create new SAVE cases.

The reporting obligation identified by commenters is not a new enforcement role created by this rule because determinations of status for purposes of the Immigration and Nationality Act are the responsibility of the Department of Justice, not of any other agency. The final rule, however, does impose a new, parallel reporting obligation on Section 8 project-based rental assistance (PBRA) owners (as responsible entities) in the circumstances specified in 5.508(e)(2)(vi). Public housing agencies are already subject to the reporting requirement under section 404 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), as clarified in the 2000 Interagency Notice (65 FR 58301). Revised § 5.508(e)(2)(vi) provides that PHAs or owners, as applicable, may meet that requirement by conforming with applicable **Federal Register** notices, and proposed § 5.508(d)(4) requires the verification consent form to notify individuals of this longstanding obligation.

This final rule affirms the longstanding reporting requirement under PRWORA, ensuring applicants and existing households have notice of PHAs' obligation to comply with section 404 of PRWORA, and provide individuals with notice of this obligation on PHAs.

HUD acknowledges that this rulemaking will adversely affect some tenants and applicants for Section 214 covered programs, especially mixed families and ineligible noncitizens. HUD recognizes the concern that the verification requirement could discourage some potentially eligible citizens and noncitizens from applying; the RIA expressly acknowledges this possible reduction in take-up. HUD has taken steps to mitigate that effect: primary verification is conducted by the responsible entity through SAVE without requiring the applicant to assemble documents in advance, responsible entities must notify affected tenants of the requirement within 30 days of the effective date, and extensions of time to submit evidence are available under revised 24 CFR 5.508(g)(2).

HUD appreciates the concerns articulated by commenters about the security of individuals' personally identifiable information, and HUD agrees that responsible entities need to reduce exposure risks with good data security practices. Responsible entities will be creating more queries in SAVE, but their practices for safeguarding personally identifiable information should be well established since they have been using this system for years. The security protocols used by DHS to protect information submitted to SAVE are outside the bounds of this rulemaking. While responsible entities may establish access to SAVE through HUD, the results of queries created by responsible entities are stored in SAVE and maintained according to National Archives and Records Administration (NARA) retention schedules, not in a separate database created and maintained by HUD. Responsible entities utilizing SAVE to verify the immigration status of an individual submit required information directly to DHS, and responsible entities report to HUD their determinations about an individual's status on the basis of those SAVE queries.

Prior to this rulemaking, 24 CFR 5.508(d)(3) already provided that the verification consent form must inform individuals that HUD is not responsible for the further use or transmission of evidence or other information by DHS. The final rule maintains an existing status quo on that point. The rule likewise makes no change with respect to the rights of survivors of domestic violence, dating violence, sexual assault, and stalking. Furthermore, the final rule maintains existing regulatory provisions at 24 CFR 5.508(d)(3) that limit release of evidence to DHS to the purpose of verifying an individual's U.S. citizenship or eligible immigration status and not for any other purpose.

Commenters objecting to the lack of reference to a computer-matching agreement in this rulemaking misunderstand how responsible entities submit queries to SAVE. Responsible entities' use of SAVE is not a matching program under the Computer Matching and Privacy Protection Act of 1998 and does not require a computer-matching agreement. The 2026 EIV–SAVE tenant matching activity referenced by some commenters is distinct from the verification process established by this rule; that activity used a different methodology and is not the mechanism this rule adopts, under which responsible entities submit individual inquiries directly to DHS.

C. SAVE Operational Capacity/Delays

Commenters argued that SAVE remains untested and still under construction, and that relying on an unfinished program to determine housing eligibility will harm citizens and immigrants alike while creating massive administrative burdens inconsistent with HUD's mission and the rule's stated purpose. Commenters argued that SAVE was built to verify the immigration status of noncitizens, not the citizenship of U.S. citizens, and that pressing it into this new role is fundamentally unsound. Commenters stated that the system's known limitations and delays could wrongfully deny assistance to eligible citizens struggling to clear secondary-verification hurdles. A commenter argued that using a completely untested and unfinished SAVE system to determine housing eligibility violates participants' due-process rights under the federal and California constitutions.

Commenters emphasized that HUD's own preamble concedes SAVE cannot process the most common proof-of-citizenship documents—birth certificates and U.S. passports—and cannot review certain other citizenship documentation at all, forcing a significant number of HUD participants—including U.S. citizens—into documentary secondary verification, shifting burden onto participants and providers. A commenter argued that HUD lacks comprehensive citizenship records and does not capture all naturalized or derivative citizens, including many born before 1978. A commenter argued that even documented individuals face significant doubt about SAVE's ability to verify their status timely and accurately, especially for people who have changed their names, including women who took their spouse's name after marriage.

Commenters expressed serious doubts about SAVE's accuracy, citing a documented history of errors in the voting-rights context and reports from the Brennan Center and a 2018 U.S. Commission on Civil Rights documenting inaccuracy in the data sets underlying SAVE. Commenters asserted that HUD omitted any reliability figures for SAVE's citizenship function because DHS has not made them public, that reported error rates run at least 14 percent, and that the true rate is therefore unknown. Commenters warned that PHAs experienced SAVE's unreliability firsthand under HUD's 2026 EIV–SAVE tenant matching directive.

Commenters objected that HUD proposes undefined ''manual processes'' and ''manual record searches'' that will waste enormous PHA staff time and still produce inaccuracies, and that HUD expressly declined to set any deadline for completing secondary verification because of SAVE's limitations—leaving families in limbo, paying unaffordable high rent while they wait, with some evicted because they cannot pay the prorated amount. A commenter argued that existing errors in the current system

already produce harmful and likely unlawful HUD actions, and that expanding verification will increase wrongful denials, delays, and instability for vulnerable families.

Commenters emphasized that verification delays fall hardest on those least able to produce documents quickly, including participants with disabilities who face additional barriers in navigating various agencies to contest erroneous data. Commenters asserted that lower-income populations in general face difficulty in obtaining documents due to time, money, and transportation barriers. A commenter argued that survivors fleeing trafficking often cannot immediately access documentation—because withholding documents is a primary control tactic of traffickers—so verification delays will prolong homelessness and unsafe living conditions. A commenter argued that the rule removes the existing provision granting 30 days to appeal when secondary verification does not confirm status, that SAVE offers no appeal process, and that unlike current law—which stays PHA proceedings pending appeal—any termination or eviction would proceed while the participant scrambles to correct records; this risk would be compounded for larger households. A commenter argued that older adults forced through SAVE after removal of the age-62 exemption—facing technology, documentation, and mobility barriers—face heightened risk of wrongful termination, especially for many older U.S. citizens who have no birth certificate at all.

HUD Response: HUD appreciates the concerns expressed about SAVE's ability to verify citizenship. In instances where SAVE does not accurately identify an individual as a citizen in the primary verification stage, the responsible entity will collect additional documentation from the individual that establishes their status. This approach mitigates the consequence of any failure to immediately verify citizenship by requiring follow-up and review. However, HUD disagrees with commenters' characterizations of the potential for widespread verification errors in SAVE. HUD cannot substantiate claims that SAVE itself has a high error rate when verifying citizenship or eligible immigration status. Commenters may be conflating the possibility of systemic errors in SAVE with the possibility of problems with a specific method for utilizing SAVE data. Commenters likewise do not establish that SAVE would be more likely to fail at the primary verification stage for individuals who lack any documentary proof of citizenship.

Commenters have not provided evidence that SAVE's primary verification has consistent errors when full information is provided in the initial inquiry, nor do they present evidence that SAVE responses are consistently inaccurate at the secondary verification stage. Commenters cite industry letters that focused on the EIV–SAVE tenant matching directive, not SAVE itself, and the differences in methodology, as discussed in response to other comments, undermine commenters' contention that there would be widespread verification errors in SAVE itself. Even where SAVE is used for primary verification, instances without an automated data match should not lead to a wrongful denial because the responsible entity is (a) expected to submit a case for manual review as prompted when the system cannot generate an automated response, (b) allowed to request a manual review when an automated response appears incorrect or is unexpected, and (c) required to provide the family with the opportunity to request manual verification if they disagree with the automated response, and allow them to provide additional information and documentation.

To the extent that SAVE will be used for primary verification, the responsible entity should be able to quickly reconcile any data input errors by reviewing the documentation provided by the applicant or current tenant. Use of SAVE should not lead to a wrongful denial because the responsible entity is required to provide the family with the opportunity to provide additional information and documentation. Users may submit a case for additional verification if they received an unexpected response or have questions about the response. When SAVE is used for secondary verification, objections to undefined ''manual record searches'' incorrectly assume that responsible entity staff, rather than U.S. Citizenship and Immigration Services (USCIS) staff, will be required to perform such manual review.

The rule does not establish a timeframe on the completion of the secondary verification process because the time required may vary depending on the complexity of an individual's particular immigration status.

Moreover, HUD estimates that responsible entities already are collecting the documentary evidence necessary thus not significantly increasing administrative burden. The Regulatory Impact Analysis estimates that only 1.05 percent of existing tenants have not provided proof of citizenship or eligible immigration status for another purpose. Where that documentation has already been collected, responsible entities still bear the additional administrative burden of creating an inquiry in SAVE, and perhaps following up on that additional inquiry by uploading the documentation already on hand. 5.514(d)(4) is meant to advise families that any records will need to be corrected with the issuing agency; should the family request a hearing, the responsible entity should duly consider all information and documentation provided in support. The verification of consent form for individuals declaring U.S. citizenship is a new requirement. However, applicants and tenants already provide consent for releases of information during the screening and admissions process, for example the forms HUD–9886 and 9887. HUD disagrees this will deter eligible applicants and has accounted for the light burden on current participants to review and sign the consent during their next annual or interim reexamination.

Comments that responsible entity staff lack expertise to distinguish immigration statuses or that staff lack training to create SAVE cases and interpret the results are concerning. Prior to this rulemaking, responsible entities were already required to use SAVE and to make determinations of whether individuals are eligible for assistance under Section 214. Responsible entities have been required to utilize SAVE to verify eligible immigration status since June 19, 1995, when the final rule implementing Section 214 of the Housing and Community Development Act of 1980 (60 FR 14816) became effective. Responsible entities must provide adequate training to staff to make eligibility determinations as required by law. In addition, the rule would stagger deadlines for review of evidence of citizenship for current tenants, easing the logistical burden on the responsible entities.

HUD appreciates comments identifying the possible differential impact of the verification process on different individuals. 24 CFR 5.508 provides for extensions of time to submit evidence of citizenship or eligible status to accommodate such circumstances.

3. Rule Does Not Properly Balance Costs and Benefits

A. Nonprofit & Mission-Driven Provider Impact

Commenters representing nonprofit, faith-based, and mission-driven housing and service organizations argued that the verification requirements would fall

especially hard on providers operating with volunteer labor, thin budgets, and populations that are difficult to document. A commenter noted that nonprofit and charitable organizations are statutorily relieved under PRWORA from conducting eligibility verification of the federal public benefits they administer but argued that the notice nonetheless signals such organizations should heed the policy, undercutting the exemption in practice. A commenter representing affordable senior-housing providers stressed that mission-driven senior communities would have to collect documentation from HUD-assisted older adults who established eligibility years ago by declaration, diverting staff from tenant services.

A commenter representing Health Care for the Homeless providers quantified the burden, describing the rule as an expensive, time-consuming, unfunded mandate under which case managers—already responsible for obtaining client identification and documentation—would face substantial added work per client on top of existing caseloads. A commenter operating a community-integration service warned that its organization could not cover the expense of obtaining hundreds of discounted birth certificates and identification cards for the participants it serves. A commenter serving Puerto Rico noted that the requirements would impose disproportionate burdens on community-based housing intermediaries there, and a commenter serving low-income Californians argued that community organizations, social-services agencies, and legal-aid programs already overburdened by the housing and homelessness crisis would be pushed further. Commenters representing legal-services providers added that the resulting increase in evictions would divert and waste the resources of already-strained legal-aid and eviction-defense organizations, hindering their ability to serve clients.

Commenters representing nonprofit, community-based, and service-provider organizations argued that the new verification requirements would impose significant administrative strain on providers already operating with limited staff, reducing the capacity of housing clinics, service programs, and survivor-support organizations to serve their clients.

HUD Response: HUD acknowledges that the rule would impose some administrative costs, as reflected in the Regulatory Impact Analysis, and it has weighed those costs in developing the final rule. Some additional administrative costs are inevitable to ensure that only eligible individuals receive assistance—for example, responsible entities will be required to obtain documentation of eligible status or to create additional inquiries in SAVE. To the extent that these additional costs are required to verify individuals' eligible status, HUD believes such costs are justified to ensure compliance with Section 214.

A potential source to lower the document costs is to use reduced or waived fees, if applicable in your state, when obtaining any of the required documents. In accordance with state law, some states already have reduced fees or no fees at all for certain categories of individuals. For example, those experiencing homelessness in Washington state can obtain their U.S. birth certificate with no fee. Likewise, those experiencing homelessness in Pennsylvania or California can apply for a birth certificate with fees waived. In addition, responsible entities are required to provide information on the changes in this rule once it becomes effective; this should help give tenants and applicants time before their annual recertification or application to secure the required documents needed. Also, responsible entities have the flexibility to give an extension of time to submit evidence of citizenship or eligible status (*e.g.,* a 30-day extension period, or up to 60 days, based on the circumstance of the individual case).

Finally, although charitable organizations are currently exempt under PRWORA, it does not relieve States or other governmental actors from the requirements to ensure that all relevant programs are in compliance with PRWORA. Additionally, this rule aligns HUD's requirements with Section 214, which prohibits the Secretary of HUD from making financial assistance available to any persons other than United States citizens or certain categories of eligible noncitizens in HUD's assisted housing programs.

B. Operational & Fiscal Burden on Housing Providers Leading to Decreased Housing Provided Overall

Commenters argued that the rule would impose a substantial and largely unfunded mandate creating administrative and fiscal burdens on public housing agencies and other housing providers, diverting scarce staff time and resources away from their core housing mission. A commenter drew an analogy to a February 2025 Executive Order and related federal efforts requiring states to re-verify immigration status for Medicaid and other programs, arguing that such re-verification mandates create administrative burdens for the agencies that must carry them out.

Commenters emphasized the operational strain of re-verifying entire assisted populations, arguing that the rule would require agencies to re-screen every household member—including U.S. citizens and long-tenured participants who established eligibility years ago by declaration—at each recertification, generating recurring work far beyond initial intake. Some commenters suggested this would constitute re-processing as many as millions of already-compliant households.

Commenters described the practical mechanics of compliance as a major operational undertaking, requiring agencies to revise their Administrative Plans and Admission and Continued Occupancy Policies (ACOPs), rebuild forms and notices, reprogram or reconfigure information systems, retrain staff, and stand up new document-collection and consent-tracking workflows before the rule could be implemented.

Commenters warned that the rule would increase processing time and slow leasing and lengthen vacancies, as households caught in re-verification, proration, or termination would leave units offline longer while agencies process hardship cases and turnover, reducing the housing actually available and cutting into program income. Commenters also said the more complicated implementation would increase paperwork, delays, and error rates without a demonstrated benefit.

Commenters argued that the added procedural steps would multiply informal hearings, grievances, and eviction proceedings, each of which consumes staff and legal-review time, so the rule would convert routine recertifications into contested, resource-intensive cases.

Commenters contended that HUD's regulatory impact analysis significantly understated the true administrative cost, arguing that it omitted the staff hours, system changes, legal review, and turnover costs the rule would impose and failed to account for the cost of upending existing eligibility frameworks, leaving the analysis unsupported. Commenters challenged HUD's characterization of the rule as reducing regulatory burden. Commenters argued that the rule contradicts the Administration's stated deregulatory goals by adding layers of administrative complexity rather than streamlining program operations. A commenter argued that departures impose significant turnover costs, since owners must refurbish, market, and re-

lease units and lose income during vacancy. A commenter contended that turnover requires staff time, unit turns, and recertification of new households, all straining budgets with no new funding. A commenter added that the economic analysis fails to meaningfully evaluate turnover costs for owners and expanded verification costs for smaller entities. A commenter asserted that turnover costs run $10,000–$20,000 just to evict and rehab an apartment, on top of administrative costs and rent loss.

Commenters argued that the RIA understates costs to housing providers by assuming repairs are the only turnover cost and omitting lost rent receipts, which a commenter estimated at $14.5–$18 million based on the family's rent share across 16,000 to 20,000 households. Commenters objected that HUD limited its analysis to local moving costs assuming no moving company and discounted tenant contest of eviction, ignoring the fearful environment of displacement. A commenter added that HUD failed to consider eviction and turnover costs for non-mixed-status families unable to produce required documentation.

A commenter maintained that if half the mixed families vacated, one authority would have at least 400 units vacant for an extended period, lowering its assessment score. A commenter added that certification changes must flow through TRACS, raising the volume of interim recertifications, subsidy corrections, and errors.

Commenters warned that agencies are already stretched thin, chronically understaffed and underfunded. Commenters representing agencies of varying size described disproportionate impacts on small, rural, tribal, and under-resourced agencies, which lack the dedicated staff, legal capacity, and systems to absorb the new verification, training, and compliance work. Commenters stressed that small and rural agencies operating with a single staff member or minimal capacity would be especially strained. A commenter estimated one-time costs of $300,000 for notices and outreach and $100,000 for staff training at a single authority. A commenter asserted that a single authority faces a $100,000 revenue decrease and $270,000 cost increase, a $370,000 total budget impact. A commenter added that a reduction of just 35 vouchers or 15 public-housing units equates to the cost of one staff position. A commenter maintained that housing authorities are already running past their budgets, citing the Los Angeles County Housing Authority spending 102.55 percent of its proposed budget allocation, and that verifying every household member through SAVE at one hour each would add an estimated 898,550 administrative hours to an overburdened system.

Commenters disputed HUD's suggestion that agencies could absorb administrative costs by diverting funds from existing programs, arguing federal cuts have already exhausted such flexibility, including efforts to fund emergency-housing-voucher tenants.

Commenters maintained that the added determinations, grievances, and process steps would increase legal and litigation exposure and administrative costs for agencies.

Commenters urged HUD to withdraw the rule or, at minimum, provide funding and staffing commensurate with the new obligations.

Commenters—including individual landlords, property investors, owner and property-manager associations, and housing organizations—argued that the rule would erode the private-owner participation on which the Housing Choice Voucher (HCV) and Project-Based Rental Assistance (PBRA) programs depend. A commenter argued that HCV success depends on sustained participation by private landlords, which in various jurisdictions is already constrained by market competition, administrative burden, perceived program risk, and payment uncertainty, and that the rule would worsen each of these pressures. A commenter representing a large urban program stressed that HCV depends on thousands of private landlords and that undermining private-sector participation threatens program viability. A commenter noted that annual voucher allocations already go underused where landlord participation and administrative burden are obstacles, and that the rule would enlarge that gap. A commenter warned that added document requirements and tenant turnover risk the discontinuation of private-landlord participation, reducing the supply of affordable and available units. A commenter explained a specific driver of that turnover, noting that mixed-status families would likely exit assisted housing to avoid separating from family members and that participants losing eligibility would raise turnover, and that even a small increase in turnover strains a property's financial health. A commenter representing residential property managers urged HUD to confirm explicitly in any final rule that HCV property owners and managers are not responsible entities under Section 214, bear no independent obligation to verify immigration status or make eligibility determinations, and are not subject to the reporting obligations of proposed § 5.508(d)(4) and (e)(2)(vi).

Commenters emphasized payment disruption and turnover costs as direct financial harms to owners. A commenter explained that current proration allows landlords to receive predictable payments while maintaining tenancy, and that terminating or reducing assistance mid-tenancy would create significant payment disruption. A commenter noted that because a large share of monthly rent is subsidized for voucher households, any disruption to payments or increase in administrative costs may discourage private owners from participating. A commenter described how sudden loss of assistance leads to lease breaks, unpaid rent, vacant units, and re-leasing costs—units must be repaired, inspected, and re-approved before a new tenant can move in—and that these losses fall hardest on small landlords who cannot absorb them. A commenter representing owners in Section 214-covered programs stated that private owners would face administrative burdens and increased costs associated with eviction and unit turnover.

Commenters representing owners of Low-Income Housing Tax Credit (LIHTC) and other privately owned assisted properties warned of destabilized property finances. A commenter noted that a majority of mixed-status households receive assistance under HCV and PBRA in privately owned housing—estimating that roughly 60 percent of all HUD-supported housing is voucher-based in privately owned units—so eviction and turnover costs would fall substantially on private owners. A commenter explained that because LIHTC rents are capped, owners operate on thin margins, and a sudden increase in vacancies or eviction-related costs could destabilize a property to the point that it cannot service debt or cover operating costs. A commenter described maintenance problems and lost rent from prorated families as harms to property viability and resident-council funding.

Commenters representing property-manager and owner associations, and individual small landlords, added practical objections. A commenter representing residential property managers stated that its members and the owners they serve are committed HCV participants who take their obligations seriously but should not be treated as responsible entities for immigration verification. A commenter owning more than 80 rental units in low-income neighborhoods called the proposal a poor financial decision given

the difficulty of finding tenants who can afford unsubsidized rent. A commenter who accepted vouchers as a small landlord noted that many vulnerable tenants lack bank accounts, passports, or birth certificates, making the documentation demands unworkable. A commenter argued that reduced visibility into household composition would create safety risks for landlords in emergencies.

Commenters raised landlord-focused concerns that payment uncertainty would make it hard to stay in the program, that landlords could not absorb the loss during a lapse in assistance, that units would sit vacant and owners would lose income during turnover, and that the added paperwork and delays would discourage continued landlord participation in the Housing Choice Voucher program, reducing available housing.

Commenters representing rental-housing owner and manager associations argued that property owners, operators, and their on-site staff engage in identity and document checks for legitimate business reasons but are not equipped to police immigration laws. A commenter representing residential property managers emphasized that within the HCV program the PHA is the responsible entity under Section 214 and that private owners and managers are not responsible entities, bear no independent verification obligation, and need clear guidance and legal protection to respond appropriately when a PHA acts on an eligibility determination.

Commenters contended that the added documentation, reporting, and turnover burdens would deter private landlords from participating in the voucher and project-based programs, shrinking the supply of affordable and available units and undercutting HUD's own initiatives to expand landlord participation. A commenter argued that increasing the risk of mid-lease terminations from complex status-verification errors would push owners who value certainty and simplicity out of the program, wasting resources spent on landlord recruitment. A commenter maintained that the documentation requirements would impose substantial costs on owners that could discourage participation and undermine program effectiveness. A commenter argued that terminations damage the landlord network the voucher program depends on, with lease breaks and unpaid rent falling hardest on small landlords dependent on voucher income and lowering unit availability and utilization. A commenter contended that the rule runs contrary to research recommending expanded owner participation as a remedy to the housing shortage, by instead adding deterrents that would diminish an already limited supply.

Commenters warned that many voucher landlords are individuals owning one or two units who rely on that income, and that sudden termination of assistance for mixed-status households would create financial uncertainty that erodes confidence in the program. A commenter argued that the rule fails to adequately consider its damage to private landlords, who would bear eviction-litigation costs with low prospects of recovering unpaid rent from judgment-proof tenants. A commenter added that, with average assistance payments substantial relative to rent, cutting funding to affected households would impose large monthly economic losses on owners plus eviction and make-ready costs, discouraging continued business with the housing authority. A commenter maintained that new administrative burdens on private providers would deter many landlords from participating in subsidized programs, reducing affordable-housing supply. A commenter argued that the Section 214 documentation changes would place unnecessary administrative burden and cost on landlords, owners, and PHAs.

Commenters emphasized that payment disruption and unreimbursed operating impacts would fall directly on owners, affecting participation decisions. A commenter argued that HUD's assumption that increased per-unit subsidy costs would be borne by the government is uncertain given appropriations constraints, and that delayed payments, reduced contract rents, or fewer HAP-contract renewals would shift participation decisions, particularly in the discretionary PBRA program. A commenter warned that the loss of voucher funding tied to the new requirements could strain private affordable-housing owners at a time when economic occupancy is down in many major markets. A commenter argued that HUD failed to account for Section 8 property owners, who would lose the subsidy share of rent when a mixed household is terminated, face lengthy and costly eviction proceedings to recover units, and may find entire developments' financial viability jeopardized.

A commenter noted that a substantial share of vouchers—which make up a large portion of Section 214-covered units—are used in privately owned Low-Income Housing Tax Credit properties, and that roughly half of the tax-credit portfolio receives rental assistance, so eviction and turnover costs would fall heavily on those owners.

A commenter argued that requiring families to remove ineligible household members to qualify would, like existing removal-for-cause policies, often leave unauthorized occupants in place because proving unauthorized occupancy is difficult and resource-intensive, straining property-management resources.

Commenters emphasized that owners make participation decisions based on administrative burden, compliance risk, and payment predictability, and that terminating assistance for mixed-status households would break the good-faith reliance owners placed on stable subsidy payments.

Commenters characterized the rule's landlord impacts as damaging to program reputation and stability, adding that reduced participation would limit access for all voucher holders.

Commenters warned that squeezed owners might respond by deferring maintenance—with health-and-safety consequences—or by withdrawing from subsidy programs and converting units to market rate.

For the reasons described above, commenters argued that the rule would shrink the assisted-housing stock. Some added that these cuts would fall on already-scarce housing during an acute shortage, so that the reduction compounds existing need. One commenter relayed a tenant's account that, without funds to prepare vacated apartments for new tenants, many units would stay empty, deepening neighborhood dysfunction until the buildings are redeveloped as ''affordable and mixed-income'' housing or shut down altogether.

HUD Response: HUD appreciates comments on the costs for responsible entities' use of the DHS/USCIS administered SAVE program. HUD acknowledges that costs arise when resources are devoted to complying with a new policy. The costs to verify eligible assistance for benefits are necessary to meet the requirement for HUD to not make financial assistance available to persons other than U.S. citizens or eligible noncitizens. As the Regulatory Impact Analysis explains, the principal benefit of the rule is to direct HUD's limited financial resources to fully eligible households by transferring assistance from mixed families to fully eligible households on program waiting lists, consistent with Section 214.

As reflected in the Regulatory Impact Analysis, HUD believes the impact on responsible entities would be low. HUD

has therefore determined that the final rule balances the interests of affected parties and responsible entities while improving compliance with statutory obligations and aligning with policy goals.

HUD disagrees with the estimated average time required to verify each household member; in most cases, the time required to verify would be substantially less than commenters argue. As explained in the Paperwork Reduction Act section of the preamble, PHAs already typically receive a birth certificate, passport, or other identity-verification document for deductions, program eligibility, and other purposes, and an estimated 99 percent of existing U.S.-citizen tenants have already been verified; only about 1.05 percent of existing tenants are estimated to lack ready access to documentation. For these reasons, and as reflected in the Regulatory Flexibility Act and Paperwork Reduction Act analyses, HUD believes the verification burden on responsible entities would be low.

HUD acknowledges that implementation of the final rule may result in a reduction in the number of households and eligible individuals receiving assistance under the Housing Choice Voucher and Public Housing programs. Turnover costs are among the expected recurring costs for responsible entities and are included in the Regulatory Impact Analysis. HUD expects that the first year of implementation would see the most terminations and evictions based on ineligible immigration status. However, HUD believes that this cost is adequately offset by the reallocation of HUD funds to the intended recipients. HUD accepts that there would likely be an increase in repair and maintenance costs if termination of assistance occurs, but the impact would be low.

C. Universal Paperwork Burden on All Tenants Regardless of Status

Commenters contended that the verification requirements fall on every household receiving HUD assistance rather than on noncitizens alone, extending the documentation burden to U.S. citizens and lawful participants who already qualify, including in households where every member is a citizen, and regardless of age or citizenship.

Commenters objected to the removal of the rule allowing U.S. citizens to confirm status through a signed declaration under penalty of perjury, characterized the change as the elimination of the current ''do not contend'' option under which participants who did not claim eligible immigration status were not required to produce documentation, and noted that the rule would extend verification to household members regardless of age.

Commenters asserted that this universal paperwork obligation would produce concrete losses of assistance for eligible people who cannot complete the process in time, including through clerical error, processing backlogs, and administrative delays. A commenter maintained that the added verification would lengthen already extended waitlists and could cause eligible applicants to lose their place. Commenters concluded that alternative paths exist to achieve the agency's goals without imposing these obligations on U.S. citizens and asked that the rule be withdrawn.

Commenters contended that the statutory framework of the Housing and Community Development Act does not require this documentary overhaul and asked that the agency retain the existing declaration-based process.

Commenters stated that it is unclear what documentation would be acceptable under the proposed changes to 24 CFR 5.510(b)(6) and argued that this ambiguity falls hardest on seniors and persons with disabilities who may be unable to supply conventional records. Commenters proposed that the rule adopt a nine-month standard timeframe with explicit good-cause extensions for elderly, disabled, and formerly homeless participants to obtain or replace documents and Social Security numbers.

Commenters argued that citizens who cannot produce acceptable documents to re-prove citizenship would be denied assistance, and that where the denied member is the head of household the remainder of the family would also become ineligible.

HUD Response: The verification requirement is grounded in Section 214(d)(2) of the Housing and Community Development Act of 1980, which stipulates that the Secretary may not provide assistance for the benefit of an individual before documentation of eligible immigration status is presented and verified. HUD considered commenters' suggestions that the Department continue to rely on self-certification for U.S. citizens or employ a more targeted verification process. HUD declines to adopt those alternatives because requiring documentation verification of citizenship provides a consistent means of establishing eligibility, reducing reliance on unverified declarations, and ensuring uniform application of Section 214 requirements. In developing the final rule, HUD considered the potential for the types of documentation and administrative delays identified by commenters. Accordingly, the final rule preserves existing procedural safeguards, including secondary verification rather than an immediate adverse determination and no delay of assistance because verification is pending, and expands certain flexibilities, such as additional time to obtain evidence of citizenship or eligible immigration status, to mitigate the burden of the new verification requirements and reduce the risk of erroneous loss of assistance.

HUD maintains that the ''do not contend'' option is inconsistent with Section 214. While Section 214 does not require an individual who declares U.S. citizenship to submit documentation to verify, the statute provides authority to the Secretary, or administering agency, to request verification by requiring documentation. HUD is exercising this option, making the administrative process for verification more uniform for citizens and eligible noncitizens. HUD estimates that most responsible entities already collect documentation which would satisfy the evidence necessary to verify U.S. citizenship as this information is collected for other purposes in the determination of eligibility. Further, the rule provides for extension of time for family members to obtain the necessary documentary evidence.

HUD encourages responsible entities to make potential applicants aware of the requirements to the greatest extent feasible and requires responsible entities to provide notification to applicants at the time of application as described in 5.508(e)(1). Generally, responsible entities have considerable flexibility in how they manage their waitlists to accommodate documentation delays.

HUD appreciates the concerns raised about the potential impact of this rule on landlord or owner participation. While HUD agrees that the success of the HCV program depends on sustained participation by private landlords, HUD does not agree that the changes introduced by this rule undermine private-sector participation in the ways that commenters envision. Concerns related to the sudden loss of assistance or loss of predictable payments are not relevant to the long-term operation of programs affected by this rule, since the eligibility of families will be determined at admission to the programs. The Regulatory Impact Analysis does contemplate turnover related to the departure of mixed-status families when the rule is implemented, but this turnover relates to the initial

implementation of the rule, not a permanent increase in turnover rates. The change to the definition of ''responsible entity'' in 24 CFR 5.504, as noted in the preamble to the final rule, removes outdated references to the Section 235 Program, clarifies that responsible entities for Section 236 are mortgagors or project (or housing) owners (if uninsured), and that responsible entities for the project-based Section 8 Program are project or housing owners. For the Section 8 Rental Voucher and Section 8 Moderate Rehabilitation programs, the PHA administering the program serves as the responsible entity. This rule does not require landlords in the HCV program to verify immigration status.

Several practical objections raised in comments misunderstand critical aspects of the rule. As noted, the rule does not make private owners participating in the tenant-based voucher program responsible entities and does not impose additional burdens on them to verify immigration status. The rule makes no changes that would reduce landlord visibility into household composition. Concerns that added paperwork would discourage continued landlord participation in the tenant-based voucher program incorrectly suppose that determination of family eligibility will require landlords to process more paperwork.

HUD also does not agree that the final rule necessarily will result in reduced contract rents or fewer HAP-contract renewals. The final rule does not amend the statutory or regulatory standards governing PBRA contract rents or renewal eligibility and HUD believes Owners and Agents as capable of undertaking the adjustment in process and regulation. Decisions regarding whether to renew a Housing Assistance Payment (HAP) contract are overseen by the relevant PBRA statutory and regulatory authorities. To the extent commenters are concerned that the final rule could indirectly affect Owner participation in PBRA by increasing operating or administrative costs to the degree suggested by commenters. Additionally, regarding commenters' concern, HUD recognizes that possibility but does not have sufficient information that the final rule will cause owners to withdraw from the program to the degree suggested by commenters. Additionally, regarding commenters' concerns about payment disruptions and unreimbursed operating costs, HUD does not expect the final rule, by itself, to alter the contractual obligation to make payments under an otherwise valid PBRA contract for eligible assisted units.

HUD acknowledges that the verification requirements of the final rule could result in additional administrative costs for Owners and Agents. However, these costs are a consequence of the eligibility requirements that HUD is implementing and do not provide a basis for HUD to continue providing assistance on behalf of individuals whose eligible status has not been verified under the terms of the final rule. HUD has sought to structure the verification process to provide responsible entities with defined procedures for obtaining and documenting verification results.

While the final rule requires verification of citizenship or eligible immigration status for each family member residing in a unit, it does not require an eligible family member to leave an assisted unit solely because another family member lacks eligible status. The final rule provides for prorated assistance while the eligibility of other family members remains pending final verification. If the head of household lacks eligible status but another family member, who has confirmed eligible status, is able to become head of household, this rule does not prevent another eligible family member from becoming head of household and all other family members with confirmed eligibility status from continuing to receive assistance. Again, HUD maintains that verification of all recipients of assistance in covered programs aligns with Section 214 and E.O. 14218. HUD disagrees with the characterization of this alignment as a punishment for U.S. citizens. Rather this rule best ensures that taxpayer-funded benefits are only for intended recipients, transferring assistance to fully eligible households while making the administrative process for verification more uniform for citizens and eligible aliens.

D. Cost-Benefit Analysis

Commenters argued that the rule fails a basic cost-benefit test because its costs exceed any savings and it produces no offsetting benefit. A commenter asserted that the rule replaces a functional, law-abiding system with a more expensive, bureaucratic one. Commenters contended that the rule would not save money or otherwise provide benefit. Commenters stated that the rule would increase federal subsidy costs, because removing prorated mixed-status households means their units are re-let to fully-subsidized households whose per-unit subsidy is higher. A commenter argued that because assistance is currently prorated so ineligible members pay their full rent share, most affected households will leave rather than split up, and the resulting re-leasing will substantially raise HUD's aggregate subsidy cost. A commenter asserted that ending proration removes families' incentive to fully report ineligible members and their income, so HUD may end up paying higher subsidies than intended. A commenter maintained that transferring assistance to fully-eligible households is the rule's most significant effect and will drive up housing-assistance-payment costs when wage-earners are removed.

Commenters maintained that any savings are trivial relative to the harm because the affected population is minuscule, *i.e.,* well under one percent of assisted families, so the rule imposes large costs to reach a small and shrinking group. A commenter argued that Colorado has roughly 340 mixed-status households (0.006 percent). A commenter asserted that mixed-status subsidy is roughly 0.5 percent of Housing Choice Voucher funding, 0.2 percent of Project-Based Rental Assistance, and 0.6 percent of Public Housing subsidies, so eliminating these families would not produce meaningful savings. A commenter contended that removing 0.9 percent of families while cutting voucher funding 12.7 percent and barring new vouchers cannot meaningfully shift resources to intended recipients.

Commenters noted HUD's own estimate shows increased costs. Commenters stated that HUD estimated implementation costs at $17–33 million. Commenters asserted that HUD concedes it would need hundreds of millions of dollars in additional, unrequested funding merely to maintain current service levels, which itself shows the rule saves nothing. A commenter argued that HUD estimates $311–385 million more would be required to maintain current capacity, funding it has not requested. A commenter asserted that HUD estimated $251 million in added taxpayer costs. A commenter contended that HUD's own explanation is that the number of households served declines automatically once assistance can no longer be prorated and spread across families.

Commenters disputed the reliability of HUD's cost estimates themselves, contending they rest on flawed premises and understate the true burden. A commenter argued that the estimates rest on the unsupported assumption that few mixed households would challenge the rule.

A commenter challenged the ''de minimis'' documentation-cost premise, arguing replacement documents are

extraordinarily hard to obtain for people displaced by homelessness, disaster, or abuse, so the loss of housing is an irreparable harm rather than a minor cost. A commenter argued that participants must pay document fees, such as $555 to replace a naturalization certificate in Philadelphia, and miss work and wages to obtain citizenship documents. A commenter contended that the ''zero cost'' premise ignores people with language barriers, disabilities, or no transportation or internet access, for whom compliance costs are insurmountable. A commenter asserted that HUD underestimates the manual-check cost of secondary verifications performed during annual recertifications by already-behind providers. A commenter stated that no analysis supported HUD's suggestion that families could ''avail a reduced fee or waiver'' and did not identify an agency or waiver process. A commenter asserted that because secondary SAVE verification is left to unspecified future guidance, HUD's cost figures are speculative and likely inaccurate. A commenter maintained that first-time SAVE verification of participants who claim citizenship but have never been verified will substantially increase per-file processing time, contradicting HUD's ''almost instantaneous'' premise. A commenter maintained that HUD offers insufficient justification for the documentation requirements and provides no estimate of how many citizen households may need extra documentation when SAVE data are inaccurate.

Commenters challenged the analysis for omitting large categories of cost, concluding HUD's net-benefit conclusion is unsupported. A commenter argued that the analysis ignores the cost of chaos and confusion as tenants flood providers with questions, a large diversion of staff resources.

A commenter warned that vacancy losses are not adequately considered, since units incur operating costs without rental revenue during turnover and industry turnover costs run about $2,500 per unit. A commenter stressed that the analysis never addresses the double blow to provider revenue—the simultaneous loss of prorated rent from mixed-status families and the increased administrative cost of compliance.

Commenters warned again that eviction, moving, and local-government costs are underestimated or omitted. Commenters argued that the RIA omits the downstream costs of homelessness that follow displacement. Commenters stated that average mixed-family income of about $27,000 is below the poverty line for a family of four, that HUD concedes such families face significant private-market barriers, and that local homelessness costs of roughly $20,000 to $50,000 per person are excluded from HUD's accounting.

Commenters cited the Center on Budget and Policy Priorities estimate that the rule could cause roughly 80,000 people, including approximately 37,000 children, to lose stable housing. Some placed the figure higher, warning that as many as 200,000 people nationally could be forced from their homes. Commenters suggested this would create tens of thousands of additional people homeless. Commenters grounded the homelessness projection in HUD's own analysis, contending that the Department itself acknowledged fewer households would be served and that no replacement assistance would follow, so displacement into homelessness was a foreseeable rather than speculative outcome. Commenters warned the documentation window is too short for affected families to secure alternative housing before losing their current homes. A commenter emphasized that a family at or below the poverty line evicted under the rule faces one outcome, homelessness, with no exemption for those already on the brink. A commenter added that the assumption assistance can simply be redirected presumes a frictionless housing system that does not exist, given high vacancy competition and rents. A commenter disputed HUD's premise that vacated units would rehouse the currently unhoused, noting HUD's own analysis concedes only about 10 percent of beneficiaries were formerly unhoused.

Commenters pointed to a national one-day count of nearly 53,600 adults and children in emergency shelters as evidence that the system cannot meet existing need, let alone a new inflow. A commenter noted that nearly 194,000 people are already served by the affected programs, so displacement on that scale would overwhelm local capacity. Commenters noted California's record and largest-in-nation unhoused population, over 50,000 in Chicago, and Hawai'i's nation-leading houselessness rate. A commenter observed that in Nevada, among the most cost-burdened states, roughly 97 percent of affected households have no realistic affordable alternative, leaving shelters or the street as the only destinations. Commenters argued that a system already recording that level of use could not absorb a new wave of displaced families.

Commenters argued that preventing homelessness is far cheaper than responding to it, so policies that increase evictions and shelter use shift higher costs onto local and federal systems. A commenter contended that unhousing people costs the government an average of $60,000–$80,000 per person per year. A commenter maintained that at an average chronic-homelessness cost of $35,578 per person per year, every 10,000 additional homeless people cost taxpayers as much as $355 million. A commenter added that a full year of supportive housing costs about $145 per day, equivalent to a six-month jail stay or 24 days in a state hospital, and that daily family-shelter costs generally equal or exceed the cost of housing. A commenter asserted that it costs more per unhoused individual than to pay for that individual's housing assistance, so the rule nets out to costing taxpayers more. A commenter maintained that removing families merely shifts the financial and administrative burden of shelter to the public. A commenter asserted that people who are homeless and unsheltered are more likely to be hospitalized or incarcerated, both far more expensive than supportive housing, and that in Virginia supportive housing costs $71 per day against $1,060 per day for psychiatric hospitalization.

A commenter argued that forcing families into eviction and homelessness would raise costs across safety-net programs including Medicaid, CHIP, Social Security, CDBG, WIC, ESG, TANF, and SNAP, and strain hospitals, police, and fire departments, with HUD itself estimating a $167–218 million annual federal cost increase.

Commenters warned that housing loss would produce measurable health harms, because instability and homelessness worsen chronic conditions and mental health. Commenters cited estimated downstream health costs, including roughly $650 in added public health spending per displaced person, as evidence the harm extends well beyond housing.

A commenter added that HUD's 2025 RIA shows the rule cuts the number assisted from approximately 79,300 to 24,100 under a fixed budget because replacement households require higher per-person subsidies, so externalized costs compound an efficiency loss. A commenter argued that RIA section 5.5's treatment of the duration of transfers glosses over the harm of evicting or forcing self-eviction of mixed-status families. A commenter argued that HUD counts only a truck and movers while ignoring application fees, security deposits and last month's rent, and utility connection fees, producing a real

per-family cost of $2,800–$4,650 and a national moving-cost total of $44.8–$93 million against HUD's $14–$18 million. A commenter asserted that displaced households face immediate costs of several thousand dollars given deposits and up-front rent, especially where two-bedroom fair-market rents reach $2,910 in New York and $3,604 in San Francisco. Commenters argued that HUD's assumption that only 5 percent of mixed-status families will contest eviction has no support, while the analysis itself notes formal evictions occur in 24 percent of involuntary departures. Commenters stated that challenges will be especially high in states with strong tenant protections. Commenters stated that HUD's minimal eviction-cost premise of $1 million, with an assumption that fewer than 1,000 households will require formal proceedings because most will leave voluntarily amid the immigration enforcement climate, is unrealistic. A commenter contended that families facing homelessness will retain housing as long as possible. Commenters warned that actual costs would be far higher for long-tenured project-based tenants in high-cost markets and strong tenant-protection jurisdictions. A commenter objected that the benefits section relies on sweeping, unsourced claims about the ''adverse economic consequences of unauthorized immigration''. A commenter contended that a formal eviction in California costs $385 just to file, making HUD's $1 million estimate wildly inaccurate. A commenter maintained that the true cost is the total derailment of families' lives, including lost employment, lost belongings, and medical costs from the stress of homelessness. A commenter asserted that the analysis ignores families' court and legal fees for defending against eviction. A commenter argued that the analysis does not account for broader public costs of displacement, including emergency housing, education disruption, and child-welfare systems. A commenter asserted that HUD's Regulatory Impact Analysis does not calculate or account for these costs. A commenter maintained that HUD understated local-government costs, so that using HUD's own $30,000-per-person figure, New York City alone would bear roughly $330 million and potentially $1.27 billion in annual shelter costs, plus McKinney-Vento obligations. A commenter added that the analysis understates the downstream burden on legal-aid organizations absorbing the consequences of increased complexity, delays, and errors.

A commenter contended that the analysis omits the administrative-hearing cost for every tenant given a false ineligibility finding, wrongly assuming a two-hour maximum per verification. A commenter estimated that secondary verification for 5 percent of a 10-million-resident population would cost roughly $20 million and one million lost hours. A commenter assumed an average trial cost of $20,000 per matter across 10 percent of Section 8 households. A commenter added that $33 million in new administrative costs would divert scarce resources from housing toward surveillance and verification.

A commenter asserted that the stated benefits are insufficiently supported because the analysis never weighs the impact on mixed-status families' ability to keep a home.

Commenters warned HUD's stated savings figure ignores offsetting revenue losses, particularly forgone tenant rent payments. Commenters argued that the $218 million savings claim does not account for the $17–33 million to implement and the $202 million in lost tenant rent payments.

A commenter maintained that the analysis provides no factual support and no data on the burden on small housing authorities, tenants aged 62 and over never before required to document status, or the cost of SAVE consent, staff training, and false-result hearings.

Commenters urged that no cost savings exist because ineligible members are already excluded from subsidy calculations, so barring them yields no fiscal benefit while imposing new costs. Commenters also stated that the existing structure already achieves consistent verification, because the Social Security Administration already verifies citizenship, status, age, and identity and PHAs already confirm Social Security data so there is only marginal compliance benefit. A commenter added that the rule complicates HOTMA's streamlined certifications by adding verification layers for individuals HOTMA would exempt. A commenter contended that destabilizing the LIHTC investor market could jeopardize the financial viability of projects in development.

Commenters challenged the derivation of the 1.05 percent figure as unsupported by provider data and likely far too low. A commenter argued that assuming only 1.05 percent of tenants need to prove status is baseless and massively undercounts those affected, making the $2.1 million top estimate ridiculously low. A commenter asserted that the analysis assumes only 730 impacted tenants when data show roughly 1.8 million citizens will face the new documentation requirements. A commenter challenged the assumption that mixed-status households lacking documentary proof (1.05 percent) would be only half the rate of all citizens (2.0 percent), when foreign-born citizens and eligible immigrants are less likely to hold such proof and a realistic rate would be at least 50 percent higher. A commenter argued that roughly 3.8 million adult citizens lack citizenship documentation and another 17.5 million cannot readily access it, and low-income individuals are least likely to hold such documents, so the number requiring secondary verification is likely far higher than 1.05 percent.

One commenter argued that if seniors and disabled participants must verify status, far more than the 1.05 percent of citizens used in the RIA's Table 7 would require verification, and identified an unexplained discrepancy between HUD's September 2025 estimate applied to 1,872,315 tenants and the proposed rule's estimate applied to roughly 714,000. Another commenter noted HUD's own 2019 analysis using 2017 data found more than 25,000 mixed-status households, suggesting the current count understates the affected universe, and asked HUD to disclose its data source. A commenter argued that HUD derived 1.05 percent by averaging its own 0.09 percent pending-verification data with a voter survey, an unsupported method. A commenter argued that the analysis claims only 1.9 million individuals are affected despite its own figures showing nearly 9 million, a drastic error showing HUD did not engage in reasoned decision-making.

Commenters challenged HUD's characterization of costs as largely one-time and its assumption of full program funding, and the assumption that first-time documentation is costless. A commenter contended that HUD asserts without basis that the burden on existing tenants documenting status for the first time is low, when data show roughly 1.8 million citizens will be affected. A commenter objected that the claim that first-time documentation could carry zero cost ignores people with barriers to access. A commenter argued that verification, documentation, and compliance are ongoing obligations requiring sustained staff time, and that the analysis wrongly assumes full funding despite chronic appropriations shortfalls. A commenter asserted that the $1,800-per-unit figure relies on an outdated pre-pandemic 2019 source and ignores Build America Buy America procurement cost increases. A commenter asserted that national

compliance costs to tenants and applicants would reach $16–27 million and costs to authorities and owners still more.

A commenter argued that even one hour of staff time per household across NYCHA's roughly 50,000-household Manhattan portfolio represents millions in administrative cost with no federal reimbursement. A commenter added that the Medicaid citizenship-documentation precedent produced enrollment declines and higher administrative costs per GAO. A commenter asserted that HUD's own figures put combined verification costs for existing and new tenants at approximately $800,000 to $3.2 million. A commenter contended that HUD underestimated the unfunded-mandate burden on housing providers by at least $43.5 million. A commenter maintained that managing a strict 90-day submission window and tracking 18-month deferrals would add roughly $80,000 in oversight cost at one authority. A commenter added that HUD's premise that families come for subsidized housing is baseless given closed or years-long waiting lists.

A commenter argued that HUD assumes displaced families are replaced at equivalent cost, yet its own analysis shows replacement households require higher subsidies. A commenter contended that the $167–218 million annual transfer produces illusory benefits that do not justify the harms. A commenter asserted that HUD's own analysis acknowledges the primary effect would be to assist proportionally fewer households. A commenter added that HUD reported the same increased-cost, reduced-supply effect when it proposed the change in 2019.

Commenters asserted that the ''transfer'' or ''zero-sum'' framing obscures the rule's true fiscal consequences and that HUD's own numbers show higher per-person subsidies for replacement households. A commenter argued that mixed households have higher average incomes ($27,000 vs. $20,000) and prorated subsidies, so replacement families require higher per-person subsidies ($7,700 vs. $2,700) and the same funds that serve 79,300 people would serve only 24,100, eliminating assistance for more than 55,000 currently eligible individuals. Commenters maintained that HUD's own figures show the rule reduces the number of eligible people housed and would require hundreds of millions in unrequested appropriations. A commenter argued that maintaining assistance for the same number of currently eligible individuals would require an additional $478 million to $603 million. A commenter contended that replacing mixed-status with non-mixed households could cost as much as an additional $385 million annually. A commenter contended that prorated households pay market-adjacent rents generating more revenue than fully subsidized households, so eliminating them reduces families served and net revenue, an explanation running counter to the agency's own evidence and thus the paradigm case of arbitrary action under Motor Veh. Mfrs. Ass'n v. State Farm Ins., 463 U.S. 29 (1983). A commenter asserted that the proration effect alone would raise the replacement family's subsidy by about 43 percent.

Commenters cautioned that HUD failed to conduct an adequate cost-benefit analysis and should withdraw the rule or complete a full analysis before proceeding. A commenter argued that HUD provided no benefit-cost analysis consistent with OMB Circular A–4, no Territorial Impact Assessment for Puerto Rico, no distributional analysis, and no PHA burden analysis under the Regulatory Flexibility Act of 1980 (RFA), Paperwork Reduction Act of 1995 (PRA), and the Unfunded Mandates Reform Act (UMRA). A commenter maintained that HUD has not analyzed whether the rule would raise or lower total subsidy expenditures after predictable changes in household composition. A commenter contended that absent that analytical foundation HUD cannot satisfy reasoned decision-making or avoid arbitrary-and-capricious outcomes. A commenter added a series of questions about the cost of implementation and of expanding assistance to all eligible households that the analysis leaves unanswered. A commenter contended that a proper analysis, as required by Executive Orders 12866 and 13563 and by statute, would show the rule is expensive, unnecessary, and imprudent.

A commenter argued that the analysis lists financial costs to the tenant and household that are inaccurate. A commenter contended that the cost-analysis data is not representative of the HUD-assisted population. A commenter asserted that an extremely low-income elderly person with a disability faces many barriers to obtaining replacement documentation amid staffing cuts, and that the cost of eviction for lack of paperwork cannot be assigned a numerical value. A commenter maintained that HUD estimates verification administrative costs of $530,140 to $2.1 million and concedes these could discourage participation. A commenter added that HUD's own 2019 analysis of a similar, later-withdrawn rule admitted it would reduce the quantity and quality of assisted housing. A commenter urged that HUD should first accurately determine the actual cost of losing assistance and the number of people who would. A commenter contended that the rule adds $235 million in costs that could force units to be boarded up and closed. A commenter added that the rule would create an estimated $370 million in added costs, further reducing rental assistance.

HUD Response: HUD appreciates the data commenters provided regarding the rule's costs and benefits. However, HUD has not characterized cost savings as a benefit of the rule; rather, through this rule, HUD seeks to reprioritize limited rental assistance toward fully eligible households consistent with Section 214 and Congressional intent, recognizing that housing assistance is not an entitlement. HUD believes that the rule could result in a significant redistribution of approximately $167 million to $218 million annually in rental assistance from mixed-status families to fully eligible households currently awaiting assistance. As a redistribution among similarly situated very-low-income renters, this would represent neither a cost nor saving. Since the $218 million is a transfer, not a saving, netting it against ''lost tenant rent'' is a category error.

The genuine costs are the $17–$33 million in largely one-time upfront costs, as discussed in the Regulatory Impact Analysis, offset by the benefits discussed (deeper subsidies to lower-income replacements, mobility and neighborhood effects, and heightened redistributive value for homeless and near-homeless replacements). The $311–$385 million supplement (§ 5.4.2, Table 4) applies only to the alternative ''preserve unit count'' scenario; under the default fixed-budget scenario it is $0. It is not an unrequested appropriation the rule requires. HUD agrees that there may be additional administrative costs for responsible entities, but Section 214 requires HUD to reprioritize rental assistance benefits for households with U.S. citizenship or eligible immigration status. As explained in the proposed rule and RIA, HUD did quantify turnover costs beyond repairs: the RIA separately identifies formal eviction costs (court fees, server charges, and eviction services averaging approximately $1,000 per household and up to approximately $4,000 per household in a high-cost scenario involving major repairs and legal representation), and foregone rent during the turnover period. HUD's aggregate formal-eviction estimate of

approximately $1 million reflects the assumption that, of the 19,810 mixed families eligible for temporary deferral of termination of assistance, at most about 5 percent (approximately 990 households) would contest the rule and require formal eviction, because most households without required documentation are expected to leave assisted housing voluntarily. HUD recognizes commenters' view that contest rates and per-eviction costs could be higher in high-cost markets and strong tenant-protection jurisdictions; the RIA acknowledges this same possibility, noting that legal challenges are more likely in areas with strong tenant and immigrant-protection policies, and it accordingly presents a high-cost eviction scenario. HUD did not adopt a higher central estimate because it continues to expect that most affected households will not contest termination.

Several commenters raised points that are discussed in the RIA. For example, the assertion that the rule will cause the quality and quantity of assisted housing to decrease because of the increased costs of transferring assistance to families with only eligible members is analyzed in the RIA. Likewise, comments to the effect that the rule creates downstream and community costs, including displacement, homelessness, and market destabilization, fail to recognize that there is relevant consideration in the RIA.

HUD does not see how this rule would destabilize the LIHTC investor market, contrary to a commenter's claim. To the commenter who argued that HUD's turnover claim ignored an approximately 8,600-unit NYCHA vacancy backlog, HUD cannot respond on the estimate offered without further details about the source. The RIA discusses the displacement of ineligible families and replacement by other families. Finally, HUD disagrees with the comment that HUD has not analyzed whether the rule would raise or lower total subsidy expenditures after predictable changes in household composition. On the contrary, HUD has provided substantial discussion of subsidy changes in the RIA.

HUD appreciates the commenters' concerns regarding the potential for the rule to affect housing stability and increase the risk of homelessness among households that include members whose eligible status cannot be verified. HUD recognizes that the households served by HUD's housing assistance programs include many families with limited incomes and limited access to affordable housing and that the loss or reduction of housing assistance could create significant financial hardship for some affected households. HUD also recognizes commenters' particular concerns regarding households with U.S.-citizen children, seniors, and other eligible individuals who may be affected by a determination concerning another household member.

HUD also stresses that mixed families are a small (under one percent) and declining share of assisted families, geographically concentrated in California, Texas, and New York, so any revenue reduction is expected to spread evenly over the longer run into a small per-family and per-PHA effect, with a lag of about one year before funding reallocation partially compensates higher-concentration agencies. HUD addresses the shifting of costs to State and local governments in its responses to the related comments in this section.

HUD has considered the estimates cited by commenters concerning the number of individuals and households that could potentially be affected by the rule, including the estimates referenced from outside organizations. These estimates represent the population that could potentially experience a change in assistance under the rule; they should not be interpreted as estimates of the number of individuals who will necessarily become homeless. The rule does not automatically terminate assistance upon publication or upon an initial unsuccessful verification.

The commenters' estimates of increased homelessness depend on a series of events that cannot be determined solely from a household's status under the rule. Whether an affected household becomes homeless will depend on factors including the household's ability to pay the full rent or otherwise remain in the unit, the availability and affordability of alternative housing, the household's access to other sources of assistance, or local housing market conditions. Accordingly, a reduction in Federal housing assistance cannot be equated with homelessness in every case cited by commenters.

Additionally, the absence of an immediately available comparable unit does not alter the statutory eligibility requirements governing federal housing assistance. The rule does not assume that each affected household will require a comparable subsidized unit or enter homelessness following an adverse determination. Also, the rule provides for additional verification, notice to the affected household, an opportunity to submit additional documentation or correct findings, and an opportunity to request an informal hearing. Assistance may continue, on a prorated basis, while the applicable verification process remains pending. Further, the potential lack of comparable affordable housing does not provide a statutory basis for HUD to continue assistance for individuals whose eligible status has not been verified under the rule's requirements.

Additionally, as discussed in the regulatory impact analysis, while the rule may increase the risk of housing insecurity for some currently assisted households that include ineligible members, the assistance that is redirected would allow fully eligible households currently on waiting lists to receive it. Thus, any increase in housing insecurity for affected households that cannot remain in their unit would be counteracted to a certain extent by a decrease in housing insecurity experienced by the fully eligible households who would replace them. As stated in the RIA, it is difficult to determine the net effects of the rule on housing insecurity and its associated effects given limitations in HUD's capacity to predict housing outcomes for outgoing households and to identify prior housing conditions for incoming households.

HUD recognizes the commenters' concern that the final rule could increase pressure on homelessness-response systems in some communities, but the cited shelter-utilization figures do not establish that the rule will produce a corresponding influx of displaced households into emergency shelters. These potential downstream effects are acknowledged in the RIA and do not alter HUD's obligation under Section 214(d)(2), ensuring that assistance is provided only to individuals whose eligible status has been verified.

As with the homelessness estimates discussed above, a change in housing assistance does not automatically result in shelter entry; whether a household enters emergency shelter depends on the same household-specific and market factors identified above rather than on the change in assistance alone.

HUD has considered the commenters' estimates of potential downstream health effects and associated public costs. Such estimates generally describe potential consequences of displacement or homelessness rather than direct effects of the rule. The extent to which those consequences would occur depends on whether a household ultimately loses assistance, whether it experiences displacement, and its individual circumstances, including access to alternative housing, health care, and other resources. Accordingly,

estimates of potential health costs cannot be treated as costs that will necessarily result from the rule.

Additionally, for the reasons discussed above regarding housing insecurity, any negative health impacts for affected households that cannot remain in their unit would be counteracted to a certain extent by the positive health impacts experienced by the fully eligible households who would replace them.

The option for temporary deferral of termination (up to 18 months) is also intended to reduce displacement into homelessness.

HUD appreciates commenters' examination of the rule's regulatory impact analysis. Consistent with the current Administration's regulatory reform efforts, HUD has undertaken a comprehensive review of its regulations to reduce unnecessary regulatory burdens, enhance the effectiveness of those regulations that are necessary, and promote principles underlying the rule of law, including ensuring the conformity of regulations with statutory mandates. HUD acknowledges that this rulemaking would adversely affect some tenants and applicants for Section 214 covered programs, especially mixed families and ineligible noncitizens, as well as responsible entities. The most significant effect of this rulemaking would be to transfer assistance from mixed-status families to fully eligible households. Additionally, as explained in the Regulatory Flexibility Act and Paperwork Reduction Act, HUD believes that the impact on responsible entities would be low. Therefore, HUD has determined that this rule balances the interests of affected parties and responsible entities while improving compliance with statutory obligations and aligning with policy goals.

HUD appreciates commenters' attention to the affected-population figures and the distinction between the different populations the rule affects. As explained in the proposed rule and its Regulatory Impact Analysis (RIA), HUD's estimates rest on HUD administrative data drawn from the Public and Indian Housing Information Center (PIC) and the Tenant Rental Assistance Certification System (TRACS), reflecting a three-year average for 2022 through 2024. HUD did not estimate that only 730 tenants are affected by the new documentation requirement. The 730 figure in the RIA refers specifically to immigrants who previously elected not to contend eligible status; it is not HUD's estimate of the total universe of individuals who must submit documentation. HUD's information-collection estimates, by contrast, apply an assumed 1.05 percent documentation-gap rate to much larger populations: approximately 1,854,100 existing U.S. citizens who have not previously provided proof, and an average of approximately 714,000 annually admitted tenants. HUD used the 1.05 percent rate—computed as the average of HUD administrative data on members of non-mixed families with pending verification status and published findings on the share of U.S. citizens without documentary proof of citizenship—because HUD anticipates that most existing tenants have already provided identity or eligibility documentation for another purpose, such as income deductions or program eligibility.

HUD acknowledges that extending verification to individuals aged 62 and older enlarges the population subject to the requirement relative to current regulations, and the RIA and Paperwork Reduction Act analysis account for verification of tenants regardless of age. HUD recognizes commenters' concern that its earlier analyses reported larger counts of mixed-status households; the RIA addresses the observed decline in the number of mixed families over time and identifies possible explanations, including the potential effect of HUD's 2019 proposed rule and the possibility of reduced reporting rather than a true decline. HUD has identified the data sources underlying its current estimates, as set out above and in the RIA.

HUD acknowledges the tension between the low share of families assumed to contest eviction and the Desmond (2016) 24-percent formal-eviction figure cited in the RIA. The RIA explains that HUD's estimate is lower than the Desmond baseline because concurrent immigration-enforcement actions may prompt ineligible individuals or mixed families to vacate voluntarily rather than contest this rule. Consistent with that assumption, the RIA estimates that at most about 5 percent of the 19,810 mixed families eligible for temporary deferral of termination of assistance—roughly 990 households—would be formally evicted, yielding a maximum aggregate eviction cost of approximately $1 million ($1,000 per household).

As explained in the RIA, although current regulations do not require those who declare themselves to have U.S. citizenship to provide appropriate documentation to verify citizenship, PHAs already typically receive a birth certificate, passport, or some other identity verification document for deductions, program eligibility, and other purposes and such documents and other forms of identification would already comply with the verification requirements of the proposed rule.

The $1,800 per-unit repair figure is the American Housing Survey median repair cost expressed in 2024 dollars and is applied only as a minimum-unit estimate; HUD notes the RIA already states this figure would rise as the number of exiting families increases. HUD also acknowledges the potential impact of BABA requirements on the cost of repairs, which was raised by a commenter. However, we do not have available data on the increase in procurement costs that are directly attributed from BABA.

The RIA recognizes that, based on average income, replacement households are expected to require higher levels of subsidy than the mixed families they replace, and that, absent an appropriations increase, the number of persons served would decline. HUD did not obscure this effect; it is quantified in section 5 of the RIA. The rule's stated benefit is not cost savings but HUD's authority to reprioritize limited rental assistance toward fully eligible households consistent with Section 214 and Congressional intent, recognizing that housing assistance is not an entitlement.

HUD appreciates the concerns commenters raised regarding downstream costs of homelessness that may follow displacement. As explained in the proposed rule and RIA, HUD did not exclude consideration of homelessness; the RIA analyzes the rule's potential effect on homelessness and concludes that the net effect is ambiguous, because any increase in homelessness among displaced mixed families may be offset by a decrease in homelessness among eligible households admitted from waiting lists. HUD recognizes that the external costs of homelessness to local governments can be substantial, and the RIA expressly cites studies estimating those costs at approximately $20,000 to $50,000 per person per year. HUD did not incorporate those per-person figures into a quantified cost of the rule because, as the RIA explains, the net impact of the rule on the number of persons experiencing homelessness is difficult to predict and depends on subsequent events and decisions—including each household's ability to remain housed without assistance, the availability of alternative housing, and the responses of State and local governments and service providers—that are outside HUD's regulatory authority under Section 214. The RIA notes that approximately 10 percent of all households that receive rental housing assistance from HUD were

formerly homeless, such that redistribution toward eligible households on waiting lists, some of whom are homeless or near-homeless, carries offsetting value. HUD acknowledges the RIA does not fully monetize secondary public costs such as emergency shelter, education, and child-welfare systems. Given the exchange in housing assistance from mixed families to fully eligible households, the RIA notes the difficulty in estimating the net effect on homelessness.

HUD appreciates the concerns commenters raised regarding downstream costs of homelessness that may follow displacement. As explained in the proposed rule and RIA, HUD did not exclude consideration of homelessness; the RIA analyzes the rule's potential effect on homelessness and concludes that the net effect is ambiguous, because any increase in homelessness among displaced mixed families may be offset by a decrease in homelessness among eligible households admitted from waiting lists. HUD recognizes that the external costs of homelessness to local governments can be substantial, and the RIA expressly cites studies estimating those costs at approximately $20,000 to $50,000 per person per year. HUD did not incorporate those per-person figures into a quantified cost of the rule because, as the RIA explains, the net impact of the rule on the number of persons experiencing homelessness is difficult to predict and depends on subsequent events and decisions—including each household's ability to remain housed without assistance, the availability of alternative housing, and the responses of State and local governments and service providers—that are outside HUD's regulatory authority under Section 214.

With respect to the contention that the rule is not cost-neutral because replacement households require deeper subsidies, HUD agrees and did not characterize the rule as cost-neutral. As the RIA explains, holding the budget constant, the higher average subsidy required by fully eligible replacement households means that fewer households would receive assistance; the transfer is not represented as producing equivalent per-household outcomes. HUD did not separately quantify eviction and turnover costs attributable to non-mixed families who cannot produce required documentation; HUD notes that such tenants retain the ability to establish eligibility through SAVE, secondary verification, and the informal hearing process, and that termination on documentation grounds is expected to be uncommon among tenants who in fact have eligible status. To the extent a tenant with eligible status cannot immediately produce documentation, the rule's verification framework—primary verification, secondary verification, and the informal hearing process under § 5.514—is designed to resolve status before any termination, so HUD does not anticipate material eviction or turnover costs attributable to eligible tenants who experience a temporary documentation gap.

The RIA states that maintaining the pre-rule number of assisted family members would require supplemental funding of approximately $311 million to $385 million beyond the transfer from mixed families, an amount HUD's default scenario holds at zero. HUD did not treat this as a hidden or manufactured result; it is disclosed in the RIA's transfers analysis. With respect to the effect on homelessness, HUD did not decline to analyze the question. As the RIA explains, an increase in homelessness among displaced mixed families may be offset by a decrease in homelessness among eligible households admitted from waiting lists (approximately 10 percent of assisted households were formerly homeless), and the net effect is ambiguous because it depends on factors the rule does not determine, including each household's ability to remain housed without assistance and the availability of alternative housing. HUD did not quantify downstream State and local costs of any resulting homelessness because, as the RIA notes, those costs depend on subsequent events and decisions by State and local governments and service providers outside HUD's regulatory authority under Section 214.

HUD notes that the temporary deferral of termination (up to 18 months) is intended to reduce displacement into homelessness.

E. Proration Math/Subsidy Efficiency

Commenters argued that eliminating proration is fiscally inefficient because mixed-status families use substantially less subsidy per person than fully-eligible households, so replacing them raises per-person costs and serves fewer families.

Commenters asserted that the average per-person subsidy is $2,700 for mixed-status families versus somewhere between $7,000 and $7,700 for fully-eligible families, a difference of $5,000 per person per year. A commenter argued that the average rent paid by a mixed public-housing family is $1,104 versus $578 for a fully-eligible family, and that Section 8 mixed families receive $1,301 in HAP versus $1,723 for fully-eligible households, so the rule would cost PHAs millions each year. A commenter contended that this means replacing them adds about $2,100 in annual subsidy per household. Commenters' estimates of total costs of removing proration varied, varying from $167 million to $603 million. A commenter asserted that a prior 2021 economic analysis found the change would increase housing-subsidy costs by roughly $200 million per year. A commenter noted that the current mixed-family proration rule already forces a disproportionate rent burden, describing an SSDI income of $1,224 per month against a required rent contribution of $1,061, roughly 80 percent of income, versus the 30 percent standard for non-mixed families.

A commenter asserted that replacing 39 mixed-status households with single-status households would raise one authority's program costs by more than $250,000 annually and cut its capacity by at least 17 families. A commenter contended that voucher families moving from a prorated to a full voucher upon a member's departure could push authorities into shortfall, eventually forcing termination of citizens' vouchers. A commenter contended that a nonprofit provider would lose an estimated $482,677 in monthly rental income, jeopardizing the long-term viability of affordable housing in its region. A commenter added that lost rent would force thousands of affordable units to close and increase homelessness by nearly 15 percent in one city and state.

Commenters maintained that HUD calculated it would need roughly $300 million in new dollars per year and would be forced to leave units vacant and serve fewer voucher-holders, and stressed that the current Congress is unlikely to authorize an increase of that size, that no such funding has been requested, and that Congress had recently decreased public housing funding. A commenter added that in proposing a similar rule in 2019 HUD acknowledged limiting proration would reduce the quantity and quality of assisted housing and then withdrew that rule, so it should do the same here. The same commenter further argued that the President's proposed Fiscal Year 2027 budget would bar housing agencies from issuing vouchers to new families except in limited circumstances, which undercuts HUD's premise that displacing mixed-status families would free up assistance for other families. A commenter asserted that HUD values the redirected funds at $218 million

without estimating the offsetting costs. The same commenter contended that the proposed rule provides no estimate of the revenue states would lose by excluding mixed-status families—a serious deficiency—noting that New York alone has an estimated 498,440 households dependent on federal rental assistance, roughly 2,540 of them mixed-status.

Commenters urged that this record directly contradicts the Secretary's public claim that removing mixed-status families would create more housing for Americans, objecting that the agency cannot simultaneously assert the rule will house more Americans and concede in its own analysis that fewer families will be served.

A commenter asserted that section 5.4 concedes PHAs cannot provide the same number of vouchers after losing prorated rent and offers only the unrealistic suggestion of drawing down reserves already exhausted by other cuts. A commenter objected that the analysis assumes mixed families will simply be replaced by fully-eligible families while ignoring the rule's huge administrative cost. A commenter challenged HUD's unsupported claim that fully-eligible families are better positioned to benefit from mobility, contending all families benefit from higher-opportunity neighborhoods. A commenter added that the mass eviction and lost prorated rent would drive a severe increase in homelessness that itself carries fiscal and environmental impact. A commenter maintained that agencies have no practical way to verify an ineligible member has actually vacated, creating a risk that they pay the higher full subsidy while the member remains.

HUD Response: HUD appreciates commenters' objections to the proration subsidy analysis in the RIA. HUD also appreciates commenters' concerns about a decrease in rental revenue related to exiting mixed-status families and the potential downstream consequences for their operations. The majority of PHAs and project (housing) owners have few mixed families, if any. Geographically, 71 percent of mixed families are concentrated in three states—California (36 percent), Texas (22 percent), and New York (13 percent). The rest of the mixed-status family population is scattered across the country, with 4 percent or fewer mixed families per state. The number of mixed households in HUD-assisted housing covered under Section 214 has been declining over the years.

The RIA describes two scenarios: one where HUD's budget remains fixed and one where HUD's budget is flexible. Under the fixed budget scenario, commenters are accurate in stating that the total number of households and persons that HUD assists would be reduced, as fully eligible households on average make lower income and require greater subsidy than mixed-status households.

In the longer run, HUD expects that any reduction of revenues will be spread more evenly, resulting in a small reduction in financial assistance for all assisted families and a small reduction of the operating subsidy for all PHAs. Because subsidies to PHAs are based on projections from historic data, at least one year would elapse before the additional expenses for PHAs with higher concentrations of mixed families are partially compensated for by a funding/budget reallocation.

F. Downstream Costs Ignored (Health, Education, Social Services)

Commenters argued that HUD's cost-benefit analysis ignores substantial downstream costs to health, education, child-welfare, and social-service systems, so its net-savings conclusion is unsound. A commenter argued that emergency shelter, social services, and child welfare are absent from the analysis, while HUD's own analysis shows supply and budgets shrink. A commenter contended that the net fiscal impact is likely negative once lost revenue, implementation costs, and downstream service costs are counted. A commenter asserted that displacement increases demand on county health, behavioral-health, emergency-medical, homeless-response, child-welfare, and education systems at a time when federal changes under H.R. 1 could cost California counties up to $9.5 billion annually, straining their ability to respond to added need. A commenter maintained that housing instability among families with children will cost the United States an estimated $111 billion in avoidable health and education expenditures over ten years.

A commenter asserted that the rule transfers the cost of housing families from the state to social-service systems. A commenter contended that evicting families does not free up vouchers but shifts cost to municipalities, raising emergency-room costs, school turnover, and strain on shelter systems already at capacity.

Commenters warned of specific health and educational harms and their long-term public costs. A commenter argued that health conditions related to adverse childhood experiences (ACEs) are estimated to cost $183 billion in direct medical spending and $13.9 trillion in lost healthy life-years annually, so instability caused by the rule creates preventable long-term costs. A commenter asserted that school districts serving affected families would face substantial unreimbursed costs. A commenter urged HUD to withdraw the rule and conduct a full analysis of educational costs for displaced children. A commenter contended that chronic absenteeism has spillover effects on classmates' achievement and broader public-health consequences. A commenter added that the benefit of children growing up in a two-parent household could outweigh the loss of the subsidy, an effect the analysis ignores.

Commenters emphasized that these omitted costs make the analysis speculative and incomplete, warranting withdrawal or a fuller study. A commenter argued that the well-documented downstream costs of evictions, displacement, and fear-driven underreporting should be central to any cost-benefit analysis but are not. A commenter asserted that the analysis admits fewer households will receive assistance yet ignores the community cost in increased homelessness and demand for emergency and public services. A commenter maintained that the most inexpensive way to address the housing crisis is to keep people housed, so spending to evict them and then absorbing the downstream consequences is wasteful. A commenter added that HUD failed to consider how states would meet increased social-service need at $20,000 to $50,000 per person per year. A commenter objected that the proposal would strain infrastructure for social services, healthcare, labor markets, and law enforcement, making systems harder for all Americans to access. A commenter argued that creating new unhoused individuals will cost more money, since everyone deserves housing, food, safety, and education. A commenter contended that these costs compound over time, straining health and education systems while undermining child and family stability.

Commenters maintained that the proposed rule fails to address the root causes of unaffordability and would deepen the housing crisis rather than relieve it. Commenters supported the point with jurisdiction-specific waitlist and affordability data across the United States:

- In Somerville, Massachusetts, 148 families were on the federal family-housing waitlist and 1,794 on the state public-housing waitlist, with only 18 households placed in the prior year—a rate at which it would take roughly 107 years to house those on the list.

• The Massachusetts state-funded public-housing waitlist stood at 246,564 unique households as of January 1, 2025, with an average wait of 3 years and 3 months (and estimates as high as 10 years), in a state where affording a two-bedroom at fair-market rent requires $45.90 an hour.

• The Housing Authority of the City of Los Angeles reported an eligibility-certification no-show rate above 50 percent, which one commenter argued the rule would compound by further reducing available public-housing units.

• A commenter cited 770,000 people experiencing homelessness in 2024 and argued that displaced families would fall on emergency shelters with no additional federal funding, increasing demand on shelter systems.

• A commenter asserted that HUD's turnover claim ignores an approximately 8,600-unit NYCHA vacancy backlog and that most displaced households would become net new demand on shelter systems. A commenter reported NYCHA vacancies had surged to approximately 6,740 in 2025 due to inadequate financial resources, so the rule would not serve HUD's stated waitlist-reduction goal.

• A commenter cited Marin's 0.5 percent homeowner and 3.0 percent rental vacancy rates, well below a healthy 5 percent, and argued that in such tight markets evicting a household does not instantly house another because housing is not interchangeable inventory.

• Commenters cautioned that removing families would lengthen already long waitlists for everyone, and a commenter cited Somerville Housing Authority data showing the existing affordable stock is wholly insufficient to meet current need.

• Commenters also argued that the administration's budget posture confirms the rule will not expand assistance: the FY2027 budget, released in April 2026, proposed no increase in voucher or rental-assistance appropriations to offset the shortfall and would fund only renewals of expiring vouchers, barring PHAs from serving new applicants on their waiting lists—so that, the commenter argued, families on those lists would not receive assistance even if vouchers were reallocated from mixed-status families. One commenter argued that the rule's effects reach the private rental market, and that California—with more than 7,000 affected households, more than any other state—would see added pressure on all renters. One commenter argued the country has ample private wealth to fund universal affordable housing, citing $184 trillion in total household net worth and estimating that $1 trillion could build roughly two million units at $500,000 each.

HUD Response: HUD acknowledges that the final rule is unlikely to result in an increase in HUD's overall budget or in a transfer of resources from other Federal programs to replacement households. As discussed in the RIA, HUD anticipates that any reduction in available resources would be distributed more broadly across assisted households, resulting in relatively small reductions in financial assistance for assisted families and in the operating subsidies provided to PHAs. The RIA provides a more comprehensive analysis of the potential effects of reallocating assistance under the final rule, including the anticipated impacts on affected households and PHAs. Based on this analysis, HUD has determined that the rule appropriately balances the interests of affected parties and responsible entities while furthering compliance with applicable statutory requirements and advancing the Department's policy objectives. HUD does not agree that the rule worsens the housing crisis. The rule does not reduce the underlying supply of housing; assistance surrendered by mixed families is reallocated to fully eligible households already on program waiting lists, and the RIA concludes that the net effect on homelessness is ambiguous because any increase in homelessness among displaced mixed families may be offset by a decrease in homelessness among the eligible households that replace them—roughly ten percent of assisted households having been formerly homeless. To ease transition, the rule preserves the temporary deferral of termination of assistance, available in HUD's discretion for up to 18 months, giving affected families additional time to secure alternative housing. In all events, Section 214(d)(2) prohibits HUD from providing assistance for the benefit of an individual before eligible status is documented and verified, and that mandate applies regardless of broader market conditions the commenters describe.

HUD appreciates commenters' additional information on potential costs from the proposed rule, *e.g.,* downstream costs to health, education, child-welfare, and social-service systems. HUD does address homelessness and local-government costs, and the net effect is expressly treated as ambiguous. Section 7 of the RIA (''Impact on Homelessness'') analyzes both directions of effect: an increase in homelessness as some mixed families adjust to the withdrawal of assistance, potentially counterbalanced by a decrease in homelessness among eligible households on waiting lists, approximately 10 percent of whom are estimated to be formerly homeless. The RIA states plainly that the increase among displaced mixed families ''may be more or less than'' the decrease among replacement families and that ''the net effect on homelessness is ambiguous.'' Section 7.2 further acknowledges that the costs of homelessness to local governments ''can be substantial,'' arising from transitional shelters, community support, emergency services, health care, and interaction with the criminal justice system, and cites studies estimating those costs at $20,000 to $50,000 per person per year. HUD further acknowledges that the transfer and homelessness estimates depend on assumptions about household behavior—including take-up of prorated assistance, use of the up-to-18-month temporary deferral of termination, ability to negotiate the private market, and return migration—which the RIA sets out in the text and in Appendix A.

HUD acknowledges these downstream costs are largely presented qualitatively rather than monetized in the net calculation. The RIA notes that Section 7.2 references the ''Cost of Eviction'' calculator, which estimates local-government costs from evicted households' increased use of emergency shelters, emergency-room and inpatient services, foster care, and juvenile-justice services, indicating that HUD recognized these categories rather than omitting them. HUD did not conclude the rule produces net budgetary ''savings''; the RIA characterizes the primary effect as a transfer of assistance, not a cost reduction.

G. Costs Shifted to State & Local Governments

Commenters argued that the rule externalizes federal housing costs onto state and local governments without reimbursement. Commenters argued that HUD's cost estimate captures only a narrow set of administrative and moving costs and ignores the burden shifted to state and local governments. A commenter argued that HUD's estimate of $17 to $33 million deliberately excludes the vast majority of real-world consequences imposed on families, communities, and state and local governments, so it is not a serious evaluation of costs. A commenter contended that states with higher noncitizen concentrations such as New York, California, and Texas would bear the brunt, citing a Los Angeles housing authority estimate of $17.8–$26.5

million in added public-housing administrative cost plus $7.0 million for its Section 8 programs, and that HUD made no allowance for such disproportionate regional impacts, making its ''not economically significant'' characterization not credible. A commenter added that HUD should weigh the effect on the affordable-housing delivery system that HUD and its state and local partners have built over generations. A commenter argued that removing mixed-status families reduces agency rental income while pushing families toward local governments and nonprofits for emergency support, shifting costs rather than reducing them. A commenter maintained that HUD's Executive Order 13132 conclusion of no federalism implications is erroneous because the rule imposes substantial costs on California state and local agencies.

A commenter added that states already strained after H.R. 1's Medicaid and SNAP reductions would face an unfunded mandate to verify eligibility for newly designated federal public benefits, requiring new policies, technology, and training.

Commenters argued that HUD's Regulatory Impact Analysis fails to calculate the costs the rule imposes on cities and other municipalities, which fall almost entirely on local taxpayers with no federal reimbursement. Commenters contended that New York State, with among the highest concentrations of mixed-status households, would absorb an outsized share of the harm, and a commenter calculated a one-time reporting-burden cost to New York of over $5.7 million using HUD's own per-household figures, more than four times HUD's nationwide estimate. Commenters maintained that the RIA is candid that the primary effect is to reduce the number of assisted households, because proration currently stretches the budget across more families, and that closing the gap would force payment-standard reductions or hundreds of millions in unappropriated funds. Commenters objected that the RIA understates burdens on housing providers and landlords, who number far more than the roughly 20,000 affected families suggest.

Commenters challenged HUD's treatment of homelessness costs as sidestepped through an ambiguous net-effect conclusion offered with minimal explanation and ignoring costs to families and local governments. A commenter disputed as callous HUD's suggestion that local homelessness costs would fall if displaced families left the country, noting most affected members are citizens or eligible. Commenters warned that documentation demands would burden thousands of elderly and disabled citizens who may lack current documents, citing over 25,791 seniors and 15,671 disabled non-seniors in HACLA's portfolio alone. Commenters emphasized that affected families make up under 1 percent of assisted households, rendering the programmatic justification minimal against the fiscal disruption, with outsized effects on high-concentration jurisdictions. A commenter cautioned that state and local safety nets would absorb costs HUD sheds. Commenters added that eliminating prorated assistance is unsupported by program data, since citizenship is already verified for nearly all participants and only a fraction select that option, and tied maintenance of current capacity to the $311 to $385 million in additional funding HUD has not requested.

HUD Response: HUD acknowledges commenters' point that displacement can shift costs to municipalities and emergency systems. Section 214(d)(2) does not permit HUD to provide continued assistance to individuals whose eligible status has not been verified, and this requirement does not turn on the fiscal effects that implementation may have on any particular jurisdiction. As Section 7.2 of the RIA reflects, the costs of homelessness to local governments—arising from transitional shelter, community support, emergency services, health care, and interaction with the criminal justice system—can be substantial, with studies estimating $20,000 to $50,000 per person per year. Also as Section 7.2 reflects, HUD considered this and noted a partial offset: the cost to U.S. local governments of servicing homeless ineligible households would decrease to the extent displaced individuals leave the United States, consistent with the RIA's treatment of return migration.

Additionally, while the rule would increase the risk of displacement, housing insecurity, and downstream effects for some currently assisted households with ineligible members, which could have local fiscal cost implications, the assistance that is redirected would allow fully eligible households currently on waiting lists to receive it. Thus, any local fiscal costs associated with affected households that cannot remain in their unit would be counteracted to a certain extent by the reduction in fiscal costs generated by the fully eligible households who would replace them.

As HUD explained in the Executive Order 13132 (Federalism) analysis, this rule does not impose substantial direct compliance costs on State and local governments and does not preempt State law within the meaning of that order, and under the Unfunded Mandates Reform Act that it does not impose a Federal mandate on any State, local, or tribal government or on the private sector, because the verification requirement of Section 214(d)(2) applies to HUD's provision of Federal assistance rather than compelling State or local expenditures. The RIA provides HUD's estimate of the verification, training, and other administrative costs that responsible entities from State and local governments will incur to conduct additional verifications that follow from the rule's requirements.

The direct information-collection burden the rule imposes on responsible entities is quantified in the Paperwork Reduction Act analysis, which estimates a one-time reporting burden for existing participants of 24,509 hours and $1,274,455 nationwide (19,600 respondents at 1.25 hours and $52 per response) and an annual burden for new admissions of 9,363 hours and $486,850, under OMB control number 2577–0295. HUD notes that the reporting burden falls on responsible entities administering covered programs rather than on municipal governments as such, and that the commenter's calculation of a State-specific reporting-burden figure exceeding HUD's nationwide estimate cannot be reconciled with the per-response burden HUD used to derive the nationwide figure. To the extent commenters identify further downstream costs that State and local governments may bear, HUD did not treat those effects as direct costs of the rule because they depend on subsequent decisions by State and local governments and other funders outside HUD's regulatory authority under Section 214.

HUD acknowledges that affected mixed-status families constitute a small share of assisted households;, however, the statutory verification requirement applies without regard to the size of the affected population, and HUD has determined that the transfer of assistance to fully eligible households is adequately offset by the reallocation of HUD funds to the intended statutory recipients. HUD is unable to reproduce the commenter's State-specific figure from the per-response cost related to the Paperwork Reduction Act analysis. Applying HUD's estimated per-response burden of 1.25 hours and $52 to the affected respondents in any single State yields a figure well below the commenter's estimate.

H. Verification & SAVE Processing Costs

Commenters disputed HUD's premise that SAVE makes verification cheap, contending secondary manual review will fall on providers and drive costs well above HUD's estimate. A commenter argued that because SAVE's accuracy rate is unknown and it cannot manually review birth certificates or passports, most secondary verification falls on PHAs and owners, and leaving the details to future guidance makes HUD's cost figures a likely gross underestimate. A commenter contended that the estimate of $530,140 to $2.1 million for existing tenants wrongly assumes de minimis cost from SAVE use, despite documented unreliability of SAVE data sources and Social Security records lacking citizenship data for Americans born before 1978. A commenter asserted that HUD also omits the Title VI language-access costs of interpreters and translation that providers must bear. The same commenter argued that HUD's own EIV–SAVE matching-report rollout already produced chaos, unclear compliance directions, and letters from some housing authorities that violated the law, prompting three major industry groups to intervene, so cost estimates premised on smooth SAVE operation are likely a gross underestimate. A commenter maintained that the Medicaid citizenship-documentation experience shows agencies incurred higher administrative costs, delays, and increased help-desk time, per GAO findings. A commenter added that authorities report a sharp rise in participants seeking help with passports, an unplanned cost of $135 for a child under 16 and $165 for an adult borne by extremely-low-income families. A commenter argued that providers would also have to collect status documentation from 120,000 older immigrants who previously attested under penalty of perjury. Commenters argued that HUD's impact estimate is very likely an underestimate because an estimated 3.8 million adult U.S. citizens lack any documentary proof of citizenship and nearly one in ten citizens over age 18 do not have ready access to such documents.

HUD Response: HUD appreciates comments on the costs for responsible entities' use of the DHS/USCIS administered SAVE program. HUD acknowledges that costs arise when resources are devoted to complying with a new policy. The costs to verify eligible assistance for benefits are necessary to meet the requirement for HUD to not make financial assistance available to persons other than U.S. citizens, or certain categories of eligible noncitizens. Section 214(d)(2) provides that the Secretary may not provide assistance for the benefit of an individual before documentation of eligible immigration status is presented and verified, so verification is a statutory precondition of assistance rather than a discretionary cost. HUD also notes that responsible entities register for and access SAVE through HUD at no cost. Finally, an estimated 99 percent of existing tenants who are U.S. citizens have already been verified by PHAs and owners, so the incremental verification burden is expected to be low.

I. HUD–VASH Impact Concerns

A commenter warned the rule would worsen access for veterans by making HUD–VASH vouchers harder to use, citing the Administrative Conference of the United States on administrative burden. A commenter cited the RIA's own estimate of approximately 20,000 households, nearly 80,000 people including about 36,000 children.

HUD Response: HUD notes that this rule does not alter the categories of eligible immigration status under Section 214 and applies the same verification requirement across covered programs; the rule's verification procedures apply to HUD–VASH participants as to other tenants.

J. CoC/Shelter/Emergency-Services Strain

Commenters cautioned that Continuum of Care programs, shelters, and emergency-services systems would absorb the fallout of displacement despite already operating beyond capacity. Commenters noted that CoC and shelter systems, which are not designed to backfill lost federal rental assistance, would face immediate new demand. A commenter argued that displacement would reduce jurisdictions' population-based federal funding, including Community Development Block Grant allocations tied to poverty, overcrowding, and housing conditions, compounding the harm to affected communities. A commenter cited roughly 62,000 people relying on affected assistance in one service area as the volume local homeless-services systems would be asked to absorb.

HUD Response: HUD appreciates the commenter's point regarding potential effects on population-based federal funding formulas. HUD has considered the cited estimates of potentially affected individuals and the capacity constraints facing local homeless services systems. However, the number of individuals who may be subject to the proposed verification requirements does not establish the number who will become homeless or seek assistance through a CoC or shelter system. The actual effects will depend on individual eligibility determinations, whether households experience displacement, their ability to secure or maintain other housing, and the availability of other resources and services.

Section 214(d)(2) requires HUD to administer covered housing assistance consistent with the applicable citizenship and eligible immigration status requirements. Section 214 and this rule govern verification of citizenship and eligible immigration status for the specific Section 214 covered programs identified in the proposed rule; they do not alter the Community Development Block Grant program's separate statutory funding formula or the population, poverty, overcrowding, and housing condition data underlying that formula. Any effect on CDBG allocations resulting from population or demographic shifts is a function of the CDBG formula itself, which is outside the scope of this rulemaking. Although HUD acknowledges the commenters' concerns regarding the capacity of homeless-services systems, those concerns do not provide a basis for continuing assistance to individuals who do not satisfy the statutory requirements. HUD will continue to consider the potential effects of the rule on affected households and communities.

Additionally, while the rule may increase the risk of homelessness for some currently assisted households that include ineligible members, the assistance that is redirected would allow fully eligible households currently on waiting lists to receive it. Thus, any increase in homelessness among affected households that cannot remain in their unit, which could strain CoC resources, would be counteracted to a certain extent by the reduction in homelessness experienced by the fully eligible households who would replace them.

K. Legal & Regulatory Exposure for Housing Providers

Commenters warned that the requirements would place providers in conflict with other legal obligations and expose them to litigation and liability. A commenter argued that the rule would collide with state tenant-protection statutes—citing California's Immigrant Tenant Protection Act (AB 291) and the Fair Employment and Housing Act, which bar landlords from inquiring into

or acting on immigration status—creating operational and legal uncertainty for providers caught between federal directives and state law. A commenter cited the Washington Law Against Discrimination as prohibiting housing practices that limit access based on national origin or perceived immigration status, warning that the required screening could push providers into practices Washington has rejected as discriminatory and expose them to legal risk. A commenter cited Michigan law barring national-origin discrimination in housing as a further source of conflict, and another pointed to Tennessee's expanding E-Verify requirements as creating overlapping and potentially inconsistent state verification mandates. A commenter representing apartment owners warned that members could be caught between competing federal, state, and local fair-housing laws, some of which prohibit discrimination on the basis of immigration status, increasing liability exposure. A commenter contended that eviction is a legal process governed by state law and judicial discretion—noting that in jurisdictions such as Massachusetts, courts do not automatically grant eviction simply because a federal program requirement has changed—so PHAs cannot unilaterally complete the terminations the rule would require. A commenter argued the rule would generate increased eviction proceedings as tenants pursue challenges under state and local anti-discrimination laws. A commenter argued that the rule conflicts with HUD's own statutory mission to provide safe and stable housing, imposing administrative burdens and driving eligible families out of assistance without expanding access or improving program integrity. A commenter representing legal-services organizations argued that HUD's proposed reporting language misrepresents the scope of the existing reporting requirement under Section 404 of the Personal Responsibility and Work Opportunity Reconciliation Act—which applies to HUD and public housing authorities rather than private owners and requires reporting only of individuals the agency knows to be unlawfully present, not the broader standard HUD proposes.

Commenters argued that the rule would create operational and legal uncertainty and place PHAs in a legally precarious position, exposing them to litigation and conflicting obligations. A commenter characterized the expanded federal use of SAVE as federal overreach that undercuts state and local autonomy.

HUD Response: HUD has considered the legal and regulatory-exposure objections raised in these comments. As explained throughout this rule, the verification requirement is grounded in Section 214(d)(2), which provides that the Secretary may not provide financial assistance for the benefit of an individual before documentation of eligible immigration status is presented and verified, and the proposed amendments bring HUD's implementing regulations into closer alignment with that statutory mandate.

L. No New Funding/Unfunded Mandate

Commenters argued that the rule is an unfunded mandate: it imposes new compliance costs on agencies while identifying no new federal funding to cover them. A commenter argued that the rule creates massive compliance burdens and an unfunded mandate by requiring documentation from tenants amid cuts to housing programs and HUD staffing, leaving authorities, owners, and tenants to pay for implementation. A commenter contended that verifying eligibility for a larger universe of tenants, revising policies, updating systems, and training staff is a significant, completely unfunded cost burden, and only one of many recent HUD changes. A commenter asserted that the rule's enforcement costs are unfunded federal mandates on local agencies. A commenter maintained that one authority conservatively estimates $10.5 million in added annual cost, $5.49 million for public housing and $5.02 million for Section 8, to provide the same level of service.

Commenters contended that agencies would need hundreds of millions in additional, unrequested appropriations simply to maintain current service. A commenter argued that the $2,700 versus $7,700 per-person subsidy gap means that, absent supplemental funding, agencies can serve fewer fully-eligible families than the mixed families they replace. A commenter argued that because subsidies to PHAs are based on historical projections, at least a year would elapse before added. A commenter contended that HUD would need over $300 million in additional funds to maintain the same number of assisted family members. A commenter asserted that the rule would require spending an additional $2,100 per household, paid for by serving fewer households or cutting assistance.

Commenters warned that specific high-cost jurisdictions face large revenue losses and new costs with no federal reimbursement. A commenter argued that NYCHA collects higher effective rents from prorated mixed households than from fully subsidized replacements, so the rule reduces net operating revenue amid an $80 billion capital deficit and $791 million operating gap; citing HUD's own 2019 Regulatory Impact Analysis finding that replacing mixed-status households nationally would cost $372–$437 million annually, and applying New York's 13 percent share, the commenter estimated a $48–$57 million annual revenue loss to New York authorities. A commenter asserted that the rule would cause $202 million in lost rent revenue. A commenter calculated that replacing 39 mixed-status households with single-status households would raise Washington County's annual program costs by more than $250,000, and a commenter reported that prorated households in one service area generate an additional $77,088 in annual rental revenue to the local PHA under the current rule. A commenter contended that Massachusetts PHAs would incur an additional $168,896 to verify 3,248 already-eligible participants at HUD's $52 hourly rate, plus added staff time updating occupancy plans.

HUD Response: HUD's own analysis quantifies compliance costs and the appropriations gap; it does not claim these costs are offset by new funding. HUD acknowledges that because eligible members of mixed families receive prorated assistance and have higher average incomes, replacing them with fully eligible households will require higher per-person subsidy and, absent an appropriations increase, fewer households would receive assistance. HUD maintains that the rule's primary benefit is reprioritization of assistance to fully eligible households under Section 214, not cost savings.

M. General Fiscal-Responsibility/Taxpayer Objection

Commenters objected that the rule is a fiscally irresponsible use of taxpayer money that will cost more than it saves. A commenter argued as a taxpayer against a rule that wastes money while harming families. A commenter asserted that the rule fails the basic fiscal test of costing more than it saves. A commenter contended that wasting tax dollars on enforcement that harms families is not good governance. A commenter maintained that the rule is deeply inefficient and will create further expense rather than savings. A commenter added that the change increases cost and regulatory burden.

Commenters contended that unhousing people is more expensive to

the public than keeping them housed, so the rule is counterproductive. A commenter argued that unhoused families cost the taxpayer more than providing housing assistance. A commenter asserted that any savings would be dwarfed by long-term financial and social costs. A commenter contended that studies show it is cheaper and more effective to house people than to invent programs that harm them. A commenter maintained that kicking people out of their homes probably costs the government as much as simply keeping them housed.

Commenters warned that the rule adds bureaucracy and red tape whose administrative cost outweighs any benefit. A commenter argued that the new verification requirement adds bureaucratic red tape and asks how many millions it will cost each county and state and how many staff it will divert from services people actually want. A commenter contended that verifying citizenship for nearly 200,000 tenants would require significant taxpayer resources and worsen, not reduce, waste. A commenter asserted that reliance on untested SAVE introduces unnecessary duplication and raises serious questions about the responsible use of taxpayer resources. A commenter maintained that inviting costly legal challenges from many venues is itself the portrait of wasteful government spending.

Commenters emphasized that the rule harms citizens and taxpayers while producing no meaningful savings, often because ineligible members already receive no subsidy. A commenter argued that because subsidies are strictly calculated for eligible members only, mixed families are not disproportionately consuming resources and their removal yields no real savings. A commenter asserted that data indicate the $2,700 versus $7,700 per-person subsidy gap means the same funding supports far fewer people, harming citizens and eligible immigrants. A commenter contended that policing undocumented family members is a wasteful use of public funds. A commenter maintained that the rule reduces resources for HUD to advance its mission, harming all families, not only immigrants. A commenter added that estimated costs for assistance would rise by over $300 million because mixed households actually save tax dollars.

Commenters cautioned that the fiscal harm ripples into the broader economy, housing market, and litigation system. A commenter argued that the rule will cost millions in litigation costs for eviction proceedings. A commenter contended that eviction costs landlords $3,500-$10,000 per filing and each instance of instability costs taxpayers thousands to tens of thousands in emergency, hospital, and downstream costs. A commenter asserted that evictions would raise housing demand and let corporations push rents even higher. A commenter maintained that the rule converts public-housing stability into private-market insecurity that benefits landlords.

Commenters urged HUD to withdraw the rule and instead spend public funds where they do good, citing its poor cost-benefit posture. A commenter argued that responsible governance means spending tax dollars where they do good, which this rule does not (8503). A commenter contended that the additional $235 million this would cost citizens makes no financial sense and asked where the money is going. A commenter asserted that a full cost analysis is needed before the rule moves forward because implementation is not free. A commenter maintained that HUD should conduct and publish a detailed fiscal-impact analysis for high-cost jurisdictions and provide adequate administrative funding if the rule is finalized. A commenter added that removing eligibility would raise crime and healthcare-utilization costs borne by taxpayers.

Commenters added that unhousing hundreds of thousands will not save taxpayer dollars and that the burden reaches property management, other agencies, and states. A commenter argued that unhousing hundreds of thousands of people will not save taxpayer dollars and will instead create greater strain. A commenter contended that the compliance burdens on participants also fall on property-management staff, with implications for owners, investors, and FHA-insured lenders. A commenter asserted that Oregon, already stretched thin, lacks resources to absorb the sudden loss of housing support. A commenter maintained that serving eligible members of mixed households at reduced cost lets one authority stretch public funds, so replacing 39 mixed households would add over $250,000 in annual cost and cut capacity by at least 17 families.

HUD Response: HUD acknowledges commenters' contention that the rule will cost more than it saves, but notes that the RIA does not claim net budgetary savings as the rule's justification; rather, it characterizes the principal effect as a transfer of limited assistance to fully eligible households as required by Section 214 of the Housing and Community Development Act of 1980. HUD acknowledges in the RIA that higher-income replacement households require larger per-person subsidies, so that absent additional appropriations fewer households would be served.

4. State, Regional, and Local Impacts

Commenters cautioned that the rule would concentrate its effects in the nation's most populous and expensive housing states, overlapping California, New York, and Texas, where approximately 71 percent of affected mixed-status families reside and displaced families would have the least prospect of finding affordable alternatives. A commenter noted that HUD's own internal data acknowledge this three-state concentration.

Commenters maintained that individual states would bear an outsized share of the rule's harm. Commenters put California at roughly 36 percent (or, approximately 7,000) of all affected mixed-status households nationwide and the state most at risk, given its large immigrant population and strained housing markets. Commenters contended that New York holds the third-largest (or, 2,500) mixed-status housing population and would absorb an outsized share, citing HUD database figures of roughly 2,600 mixed households, about 13 percent of the national total. Commenters stated that Massachusetts had approximately 910 mixed-status families at risk of eviction alongside more than 309,000 citizens facing new documentation requirements. A commenter placed the Texas total at nearly 4,500 mixed-status families that would be forced to separate or lose their homes. Commenters cited state-specific documentation-burden totals of 49,320 Oregon households receiving covered assistance, 97.5 percent of which include a citizen subject to new requirements, nearly 185,000 affected Virginia residents, nearly 49,000 Nevada residents or approximately 9 percent of Nevadans, and King County, Washington impacts drawn from CBPP analysis. A commenter identified San Fernando Gardens as home to approximately 76 mixed-status families comprising 446 individuals. Commenters warned of acute regional strain in the Puget Sound area, the Bay Area, Portland, and Koreatown in Los Angeles, where nearly 7,000 people could face eviction. Commenters added that affected households include members with Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status (TPS), and survivor-, student-, and work-based visas present through lawful

channels, and that displaced families would receive no placement assistance.

A commenter reported that Santa Barbara County is home to approximately 302 mixed-status families with roughly 587 children, most of them U.S. citizens, all already complying with proration. A commenter specified that the City of Santa Barbara alone accounts for 148 mixed-status households and 252 children, of which 56 households contain no eligible adult, and that its housing authority serves roughly 3,000 households overall. Commenters put average annual household income for affected Santa Barbara families at about $18,000, making unsubsidized housing unattainable. Commenters warned that New York City would see over 11,000 people, including approximately 5,000 children, face eviction, with 500 to 1,000 Manhattan households at risk against closed Section 8 and NYCHA waitlists, and a commenter cited an estimate of 2,540 New York families losing housing, about 12 percent of the national total, alongside a prior HUD projection of roughly 6,600 displaced New York City children.

Commenters maintained that Los Angeles would absorb roughly 6,800 evictions or 1,700 affected families and units and 2,800 individuals, potentially raising local street homelessness. Commenters supplied comparable county and development-level figures for Fresno County, Santa Cruz County, Santa Clara County, San Luis Obispo County, Ventura County, Sacramento County, Yolo County, Orange County, Somerville, Massachusetts, and the City of Guadalupe. A commenter objected that these are neighbors, classmates, and members of the local workforce whom housing authorities can offer no alternative placement. Commenters cautioned that per-person subsidy in mixed-status households averages far less than in non-mixed households, so displacement removes higher-rent contributions from the local system. Commenters raised parallel city-level harm to Utica's revitalization and emergency-shelter capacity and to Painesville, Ohio, and a commenter tied continued capacity to the $311 to $385 million in additional funding HUD has not requested.

Commenters also emphasized that the rule is not an abstract federal policy matter but would directly harm families in their own community, identifying Santa Barbara County as the locus of concentrated local impact. A commenter added that the rule threatens not only the physical safety of these families but their emotional and mental well-being.

HUD Response: HUD appreciates the state, regional, and local data commenters provided regarding the disproportionate concentration of mixed-status households in certain states and localities. Additionally, HUD acknowledges the personal and community-level significance of this rule's effects, including the emotional and psychological impact on affected families. As explained in the proposed rule and in HUD's responses above, this rule implements Section 214(d)(2)'s requirement that assistance not be provided to individuals whose eligible status has not been verified, and this requirement applies uniformly regardless of the concentration of affected households in a particular community.

HUD recognizes that mixed-status households are not evenly distributed nationwide and that some states and regions will experience more concentrated effects as a result. With respect to individuals present under DACA, TPS, or other statuses, HUD notes that Section 214(a) lists the categories of eligible noncitizens. This rule does not change the list, only the verification procedures and duration of proration applicable while status is being verified. Responsible entities are not required to provide alternative placement to families who do not qualify for continued or preservation assistance following verification. That mixed-status households are concentrated in a small number of high-cost, high-population states does not alter HUD's statutory obligation under Section 214. Additionally, HUD notes that responsible entities are not required to identify or provide alternative housing placements for families who do not qualify for continued or preservation assistance under §§ 5.516 and 5.518 following verification.

5. Community Contributions of Mixed-Status Households or Immigrants

A. Labor and Workforce Contribution

Commenters argued that immigrant and mixed-status households in assisted housing perform work the national and regional economies depend on, and that destabilizing their housing would remove workers from essential industries.

Commenters tied the point to agriculture and food production, stating that over half of all agricultural workers in California are immigrants and that immigrants are the driving force behind the state's agricultural productivity, that more than 900,000 farmworkers sustain California's economy, and that farms in California are already closing for lack of workers to harvest crops while the nation's food-producing regions depend on immigrant labor. Commenters named specific occupational sectors—health care and hospitals staffed at all levels by immigrant workers, caregiving and both informal and formal home care that HUD's regulatory impact analysis was said to overlook, construction, subway repair, and building maintenance, and bodega ownership and rideshare driving.

A commenter reported that Marin County's hospitality, health care, education, and construction sectors rely on a workforce already struggling to remain in the county, that displacement from Marin is the highest in the Bay Area, and that 64 percent of its workforce commutes in from elsewhere. A commenter cautioned that mass displacement would create workforce instability and weaken local economies across Nebraska.

Commenters supported the labor-contribution point with statewide workforce figures and firsthand testimony. Commenters cited that immigrants account for roughly one in ten residents and about 12 percent of the state labor force with particularly high participation in key industries. A commenter argued that immigrants, including undocumented workers, do critical work that would otherwise go undone a commenter made the same point about immigrants taking the hardest jobs, and commenters portrayed immigrants as central to their communities. Commenters also framed the loss as a workforce and productivity harm to employers: a commenter attested to relying on employees with Employment Authorization Documents who also receive housing assistance, employers were said to face direct economic consequences from restricted housing access, and community workforce and adult-education organizations tied their employment programming to housing stability.

Commenters argued the rule would push students from mixed-status families to withdraw from higher education, curtailing future workforce participation, and that displacing a household makes it difficult or impossible for its working adults to keep their jobs. Commenters characterized immigrants as among the hardest workers in their cities who take on the most demanding labor, pointed to workers who harvest the nation's food, and stressed these families already work the jobs most others avoid. Commenters made parallel points about immigrants' work ethic and the reliance of working families on subsidized housing. Commenters echoed that

immigrant and mixed-status families are hard workers whose displacement would cost their communities and workplaces. Citing a 2024 study in the journal Pediatrics, a commenter detailed how forced moves interrupt receipt of benefits and sever relationships with case workers and providers—disrupting the continuity of care and support that lets working families remain stable.

A commenter argued that HUD's regulatory impact analysis wrongly presumes ineligible household members do not contribute, overlooking their role in the nation's caregiving infrastructure: the commenter stated that as of 2020 roughly 69 percent of people age 65 or older need long-term services and supports, that an estimated 38 million family caregivers provide care valued at about $600 billion, and that immigrant family members fill this informal and formal caregiving role. A commenter warned that displacing an entire household can make it impossible for its U.S.-citizen or eligible-immigrant adults to sustain employment, with knock-on effects for their employers, and that in areas with mixed-status households and severe labor shortages this would deepen worker shortfalls in hard-hit sectors such as health care. A housing authority stated that the households it serves rely on stable, affordable housing to maintain employment and contribute to their community, and a housing authority stated that mixed-status families contribute important labor to the local economy and that the rule would cause economic harm there.

HUD Response: HUD appreciates the perspectives raised by commenters regarding the contributions that immigrant and mixed-status households make to the labor force. Commenters appear to argue that because members of these families participate in essential industries, HUD should reconsider this rulemaking to better align regulations with the wording and purpose of Section 214 of the Housing and Community Development Act of 1980. However valuable such contributions to the workforce may be, Section 214 clearly prohibits HUD from making certain this financial assistance available to persons other than United States citizens or specified categories of eligible noncitizens. Furthermore, it is not clear that this rulemaking would lead households that leave Section 214 covered programs to withdraw from participation in these essential industries. HUD acknowledges that this rulemaking would adversely affect some tenants and applicants for Section 214 covered programs, especially mixed families and ineligible noncitizens. While commenters speculate about potential economic impact, they have provided no data or information that could be used to characterize accurately, either qualitatively or quantitatively, effects on workforce participation. Consequently, and consistent with OMB Circular A–4,[6] in the absence of direct evidence of quantifiable changes in workforce participation to be caused specifically by this rulemaking, HUD believes its accurately assesses the largest economic effects of this rule, and the largest effect is a transfer of housing assistance from mixed families to households composed solely of eligible members.

B. Tax and Fiscal Contribution

Commenters argued that immigrant and mixed-status households are net fiscal contributors—paying taxes they often cannot recoup in benefits—and that the rule would forfeit that revenue while shifting costs onto localities. Commenters supplied specific figures. Commenters cited that immigrants contributed over $651 billion in taxes in 2023 while receiving comparatively little in return, that undocumented immigrants paid $96.7 billion nationally in public revenues, and that California's immigrant residents pay $82.9 billion in federal, state, and local taxes annually and are responsible for 45 percent of new business formation in the state. Commenters cited that immigrants make up 11.6 percent of Colorado's workforce and contribute $7.7 billion, and that over a quarter million children there live with at least one immigrant parent. Commenters emphasized that New York City is home to more than 3 million foreign-born residents comprising roughly 38 percent of the population, and cited the Vera Institute of Justice for the figure that 27 percent of Oakland's population—about 112,300 people—are immigrants, of whom 61,000 are noncitizens at risk of deportation. Commenters citing the Cato Institute made the fiscal-contribution case as well, and a workforce provider reported facilitating 56 job placements and 353 job applications and generating $1.9 million in annual economic impact in 2024. A recurring, specific point was that immigrants—including undocumented workers—pay into Social Security and Medicare through payroll taxes without being eligible to collect those benefits, and pay sales and income taxes. A commenter detailed payroll, Social Security, Medicare, and sales taxes paid by undocumented residents in Ventura County, California.

Commenters also warned of the fiscal cost of the reverse: commenters argued that displacement would translate directly into significant fiscal costs for California, increasing demand on county health and behavioral-health systems, emergency medical services, homeless-response systems, and child-welfare and education systems. Commenters tied the point to rent paid, describing immigrant tenants contributing 30 percent of income toward rent and paying rent and taxes whose loss communities would have to absorb. A study projecting that an estimated 80,000 people, including 37,000 children (most of them U.S. citizens), could lose housing was cited in support of the scale of the economic disruption. Commenters characterized immigrant families as working families that contribute to the economy and pay taxes.

Commenters argued the characterized Los Angeles as one of the nation's largest economies, powered by immigrants of all statuses, and warned that forcing immigrant families out of Boston would cause significant population and economic losses. Commenters illustrated with a San Bernardino household-composition example how proration already scales assistance to eligible members. Commenters made the core fiscal point—that immigrant and mixed-status families work and pay taxes (including into systems whose benefits they cannot claim) and give back to the communities and economies they belong to. A submission relaying a report from Los Angeles City Hall stated that undocumented workers in Los Angeles County contribute approximately $253.9 billion in total economic output—equivalent to 17 percent of the County's gross domestic product—supporting more than 1.06 million jobs and generating $80.4 billion in labor income across construction, manufacturing, retail, and services.

Commenters added that immigrant workers' labor-force participation in Colorado exceeds that of U.S.-born workers, that immigrant-led households contribute tens of billions in earnings and billions in tax revenue annually, and that immigrants' national share of the labor force has more than tripled since 1970. Commenters cited a Cato Institute taxation study published this year finding that immigrants paid more in taxes than they received in government benefits in every year of the past three decades, and that their contributions helped reduce the national deficit by nearly a third over that period.

HUD Response: HUD appreciates the perspectives raised by commenters regarding the tax contributions that immigrant and mixed-status households make. Commenters appear to argue that

because these households are net fiscal contributors (*i.e.,* paying more in taxes than they recoup in benefits), HUD should reconsider this rulemaking to better align regulations with the wording and purpose of Section 214 of the Housing and Community Development Act of 1980. However valuable such fiscal contributions may be, Section 214 clearly prohibits HUD from making certain financial assistance available to persons other than United States citizens or specified categories of eligible noncitizens. HUD cannot disregard clear statutory requirements because of the considerations that commenters cite.

C. Local Economy and Community Stability

Commenters argued that stable housing for immigrant and mixed-status households underpins the stability, cohesion, and economic health of the surrounding community. Commenters tied housing directly to local economic outcomes: a commenter argued that stable housing means stable communities, stronger local economies, and better outcomes for everyone, a commenter maintained that stable housing lets people obtain and keep jobs, contribute to the economy, and build community, and a commenter argued that immigrant families are an important part of the economy and community of Medford and Massachusetts, and that putting bureaucratic barriers between them and stable housing would disrupt the local equilibrium. Commenters warned of cascading local effects including school funding and teacher losses, increased vulnerability and street crime, and erosion of sanctuary-city policymaking.

Commenters emphasized longstanding, harmonious mixed communities and the economic and social fabric that immigrant families sustain, and commenters argued that keeping families together is essential to the health and stability of their communities, letting children focus on school and adults work and contribute. Commenters argued that destabilizing these households would disrupt local economies and weaken communities where families are already deeply embedded, undermining the health, economic, and social systems California has worked to cultivate. Commenters characterized stable housing as the bedrock of economic development, arguing that without a safe place to live families cannot hold steady employment or children succeed in school.

HUD Response: HUD agrees that stable housing is foundational for many metrics of well-being, including the educational and economic outcomes for families and the broader economic health of communities. HUD acknowledges that this rulemaking may adversely affect some tenants and applicants for Section 214 covered programs, especially mixed families and ineligible noncitizens. Commenters appear to argue that HUD should not proceed with rulemaking if it would lead to disruption of housing assistance for any household, regardless of whether the status quo is appropriately aligned with statutory requirements. However, Section 214 clearly prohibits HUD from making certain financial assistance available to persons other than United States citizens or specified categories of eligible noncitizens, and this rulemaking is needed to better align HUD's regulations with statutory requirements.

D. Civic and Cultural Contribution

Commenters argued that immigrant and mixed-status households enrich the civic and cultural life of their communities and that the nation's identity is rooted in immigration. Commenters wrote from communities they characterized as vibrant and diverse: Los Angeles and its neighborhoods, Chicago, Connecticut, Colorado, Santa Barbara, Long Beach, Jackson Heights, Queens—described as the most diverse neighborhood in the most diverse county in the country, Arlington, Massachusetts, Washington, and California generally. Commenters framed diversity as a civic and economic asset—a commenter tied their city's status as a top tourist destination and the tourism revenue it generates to that diversity, and a commenter wrote of caring about the community's diversity, breadth, beauty, and stability.

A commenter remarked that participants who serve missions abroad see conditions elsewhere and that people come to Utah to build a better life and help contribute to the state's economy. A commenter drew on personal experience to argue that immigrant families typically need about thirty years to stabilize—raising children, attending college, buying homes, and paying taxes—and that mixed-status families resolve their status over time and become key to the future of the country. A community foundation argued that housing is foundational to how families pursue opportunity and communities build power, and a community organization supported the African migrant community it serves.

Commenters also invoked the nation-of-immigrants and melting-pot framing, arguing the country was built as a melting pot that welcomed immigrants, that immigrants have built and influenced American law and culture, and that turning away from immigrants betrays the nation's historical foundational framework. Commenters pointed to their own civic and community engagement: heritage in immigrant-owned business and civic leadership, work on HUD-funded housing projects, a background in community economic development and advocacy volunteering, and helping asylum-seeking families find housing, including 27 such placements. Commenters cited longstanding institutional work promoting economic opportunity for low-income New Yorkers since 1843 through research, policy advocacy, and direct services. Commenters characterized immigrants as friends, family, and neighbors who give back to their community, attend school and church, and build positive community and safe spaces. Commenters asserted that immigrant and mixed-status participants enrich the civic and cultural life of their communities and reflect the nation's identity as a country of immigrants. Commenters characterized Hawai'i as a cultural melting pot of mixed-status families whose daily exposure to many cultures enriched upbringing and community.

HUD Response: While HUD appreciates commenters' perspectives on how the diverse composition of their neighborhoods is a source of civic and cultural benefit, such considerations are not material to whether HUD should better align its regulations with statutory requirements. Section 214 prohibits HUD from making certain financial assistance available to persons other than United States citizens or specified categories of eligible noncitizens, and this rulemaking is necessary to bring HUD's regulations into greater alignment with the wording and purpose of that statute. The civic and cultural value that commenters describe, however genuine, is not a factor Section 214 permits HUD to weigh against the statutory eligibility limits, and HUD is not authorized to continue assistance contrary to the statute.

E. Unaffordable Local Market/Rehousing Impossible

Commenters argued that families losing assistance would be unable to find an affordable private-market alternative, so termination means displacement rather than a smooth transition to another unit. Commenters identified Santa Barbara County as one

of the least affordable markets in the nation, where affected families have extremely low incomes and could not remain housed without assistance. Commenters made parallel arguments for Santa Clara County, where 63 percent of roughly 22,000 served households are elderly or disabled and extremely low-income, Los Angeles County, especially for veteran households, Santa Cruz County, Santa Monica as one of the most expensive rental markets, Salem, Washington State, New York City, where 2.2 million residents live in poverty, and Oceanside. Commenters warned that California concentrates the highest-cost markets and largest immigrant population, so displaced families face the steepest re-housing barriers, with over 40 percent of California households already cost-burdened. Commenters urged jurisdiction-specific treatment for Puerto Rico, where a prolonged economic contraction deepens the shortage, requesting a supplemental notice of proposed rulemaking and a territorial impact assessment. Commenters added that county governments and community-based partners would bear the fallout that HUD sheds.

HUD Response: HUD appreciates the market-specific data commenters provided regarding the affordability challenges facing families who may lose assistance under this rule. As explained in the proposed rule and in HUD's responses above, Section 214(d)(2) requires that assistance not be provided to individuals whose eligible status has not been verified, and this requirement applies uniformly regardless of local market conditions, cost burden, or the availability of comparable private-market housing. HUD acknowledges that families losing assistance in high-cost markets may face significant difficulty securing alternative housing, but responsible entities are not required to identify or provide such alternatives for families that do not qualify for continued or preservation assistance under §§ 5.516 and 5.518 following verification.

Regarding Puerto Rico, HUD did not propose, and does not believe the statute permits, territory-specific variation in the verification requirements of Section 214, which apply to all Section 214 covered programs nationwide, including in the territories. HUD has determined that a supplemental notice of proposed rulemaking and separate territorial impact assessment are not necessary, as the Regulatory Impact Analysis and Regulatory Flexibility Act analysis accompanying this rule address the anticipated burden on responsible entities across all covered jurisdictions.

6. The Rule's Documentation Requirements Are Too Strict

A. Documentation Is Too Hard To Obtain

Commenters explained that many eligible U.S. citizens do not possess the documents the rule would require, because birth certificates and passports are commonly lost, were never issued, or were destroyed, and are burdensome to replace. Commenters observed that citizens born decades earlier, born at home, or born in jurisdictions with incomplete records may have no accessible birth record at all, and that replacing such records requires contacting the issuing jurisdiction and paying a fee. Commenters noted that older participants, participants who have moved across state lines, and participants who have experienced housing instability are especially likely to lack such records on hand. Commenters explained that documentation problems arise when a participant's records reflect a different name—for example after marriage or a legal name change—or when the participant was born in a different state, requiring cross-jurisdiction requests to reconcile the records. Some locations, like Puerto Rico, have geographical constraints that add additional burden to obtaining documents. Commenters argued that conditioning continued assistance on producing these documents would place eligible citizens at risk of losing housing for reasons unrelated to their actual eligibility.

Commenters offered local and national estimates on how many U.S. citizens lack ready access to citizenship documents: The National Low Income Housing Coalition estimates that approximately 3.8 million U.S. citizen adults lack proof of citizenship and an additional 17.5 million cannot easily obtain these documents, a figure also attributed to the Center on Budget and Policy Priorities, and one comment cited studies finding that over 14 percent of American citizens over 80 years old lack proof of U.S. citizenship in the voter-registration context. Commenters cited evidence that documentary-citizenship requirements fall unevenly by race and age, including estimates that 25 percent of African-American citizens and 18 percent of citizens over 65 lack a photo ID, arguing that comparable requirements elsewhere caused eligible citizens to lose coverage.

Commenters described practical barriers to producing documents, including limited access to the internet, to government offices, and to the identification needed to request vital records, particularly for participants in rural areas and for those without reliable transportation. Commenters noted that obtaining documents may require online systems, payment by credit card, or in-person visits that some eligible participants cannot readily complete. Commenters identified the monetary cost of obtaining required documents as a direct burden on eligible citizens, noting that birth certificates, passports, and other vital records carry fees that must be paid to the issuing jurisdiction costs could reach into the thousands of dollars for an affected family. Commenters added that these out-of-pocket costs fall on low-income households least able to absorb them. Commenters argued that imposing these costs on citizens who already qualify for assistance is unjustified and asked the agency to weigh the expense against the existing declaration process, which imposes no comparable cost.

Commenters maintained that these access barriers would translate into denials and delays for otherwise-eligible citizens and urged the agency to account for participants who cannot navigate document-request systems within the timeframes the rule allows. A commenter also stated that Medicare or other federal health-program cards should be usable only as supporting evidence of identity or residence.

HUD Response: HUD acknowledges all the barriers identified by commenters and assessed in Section 6.2 of the RIA the costs to tenants and applicants associated with obtaining documentation to prove U.S. citizenship, or eligible immigration status. In recognition of the time and effort that may be involved in securing such documentation, the final rule adopts procedural safeguards that prevent terminations unrelated to eligibility. For example, before any denial or termination, the responsible entity must issue the notice required under proposed 24 CFR 5.514(d); an individual may pursue a records correction with the issuing or record-holding agency at any point during verification; and a family may request an informal hearing under proposed 24 CFR 5.514(e). A responsible entity may verify a tenant's status notwithstanding a name mismatch or record discrepancy where the individual provides sufficient documentation to reconcile the discrepancy.

Commenters raise several different types of difficulties that individuals may encounter in providing documentation, which should be distinguished—some may not have

ready access to documentation, whereas a much smaller number may not have an official birth certificate or other documentary proof of their status. For individuals who do not have ready access to documentation, the rule provides a window of time for families to request such documentation. Commenters do not offer evidence of how many eligible citizens lack any documentary proof of citizenship. 24 CFR 5.510 provides that acceptable documentation of U.S. citizenship may include other acceptable documentation as specified in HUD guidance. Should the need arise to specify additional documentation for these rare cases, HUD can issue additional guidance.

For non-mixed families, HUD is requiring responsible entities to communicate the documentary evidence requirements to current tenants/participants within 30 days of the rule's effective date so that currently assisted tenants/participants who have not submitted evidence of citizenship or eligible immigration status required under § 5.508(b) may begin gathering any necessary documents in advance of their next annual or interim reexamination. As noted in 5.508(g), responsible entities may grant an extension of time to submit evidence where documents are unavailable and the family member is taking prompt and diligent effort to obtain such evidence. In acknowledgement of the barriers some individuals may face in obtaining documents, HUD is extending the flexibility to grant an extension by 30 days for a total of 60 days in the final rule, as described above. The final rule does not preclude a responsible entity from verifying participants' status due to name mismatches or record discrepancies, if the participant can provide the responsible entity with sufficient documentation reconcile the discrepancies. HUD acknowledges and appreciates the examples of individuals who may experience particular barriers providing the documents described in 5.510(b) and, as provided in 5.510(b)(6), will issue further guidance of other acceptable documentation. Finally HUD does not view Medicare or health-program cards as sufficient proof of eligibility.

B. Documentation Requirements Failed Elsewhere

Commenters drew on experience with comparable documentation requirements in other programs to argue that the proposed rule would produce similar harms, contending that citizenship-documentation mandates have previously caused eligible citizens to lose or be delayed in obtaining benefits. Commenters cited the experience under prior federal documentation requirements, in which eligible U.S. citizens—disproportionately low-income and elderly—encountered barriers to proving citizenship and lost coverage as a result, and argued that the same dynamic would recur under this rule. Commenters drew on named comparator programs: that after Medicaid added a paper-based citizenship-documentation requirement under the Deficit Reduction Act of 2005, eligible citizens experienced enrollment delays and coverage losses; in a Government Accountability Office survey, half of the 44 responding states reported the requirement had reduced enrollment among eligible citizens. A housing-assistance provider reported handling nearly 13,000 birth-certificate requests since 2010 to help clients establish citizenship, illustrating the real administrative effort involved.

Commenters used these comparators to argue that the documentary requirement is likely to burden eligible citizens without achieving its stated purpose. Commenters cited evidence that documentary-citizenship requirements fall unevenly by race and age, including estimates that 25 percent of African-American citizens and 18 percent of citizens over 65 lack a photo ID, arguing that comparable requirements elsewhere caused eligible citizens to lose coverage.

HUD Response: As stated above, HUD acknowledges that some applicants and tenants may face barriers in obtaining documentary evidence. The final rule requires responsible entities to provide notice of the documentary submission requirements within 30 days of the rule's effective date and provides for responsible entities to grant time extensions. Additionally, as noted above HUD will issue further guidance on acceptable documentation as provided for in § 5.510(b)(6). Unlike the paper-only comparator programs commenters describe, this rule provides for primary verification to be conducted by the responsible entity through SAVE, so that an applicant or tenant is not required to assemble documentation in advance and submits documentary evidence only where SAVE does not confirm status. HUD has determined that this rule balances the interests of affected parties and responsible entities while improving compliance with statutory obligations and aligning with policy goals.

7. Harm to Groups

A. Mixed-Status Families and the Loss of Prorated Assistance

Commenters argued that the proposed rule would harm immigrant and mixed-status families by displacing families already complying with existing law, contradicting national values toward immigrants, reducing the affordable-housing supply, chilling participation among eligible members, and undermining family unity. Commenters raised general concerns that the rule would harm immigrant and mixed-status families, including through fear, family disruption, and loss of housing.

Commenters pointed to prior policies—including the 1996 welfare-reform law (PRWORA) and the 2019 public-charge rule—as evidence that analogous measures produce measurable chilling effects that deter eligible members from seeking assistance, and cited Executive Order 14012's direction to remove such barriers.

Commenters argued that the proposed rule forces mixed-immigration-status households to choose whether to remove the ineligible member and break up the family, or keep the family intact and lose housing assistance for the entire household. Commenters stressed that the choice is immediate for thousands of households already relying on the program, regardless of how long they have participated in the program or whether other affordable housing is available to the family.

HUD Response: HUD acknowledges the substantial volume of comments objecting that the rule forces mixed-status households to choose between separating the family and losing housing assistance and recognizes commenters' concern that this outcome is in tension with the stabilizing purpose of assisted housing. HUD notes that the rule and its Regulatory Impact Analysis do not require any family to separate; rather, they preserve a range of options for existing families that were receiving assistance under a Section 214-covered program, including temporary prorated assistance for mixed families while the eligibility of family members is being verified, and, for families that do not qualify for continued assistance, discretionary temporary deferral of termination of assistance for up to 18 months to allow additional time to arrange alternative housing. HUD reiterates that the rule's stated basis is aligning HUD's regulations with the eligibility limitation in Section 214 of the Housing and Community Development Act of 1980.

B. Harm to Children, Especially U.S.-Citizen Children

Commenters stated that removing a household's housing punishes children for the composition of their family, causing eligible U.S.-citizen children to lose assistance solely because another household member lacks eligible immigration status. Commenters emphasized that about 75 percent of mixed-status families consist of eligible children living with at least one ineligible parent, making separation unworkable. A commenter pointed to the agency's regulatory impact analysis and to the finding that approximately eighty percent of mixed-status families in HUD housing consist of eligible children and at least one ineligible parent.

Commenters argued that the proposed rule would harm children, and U.S.-citizen children in particular, through eviction and homelessness. Commenters stated this would cause developmental and educational damage, and harm to mental-health, including anxiety, depression, and trauma. A commenter contended that housing instability disrupts schooling in ways children do not recover from, describing mid-year school changes, lost academic footing, and long-term harm to school continuity, employment, and mental health when families are forced to move. Commenters stated that HUD's own analysis acknowledges the rule risks conflicting with Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks) because of its adverse effects on child development. A commenter connected the rule to concrete health and child-welfare harms, citing research associating an eviction judgment with a substantially increased mortality risk and describing a voucher holder who relinquished assistance rather than lose a spouse providing medical care. Commenters warned that separation would push U.S.-citizen children toward the foster-care system when parents cannot both remain in the home and retain housing.

Commenters estimated 37,000 children would face eviction, and identified the reduction in assisted-housing supply as the mechanism driving increased child homelessness and poverty. Commenters stated that HUD's own estimates acknowledge that tens of thousands of affected participants are children and that the agency's analysis anticipates the resulting instability and its consequences for children's health and education. Commenters cited HUD's own analysis of the substantially similar 2019 proposal, withdrawn at the time, as estimating approximately 25,000 immigrant families would be evicted, including about 55,000 children who were themselves eligible for assistance. A commenter cited a Center on Budget and Policy Priorities figure of approximately 55,200 citizens and legal participants exposed to eviction or separation, including 35,400 citizen children. A commenter cited an estimate that more than 771,000 children live in households that could be affected, framing the developmental toll as a national-scale harm.

A commenter maintained that inadequate housing is itself a driver of family separation through the child-welfare system, citing evidence that inadequate housing was identified as a factor for roughly eleven percent of children who entered foster care and that homeless children enter foster care at many times the rate of their peers.

Commenters also contended that new documentation and proof-of-citizenship requirements would themselves jeopardize eligible children, including in households that struggle to produce records.

HUD Response: These comments reflect a genuine and serious concern, and HUD does not take lightly the impact this rule will have on children in mixed-status households. As explained in the proposed rule, HUD acknowledges that this rulemaking will adversely affect mixed-status families, and that the most significant effect will be to transfer assistance from mixed-status to fully eligible households; an outcome that will fall in part on children in those households. This outcome follows from Section 214(d)(2), which does not permit HUD to provide continued assistance on behalf of an individual whose eligible status has not been verified, regardless of the age of that individual or of other household members and does not create an exception based on a family member's status as a child. As explained in HUD's responses above regarding preservation assistance, a family that does not qualify for continued assistance may seek temporary deferral of termination of assistance under § 5.518(b), and no termination may occur before completion of the informal hearing process under § 5.514(e); these protections apply to mixed-status families with children in the same manner as to other affected families.

HUD has considered the estimates cited by commenters, including the estimate that more than 771,000 children live in households that could potentially be affected by the rule. The actual effects will depend on the eligibility determinations of individual household members and the circumstances of each household. These estimates, however, represent the number of individuals who could potentially be affected by the changes and do not establish that all identified individuals will be evicted or lose housing assistance.

With respect to documentation burdens on U.S.-citizen children specifically, HUD notes that primary verification of citizenship will be conducted through SAVE not necessitating the collection of documents; however, to the extent that document submission is necessary, it is consistent with existing practice for many responsible entities, which already routinely collect identity documents such as birth certificates for other program purposes. HUD's Regulatory Impact Analysis estimates that approximately 20,000 mixed-status families received assistance as of December 2024, that children under 18 account for roughly 65 percent of the eligible family members in those households, and that families with children present, which HUD estimates likely leave assisted housing together rather than separate, represent approximately 16,000 (about 78 percent) of affected mixed-status families. HUD does not minimize this effect; as the Regulatory Impact Analysis explains, the net effect of the rule on homelessness is ambiguous, because any increase in homelessness among displaced mixed-status families may be offset by a decrease in homelessness among the fully eligible households, including formerly homeless households, who receive the reallocated assistance.

C. Harm to Specific Communities and Groups

Latino and Hispanic communities. Commenters argued that the proposed rule would harm Latino and Hispanic communities disproportionately and characterized its effect as discriminatory or racialized in impact. A commenter emphasized the disparate racial impact of the change, observing that mixed-status families are overwhelmingly families of color—on the order of 96 percent, with Latino families alone representing roughly 86 percent—such that more than 68,000 Latino participants would face separation or the loss of housing.

Commenters contended that the rule effectively penalizes Latino families for lawfully accessing subsidized housing to which eligible members are entitled. Commenters asserted that fear associated with the rule would deter

eligible members of Latino families from applying for or retaining assistance. Commenters maintained that the rule would increase eviction, homelessness, and displacement among Latino families.

A commenter maintained that the citizenship-status restrictions could result in increased racial profiling and discrimination targeting people of color and could deny U.S. citizens the ability to request housing assistance. A commenter requested that the agency not require U.S. citizens to prove citizenship as a condition of receiving support.

Black communities. Commenters argued that the proposed rule would harm black communities disproportionately, citing the number of black participants in mixed-status families who would be affected and barriers black U.S. citizens face in obtaining citizenship documentation.

Commenters stated that the rule would jeopardize housing assistance for an estimated 6,200 black participants in mixed-status families, and contended that black U.S. citizens face heightened barriers to obtaining citizenship documents, including older participants who may lack birth records, making them disproportionately likely to be harmed by new verification requirements.

AAPI communities. Commenters argued that the proposed rule would harm Asian American, Native Hawaiian, and Pacific Islander communities, citing their concentration in high-cost areas and multigenerational households, the number of AAPI households receiving assistance, and added barriers such as language access.

Commenters stated that a large number of AAPI households, cited as over 680,000, participate in public housing, Housing Choice Voucher, or project-based rental assistance programs, and argued that the rule would disproportionately affect AAPI families living in high-cost metropolitan areas and multigenerational, mixed-status households, compounded by language-access barriers.

Veterans. Commenters, including one writing on behalf of veterans' legal clinic, argued that the proposed rule would harm veterans and their families who rely on assisted housing.

Persons with disabilities. Commenters argued that the proposed rule would harm persons with disabilities by imposing new documentation burdens, creating barriers to accessible housing, straining disability-related fixed incomes, and increasing the risk of homelessness and institutionalization.

Commenters argued that tenants with disabilities face heightened barriers to completing the verification process, including mobility limitations that impede in-person document requests and cognitive or communication barriers that complicate navigation of federal systems. Commenters maintained that the added documentary steps would disproportionately burden disabled eligible citizens and could result in interruption of assistance where a tenant cannot complete the required steps within the timeframe allowed.

Commenters offered concrete illustrations of these barriers: one described beneficiaries who are elderly with dementia, who have developmental or psychiatric disabilities, or who have limited English, for whom obtaining and keeping identification is especially difficult.

Commenters stated that the rule's verification and documentation requirements would fall heavily on people with disabilities, including those for whom obtaining or producing records is difficult, and argued that some eligible tenants would lose assistance for inability to meet these requirements. Commenters contended that displacement would cost tenants their accessible or adapted units and that comparable accessible housing is scarce, creating barriers to relocation. Commenters asserted that tenants relying on SSI, SSDI, or similar fixed disability incomes could not absorb the loss of assistance without being pushed into poverty. Commenters maintained that the rule would increase eviction and homelessness among people with disabilities and, in some cases, force institutionalization for those with nowhere else to go.

HUD Response: HUD recognizes the particular hardship this rule may pose for the communities and groups commenters identified, including Latino or Hispanic Americans, black Americans, AAPI participants, veterans, and participants with disabilities, including those in accessible or adapted units. As explained in the proposed rule and in HUD's responses above, Section 214(d)(2) does not permit HUD to provide continued assistance on behalf of an individual whose eligible status has not been verified, and this requirement does not vary based on a family member's race, national origin, disability, veteran status, or any other protected characteristic. HUD notes that families who do not qualify for continued assistance may seek temporary deferral of termination of assistance under § 5.518(b), and that no termination takes effect before completion of the informal hearing process under § 5.514(e), protections that apply equally to all affected participants.

HUD's regulations at § 5.502 require responsible entities to provide required notices and documents in a manner accessible to people with disabilities, consistent with 24 CFR 8.6, and this rule does not alter that requirement.

HUD notes that veterans who are U.S. citizens or have eligible immigration status are not affected by this rule's verification requirements beyond the documentation and timing provisions applicable to all applicants and tenants, and that veteran family members without eligible status remain subject to the same preservation assistance protections, including temporary deferral of termination of assistance under § 5.518(b), available to other affected families.

D. Elderly Participants (Incl. Grandparents/Caregivers)

Commenters stated that eliminating the current exemption for individuals age 62 and older extends the verification obligation to household members previously excused from it. Commenters argued that the documentary requirement falls hardest on elderly citizens, who are least likely to have birth certificates or passports on hand and who face the greatest difficulty obtaining replacements. Commenters argued that the proposed rule would harm elderly participants by disrupting caregiving and grandparent roles, straining fixed incomes, increasing homelessness among a fast-growing older population, and endangering the health of frail and vulnerable seniors. Commenters noted that many older tenants live on fixed incomes and face mobility, transportation, and technology barriers that make gathering documents especially burdensome. Commenters warned that these barriers place elderly eligible citizens at risk of losing assistance for administrative reasons unrelated to their eligibility.

Commenters stated that many elderly tenants are raising or caring for grandchildren and other kin, and argued that the rule would disrupt these caregiving arrangements and the households that depend on them. Commenters contended that seniors on fixed incomes would be forced to choose among rent, food, medication, and transportation, describing the loss of assistance as pushing basic needs out of reach. Commenters asserted that the rule would increase eviction and homelessness among seniors, whom they described as among the fastest-

growing segments of the homeless population. Commenters maintained that displacement would endanger the health of frail, disabled, or isolated elderly participants, with consequences including deteriorating health and increased mortality. Commenters argued that HUD's analysis understates the burden on older households, citing figures such as a large share of affected households headed by tenants over 62 and impacts spanning hundreds of counties. Commenters noted that multigenerational households and tenants with limited English proficiency would face added difficulty complying.

Commenters stated that the rule would eliminate both a longstanding documentation exemption and the Section 214 signed-declaration process available to tenants aged 62 and older, replacing them with documentation many cannot produce.

HUD Response: HUD appreciates commenters' attention to the particular circumstances of elderly participants, including those serving as caregivers for grandchildren or other family members. As explained in the proposed rule, HUD is removing the age-62 exemption currently reflected in §§ 5.508(b)(2) and 5.216(e) so that verification of citizenship or eligible immigration status applies uniformly to all applicants and tenants under Section 214 covered programs, regardless of age. HUD's rationale, as set forth in the proposed rule, is to bring its regulations into greater alignment with Section 214 and to make the verification process more uniform across the tenant population. With respect to practical burden, HUD notes that verification of eligible immigration status for noncitizens 62 and older will follow the same process already used for other noncitizens under this rule, and that primary verification of citizenship is conducted through collection and review of documentation under § 5.508(b), which responsible entities already routinely handle for other program purposes.

E. Survivors of Gender-Based Violence

Commenters argued that the proposed rule would harm survivors of gender-based violence by imposing documentation requirements that survivors fleeing violence cannot meet, conflicting with VAWA safety and confidentiality protections, and increasing the risk of homelessness.

Commenters noted that survivors of domestic violence may be separated from their identity documents or unable to access records held by an abuser, and that requiring documentary proof can expose survivors to additional risk. Commenters stated that survivors who have fled violence often leave without identity or immigration documents, and argued that the rule's documentation requirements would strip assistance from survivors unable to produce records. Commenters asserted that the loss of assistance would increase eviction and homelessness among survivors and their children. Commenters asked the agency to account for the circumstances of survivors who cannot readily obtain the required records.

Commenters contended that the rule conflicts with the safety and confidentiality protections extended to survivors of domestic violence, dating violence, sexual assault, stalking, and trafficking, and warned that it could force survivors to remain with or return to an abuser to keep housing. Commenters contended that the rule conflicts with the protections Congress established for survivors under the Violence Against Women Act and the Trafficking Victims Protection Act. Commenters specified that survivors holding U-visas, T-visas, or VAWA self-petitions have documented status yet remain ineligible for HUD subsidy, so the rule would displace them from mixed-status households.

Additional commenters raised general concerns that the rule would harm survivors of gender-based violence, including their housing stability and ability to remain in contact with support services, without developing a further specific mechanism.

HUD Response: HUD takes the safety of survivors of domestic violence, dating violence, sexual assault, stalking, and trafficking seriously, and recognizes the particular difficulty this population may face in producing documentation. As explained in the proposed rule and in HUD's responses above, Section 214(d)(2) does not permit HUD to provide continued assistance on behalf of an individual whose eligible status has not been verified, and this rule does not create an exception based on a family member's status as a survivor of violence. HUD notes that families who do not qualify for continued assistance may seek temporary deferral of termination of assistance under § 5.518(b), and that no termination takes effect before completion of the informal hearing process under § 5.514(e). HUD's existing protections under 24 CFR part 5, subpart L, implementing the Violence Against Women Act, including provisions governing confidentiality of information related to a survivor's status, are not altered by this rulemaking.

F. Formerly Homeless/Unhoused

Commenters explained that participants who have experienced homelessness frequently lack stable custody of identity documents, having lost or been unable to safeguard vital records during periods of instability. Commenters argued that requiring such participants to produce documentary proof would place newly or recently housed eligible citizens at risk of losing the assistance that stabilized their housing.

HUD Response: HUD recognizes the particular difficulty that participants who have experienced homelessness may face in producing identity documentation and appreciates commenters raising this concern. As explained in the proposed rule and in HUD's responses above, primary verification of citizenship is conducted through SAVE, and responsible entities already routinely collect this type of documentation for other program purposes. HUD also lists multiple forms of documentation described in § 5.510. HUD notes that § 5.508(h), if granted, shall not exceed 60 days to submit required evidence where a family member certifies that the evidence needed is temporarily unavailable and that diligent efforts are being made to obtain it, and that responsible entities must notify individuals of their ability to pursue a records correction with any agency that issued or maintains relevant records at any point in the verification process, consistent with § 5.512(d).

8. Invest in and Strengthen Federal Housing Programs Instead

Commenters argued that the rule reflects misplaced priorities—spending on verification and enforcement machinery rather than on housing—and scapegoats immigrants for a systemic shortage. Commenters stated that the country faces a shortage of 7.1 million affordable rental units.

Commenters cited the administration's own budget requests proposing deep HUD cuts as evidence that housing stability is not a genuine priority, citing the FY2026 spending bill's partial funding to transition roughly 60,000 Emergency Housing Voucher families nationwide onto Tenant Protection Vouchers and the roughly 15,000 California EHV households at risk of eviction because that funding is insufficient. One commenter, writing as a local housing-authority commissioner in Florida, and others writing from Chicago and Los Angeles, urged that resources be redirected to maintaining and building housing in communities HUD had

previously failed; the Chicago commenter stated that thousands of public-housing units were demolished decades ago and that HUD never fulfilled its promise to build replacement housing. Commenters also invoked the 2019 defeat of a similar proposal, urging investment in federal housing programs rather than renewed scapegoating. Commenters contended that economists, housing authority officials, career HUD staffers, and policy experts agree the change will not lower housing costs and instead villainizes immigrants rather than the private-equity actors responsible for rising home prices and rents.

Commenters maintained that HUD should withdraw the proposal and instead work with Congress to make major new investments in the federal housing programs so that everyone has a safe and affordable place to call home. Commenters maintained that the proposed rule fails to address the root causes of unaffordability and would deepen the housing crisis rather than relieve it. Commenters framed the ask as a reallocation of existing funding toward assistance rather than verification, and several tied it to specific programs, urging continued growth of Housing Choice Vouchers, Project-Based Vouchers, the Low-Income Housing Tax Credit (which the commenter urged be restored to match the 25 percent bond threshold changed by the One Big Beautiful Bill), HUD–VASH, HOME, CDBG, CDBG–DR, and homeownership programs. Commenters also grounded the demand in the depth of the affordability problem, noting that in no state can a full-time worker earning the minimum wage afford rent and that policies removing assistance from tens of thousands of households cut against federal efforts to reduce homelessness and improve long-term stability.

Commenters argued that the rule ignores the underlying shortage and that HUD should instead build and preserve affordable housing. One commenter offered concrete supply-side measures—eliminating parking minimums for new construction, simplifying entitlement and permitting to reduce delays, creating social housing and community land trusts, reshaping land-use and zoning rules toward mixed use, stabilizing fees, subsidies, and financing so building homes is less costly and more predictable, and strengthening tenant protections and preservation funding so tenants can stay housed. Another argued HUD should advocate for a larger budget so PHAs can operate and maintain existing units and construct new ones up to their Faircloth limit, and should seek repeal of the Faircloth limit to expand public housing. One commenter located the root cause in corporate acquisition of housing stock rather than immigrants, and another attributed Texas cost burdens (over half of Texas renter households cost-burdened (50.5 percent), more than a quarter paying above 50 percent of income (25.8 percent)) to persistently high interest rates, elevated construction costs, a reduced construction labor force, and stagnant federal funding, citing the Harvard Joint Center for Housing Studies' ''America's Rental Housing 2026'' report. A commenter argued that investing in immigrant-serving organizations and homeless harm-reduction organizations would be a better use of funds, and asked HUD to retain the existing mixed-status families rule and to support keeping families together.

HUD Response: HUD disagrees that the final rule reflects misplaced priorities. Rather, HUD believes that the final rule is consistent with the Administration's priorities concerning immigration-law enforcement, regulatory reform, and efficient administration of Federal programs. In particular, the rule is consistent with Executive Order 14159, ''Protecting the American People Against Invasion,'' Executive Order 14165, ''Securing Our Borders,'' and Executive Order 14287, ''Protecting American Communities From Criminal Aliens,'' which emphasize enforcement of the Nation's immigration laws and protection of public resources. The rule is also consistent with the Administration's broader regulatory reform and government-efficiency efforts, including Executive Order 14222, ''Implementing the President's 'Department of Government Efficiency' Cost Efficiency Initiative,'' and Executive Order 14238, ''Continuing the Reduction of the Federal Bureaucracy.'' HUD believes that the proposed amendments further these objectives while bringing HUD's regulations into greater alignment with the statutory requirements of Section 214.

The rule is directed at who may receive assistance under existing programs, not at the size of the assisted-housing stock, and it therefore neither builds nor removes housing supply. As the Regulatory Impact Analysis explains, assistance no longer provided to mixed families is reallocated to fully eligible households already on program waiting lists. Building and preserving affordable housing is addressed through separate statutory authorities and appropriations, and nothing in Section 214 conditions its verification requirement on the pace of supply production. Accordingly, the availability of supply-side alternatives does not relieve HUD of its obligation under Section 214(d)(2) to verify eligibility before providing assistance. The Department nonetheless remains committed to pursuing, within its statutory authority and in coordination with Congress, regulatory and program improvements (such as through implementation of the 21st Century ROAD to Housing Act) that expand the supply of housing. Those efforts, however, are independent of, and do not displace, HUD's obligation under Section 214 to verify eligibility and to limit assistance to eligible persons.

9. Rule Is Contrary to Various Legal Requirements

A. Section 214 of the Housing and Community Development Act

Commenters argued that HUD's changes to the verification requirements for HUD participants exceed its authority under Section 214 and are inconsistent with the statute's express provisions. Commenters argued that Section 214 does not operate on individuals in the way the rule assumes and does not bar a household from assistance where one member is ineligible; instead, it directs prorated assistance so the family can remain together. Commenters grounded the conflict in the statute's operative language, arguing that the verification requirements apply with respect to financial assistance being or to be provided for the benefit of an individual, so a person not being or to be provided assistance falls outside the statutory verification requirement. Several read the verification text more narrowly than the rule: they argued the statute requires INS verification only for declarants younger than 62, so extending verification past that limit exceeds what the statute authorizes, and that Section 214 authorizes verification only by requiring presentation of documentation, giving HUD no basis to mandate SAVE searches of U.S. citizens.

Commenters also argued the statute assigns the verification-documentation decision to housing agencies and owners rather than to HUD, and that the Administration's immigration priorities cannot justify departing from Section 214's explicit terms.

They further argued that the age-62 declaration exemption is a deliberate choice by Congress that HUD may not override by rule. They argued the rule ignores Section 214's specific documentation exemptions for individuals aged 62 and older and for

children under 18, including a 1988 amendment expressly exempting older immigrants from the documentation requirements.

Commenters characterized the statute's use of ''shall'' as an imperative that leaves HUD no discretion to abandon the proration framework for mixed-eligibility families. Commenters stated that nothing in the statute requires eliminating ongoing prorated assistance for mixed-status households; it precludes only the provision of financial assistance to the ineligible member, which providers address by prorating the assistance. Commenters maintained that nothing in Section 214 mandates terminating assistance to an otherwise eligible household once proration has been applied, framing the change as a discretionary policy shift rather than a statutory mandate, and that the existing regulations already fulfill the purpose of Section 214 by ensuring no federal funds support ineligible members. Commenters argued that because Congress imposed no time limit on prorated assistance, HUD lacks authority to make it temporary, and that Congress knowingly permitted persons who decline an eligibility determination to reside in an assisted household, a choice HUD cannot reverse by rule.

Commenters also grounded arguments in case law, arguing that under decisions including *CMS Contract Management Services* v. *United States, 745 F.3d 1379, 1386 (Fed. Cir. 2014); Mertens* v. *Hewitt Assocs.,* 508 U.S. 248, 113 S.Ct. 2063 (1993); *Lockheed Corp.* v. *Spink,* 517 U.S. 882 (1996); and *Reich* v. *Compton,* 57 F.3d 270 (3d Cir. Ct. App. 1995), the statute's terms must be given their ordinary meaning and cannot be read to authorize what the rule does.

Commenters also invoked the rulemaking history, noting HUD's 1994 statement that Section 214 is specific about the special assistance to be provided to families with both eligible and ineligible members, at 59 FR 43900, 43902. They argued the proration framework reflects a deliberate policy choice by Congress that assistance may be provided to eligible members of mixed-status families so long as it is prorated, and that ending it contradicts HUD's prior interpretations and more than thirty years of sustained implementation. Commenters stated that, through Section 214, Congress intended to keep mixed-status families together, and that Congress enacted the prorated framework deliberately through the Housing and Community Development Act of 1987 as a compromise that limited new ineligible applicants while declining to break apart existing families. They added that if Congress had wished to end long-term prorated assistance it could have done so explicitly, and that HUD should not restrict statutory flexibility beyond what Congress authorized. A commenter contended that HUD may not make subjective legal determinations about the phrase for the benefit of that are not authorized by Congress or found in federal court rulings, and that HUD is neither a legislative nor a judicial body. Commenters added that even if the statutory language were ambiguous, the rule would still conflict with Congress's longstanding intent, established in the 1980 and later enactments, to allow mixed-status families to receive prorated assistance.

Commenters argued that the rule alters the regulatory definitions at 24 CFR part 5, subpart E, that structure eligibility for mixed-status families, and does so in ways the statute does not require. They contended that many definitions in the current and proposed rule are inconsistent with Section 214, and that HUD lacks authority to delete or rewrite statutory definitions through this rulemaking.

Commenters argued the rule imposes a two-year disqualification on all members of a mixed household that exceeds the penalties Section 214 permits, and that, after *Loper Bright Enterprises* v. *Raimondo,* HUD's reinterpretation of these provisions receives no deference and must stand on the statute's text. They further argued the rule adopts non-statutory definitions of terms such as financial assistance and responsible entity, imposes penalties exceeding the statute including a two-year disqualification of all household members, and adds a new mandatory requirement to report individuals believed to be in violation of immigration law at 5.508(e)(2)(vi).

Commenters argued the elimination of the DHS and INS appeal procedures at § 5.514 independently violates the statute. Commenters argued that Section 214(d)(5) entitles a person whose assistance is denied or terminated on immigration-status grounds to a hearing with written findings and questioned how the rule complies with that requirement. They argued the informal hearing provided under § 5.514 is inadequate because it relies on the incomplete and untested SAVE system, leaving households unable to meaningfully contest an adverse determination, and that the rule provides insufficient timelines and disregards the practical barriers households face in responding.

HUD Response: HUD disagrees that the rule conflicts with Section 214. Section 214 prohibits the Secretary from making financial assistance available to persons other than U.S. citizens or specified categories of eligible noncitizens, and section 214(d)(2) provides that the Secretary ''may not provide . . . assistance for the benefit of . . . [an] individual before documentation [of eligible immigration status] is presented and verified.'' An individual without verified eligible status living in a mixed household receiving long-term prorated assistance is benefiting from HUD financial assistance in a way that is prohibited by Section 214. The rule brings HUD's implementing regulations into greater alignment with this text by requiring verification of the status of all applicants and recipients regardless of age and by treating prorated assistance as a temporary condition pending verification, ''where permitted by statute.'' The statute's proration provisions in section 214(c)(1)(A)–(B) are preservation-assistance provisions for families receiving assistance on February 5, 1988; this rule retains temporary prorated continued assistance and temporary deferral of termination as the statute requires and does not abandon the framework Congress enacted.

As to the age-62 point, the preamble to the proposed rule explains that Section 214 conditions verification on the presentation of documentation and does not create a permanent, self-implementing exemption from status determination for older individuals; the current ''do not contend'' option, not the statute, is what produces no actual determination of status. HUD is retaining and modernizing the SAVE-based verification process it already uses for eligible immigration status and extending the same uniform process to declarations of U.S. citizenship, making verification more uniform for citizens and eligible noncitizens. Responsible entities remain the entities that collect and review documentation and submit information to SAVE, consistent with the statute's assignment of verification functions to housing agencies and owners.

HUD disagrees with commenters who say that the rule's definitions are inconsistent with the statute. HUD standardizes and updates language used in its definitions, but it intentionally did so consistent with the statute. By way of example, HUD replaces the obsolete ''INS'' definition with ''DHS,'' removes references to programs no longer in effect (the Rent Supplement and Section 235 programs, for which HUD notes no active contracts remain), standardizes the defined phrase ''evidence of

citizenship or eligible status,'' and adds a defined term ''preservation assistance'' that expressly includes the two statutory forms—prorated continued assistance and temporary deferral of termination—implemented at §§ 5.516 and 5.518. Revised § 5.506(b) tracks the statute by providing at § 5.506(b)(3) that a family with at least one member of any age who has U.S. citizenship or eligible immigration status is eligible for temporary prorated assistance under 5.520 pending final verification of other members.

Removing the outdated INS-appeal machinery in § 5.514 reflects the shift to SAVE while preserving an informal-hearing right.

The provision in 24 CFR 5.514(c)(1)(iii) which terminates assistance of a family member who knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the public or assisted housing unit of the family member for at least 2 years is a reasonable restriction on participation and is not inconsistent with statute.

HUD disagrees with the interpretation of § 5.508(e)(2)(vi) that it adds a new mandatory requirement to report individuals believed to be in violation of immigration law. It requires PHAs now notify tenants that they are required to notify DHS when a determination is made, consistent with the rules of this outlined in the proposed rule. There is no reporting requirement placed on tenants, and there is no requirement that PHAs or owners speculate on a tenant's citizenship status.

HUD disagrees with commenters that this rule removes the appeal process. This rule continues to provide the opportunity for informal appeal. The rule provides a meaningful process to contest determinations. HUD retains the statutory two-step verification structure: if primary verification through SAVE does not confirm status, the responsible entity must perform secondary verification and provide written notice that describes the primary-verification result, identifies the documentation or information needed, states deadlines, and informs the individual of the right to seek records corrections with the agency that issued or maintains the record at any time. The statute's reasonable-opportunity period (not to exceed 60 days) to submit further evidence is preserved. A family may then request an informal hearing under § 5.514(e), and, before any denial or termination, receives the notice required by § 5.514(d), which explains the reasons, the availability of proration pending final verification, and the criteria for preservation assistance.

The rule strengthens, rather than weakens, these safeguards relative to the outdated INS-appeal machinery it replaces, by adding the intermediate § 5.512(d)(1) notice and by allowing records correction at any point in the process. Assistance for applicants may be delayed during the informal-hearing process, but the hearing right and written-notice requirements remain intact, and existing tenants retain proration pending final verification.

B. Administrative Procedure Act—Arbitrary and Capricious

Commenters argued that the rule is arbitrary and capricious under the Administrative Procedure Act, asserting that HUD relied on inflated figures while omitting qualifying language and drew unsupported conclusions. Commenters argued the rulemaking record is procedurally deficient, analytically incomplete, and substantively insufficient to support the proposed changes under the standards the Administrative Procedure Act requires. They contended HUD's regulatory analysis does not quantify the costs it imposes or support its central assumptions, leaving the agency's conclusions without a basis in the record. They added that the regulatory impact analysis leaves its claimed benefits entirely unquantified and speculative, and that HUD disregards its own analysis predicting increased family homelessness.

Commenters argued that HUD's treatment of regulatory alternatives ignores that the existing regulations already comply with Section 214 and that the change would create substantial administrative burden and harm without justification. They contended HUD did not adequately weigh less burdensome alternatives or the reliance of currently assisted households before proposing to eliminate the prorated framework.

Commenters argued the changes are arbitrary and capricious because HUD substantially alters the eligibility verification process, including removing existing administrative provisions, without a reasoned explanation. They contended HUD mischaracterizes the prorated framework and offers a justification that does not support the departure from more than thirty years of consistent implementation. Commenters argued the rule reverses HUD's prior position without acknowledging or grappling with the earlier rulemaking record, contrary to the reasoned-explanation requirement.

HUD Response: HUD appreciates these comments but believes that these comments largely misunderstand or mischaracterize HUD's analysis. HUD believes that the proposed rule provides a reasoned explanation for its rulemaking and that both the proposed rule and the RIA show that HUD considered alternatives. The preamble in the proposed rule acknowledges that the rule would adversely affect some tenants, especially mixed families, and explains why HUD concluded that the reallocation of limited assistance to intended, fully eligible recipients justifies that cost.

The RIA analyzes regulatory alternatives, including grandfathering existing mixed families and applying the rule to new admissions only, limiting the change to households without children, and encouraging use of preservation assistance, and explains HUD's reasons for the chosen approach. Further, the proposed rule's preamble squarely addresses HUD's earlier construction, including the 1995 final rule's use of June 19, 1995 as the operative date, and explains why HUD now reads Section 214 to require verification of all members and to treat proration as temporary. That constitutes the reasoned explanation for a change in position that the record requires.

C. Administrative Procedure Act—Failure To Consider Reliance Interests

Commenters argued that mixed-status families have relied for decades on the prorated-assistance framework in arranging their housing and lives, and that HUD failed to account for those reliance interests before proposing to withdraw the framework. They contended that unwinding a longstanding policy on which households and housing providers have depended, without weighing that reliance, is a failure of reasoned decision-making. Commenters argued that reversing a longstanding policy requires a reasoned explanation acknowledging the change under *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502 (2009), and *Encino Motorcars, LLC* v. *Navarro,* 579 U.S. ____ (2016), that after *Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369 (2024), HUD's reinterpretation receives no deference, and that HUD ignored a less-disruptive alternative it had itself identified of grandfathering currently assisted families.

HUD Response: HUD appreciates these comments but again disagrees with the premise of the comments. HUD considered the position of currently assisted families. The preamble acknowledges that the rule would

adversely affect some tenants and applicants, especially mixed families, and the RIA devotes extended analysis to the effect on those households, including the number who may exit assistance, moving and eviction costs, and effects on homelessness. HUD did not treat existing participants as if the change were costless; it concluded that reallocating limited assistance to fully eligible households on waiting lists is warranted notwithstanding those effects.

As a threshold matter, reliance interests, however substantial, cannot override HUD's determination of what Section 214 itself permits. The reasoned-decision making requirement articulated in Fox and Encino Motorcars governs how an agency must explain a change in policy that falls within its discretion; it does not authorize an agency to perpetuate a practice that the statute does not permit simply because regulated parties or beneficiaries have come to depend on it. HUD has determined, based on the text of Section 214, that indefinite continued prorated assistance for mixed-status families is not a permissible reading of the statute. Because that determination concerns what the statute allows rather than a discretionary policy preference, commenters' reliance interests cannot supply a basis for retaining a practice the statute does not authorize. HUD's obligation to account for reliance interests is therefore properly addressed through the transition mechanisms discussed below, not through continuation of an ultra vires practice.

HUD also expressly identified and analyzed the grandfathering alternative. The RIA's Regulatory Alternatives section evaluates grandfathering all existing mixed families and applying the rule to new admissions only, under which mixed families would be replaced over time based on existing turnover trends, and evaluates continuing assistance to a subset of mixed families and encouraging preservation assistance to ease transition. In addition, the rule preserves transition mechanisms recognized by the statute—prorated continued assistance and temporary deferral of termination of assistance (up to the statutory maximum deferral period)—which mitigate the disruption to families currently receiving assistance. Consideration and rejection of a less-disruptive alternative, with reasons, satisfies the obligation to account for reliance interests.

D. Paperwork Reduction Act

Commenters argued the rule would newly require private housing providers to collect information, and that HUD improperly relies on an existing OMB control number to avoid a fresh information-collection review under the Paperwork Reduction Act. They contended the rule's paperwork-burden analysis understates the added burden the new collection imposes. They argued the rule imposes a new information collection whose burden HUD understates, that the added applicant-notice step at § 5.512(d)(1) compounds that burden without analysis, and that the notice itself is so convoluted that it defeats meaningful notice and comment.

HUD Response: HUD satisfied its procedural obligations. The information-collection requirements were approved by OMB under control number 2577–0295, and the preamble sets out the estimated burden, including tabulations of one-time and annual reporting burden by program (for example, one-time Section 8 HCV burden of 11,990 respondents at 1.25 hours each). HUD explains that the added burden is relatively low because most existing tenants have already provided identity documentation for other purposes—an estimated 99 percent of existing U.S.-citizen tenants have already been verified—and because primary verification uses the same SAVE input for citizens and noncitizens. The notice step at § 5.512(d)(1) arises only when primary verification does not confirm status and is reflected in the burden estimate.

E. Regulatory Flexibility Act

Commenters argued the Regulatory Flexibility Act requires HUD to consider regulatory alternatives affecting small entities, and that HUD did not adequately do so before proposing the rule. Commenters said that HUD's minimal-impact assertion is baseless because all assisted families must undergo re-verification. They also argued the notice's added SAVE-notice steps at § 5.512(d)(1) compound burden without adequate analysis.

HUD Response: HUD satisfied its procedural obligations. HUD certified that the rule will not have a significant economic impact on a substantial number of small entities, supported by data that in 2024, 92 percent of PHAs and 97 percent of housing owners had mixed families representing less than five percent of their assisted households, and that primary verification uses the same automated SAVE process for all declarants. HUD nonetheless invited comment on less burdensome alternatives. On the Unfunded Mandates Reform Act, HUD determined the rule imposes no federal mandate on State, local, or tribal governments or the private sector within the meaning of UMRA. The rule was published for a 60-day comment period.

F. National Environmental Policy Act

Commenters argued that the rule would displace households and change occupancy across federally assisted housing at a scale requiring environmental review, and that HUD proceeded without the National Environmental Policy Act (NEPA) analysis the action requires. Commenters argued HUD's own NEPA regulations require review of socio-economic effects such as displacement and homelessness, that the action's intensity and context warrant an environmental impact statement, and that Executive Order 12898 requires environmental-justice review of adverse effects on minority and low-income populations.

HUD Response: As explained in the proposed rule, because the rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy, the rule is categorically excluded from environmental review under NEPA. In addition, Executive Order 12898 was rescinded by Executive Order 14173 on January 21, 2025.

G. Unfunded Mandates Reform Act

Commenters argued that the rule implicates the Unfunded Mandates Reform Act by shifting costs to state and local governments.

HUD Response: Taking the statute as a whole, it is HUD's interpretation that an individual cannot elect to not contend eligible status. The declaration contemplated by the statute offers only two options: either the individual (i) is a U.S. citizen or (ii) has satisfactory immigration status. To better align HUD's regulations with Section 214, HUD is eliminating the option for individuals not to contend eligible status. The effect of this change makes the provision of proration found in 42 U.S.C. 1436a(b)(2) temporary pending affirmative verification of eligibility or ineligibility of all family members. As for the PHA discretion in Section 214(i)(2), HUD does not interpret this provision to offer permanent discretion to PHAs as to whether or not to verify eligibility, as such an interpretation would contradict Section 214's

restriction of financial assistance to individuals with affirmatively established immigration status.

H. Fair Housing Act and the Duty to Affirmatively Further Fair Housing

Commenters argued that HUD failed to consider the rule's disparate impacts, including on U.S. citizens with disabilities who rely on ineligible household members for care. Commenters argued the rule would produce disproportionate harm to immigrant, Latino, and other protected communities without sufficient justification, in violation of the Fair Housing Act's prohibition on facially neutral policies that have a discriminatory effect. They argued the harm falls on families with children, implicating familial-status protections. Commenters expressly invoked the disparate-impact framework of *Texas Department of Housing and Community Affairs* v. *Inclusive Communities,* 576 U.S. 519 (2015), and its burden-shifting analysis, advanced an intentional-discrimination theory under the Arlington Heights factors, and argued that families with children are protected under the Act's familial-status provisions.

Commenters argued the rule would violate HUD's statutory obligation to administer its programs affirmatively to further fair housing, because HUD's own analysis predicts the greatest harm to families with children and to protected communities, the opposite of furthering fair-housing goals. They cited HUD's contemporaneous English-Only policy as further evidence that the agency was abandoning rather than advancing its fair-housing obligations.

Commenters, including local governments, argued the rule is inconsistent with commitments to affirmatively further fair housing and equitable access, and urged HUD to evaluate the disparate impacts before proceeding.

HUD Response: HUD disagrees with comments alleging that the rule violates the Fair Housing Act. The rule merely provides updates to procedures to verify eligibility for programs covered by Section 214. The Housing and Community Development Act establishes the statutory eligibility requirements for the covered housing programs. This rule does not restrict access to housing under these programs on the basis of any protected class. Establishing procedures to follow statutory guidelines has no bearing on the agency's statutory directive to affirmatively further fair housing since no person is being denied housing on the basis of a protected class.

I. Americans With Disabilities Act and Section 504 of the Rehabilitation Act

Commenters argued that separating a tenant with a disability from a needed caregiver, or the loss of an accessible unit, would violate Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. A commenter protected under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act argued that the rule would remove a household member who is an irreplaceable part of his support system, conflicting with the accommodation and integration obligations those statutes impose.

HUD Response: The rule does not alter HUD's or responsible entities' obligations under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act, which continue to apply in full to the administration of Section 214 covered programs, including any reasonable-accommodation obligations. The rule verifies eligibility against the statutory citizenship and immigration-status categories and does not classify or disadvantage any individual on the basis of disability.

To the extent an individual member of a household does not have verified eligible status, the statutory eligibility restriction, not the individual's or a household member's disability, governs the availability of federal assistance. Eligible members retain prorated assistance pending final verification and remain protected by the preservation-assistance provisions the rule preserves.

J. Other Federal Statutes

Commenters argued the rule expands the collection and sharing of citizenship and immigration-status information in ways that raise conflicts with federal privacy protections. They further argued the rule's treatment of ''federal public benefit'' and related provisions is inconsistent with the governing federal definitions Congress enacted. Commenters developed the SAVE-related conflicts in detail, arguing that the overhauled SAVE system violates the Privacy Act by repurposing records in bulk without a valid routine-use basis and by failing the Act's data-accuracy obligations; that sharing Social Security Administration data with DHS violates the Social Security Act's disclosure restrictions at 42 U.S.C. 1306(a); and that the Immigration Reform and Control Act of 1986, which created SAVE, did not authorize the system's expansion. They further argued that HUD lacks statutory authority to require owners and public housing agencies to make PRWORA reports to DHS and that compelling such reporting raises anti-commandeering concerns.

HUD Response: The rule does not exceed HUD's authority or conflict with the federal information-sharing framework it relies on. Verification is performed through the DHS/USCIS SAVE program, which HUD already uses for eligible-immigration-status verification, and the rule requires each family member to sign a verification consent form authorizing responsible entities to collect and review status evidence and to release it to HUD and, for verification purposes, to DHS. The rule limits use of that information to verifying U.S. citizenship or eligible immigration status. HUD's participation in SAVE is governed by a memorandum of agreement, and the reporting referenced in the rule tracks the existing PRWORA section 404 framework described in the 2000 Interagency Notice rather than creating a new sharing regime.

Because the rule builds on collections already approved under OMB control number 2577–0295 and on the established SAVE architecture, HUD does not agree that it repurposes records without basis or expands SAVE beyond its authorized function.

K. Constitution

Commenters argued the rule would force families to choose between remaining together and keeping their housing, burdening the constitutionally protected interest in family integrity the Supreme Court has recognized. They argued that denying benefits to eligible U.S.-citizen children based solely on a parent's status infringes those children's constitutional interest in familial integrity, and that the rule is unconstitutional under the Fourteenth Amendment as well.

Commenters argued that terminating housing assistance directly affects housing stability and the ability to remain housed, so doing so without adequate notice and hearing deprives households of a protected interest without due process. They argued the Fifth Amendment's guarantees extend to persons rather than citizens alone, so noncitizens household members are entitled to basic procedural protections, and that the process the rule provides falls short of both federal and state constitutional due-process requirements.

Commenters argued the rule violates the Fifth Amendment's equal-protection component by treating U.S. citizens who live with immigrant family members differently from other U.S. citizens, without adequate justification. They argued the rule discriminates against

Latino families on the basis of race, national origin, and familial status, and that official action reflecting a racially discriminatory purpose cannot stand. Citing *Plyler* v. *Doe,* 457 U.S. 202 (1982), commenters argued that imposing severe burdens on children based on immigration status fails constitutional scrutiny. One commenter argued the rule is controlled by *Department of Agriculture* v. *Moreno,* 413 U.S. 528 (1973), in which the Supreme Court struck down, on equal-protection grounds, a program provision excluding any household containing a particular disfavored member.

HUD Response: The rule does not compel any family to separate. Rather, it implements Section 214's restrictions on providing Federal housing assistance to ineligible individuals, which also precludes allowing an individual without verified eligible status from living in a subsidized housing unit. Families may continue to live together, but they may not do so indefinitely while receiving Federal subsidies.

The rule also preserves transition protections—prorated continued assistance and temporary deferral of termination of assistance—that give families additional time to make housing arrangements. Any effect on household composition results from the family's own choices in response to the statutory eligibility restriction, not from a governmental directive to separate.

As discussed more fully above, HUD disagrees with commenters that this rule impinges upon a family's due process rights. This rule continues to provide the opportunity for informal appeal and provides a meaningful process to contest determinations. The rule strengthens, rather than weakens, these safeguards relative to the outdated INS-appeal machinery it replaces, by adding the intermediate § 5.512(d)(1) notice and by allowing records correction at any point in the process. Assistance for applicants may be delayed during the informal-hearing process, but the hearing right and written-notice requirements remain intact, and existing tenants retain proration pending final verification.

HUD also disagrees that the rule violates equal protection requirements. The rule implements a line Congress itself drew. Section 214 restricts assistance to U.S. citizens and specified categories of eligible noncitizens; the rule verifies eligibility against those statutory categories and does not create a new classification. The distinction between eligible and ineligible persons is the statutory eligibility distinction, and the RIA explains the rule's purpose in program terms—targeting limited assistance to fully eligible households.

The rule applies uniform verification to all declarants regardless of age, race, or any other protected class, and does not single out any protected group for adverse treatment on a basis other than the statutory eligibility categories.

HUD also notes that *Department of Agriculture* v. *Moreno* is not relevant to this situation. *Moreno* involved a law which conditioned the provision of food stamps to households based on whether the members of the household were related. In *Moreno,* absent relation requirement, each individual would have been eligible for the benefit provided. Whereas this rule deals with households that contain individuals not independently eligible for assistance. Further, this rule clearly advances the government's interest of ensuring that assistance is only used on eligible members.

L. Conflict With Executive Orders

Commenters argued the rule conflicts with executive directives, including federalism requirements and directives concerning child and family welfare, because it would override state and local arrangements and produce family harms without the consideration those directives require. Commenters elaborated that the rule fails the deregulatory requirements of Executive Order 14192 ''Unleashing Prosperity Through Deregulation,'' which directs agencies to identify at least ten regulations for repeal and to offset new compliance costs, because HUD identified no offsetting regulations to remove; that it does not satisfy the cost-benefit and alternatives analysis required by Executive Orders 12866 and 13563; and that HUD wrongly claimed Executive Order 13132 did not apply, skipping the required early consultation with State and local officials and the federalism summary impact statement. Commenters further argued that HUD improperly relies on Executive Order 14218 as a justification for the rule, contending that an executive order cannot override the express terms of Section 214 and that courts have already enjoined portions of that order. One commenter also argued the rule does not comply with the Consolidated Appropriations Act, 2026 (Division D, Title II, Section 242), which requires HUD rulemaking to follow Executive Order 12866 and to allow at least 60 days for comment. A commenter objected that the rulemaking process, including the comment opportunity, was inadequate.

HUD Response: This rule is exempted from Executive Order 14192, section 5(a). Executive Order 14218 is valid justification as a reason for why HUD is considering this rule change at all. As explained in the proposed rule, HUD has fully complied with the requirements of Executive Orders 12866 and 13563 by providing the regulatory impact analysis and through coordinating with the Office of Management and Budget. This rule does not impose direct compliance costs on State and local governments, nor does it preempt state law, so the rule is in compliance with Executive Order 13132. Finally, the proposed rule was put out for 60 days of public comment.

M. Contract and PHA Legal Exposure

Commenters argued the rule would place PHAs in breach of their existing contracts, and that, because HUD would be making unauthorized legal determinations about the phrase for the benefit of, the rule invites litigation. They added that, with *Chevron* deference no longer available, HUD's reinterpretation of the governing statutes would be subject to prolonged legal challenge. Commenters argued that compelled evictions would breach existing tenant leases and that the rule is likely unenforceable because its drafting is ambiguous and defines eligible households inconsistently.

HUD Response: The rule does not place responsible entities in breach. PHA and owner obligations under their HUD contracts, and the leases they administer, are subject to the federal eligibility and verification requirements of Section 214 and its implementing regulations; conforming those requirements to the statute does not create a contractual conflict. HUD retains the notice, secondary-verification, and informal-hearing procedures before any denial or termination and preserves prorated continued assistance and temporary deferral of termination, so that terminations proceed only through the established process.

HUD also does not agree that the rule is unenforceably vague. The preamble defines operative terms and specifies the verification steps, deadlines, and hearing rights in the regulatory text, providing responsible entities with a clear compliance path.

N. Impermissible Retroactivity

Commenters argued that applying the new verification and eligibility requirements to families already residing in assisted housing would impose new legal consequences on past arrangements, displacing households that entered and remained in the program under the prior framework.

They contended that terminating or reducing assistance for currently assisted mixed-status households on this basis operates retroactively against settled expectations.

HUD Response: The rule is not impermissibly retroactive. It changes the conditions on which assistance is provided going forward; it does not impose penalties or new legal consequences on past conduct. HUD's existing regulations already condition continued assistance on ongoing eligibility, verification, and recertification, and the rule operates prospectively from the effective date of any final rule. The rule also provides transition periods rather than immediate divestiture.

HUD also retains the statute's transition protections for existing households. Prorated continued assistance and temporary deferral of termination of assistance under 24 CFR 5.516 and 5.518 remain available to eligible families, and temporary deferral affords additional time to transition to other housing. Applying updated, prospective verification requirements to participants who must in any event undergo periodic recertification does not attach new consequences to completed transactions; it adjusts the terms of an ongoing benefit.

O. Conflict With State Law and State Preemption

Commenters argued the rule would place housing providers in conflict with state just-cause and tenant-protection laws by compelling terminations those laws do not permit. They contended it would also conflict with State limits on inquiring about or disclosing immigration status, exposing providers to liability under both Federal and State regimes.

HUD Response: Congress has determined the requirements for who may reside in housing assisted with Federal programs. Section 214 prohibits Federal assistance to ineligible individuals, State or local law cannot override the Federal statute. Given the statutory requirement that Federal housing assistance only be provided to those with an eligible status, any terminations of assistance based on that would be considered just-cause and would be within the bounds of State and local law. Further, by enacting Section 214, Congress established a statutory framework requiring HUD to administer eligibility restrictions and immigration-status verification procedures. In carrying out these responsibilities, HUD possesses statutory authority to promulgate regulations necessary to implement the requirements of Section 214, including the authority to require disclosure of immigration status thus overriding State or local law should there be a conflict. At this juncture HUD does not foresee any conflicts between state and local laws, and this final rule. For example, California's Immigration Tenant Protection Act: AB 291 and AB 299 (2018), explicitly states that it does not prohibit a landlord from: (1) complying with any legal obligation under federal law, including, but not limited to, any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant, or a subpoena, warrant, or other order issued by a court; and (2) Requesting information or documentation necessary to determine or verify the financial qualifications of a prospective tenant, or to determine or verify the identity of a prospective tenant or prospective occupant. Civ.i Code §§ 1940.3(c)(1),(2). See also, Civ. Code § 1942.5(k). As such, this final rule does not conflict with California's Immigration Tenant Protection Act because it falls squarely under the exceptions as provided by the law.

10. Ideological Objections to the Rule

Commenters objected to the proposed rule on several ideological grounds. Some commenters characterized the proposed rule as cruel, inhumane, and counterproductive. Commenters asserted the rule is engineered to punish families rather than to reform administration, describing it as a radical overhaul that would harm thousands of families and dismantle protections for the most vulnerable, and framing it as an attempt to maneuver around constitutional protections while penalizing citizens with families. One characterized the administration's stated justification as pretext for pursuing immigration policy by denying immigrant families housing assistance they have long been entitled to and creating fear in immigrant communities. A commenter asked what purpose is served by punishing mixed-status families, many with pending citizenship, and stated the change would cause real hardship to thousands of citizens and their loved ones.

Commenters opposed to this rule also state their opposition due to their religious beliefs. Catholic commenters invoked the dignity of the person, the sanctity of the family, and the common good. A commenter stated that by forcing families to move, HUD would be denying them the ability to practice their faith in their own community. Commenters stated that the increased housing instability that the rule would generate would impact families' ability to practice their faith—one cannot keep the Sabbath, observe Ramadan, or gather for prayer without knowing where the family will sleep. Some commenters grounded their opposition in scripture and religious teaching, invoking the command to welcome the stranger, to shelter the homeless, and to love one's neighbor.

Commenters characterized the rule as advancing a racist and xenophobic agenda and objected that it targets immigrant families. Commenters objected that HUD's own framing dehumanizes immigrant families, pointing to public statements characterizing mixed families as fraudsters, illegal aliens, and ineligibles told to pack their bags. Commenters argued that the rule is a pretext for discriminating against a disfavored class and that the Secretary's public statements reveal a different purpose from general statutory alignment. One situated the rule within what it characterized as a broader, cross-agency agenda to target immigrants from majority non-white countries, tracing that agenda to named senior officials and prior HUD actions.

Commenters argued the rule scapegoats immigrant communities amid intensified enforcement. One pointed to expanded detention and deportation activity and cited deaths in immigration detention—32 in 2025 and at least 14 more in 2026—arguing the rule compounds already dangerous enforcement practices Commenters also objected that the government should not condition assistance on the immigration status of household members, calling the result a human-rights violation.

Commenters characterized the rule as unjust. One argued the change would add to an already large unhoused population and amounted to cruel and unusual treatment. Others objected that the rule is morally wrong, describing it as immoral, sinful, and indefensible and urging HUD to abandon it.

Commenters characterized the rule as shameful and disgraceful, calling it a stain on the agency and the country. Commenters objected that the rule disregards the inherent worth of the people it affects. Some argued the rule treats people as administrative categories rather than individuals. Commenters stated that treating one member's ineligibility as grounds to destabilize an entire household fails to treat people as moral agents deserving of dignity and urged HUD to act with compassion and basic decency, asking that families be treated humanely rather than displaced.

A commenter characterized the rule as unconscionable and contrary to American values, stating it would affect thousands of families that include American citizens and would force families to choose between housing and staying together. Others argued the rule betrays HUD's core mission and its public-service duty to house people in need and create strong, sustainable, inclusive communities and quality affordable homes, because it would increase homelessness rather than reduce it. A commenter argued the rule directly conflicts with HUD's mission to provide decent, safe, and affordable housing to the communities most in need, because it would impose significant administrative and financial burdens on public housing authorities while reducing assistance.

HUD Response: HUD disagrees with the characterization of the rule as unjust, morally wrong, or shameful, intended to punish families, contrary to HUD's mission and statutory purpose, or a violation of a fundamental right. HUD takes seriously its responsibility to implement and enforce the law to ensure that Federal housing assistance funded by the U.S. taxpayer is used for the benefit of families who are eligible under U.S. law. To the extent that such housing assistance is currently used for the benefit of ineligible families, it is unavailable to eligible families who face many of the challenges asserted in these comments, ranging from homelessness to family separation to the lack of a community in which to establish roots, participate in public services, and achieve stability. Whether an individual is eligible for Federal housing assistance in the United States has no bearing on the inherent worth of that individual, and HUD rejects outright that the rule is a pretext for discriminating against a disfavored class.

HUD also respects the religious convictions reflected in these comments, but the eligibility restriction and verification requirement apply uniformly on the basis of citizenship or eligible immigration status and are not directed at any commenter's faith or religious exercise; nothing in the rule restricts any family's ability to practice its faith or to seek shelter from private, charitable, or faith-based sources.

11. Change Requests

A. Withdraw or Substantially Revise the Rule

Commenters urged HUD to withdraw or rescind the proposed rule in its entirety. Commenters urged HUD to reconsider the proposed rule and instead pursue approaches that maintain flexibility, ensure realistic timelines, conduct further impact analysis, and protect current participants; commenters added that prorated assistance should remain for families with ineligible members. Commenters stated that HUD advanced a nearly identical proposal in 2019, that it received over 30,000 public comments with approximately 95 percent in opposition, and that it was never finalized and was formally withdrawn by the Biden Administration in 2021 (in part as inconsistent with Executive Order 14012); they argued the current rule revives that withdrawn effort without grappling with the earlier rulemaking record.

HUD Response: HUD appreciates commenters' concerns about the impacts of the proposed rule and their recommendations that HUD withdraw, reconsider, or substantially revise the proposal. After considering the comments received, HUD has determined that withdrawing or fundamentally reconsidering the rule is not warranted.

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) establishes restrictions on the provision of financial assistance based on citizenship and eligible immigration status. HUD has determined that the regulatory amendments adopted in this final rule further the Department's implementation of Section 214 by strengthening verification requirements and ensuring that HUD-assisted housing is provided in accordance with applicable eligibility requirements. The final rule also makes prorated assistance a temporary condition pending verification of the eligible status of all family members, where permitted by statute, rather than a status that may continue indefinitely, further aligning HUD's regulations with the wording and purpose of Section 214.

B. Request for Clarification of Rule Status

A commenter stated it is unclear whether the reported 60–90-day documentation requirements have been formally implemented or remain under consideration and requested clear guidance on whether the policies are currently in effect or still prospective, the anticipated timeline for any final rule, how existing households will be treated, and what protections, extensions, or accommodations will be available.

HUD Response: The requirements described in the proposed rule were proposals and did not take effect upon publication of the proposed rule. Existing families remain subject to the requirements in effect until the applicable provisions of this final rule become effective. Therefore, any extensions or other protections available under HUD's current regulations will continue to apply until they are replaced by the provisions in this final rule.

The final rule establishes the requirements that HUD is adopting, including the applicable documentation, verification requirements, and the treatment of existing assisted households. HUD may issue additional implementation guidance, as appropriate, to assist responsible entities in implementing the final rule's requirements.

C. Extend Comment Period/Hearings/ Consultation

Commenters requested that, at a minimum, HUD extend the public comment period and conduct public hearings in the regions most affected to allow full consideration of the impacts identified in HUD's own regulatory impact analysis and of less harmful alternatives.

HUD Response: The proposed rule clearly identified the changes under consideration and the issues on which HUD sought public comment. HUD believes it provided interested parties with adequate notice and an opportunity to respond to the proposed rule.

The Administrative Procedure Act does not prescribe a minimum comment period, nor require HUD to extend a comment period. HUD believes that the 60-day period afforded the public a meaningful opportunity to submit data, views, and arguments regarding the proposed rule.

HUD received more than 16,000 comments during the 60-day comment period. The breadth of the public's participation supports HUD's position that the public had a meaningful opportunity to participate in the rulemaking process.

Further, the proposed rule builds substantially on an existing statutory and regulatory framework. Interested parties were not required to evaluate an entirely new regulatory framework within the 60-day period. Section 214 and HUD's implementing regulations already govern citizenship/immigration eligibility and verification. Many affected responsible entities already have experience with the underlying requirements. The rule's new requirements would build on existing verification procedures (including SAVE) and existing methods of calculated prorated assistance.

D. Substantive Changes

A commenter recommended specific implementation measures should HUD proceed: adopting a one-time status-evidence requirement per family member during continuous occupancy with an obligation to report changes; setting a secondary-verification service-level target (*e.g.,* 10 business days) and clarifying that assistance is not terminated or delayed while secondary verification is pending when acceptable documentation is on file; publishing a verification workflow covering initial and secondary SAVE steps, evidence standards, and typical timelines; and providing a privacy summary referencing the 2025 SAVE PIA/SORN updates.

HUD Response: HUD appreciates the commenters' recommendations regarding implementation of the final rule and notes that the rule includes provisions that address several of the issues raised by the commenters.

First, HUD notes that § 5.508(a)(5) already provides that, for each family member, evidence of citizenship or eligible immigration status is generally required to be submitted once during continuously assisted occupancy under a Section 214 covered program. The regulation further requires a family to immediately notify the responsible entity and submit evidence of the new status if a family member's citizenship or immigration status changes during occupancy.

Additionally, proposed § 5.512(d)(3) establishes a specific timeframe for secondary verification of eligible immigration status by requiring the responsible entity to request additional verification through SAVE within 30 days of notification of the results of primary verification.

With respect to the commenters' concerns regarding adverse action while secondary verification remains pending, § 5.514(b)(1)(i) in the rule provides that assistance to an applicant or tenant may not be delayed, denied, reduced, or terminated, on the basis of lack of U.S. citizenship or ineligible immigration status of a family member if the applicable verification process under § 5.512, including secondary verification under § 5.512(d), has been timely instituted but has not yet completed.

Regarding the commenters' recommendation that HUD provide additional information concerning the privacy implications of the verification process, specifically related to applicable Privacy Impact Assessments (PIAs) and Systems of Record Notices (SORNs), HUD recognizes the importance of protecting personally identifiable information used in the verification process and will comply with all applicable Federal privacy requirements. HUD will consider whether additional privacy-related information or guidance would be appropriate in conjunction with the final rule.

HUD may issue additional implementation guidance or technical assistance, as appropriate, to responsible entities in implementing the final rule's requirements.

E. Compliance Timeline & Transition Requests

Commenters argued that the rule's compliance timelines were operationally unrealistic and asked HUD to provide phased implementation, longer windows, and clearer guidance. A commenter characterized the proposed timeline for time-limited proration as operationally unrealistic, requiring agencies to track additional deadlines, communicate changes to households, and handle hardship cases on a monthly basis while managing existing program demands. A commenter argued that the timelines for documentation collection and verification are infeasible given the unprecedented scale of reverification, anticipated delays in obtaining official records, and PHA capacity constraints. A commenter contended that the rule pairs a highly complex notice with a 90-day compliance window and only a single 30-day extension, which families cannot realistically meet. The commenter further explained that because the compliance clock runs from the rule's effective date rather than from the date a family is actually notified, households could lose much of the window—or all of it—before they learn the requirement applies to them. A commenter objected specifically to requiring mixed households to certify eligibility within 90 days of adoption while other households wait until their next income certification, calling the disparity unjustified. A commenter emphasized that the 30-day notice period is insufficient and places significant operational strain on providers navigating complex verification while attempting to maintain tenant stability. A commenter argued the rule lacks clear implementation guidance for how PHAs should proceed when families cannot meet verification timelines or when terminations are delayed through the legal process.

Commenters requested a defined transition period before the rule takes effect. A commenter proposed a set of specific alternatives: delaying the effective date by at least six months to allow PBRA-assisted private property owners and PHAs to revise admissions and occupancy policies and procedures; tying verification timelines to each household's next annual reexamination rather than a fixed post-adoption deadline; permitting more than one 30-day extension; and allowing more than three six-month deferral periods before terminating assistance to mixed-status households. Commenters argued that the new responsibilities, combined with the 90-day compliance window following the effective date, would cause a significant shift in property management and operations with little room for error.

Commenters urged HUD to lengthen the compliance and relief timelines, asking for an implementation window of at least six months and for more generous extension and deferral allowances. Commenters argued that no rule of this magnitude should take effect in less than six months, given the time PHAs need to update internal controls and prevent wrongful terminations of eligible individuals. A commenter urged that PHAs be permitted to grant multiple 30-day extensions to accommodate bureaucratic delays and documentation costs. A commenter maintained that mixed-status households should be allowed more than three six-month deferrals to facilitate stable transitions and prevent abrupt loss of housing.

Commenters urged that the rule not take effect immediately upon finalization, asking HUD to provide an adequate implementation period, clear standardized guidance, and lead time before enforcement so agencies can revise admissions and occupancy policies. A commenter added that notification and documentation timelines should begin at each household's next annual reexamination so families have adequate time to gather records.

HUD Response: HUD acknowledges commenters' requests for additional time and phased transition procedures and has structured the rule to provide a measured implementation period rather than an immediate cutoff. HUD believes that, to the extent the current regulations are not in compliance with Section 214, it is valuable to come into compliance as soon as practicable. There are individuals who will be harmed by unnecessary delay—individuals who are currently assisted by HUD programs may be ineligible for that assistance, while eligible individuals remain on waiting lists. In the interest of serving eligible families

as soon as possible, HUD chooses not to delay the effective date of this rule further than necessary. Although the rule becomes effective 30 days after publication, the effective date does not require all existing households to complete the new verification process on that date. The majority of households will have a year or more to submit evidence of U.S. citizenship. Accordingly, HUD determined that affected households and responsible entities will have sufficient time to comply with the new requirements, without requiring further delay the rule's effective date.

Under the notice provisions, responsible entities must give each tenant who has not submitted evidence of citizenship or eligible status the required Section 214 notification no later than 30 days after the effective date of the final rule. Under § 5.508(f)(2)(i), tenants in mixed families who have not previously submitted the required evidence must do so within 90 days of the effective date, while other affected tenants submit at their next annual or interim reexamination of income and household composition, in accordance with program requirements. HUD determined that an earlier submission deadline is appropriate for mixed families because changes made by this rule may affect a mixed-status family's continued eligibility for assistance before the family's next scheduled reexamination. Deferring submission of the required evidence until the next annual or interim reexamination could therefore result in assistance continuing beyond the point at which the family is no longer eligible under the applicable requirements. By contrast, for other existing tenants, HUD has determined that collection of the required evidence may appropriately be incorporated into the ordinary reexamination process, thereby reducing administrative burden on responsible entities and tenants. The differing timeframes thus reflect the different circumstances of these groups while allowing implementation to be staggered where appropriate.

HUD appreciates commenters' concerns regarding the interaction between the notice and documentation requirements. HUD has considered these concerns but declines to tie the 90-day compliance period to the date on which each individual family receives notice. Creating uniform periods measured from the effective date provides clear and administrable implementation deadlines for both responsible entities and mixed families. HUD encourages responsible entities to provide notice of Section 214 requirements as promptly as practicable following the rule's effective date. Responsible entities remain responsible for complying with the applicable notice requirements, and a family should not be adversely affected by a responsible entity's failure to provide required notice in accordance with the rule.

The rule also builds in transition flexibility at the individual level. Under § 5.508(g), responsible entities may grant a family additional time to submit evidence, regardless of how many family members are included in that extension. HUD acknowledges that some individuals may face barriers in obtaining documents and is, therefore, providing additional flexibility in this final rule for responsible entities to grant an extension of up to 60 days. For families that include ineligible members, temporary deferral of termination of assistance remains available under §§ 5.516 and 5.518: the initial deferral period may not exceed six months and may be renewed in six-month increments up to an aggregate of 18 months, affording additional time to arrange alternative housing.

Finally, the evidence requirement is a one-time obligation. Under § 5.508(f)(5), a family must submit evidence for a given family member only once during continuously assisted occupancy under any Section 214 covered program, so the transition burden described by commenters is an upfront cost of adjustment rather than a recurring requirement at every recertification.

F. Apply Prospectively Only/ Grandfather Current Participants

Commenters requested that, should HUD proceed to a final rule, any new eligibility or verification requirements apply prospectively only—to future applicants and those on the waiting list—and not to current participants who relied in good faith on existing regulations, noting that a prospective-only approach is explicitly identified in HUD's own regulatory impact analysis as a regulatory alternative and the least harmful form of implementation, and adding that prospective application does not weaken the rule's deterrent effect on future applicants. Commenters warned that retroactive application would penalize participants who complied in good faith with existing regulations. A commenter asserted that HUD failed to meaningfully address the less-discriminatory alternative of grandfathering existing mixed-eligibility families and applying the rule only to new admissions.

A commenter recommended that verification focus on new applicants or members with unclear status and that documentation processes be streamlined to reduce administrative burden while preserving family unity and community stability.

Commenters requested that existing mixed-status households that have complied with current rules in good faith be grandfathered so they may remain together with prorated assistance, preserving assistance and avoiding destabilizing disruptions while any new requirements are phased in.

Commenters argued that the rule's requirement for existing tenants to produce citizenship or eligible-status documentation within 90 days (with any extension capped at 30 days) is not feasible, because vital-records offices, consulates, and other third-party record holders operate under processing backlogs that tenants cannot control; they asked that, if the rule is applied to current participants, verification instead occur at each family's next regular reexamination. Commenters added that there is no statutory requirement to apply new verification standards retroactively and that doing so is neither legally compelled nor equitable.

A commenter stated that prospective application reflects HUD's consistent historical practice over the 50-year history of the Housing Choice Voucher program—including when HUD imposed new restrictions on lifetime registered sex offenders, which were applied prospectively and grandfathered current participants—and that retroactively destabilizing compliant households is unprecedented in federal housing policy. A commenter further asked that HUD retain the age-62 exemption for current tenants who were age 62 or older as of the final rule's effective date, consistent with the 1987 statute and the reliance interests of elderly participants.

Commenters requested transition measures should HUD proceed, including phasing in requirements, setting the effective date no sooner than six months after publication, allowing adequate time for system updates and staff training with technical guidance and standardized compliance tools issued in advance of enforcement, continuing prorated assistance for up to one year while good-faith SAVE resolution efforts continue, and providing dedicated administrative or transition funding and administrative fee adjustments to cover implementation costs. One commenter recommended additional implementation safeguards: affirming that public housing agencies are housing providers and not immigration enforcement agencies, structuring secondary verification through a trained

third party, allowing agencies to rely on credible documentation and third-party letters where the data SAVE accesses contains errors, and providing standardized plain-language consent and notice forms in multiple languages explaining what information may be shared, when, and under what legal authority.

HUD Response: HUD acknowledges these requests and notes that the RIA evaluated this alternative. The Regulatory Alternatives section analyzes grandfathering existing mixed families and applying the rule's provisions to new admissions only, under which mixed families would be replaced through existing end-of-participation trends over time. The RIA states that such a gradual option would fulfill the objectives of the rule while avoiding the transition costs borne by mixed families; given the low turnover rate, however, the RIA finds that grandfathering in existing mixed families would be expected to delay the transfer of assistance to fully eligible families by more than a decade.

HUD acknowledges commenters' references to prior HUD rulemakings in which requirements were applied prospectively or existing participants were grandfathered. The Department has considered those examples but does not believe they require the same approach here. The appropriate implementation framework depends on several factors, including the relevant statutory and regulatory framework, the Department's objectives, and circumstances of the particular rulemaking.

HUD also considered the commenters' recommendation to retain the existing age exemption for individuals who are 62 or older as of the final rule's effective date. HUD has discussed its rationale for eliminating the exemption elsewhere in the preamble. As explained in the preamble, the 1987 Housing and Community Development Act amended Section 214 to apply certain status-verification requirements to individuals younger than 62 years of age, and HUD's existing regulations at 24 CFR 5.216(e) excluded participants age 62 or older as of January 31, 2010, from submitting certain information. This rule requires all applicants and tenants in Section 214 covered programs to submit evidence of U.S. citizenship or eligible immigration status regardless of age, consistent with the wording and purpose of Section 214. The extension of the verification requirement to individuals 62 years of age and older can be fulfilled using existing verification procedures, so retaining the exemption is neither compelled by Section 214 nor necessary to implement it in an orderly manner.

HUD recognizes that current participants may need time to obtain and submit required documentation and has considered these implementation concerns in establishing the final rule's effective date and compliance requirements.

HUD also considered commenters' concerns that some participants may experience difficulty obtaining documentation from vital-records offices, consulates, or other third parties within the prescribed period. For this reason, mixed-status families may have up to 150 days (90 days post effective date of the rule pursuant to § 5.508(f) plus a 60-day extension when applicable, pursuant to § 5.508(g)) to submit evidence of citizenship or eligible immigration status. HUD believes these provisions provide an appropriate period for affected participants to establish eligibility while implementing the final rule in an orderly way within a defined timeframe.

G. Severability

Responding to HUD's request for input on severability, commenters argued that a general severability clause is insufficient and that HUD should specify which provisions it considers independently operable and what responsible entities' obligations would be under each partial-stay scenario. Others argued that because the rule repeatedly contravenes Section 214 it is not viable and should be withdrawn in its entirety rather than severed, while other commenters took the view that the provisions would operate independently if a portion were stayed.

HUD Response: HUD appreciates the commenters' input and has taken it into consideration in drafting the severability clause for the final rule.

VI. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

This rule was determined to be a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 (although not an economically significant regulatory action under section 3(f)(1) of the Executive Order). HUD has prepared a cost benefit analysis that addresses the costs and benefits of the rule. The cost analysis is part of the docket file for this rule.

Executive Order 14192, Regulatory Costs

Executive Order 14192, ''Unleashing Prosperity Through Deregulation,'' was issued on January 31, 2025. Section 3(c) of Executive Order 14192 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 rule is an immigration-related rule that is expressly exempt from the requirements of Executive Order 14192.

Environmental Impact

The rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, 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), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulatory amendments to HUD's noncitizen requirements will have only a minimal impact on small housing project owners, small mortgagees, and small housing agencies. The majority of PHAs and project (housing) owners have few mixed families, if any. In 2024, the share of PHAs where 95 percent or more

of their assisted households are non-mixed is 92 percent. The share is even higher for housing owners—97 percent of owners have mixed families representing less than five percent of their assisted households. At this time, HUD is unable to provide an accurate estimate of small PBRA owners because we do not always know whether there is a corporate structure behind an individual owner.

Further, the amendments will require primary verification of citizenship and eligible immigration status through the same process: Inputting information into SAVE for an automated response. A responsible entity's collection and review of appropriate documentation for U.S. citizenship will be limited to instances of secondary verification. As explained elsewhere in this preamble and in the Regulatory Impact Analysis for this rule, the burden on existing tenants, families, future applicants, and responsible entities is estimated to be low, even where existing individuals have not submitted any documentation for verification purposes. Some of the requirements could also be satisfied using existing procedures. For example, the rule will require that the eligible immigration status of all noncitizen in Section 214 covered programs, regardless of age, be verified through responsible entities utilizing the DHS/USCIS SAVE program. The extension of this requirement to individuals 62 years of age and older can be fulfilled by utilizing existing verification procedures. Furthermore, although the rule will revise eligibility for prorated assistance, current methods will be used to calculate the prorated assistance provided to an eligible family.

Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempt state law within the meaning of the Executive order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This rule does not impose a Federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (''PRA''), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The information collection requirements contained in this rule have been approved by OMB under the Paperwork Reduction Act and assigned OMB control number 2577–0295.

HUD's current regulations do not require submission of any documentation for citizenship verification purposes, unlike eligible immigration status where HUD's regulations require submission of documentation for eligible status verification. This rule will change HUD's regulations to require each family member in tenant families who have not yet submitted evidence of citizenship or eligible immigration status, and applicants who are declaring they have U.S. citizenship, to submit evidence in accordance with §§ 5.508 and 5.512 to responsible entities (mortgagors, project or housing owners, and PHAs). While this may impose some burden on existing tenants in HUD housing who have previously elected the ''do not contend'' provision, have submitted no documentation to date, have documentation proving their eligibility, and wish to continue to receive HUD assistance, the number of these existing tenants is low and the related burdens are thus relatively low, for tenants, families, and responsible entities.[7] Nor does HUD anticipate this requirement to impose significant burden for existing tenants and future applicants under Section 8 and Public Housing covered programs who have previously declared or declare either citizenship or eligible immigration status.[8] PHAs already typically receive a birth certificate, passport, or some other identity verification document for deductions, program eligibility, and other purposes. Under this rule, responsible entities will also be required to collect and review citizenship evidence documents submitted by all applicants and tenants declaring to be U.S. citizens, and to review those documents to verify U.S. citizenship. Again, for Section 8 and Public Housing covered programs, responsible entities generally already receive and review this documentation for eligibility determinations and other purposes. As explained in the Regulatory Impact Analysis for this rulemaking, an estimated 99 percent of existing tenants who are U.S. citizens have been verified by PHAs (and owners). Finally, this rule will require that notification of Section 214 requirements, verification consent forms, notification of any failures to confirm primary verification, and notification of any denials or terminations of assistance be provided to applicants and tenants declaring to be U.S. citizens and noncitizen, as applicable.

The burden of the information collections in this rule is estimated as follows:

TABULATION OF ONE-TIME REPORTING BURDEN FOR EXISTING PARTICIPANTS

Information collection	Number of respondents *	Frequency of response	Burden hour per response	Total burden hours	Hourly cost per response	Total cost
Section 8 Housing Choice Vouchers	11,990	1	1.25	14,988	$52	$779,350
Public Housing	3,380	1	1.25	4,225	52	219,700
Section 8 Project-Based Rental Assistance	4,230	1	1.25	5,228	52	294,950

[7] The Regulatory Impact Analysis for this rule estimates this number of affected tenants to be 730.

[8] The Regulatory Impact Analysis for this rule estimates that 1.05 percent of existing tenants with eligible status have not provided documentation for another purpose which could be used to verify this status.

TABULATION OF ONE-TIME REPORTING BURDEN FOR EXISTING PARTICIPANTS—Continued

Information collection	Number of respondents *	Frequency of response	Burden hour per response	Total burden hours	Hourly cost per response	Total cost
Section 236	7	1	1.25	9	52	455
Totals	19,600	1	1.25	24,509	52	1,274,455

* We assume that 1.05 percent of the average 714,000 (three-year average, 2022–2024) annual newly admitted tenants would previously not have provided proof of citizenship or eligible immigration status for another purpose. New admissions include all members of non-mixed families and selected members from mixed families (members with eligible immigration status and members with pending verification status). 1.05 percent was computed as the average of HUD administrative data on the share of members of non-mixed families with pending verification status and findings from Rothschild, Novey, and Hanmer (2025) on the share of U.S. citizens without documentary proof of citizenship. See RIA for detailed discussion.

Data is from HUD's Public & Indian Housing Information Center (PIC) and the Tenant Rental Assistance Certification System (TRACS).

TABULATION OF ANNUAL REPORTING BURDEN FOR NEW ADMISSIONS

Information collection	Number of respondents *	Frequency of response **	Burden hour per response	Total burden hours	Hourly cost per response	Total cost
Section 8 Housing Choice Vouchers	4,245	1	1.25	5,306	$52	$275,925
Public Housing	1,230	1	1.25	1,538	52	79,950
Section 8 Project-Based Rental Assistance	2,000	1	1.25	2,500	52	130,000
Section 236	15	1	1.25	19	52	975
Totals	7,500	1	1.25	9,363	52	486,850

* We assume that 1.05 percent of the average 714,000 (three-year average, 2022–2024) annual newly admitted tenants would previously not have had to provide proof of citizenship or eligible immigration status for another purpose. New admissions include all members of non-mixed families and selected members from mixed families (members with eligible immigration status and members with pending verification status). 1.05 percent was computed as the average of HUD administrative data on the share of members of non-mixed families with pending verification status and findings from Rothschild, Novey, and Hanmer (2025) on the share of U.S. citizens without documentary proof of citizenship. See RIA for detailed discussion.

** New tenants that are citizens or have permanent eligible immigration status must submit this documentation only once.

Data is from HUD's Public & Indian Housing Information Center (PIC) and the Tenant Rental Assistance Certification System (TRACS).

List of Subjects in 24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts, Grant programs—housing and community development, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons stated in the preamble, HUD is amending 24 CFR part 5, subparts B and E as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

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

Authority: 12 U.S.C. 1701x; 42 U.S.C. 1437a, 1437c, 1437f, 1437n, 3535(d); 42 U.S.C. 2000bb *et seq.;* 34 U.S.C. 12471 *et seq.;* Sec. 327, Pub. L. 109–115, 119 Stat. 2396; E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273; E.O. 14015, 86 FR 10007, 3 CFR, 2021 Comp., p. 517.

Subpart B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

■ 2. The authority citation for subpart B continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3543, 3544, and 11901 *et seq.*

■ 3. In § 5.216, revise paragraph (a) and the introductory text of paragraphs (e)(1)(i) and (ii) to read as follows:

§ 5.216 Disclosure and verification of Social Security and Employer Identification Numbers.

(a) *General.* The requirements of this section apply to applicants and participants as described in this section.

* * * * *

(e) * * *

(1) * * *

(i) Each participant whose initial determination of eligibility was begun before December 14, 2026, must submit the information described in paragraph (e)(1)(ii) of this section, if the participant has:

* * * * *

(ii) Each participant subject to the disclosure requirements under paragraph (e)(1)(i) of this section must submit the following information to the processing entity when providing evidence of citizenship or eligible status under § 5.508(f)(2)(i) and (ii):

* * * * *

Subpart E—Restrictions on Assistance to Noncitizens

■ 4. The authority citation for subpart E continues to read as follows:

Authority: 42 U.S.C. 1436a and 3535(d).

■ 5. In § 5.500, revise paragraphs (a) and (b)(2) to read as follows:

§ 5.500 Applicability.

(a) *Covered programs/assistance.* This subpart E implements Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 prohibits HUD from making financial assistance available to persons who are not in eligible status with respect to U.S. citizenship or immigration status. This subpart E is applicable to financial assistance provided under:

(1) Section 236 of the National Housing Act (12 U.S.C. 1715z–1) (tenants paying below market rent only) (the Section 236 program); and

(2) The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) which covers:

(i) HUD's Public Housing Programs;

(ii) The Section 8 Housing Assistance Programs; and

(iii) The Housing Development Grant Programs (with respect to low-income units only).

(b) * * *

(2) The provisions of this subpart E apply to Public Housing Agencies (PHAs) and project (or housing) owners. The term ''responsible entity'' is used in this subpart E to refer collectively to these entities and is further defined in § 5.504.

■ 6. Amend paragraph § 5.504(b) by:
■ a. Adding the definition of ''DHS'' in alphabetical order;
■ b. Removing the definition of ''Evidence of citizenship or eligible status'';
■ c. Adding the definition of ''Evidence of U.S. citizenship or eligible status'';
■ d. Removing the definitions of ''Housing covered programs'' and ''INS'';
■ e. Adding the definition of ''Preservation assistance'' in alphabetical order;
■ f. Revising the definitions of ''Responsible entity'';
■ g. Removing the definition of ''Tenant''; and
■ h. Adding the definition of ''Tenant and tenant family''.

The additions and revisions read as follows:

§ 5.504 Definitions.

* * * * *

(b) * * *

DHS means the Department of Homeland Security.

Evidence of U.S. citizenship or eligible status means the documents which must be submitted to evidence citizenship or eligible immigration status. (See § 5.508(b).)

* * * * *

Preservation assistance means types of assistance under Section 214, including prorated continued assistance and temporary deferral of termination of assistance, available to eligible families pursuant to the requirements in §§ 5.516 and 5.518.

* * * * *

Responsible entity means the person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status. The entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status under the various covered programs is as follows:

(1) For the Section 236 program, mortgagors or project (or housing) owners (if uninsured).

(2) For Public Housing, the Section 8 Rental Voucher, and the Section 8 Moderate Rehabilitation programs, the PHA administering the program under an ACC with HUD.

(3) For the Section 8 project-based rental assistance program, project (or housing) owners.

* * * * *

Tenant and *tenant family* mean an individual or a family renting or occupying an assisted dwelling unit.

■ 7. In § 5.506, revise paragraph (b) to read as follows:

§ 5.506 General provisions.

* * * * *

(b) *Family eligibility for assistance.* (1) A family is not eligible for assistance unless every member of the family residing in the unit is determined to have eligible status, as described in paragraph (a) of this section, or unless the family meets the conditions set forth in either paragraph (b)(2) or (3) of this section.

(2) Despite the ineligibility of one or more family members, a family that was receiving assistance under a Section 214 covered program on June 19, 1995, may be eligible for continued assistance as provided in §§ 5.516 and 5.518. If the family does not qualify for continued assistance, it may be eligible for temporary deferral of termination of assistance as provided in §§ 5.516 and 5.518.

(3) A family with at least one family member of any age who has U.S. citizenship or eligible immigration status is eligible for prorated assistance under § 5.520 pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), on the eligibility of other family members.

* * * * *

■ 8. Revise § 5.508 to read as follows:

§ 5.508 Submission of evidence of U.S. citizenship or eligible immigration status.

(a) *General.* Eligibility for assistance or continued assistance under a Section 214 covered program is contingent upon a family's submission, to the responsible entity, of the documents described in paragraphs (b), (c), and (d) of this section, as applicable, for each family member.

(b) *Evidence of U.S. citizenship or eligible immigration status.* Each family member, regardless of age, must submit the following evidence to the responsible entity:

(1) For U.S. citizens as defined in § 5.504(b), the evidence consists of:

(i) A signed declaration of U.S. citizenship as described in paragraph (c) of this section;

(ii) The complete and accurate Social Security Number assigned to the individual;

(iii) Acceptable documentation of U.S. citizenship as described in § 5.510(b), which must be submitted only if necessary for secondary verification as described in § 5.512; and

(iv) A signed verification consent form as described in paragraph (d) of this section.

(2) For all noncitizens, the evidence consists of:

(i) A signed declaration of eligible immigration status as described in paragraph (c) of this section;

(ii) Acceptable documentation of eligible immigration status as described in § 5.510(c); and

(iii) A signed verification consent form as described in paragraph (d) of this section.

(c) *Declaration.* (1) Each family member, regardless of age, must submit to the responsible entity a written declaration, signed under penalty of perjury, by which the family member declares the family member is a U.S. citizen as defined in § 5.504(b) or a noncitizen with eligible immigration status set forth in § 5.506(a)(2).

(i) For each adult, the declaration must be signed by the adult.

(ii) For each child as defined in § 5.504(b), the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) The written declaration may be incorporated as part of the application for housing assistance or may constitute a separate document.

(d) *Verification consent form*—(1) *Who signs.* Each family member, regardless of age, must sign a verification consent form as follows:

(i) For each adult, the form must be signed by the adult.

(ii) For each child as defined in § 5.504(b), the form must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) *Notice of use and release of evidence by responsible entity.* The verification consent form must provide that:

(i) Evidence of U.S. citizenship or eligible status will be reviewed by the responsible entity for verification purposes; and

(ii) Evidence of U.S. citizenship or eligible status may be released by the responsible entity, without responsibility for the further use or transmission of the evidence by the entity receiving it, to:

(A) HUD, as required by HUD; and

(B) DHS to verify the U.S. citizenship or immigration status of the individual, as required by HUD.

(3) *Notice of release of evidence of U.S. citizenship or eligible immigration status by HUD.* The verification consent form must also notify the individual of the possible release of evidence of U.S. citizenship or eligible immigration status by HUD. Evidence of U.S. citizenship or eligible immigration status must be released to DHS only for purposes of verifying the individual has U.S. citizenship or eligible immigration status for financial assistance and not for any other purpose. HUD is not responsible for the further use or transmission of the evidence or other information by DHS.

(4) *Compliance with the Privacy Act.* The verification consent form must comply with the requirements in § 5.212.

(e) *Notification of requirements of Section 214*—(1) *When notice is to be issued.* The responsible entity must give notification of the requirement to submit evidence of U.S. citizenship or eligible status as required by this section as follows:

(i) *Applicant's notice.* The responsible entity must give the notification to each applicant at the time of application for assistance.

(ii) *Notice to tenants.* The responsible entity must give the notification to each tenant who has not submitted evidence of U.S. citizenship or eligible status as of December 14, 2026 no later than January 11, 2027.

(2) *Form and content of notice.* The notice must:

(i) State that financial assistance is contingent upon the submission and verification, as appropriate, of evidence of U.S. citizenship or eligible status as required by this section;

(ii) Describe the type of evidence that must be submitted, and state the time period in which that evidence must be submitted (see paragraph (f) of this section concerning when evidence must be submitted) including the availability of an up to a 60-day extension of time for tenants to submit evidence of U.S. citizenship or eligible status in accordance with paragraph (g) of this section;

(iii) State that assistance will be denied or terminated, as appropriate, upon a final determination of ineligibility after primary and secondary verification, as applicable, and any informal hearing has concluded (see §§ 5.512(d) and 5.514(e)) or, if an informal hearing is not pursued, at a time to be specified in accordance with HUD requirements;

(iv) State that assistance may be prorated, pursuant to § 5.520, to a family with at least one family member of any age who has U.S. citizenship or eligible immigration status pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), for other family members, or to families eligible for continued assistance pursuant to § 5.516 and § 5.518;

(v) Inform tenants how to obtain assistance under the preservation of families provisions of §§ 5.516 and 5.518; and

(vi) Notify the individual that the PHA or owner, as applicable, must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act. The PHA or owner may meet the reporting requirement by conforming with applicable **Federal Register** notices, including Interagency Notices, providing guidance for compliance with PRWORA section 404.

(f) *When evidence of U.S. citizenship or eligible status is required to be submitted.* The responsible entity must require evidence of U.S. citizenship or eligible immigration status required under § 5.508(b) to be submitted at the times specified in this paragraph (f), subject to any extension granted in accordance with paragraph (g) of this section.

(1) *Applicants.* For applicants, responsible entities must ensure that evidence of U.S. citizenship or eligible status required under § 5.508(b) is submitted not later than the date the responsible entity anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur (see § 5.512(a)).

(2) *Tenants.* (i) Tenants in mixed families receiving financial assistance under a Section 214 covered program who have not submitted evidence of citizenship or eligible immigration status required under § 5.508(b) as of December 14, 2026 are required to submit such evidence within 90 days of December 14, 2026, in accordance with program requirements.

(ii) All other tenants receiving financial assistance under a Section 214 covered program who have not submitted evidence of U.S. citizenship or eligible immigration status required under § 5.508(b) as of December 14, 2026 are required to submit such evidence at the next annual or interim reexamination of income and household composition after December 14, 2026, in accordance with program requirements.

(3) *New family members of assisted units.* For any new family member that comes to reside in an assisted unit, the required evidence under § 5.508(b) must be submitted not later than the date the responsible entity performs verification of other aspects of eligibility for assistance (see § 5.512(a)).

(4) *Changing participation in a HUD program.* Whenever a family applies for admission to a Section 214 covered program, evidence of U.S. citizenship or eligible status is required to be submitted in accordance with the requirements of this subpart E unless the family already has submitted the evidence to the responsible entity for a Section 214 covered program.

(5) *One-time evidence requirement for continuous occupancy and changes in status during occupancy.* For each family member, the family is required to submit evidence of U.S. citizenship or eligible status required under paragraph (b) of this section only one time in accordance with paragraph (f) of this section during continuously assisted occupancy under any Section 214 covered program. If a family member's citizenship or eligible immigration status changes during occupancy, the family is required to immediately notify and submit evidence of the new citizenship or eligible immigration status to the responsible entity.

(g) *Extensions of time to submit evidence of U.S. citizenship or eligible status*—(1) *When extension must be granted.* The responsible entity must extend the time, provided in paragraph (f) of this section and § 5.512(d)(2)(i), to submit evidence of U.S. citizenship or eligible immigration status required under § 5.508(b) if the family member:

(i) Submits the required declaration and verification consent forms described in paragraphs (c) and (d) of this section certifying that any person for whom required evidence has not been submitted is a U.S. citizen or a noncitizen with eligible immigration status; and

(ii) Certifies that the evidence needed to support a claim of U.S. citizenship or eligible immigration status is temporarily unavailable or additional time is needed to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain the evidence.

(2) *Sixty-day extension period.* Any extension of time, if granted, may not exceed 60 days and must not run concurrently with any other timelines for submitting evidence of U.S. citizenship or eligible immigration status as stated in subpart E. The additional time provided should be sufficient to allow any family member the time to obtain the evidence needed. The responsible entity's determination of the length of the extension needed

must be based on the circumstances of the individual case. The total extension of time granted by the responsible entity to a family must be limited to 60 days.

(3) *Grant or denial of extension to be in writing.* The responsible entity must issue its decision to grant or deny an extension to the family by written notice. If the extension is granted, the notice must specify the extension period granted (which is limited to a total of 60 days). If the extension is denied, the notice must explain the reasons for denial of the extension.

(h) *Failure to submit evidence of U.S. citizenship or eligible immigration status or to verify eligible immigration status.* If the family fails to submit required evidence of U.S. citizenship or eligible status within the time period specified in the notice, or any extension granted in accordance with paragraph (g) of this section, or if the evidence is timely submitted but fails to verify citizenship or eligible immigration status, the responsible entity must proceed to deny or terminate assistance or provide continued assistance or temporary deferral of termination of assistance, as appropriate, in accordance with the provisions of §§ 5.514, 5.516, and 5.518.

■ 9. Revise § 5.510 to read as follows:

§ 5.510 Documents of U.S. citizenship and eligible immigration status.

(a) *General.* A responsible entity must request and review original or certified copies of documents of U.S. citizenship and eligible immigration status in accordance with this subpart. The responsible entity must retain photocopies of the documents for its own records and return the original or certified copies of documents to the family.

(b) *Acceptable documentation of U.S. citizenship.* Acceptable documentation of U.S. citizenship is required only for purposes of secondary verification under § 5.512(d) and includes the original or a certified copy of:

(1) A U.S. birth certificate;

(2) A naturalization certificate;

(3) A Consular Report of Birth Abroad (FS–240);

(4) A valid unexpired U.S. passport;

(5) A certificate of citizenship; or

(6) Other acceptable documentation, as specified in HUD guidance.

(c) *Acceptable documentation of eligible immigration status.* Acceptable documentation of eligible immigration status is the original or a certified copy of a document designated by DHS as acceptable evidence of immigration status in one of the categories set forth in Section 214 (see 42 U.S.C. 1436a(a)) for the specific immigration status claimed by the individual.

■ 10. Revise § 5.512 to read as follows:

§ 5.512 Verification of U.S. citizenship and eligible immigration status.

(a) *General.* Except as described in paragraph (b) of this section and § 5.514, no individual or family applying for assistance may receive such assistance prior to the verification of the eligibility of at least the individual or one family member. Verification of eligibility consistent with § 5.514 occurs when the individual or family members have submitted evidence to the responsible entity in accordance with § 5.508, and this section as applicable.

(b) *PHA election to provide assistance before verification.* A PHA that is a responsible entity under this subpart E may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member.

(c) *Primary verification of U.S. citizenship or eligible immigration status.*(1) *Verification system.* Primary verification of the U.S. citizenship or eligible immigration status of the person is conducted by the responsible entity through Systematic Alien Verification for Entitlements (SAVE), a DHS-administered program for the verification of U.S. citizenship and immigration status, insofar as law and DHS technology permits. Primary verification in SAVE confirms U.S. citizenship or immigration status using biographic information (first name, last name, and date of birth) and a government-issued numeric identifier permitted by SAVE.

(2) *Failure of primary verification to confirm U.S. citizenship or eligible immigration status.* If SAVE is not initially able to confirm U.S. citizenship or eligible immigration status for the person, then the responsible entity must conduct secondary verification in accordance with paragraph (d) of this section.

(d) *Secondary verification.* (1) The responsible entity must provide notice to the person of the opportunity to provide additional information, and acceptable documentation as described in § 5.510, for purposes of secondary verification. The responsible entity's notice must:

(i) Be in writing;

(ii) Notify the person of the results of primary verification and describe the need for secondary verification;

(iii) Identify whether, and describe the reasons why, acceptable documentation under § 5.510(b) and/or additional information is needed for secondary verification, including information on applicable dates under paragraphs (d)(2) and (3) of this section; and

(iv) Notify the person of the ability to pursue at any point in the verification process a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification.

(2) For secondary verification of U.S. citizenship:

(i) The person must provide acceptable documentation as described in § 5.510(b) and any information described as necessary for secondary verification in the notice provided by the responsible entity to the individual pursuant to paragraph (d)(1) of this section within 30 days of the secondary verification notice;

(ii) The responsible entity must then review any acceptable documentation and additional information provided by the person; and

(iii) If applicable as specified in HUD guidance, the responsible entity must request additional verification through the SAVE program within 30 days of notification of the results of primary verification.

(3) For secondary verification of eligible immigration status, the responsible entity must request additional verification through the SAVE program within 30 days of notification of the results of primary verification.

(e) *Failure to confirm U.S. citizenship or immigration status.* If primary and secondary verification do not confirm U.S. citizenship or eligible immigration status, or confirm immigration status that is ineligible for assistance under a Section 214 covered program, the responsible entity must issue to the family the notice described in § 5.514(d), which includes notification of the ability to pursue a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification, and the right to request an informal hearing with the responsible entity in accordance with § 5.514(e) (see § 5.514(d)(4) and (5)).

(f) *Exemption from liability for DHS verification.* The responsible entity is not liable for any action, delay, or failure of DHS in conducting DHS verification procedures.

■ 11. Amend § 5.514 by:

■ a. Removing ''INS'' wherever it appears and adding ''DHS'' in its place;

■ b. Revising paragraphs (a), (b), (c)(1), and (d);

■ c. Removing paragraph (e);

■ d. Redesignating paragraphs (f) through (i) as paragraphs (e) through (h) respectively;

■ e. Revising newly redesignated paragraph (e)(1);
■ e. In newly redesignated paragraph (e)(2)(ii), removing the reference to ''paragraph (f)(3)(i)'' and adding, in its place, ''paragraph (e)(2)(i)'';
■ f. Revising newly redesignated paragraphs (e)(2)(iii) introductory text, (e)(2)(iii)(C), and (g); and
■ g. In the newly redesignated paragraph (h)(1) introductory text, removing the phrase ''Under Housing covered programs'' and adding, in its place, the phrase ''Under the Section 236 program''.

The additions and revisions read as follows:

§ 5.514 Delay, denial, reduction, or termination of assistance.

(a) *General.* Assistance to a family may not be delayed, denied, reduced, or terminated because of the immigration status or pending citizenship verification of a family member except as provided in this section.

(b) *Restrictions on delay, denial, reduction, or termination of assistance*—(1) *Restrictions on delay, denial, reduction, or termination of assistance for applicants and tenants.* Assistance to an applicant or tenant may not be delayed, denied, reduced, or terminated on the basis of lack of U.S. citizenship or ineligible immigration status of a family member, if:

(i) The applicable verification process under § 5.512, including secondary verification under § 5.512(d), has been timely instituted but has not yet completed;

(ii) The family member for whom required evidence has not been submitted has moved from the assisted dwelling unit;

(iii) The family member who is determined not to be a U.S. citizen or in an eligible immigration status following the SAVE verification has moved from the assisted dwelling unit;

(iv) Assistance for a mixed family is prorated in accordance with § 5.520 pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), on the eligibility of family members;

(v) Assistance is continued in accordance with §§ 5.516 and 5.518; or

(vi) Deferral of termination of assistance is granted in accordance with §§ 5.516 and 5.518.

(2) *Restrictions on delay, denial, reduction, or termination of assistance pending fair hearing for tenants.* In addition to the factors listed in paragraph (b)(1) of this section, assistance to a tenant cannot be delayed, denied, reduced, or terminated until the completion of the informal hearing process described in paragraph (e) of this section.

(c) *Events causing denial or termination of assistance.* (1) *General.* The responsible entity must deny assistance to an applicant and must terminate a tenant's assistance in accordance with the procedures of this section, upon the occurrence of any of the following events:

(i) Evidence of U.S. citizenship or eligible status as required by § 5.508 is not submitted by the date specified in § 5.508(f) or by the expiration of any extension granted in accordance with § 5.508(g); or

(ii) Evidence of U.S. citizenship or eligible status as required by § 5.508 or § 5.512 is timely submitted, but primary and secondary verification do not verify U.S. citizenship or eligible immigration status of a family member; and

(A) The family does not pursue informal hearing rights as provided in this section; or

(B) The family does pursue informal hearing rights, but the final hearing decision is decided against the family member.

(iii) The responsible entity determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the public or assisted housing unit of the family member. Such termination must be for a period of not less than 24 months. This provision does not apply to families eligible for continued assistance pursuant to §§ 5.516 and 5.518.

* * * * *

(d) *Notice of denial or termination.* The notice of denial or termination of assistance must advise the family:

(1) That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;

(2) That the family may be eligible for proration of assistance as provided under § 5.520 pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), on the eligibility of other family members;

(3) In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§ 5.516 and 5.518;

(4) That the family has the ability to pursue at any point in the verification process a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification;

(5) That the family has a right to request an informal hearing with the responsible entity as provided in § 5.514(e); and

(6) For applicants, the notice shall advise that assistance may not be delayed until the conclusion of procedures under § 5.512, but assistance may be delayed during the pendency of the informal hearing process as provided in § 5.514(e).

(e) * * *

(1) *When request for hearing is to be made.* For U.S. citizenship verification and eligible immigration status verification by responsible entities, the family may request that the responsible entity provide a hearing. This request must be made within 30 days of receipt of the notice described in paragraph (d) of this section.

(2) * * *

(iii) *Families under the Section 236 program and applicants for assistance under all covered programs.* For all families under the Section 236 program (applicants as well as tenants already receiving assistance) and for applicants for assistance under all covered programs, the procedures for the informal hearing before the responsible entity are as follows:

* * * * *

(C) *Presentation of evidence and arguments in support of eligible status.* The family must be provided the opportunity to present evidence and arguments in support of U.S. citizenship or eligible immigration status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

* * * * *

(g) *Retention of documents.* The responsible entity must retain, for a minimum of 5 years, the following documents that may have been submitted to the responsible entity by the family, or provided to the responsible entity as part of the verification process, including primary verification under § 5.512(d), or the informal hearing process under this section:

(1) The application for financial assistance;

(2) The form completed by the family for income reexamination;

(3) Photocopies of any original or certified copies of documents (front and back), including original or certified copies of DHS and citizenship documents, and corrected records and documents;

(4) The signed verification consent form;

(5) The DHS or responsible entity verification results;

(6) The request for an informal hearing, if any; and

(7) The final informal hearing decision.

* * * * *

■ 12. Revise § 5.516 to read as follows:

§ 5.516 Availability of preservation assistance to tenant families.

(a) *Assistance available for tenant families*—(1) *General.* Preservation assistance may be available to tenant families, in accordance with this section and following completion of the verification and hearing procedures provided in §§ 5.512 and 5.514. There are two types of preservation assistance:

(i) Continued assistance (see § 5.518(a)); and

(ii) Temporary deferral of termination of assistance (see § 5.518(b)).

(2) *Availability of assistance*—(i) *For the Section 236 program.* One of the two types of assistance described in paragraph (a)(1) of this section may be available to tenant families assisted under the Section 236 program or a 1965 HUD Act covered program, depending upon the family's eligibility for such assistance. Continued assistance must be provided to a family that meets the conditions for eligibility for continued assistance.

(ii) *For Section 8 or Public Housing covered programs:* One of the two types of assistance described in paragraph (a)(1) of this section may be available to tenant families assisted under a Section 8 or Public Housing covered program.

(b) *Assistance available to other families in occupancy.* Temporary deferral of termination of assistance may be available to families receiving assistance under a Section 214 covered program on June 19, 1995, and who have no members with eligible immigration status, as set forth in paragraphs (b)(1) and (2) of this section.

(1) *For the Section 236 program.* Temporary deferral of termination of assistance is available to families assisted under the Section 236 program.

(2) *For Section 8 or Public Housing covered programs.* The responsible entity may make temporary deferral of termination of assistance available to families assisted under a Section 8 or Public Housing covered program.

(c) *Section 8 covered programs: Discretion afforded to provide certain family preservation assistance*—(1) *Project owners.* With respect to assistance under a Section 8 Act covered program administered by a project owner, HUD has the discretion to determine under what circumstances families are to be provided one of the two statutory forms of assistance for preservation of the family (continued assistance or temporary deferral of assistance). HUD is exercising its discretion by specifying the standards in this section under which a project owner must provide one of these two types of assistance to a family.

(2) *PHAs.* The PHA, rather than HUD, has the discretion to determine the circumstances under which a family will be offered one of the two statutory forms of assistance (continued assistance, see § 5.518(a), or temporary deferral of termination of assistance, see § 5.518(b)). The PHA must establish its own policy and criteria to follow in making its decision. In establishing the criteria for granting continued assistance or temporary deferral of termination of assistance, the PHA must incorporate the statutory criteria, which are set forth in § 5.518(a) and (b).

■ 13. Amend § 5.518 by:

■ a. Revising the section heading and paragraphs (a), (b)(1), and (b)(2) introductory text;

■ b. Removing paragraph (b)(2)(iii);

■ c. Revising paragraphs (b)(3), (b)(5)(i)(A), and (b)(5)(ii)(A);

■ d. Adding paragraph (b)(6); and

■ e. Removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

The revisions and addition read as follows:

§ 5.518 Types of preservation assistance available to tenant families.

(a) *Continued assistance.* (1) A mixed family may receive prorated continued housing assistance if all the following conditions are met (a mixed family assisted under the Section 236 program must be provided prorated continued assistance if the family meets the following conditions):

(i) The family was receiving assistance under a Section 214 covered program on June 19, 1995;

(ii) The family's head of household or spouse is a U.S. citizen, or has eligible immigration status as described in § 5.506; and

(iii) The only individuals in the family without eligible status are the head of household or spouse of the head of household, any parents of the head of household, or parents of the spouse, or any children of the head of household or spouse. An individual without eligible status means a person that is neither a U.S. citizen nor a person that has eligible immigration status.

(2) *Proration of continued assistance.* Continued assistance for eligible families under paragraph (a) of this section must be prorated as described in § 5.520.

(b) *Temporary deferral of termination of assistance*—(1) *Eligibility for this type of assistance.* If a mixed family does not qualify for continued assistance, the family may be eligible for temporary deferral of termination of assistance, if necessary, to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing.

(2) *Section 236 program. Conditions for granting temporary deferral of termination of assistance.* The responsible entity must grant a temporary deferral of termination of assistance to a family if the family is assisted under the Section 236 program and one of the following conditions is met:

* * * * *

(3) *Time limit on deferral period.* If temporary deferral of termination of assistance is granted, the initial deferral period may not exceed six months. The initial period may be renewed for additional periods of six months, but the aggregate deferral period for deferrals may not exceed a period of eighteen months. These time periods do not apply to a family that includes an individual admitted as a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.

* * * * *

(5) * * *

(i) * * *

(A) For the Section 236 program: Make a determination that one of the two conditions specified in paragraphs (b)(2)(i) and (ii) of this section continues to be met (note: affordable housing will be determined to be available if the vacancy rate is five percent or greater), and the owner's knowledge and the tenant's evidence indicate that other affordable housing is available; or

* * * * *

(ii) * * *

(A) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination will be deferred again (provided that the granting of another deferral will not result in aggregate deferral periods that exceed the maximum deferral period), because a determination was made that other affordable housing is not available. This time period does not apply to a family that includes a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act; *or*

* * * * *

(6) *Proration of assistance during temporary deferral of termination of assistance.* Assistance for eligible families under paragraph (b) of this

section must be prorated as described in § 5.520.

* * * * *

■ 14. Amend § 5.520 as follows:

■ a. Revise paragraphs (a) and (b); and

■ b. In paragraph (c)(1)(ii), remove the reference to ''section 5.613(a)'' and add, in its place, a reference to ''§ 5.628''.

The revisions read as follows:

§ 5.520 Proration of assistance.

(a) *Applicability.* This section applies to a mixed family with at least one family member who has U.S. citizenship, or eligible immigration status pending final verification, including any procedures under §§ 5.512(d) and 5.514(e) for other family members, or to a mixed family eligible for preservation assistance under §§ 5.516 and 5.518.

* * * * *

(b) *Method of prorating assistance for the Section 236 program.*— (1) *Proration under Section 236 program without the benefit of additional assistance.* If the household participates in the Section 236 program without the benefit of any additional assistance, the household's rent must be increased above the rent the household would otherwise pay by an amount equal to the difference between the market rate rent for the unit and the rent the household would otherwise pay multiplied by a fraction the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household.

(2) *Proration under Section 236 program with the benefit of additional assistance.* If the household participates in the Section 236 program with the benefit of additional assistance under the Section 8 programs, the household's rent must be increased above the rent the household would otherwise pay by:

(i) An amount equal to the difference between the market rate rent for the unit and the basic rent for the unit multiplied by a fraction, the denominator of which is the number of people in the household, and the numerator of which is the number of ineligible persons in the household, plus;

(ii) An amount equal to the housing assistance payment (the unit's gross rent minus the family's total tenant payment, see 24 CFR 5.628) the household would otherwise be entitled to multiplied by a fraction, the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household.

* * * * *

■ 15. Revise § 5.522 to read as follows:

§ 5.522 Prohibition of assistance to noncitizen students.

(a) *General.* The provisions of §§ 5.516 and 5.518 permitting continued assistance or temporary deferral of termination of assistance for certain families do not apply to any person who is determined to be a noncitizen student as in Section 214(c)(2)(A) (42 U.S.C. 1436a(c)(2)(A)).

(b) *Family of noncitizen students.* (1) The prohibition on providing assistance to a noncitizen student as described in paragraph (a) of this section extends to the noncitizen spouse of the noncitizen student and minor children accompanying the student or following to join the student.

(2) The prohibition on providing assistance to a noncitizen student does not extend to the citizen spouse of the noncitizen student and the children of the citizen spouse and noncitizen student who may be eligible for continued assistance or temporary deferral of termination of assistance.

Scott Turner,

Secretary.

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Part III

Department of Agriculture

Forest Service

36 Part 222
Rangeland Management; Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 222

RIN 0596–AD75

Rangeland Management

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Proposed rule; request for public comment.

SUMMARY: The U.S. Department of Agriculture (USDA or Department) proposes to amend the regulations governing grazing and livestock use on the National Forest System to modernize grazing administration, improve clarity, codify existing policy, and expand opportunities for stewardship and access. The proposed amendments would update permit issuance, eligibility, and qualification provisions; establish a framework for adaptive response to drought, wildfire, and similar disturbance events; and expand authorities for stewardship-oriented livestock use, including adding the ability to implement stewardship projects (such as outcome-based grazing or targeted grazing) under a temporary grazing permit or livestock use permit. The proposed rule would revise grazing fee provisions to ensure consistent fee-setting across the national forests in the 16 contiguous Western States and the national grasslands, and establish a surcharge for authorized leasing of livestock by permittees. It would consolidate and renumber existing sections in subpart A for clarity and make conforming, technical, and administrative updates throughout part 222. The Department invites public comment on all aspects of the proposed rule.

DATES: Comments must be received in writing by December 14, 2026.

ADDRESSES: Comments, identified by RIN 0596–AD75, should be sent via one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for sending comments; or
- *Mail:* Hardcopy letters must be submitted to the Director, Natural Resources, National Forest System, 201 14th Street SW, Mailstop 1108, Washington, DC 20250–1124. Hardcopy letters must be postmarked on or before the close of the comment period as shown above in **DATES**.

Comments should be confined to issues pertinent to the proposed rule, should explain the reasons for any recommended changes, and should reference the specific section and wording being addressed, where possible. All timely comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. Comments and a plain language summary of the proposed rule may be viewed on the Federal eRulemaking Portal at *https://www.regulations.gov.* In the search box, enter ''RIN 0596–AD75,'' and click the ''Search'' button. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available for public viewing. Please note that comments containing any standard confidentiality disclaimer—such as the automatic notices added to some emails—will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Myra Black, Rangeland Program Manager, National Forest System, Natural Resources, USDA Forest Service, by phone at (202) 205–1464. Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service, then provide the phone number of the named point of contact for further information.

SUPPLEMENTARY INFORMATION:

I. Background and Need

A. Authority

The Forest Service administers livestock grazing on the National Forest System under the authority and direction of the Organic Act of 1897 (16 U.S.C. 481, 551), the Transfer Act of 1905 (16 U.S.C. 472), the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010, 1011, 1012), the Granger-Thye Act of 1950 (16 U.S.C. 572, 580d, 580g, 580h, 580l), the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531), the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974, as amended by the National Forest Management Act (NFMA) of 1976 (16 U.S.C. 1600–1605, 1609, 1613), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740, 1751–1752), the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901–1908), the Agricultural Credit Act of 1987 (7 U.S.C. 5101–5106), the Wilderness Act of 1964 (16 U.S.C. 1133), and Public Law 97–258 (31 U.S.C. 9701), as well as various appropriations provisions and executive orders. The Forest Service issues grazing permits and other livestock use authorizations on the National Forest System lands. Regulations for administration of livestock grazing and rangeland management on National Forest System lands are set forth at 36 Code of Federal Regulations (CFR) part 222.

B. Existing Regulatory Framework

Part 222 is organized into four subparts. Subpart A (Grazing and Livestock Use on the National Forest System) establishes the substantive and procedural framework for the issuance, modification, suspension, and cancellation of grazing permits, as well as for cooperation in management. Subpart B (Mediation of Term Grazing Permit Disputes) provides for the mediation of disputes regarding term grazing permits in States with mediation programs certified by the U.S. Department of Agriculture. Subpart C (Grazing Fees) governs the calculation and collection of grazing fees on the National Forest System. Subpart D (Management of Wild Free-Roaming Horses and Burros) is not affected by this rulemaking.

The substantive regulations governing the issuance and administration of grazing permits in subpart A have not been comprehensively revised since 1977, with limited amendments in 1979, 1981, 1990, and 2022. Subpart C has remained largely unchanged since 1979, with adjustments to the grazing fee formula and to the assessment of fees for excess and unauthorized use most recently codified in 2022 (87 FR 35097, June 9, 2022). In the intervening decades, livestock grazing on the National Forest System has continued to be a vital component of rural livelihoods, food and fiber production, and the management of forage, fuels, and other vegetation across about 96 million acres of allotments. Grazing practices have evolved, ranching workforce demographics have shifted, drought and wildfire frequency and intensity have increased, and the framework for cooperation with neighboring Federal land managers, States, Tribes, and conservation partners has matured.

C. Need for Amendments

Many considerations prompt the Department to propose these amendments to part 222. Below, the Department groups the proposed changes into clear categories, explains the current status quo under existing

regulations or directives, and describes why specific updates are necessary.

1. Modernize and Codify Long-Standing Practices Reflected in Forest Service Directives

On December 18, 2020, the Forest Service published in the **Federal Register** proposed directives to revise Forest Service Manual 2200 and Forest Service Handbooks 2209.13 and 2209.16 (85 FR 82432, December 18, 2020). These directives received and incorporated public input and were finalized between 2022 and 2025. The revisions replaced dated terminology (such as substituting ''range'' with ''rangeland''), updated temporary non-use policies to provide greater management flexibility during climatic events and for resource management needs, added flexibilities to reduce barriers to entry into the agricultural industry, and provided greater clarity and consistent interpretation for policies and procedures that were reflective of how practices were being implemented on the ground. This proposed rule updates terminology and delegations to the ''authorized officer,'' and places long-standing administrative practices from Forest Service Manual 2200 and Forest Service Handbook 2209.13 into regulation where rights and obligations are clearer; no substantive change is intended except where expressly noted in the paragraphs below.

In 2021 the Rangeland Management program embarked on a strategic and futuristic exploration called ''Rangeland Futuring,'' consisting of brainstorming exercises and listening sessions with employees, stakeholders (17 different interest groups including industry, environmental groups, federal agencies, and advocacy), Tribes, and permittees. The intent of Rangeland Futuring was to gain perspective on how the Agency should manage its rangelands into the future and focus on actions such as improving access to term grazing permits, providing greater flexibilities in term grazing permits, improve overall livestock management, improve program transparency, improve monitoring consistency, implement modernized rangeland management technologies and coordination, implement employee development, enhance Tribal engagement, and other ideas related to rangeland management. The input received through the workshops and webinars was developed into implementable actions leading to modernization of the existing regulations and the need to better align with the Bureau of Land Management.

The existing regulations are also being modernized to align the Rangeland Management program to legislation, such as the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291), and reflect current agency policies and practices, that came out of the Rangeland Futuring effort over the past six years.

2. Establish Explicit Adaptive Tools for Rangeland Disturbance and Emergency Response

Under current regulations, authorized officers and permittees address events such as drought, wildfire, and sudden reductions in forage or water availability through case-by-case decisions relying on annual operating instructions, permit letters, and directive guidance. This ad hoc approach can delay actions and lead to inconsistent documentation. This proposed rule therefore codifies a rangeland disturbance planning and emergency response framework (new section222.2(e) and section222.5(d)) with clear criteria; consultation, cooperation, and coordination steps; and documentation requirements (for example duration, affected pastures, and termination criteria). This structure makes temporary response actions predictable and transparent, so they can be invoked promptly and consistently when ground conditions change. It also provides for grazing flexibility of up to 21 days early before the beginning date specified in the permit or not to extend grazing more than 21 days after the end date specified on the permit (222.5(c)(7)), to account for annual fluctuations in climate, and water and forage availability when needed to reduce fine fuels or adjust grazing due to drought conditions.

3. Update Eligibility and Qualification Provisions To Reflect Contemporary Ranching Pathways

Existing regulations emphasize outright ownership of base property and livestock and do not fully account for common, lawful arrangements used by beginning ranchers and successors (for example, successional base property, extended purchase agreements, leases of livestock or property, or mentor/mentee arrangements). Consistent with recently finalized directives and codifying the policies, the proposed rule clarifies that ''owned or leased'' base property and livestock qualify (section222.3(h)(2)), adds exceptions for documented successional and mentor/mentee arrangements, and recognized certain family succession circumstances. These changes formalize pathways that have reduced barriers to entry in practice and better match the realities of ranch transitions, workforce demographics, and the scale of community ranching operations. In addition to these added flexibilities to reduce barriers, the Forest Service is adding the opportunity to allow leasing of base property and livestock to better align with Bureau of Land Management (BLM) base property and livestock leasing policies and further diversify opportunities for the various business transactions that transpire in the ranching industry.

4. Replace Dated Permit-Cap Provisions With a Flexible Anti-Consolidation Framework

Current upper and special limits in section 222.3(c)(1)(vi)(E) are phrased in terms that do not provide authorized officers the discretion needed to address two opposite trends: (1) excessive accumulation of multiple permits by a single-family unit or related group of entities, and (2) proliferation of inefficiently small split permits that are difficult to administer, diminish livestock production ranches and viable market supplies, as well as fragment herd management across an allotment. The proposed rule authorizes denial of applications that would produce either extreme based on documented local factors such as reduced opportunities for local or beginning ranchers, diminished on-the-ground oversight, or impaired economic viability of community-scale ranching (section 222.6(h)). This modern, criteria-based approach allows field units to tailor decisions to local conditions and staffing realities while maintaining fair access to grazing capacity.

5. Address Livestock Leasing Through Targeted Surcharge

Current fee provisions in subpart C do not expressly address situations where livestock owned by non-permittees are lawfully leased by the permittee and grazed on the permittee's allotment. To recover the government's incremental administrative costs, capture a portion of the larger profit associated with pasturing livestock, and to promote parity with the Bureau of Land Management, this proposed rule would create a surcharge for such authorized leasing (section 222.50(d), section 222.52(d), section 222.53(i)), consistent with the long-standing concept used by the Bureau of Land Management at 43 CFR 4130.8–1(f). See 31 U.S.C. 9701. The surcharge does not prohibit leasing, but may provide incentive to maintain owned livestock, which are familiar with grazing the allotment and promoting long-term stewardship of the land. The surcharge would capture a

portion of the larger profit associated with pasturing livestock and prices the additional administrative burden exempting properly documented mentees, beginning ranchers, permittee successors, immediate or extended family members under section 222.3(h)(2)(v), and operators receiving relief due to drought, fire, or other natural causes. This targeted instrument supports mentoring and succession objectives while discouraging arrangements that would bypass permittee responsibilities or obscure ownership.

6. Consolidate and Clarify Fee-Setting Across Western National Forests and National Grasslands

Although the existing formula at section 222.51 governs fee calculation on Western forests and informs grassland fees, it is split across sections 222.51 and 222.52. The proposed rule would consolidate fee-setting, while retaining the existing fee formula, for the national forests in the 16 contiguous Western States and the national grasslands into a single section (section 222.51), set forth the grazing fee formula explicitly without change, and codifies the fee-reduction and fee-credit provisions historically administered through Forest Service Manual 2240 and Forest Service Handbook 2209.13, chapters 20 and 80, and other related guidance. Codification increases transparency, reduces confusion for operators who graze across forest and grassland units, and preserves established caps.

7. Streamline Eastern States' Competitive Bidding Procedures

Current section 222.54 requires each bidder to deposit 10 percent of the total bid amount, with refunds processed for unsuccessful or unqualified bidders. Field units report that this deposit-and-refund cycle imposes an administrative burden disproportionate to its purpose. The proposed rule would remove the deposit requirement and retain qualification checks and minimum bid setting (section 222.53), reducing administrative burden, speeding award timelines, and lower up-front barriers without changing how fair market value is established.

8. Align With the Bureau of Land Management and Inter-Department Initiatives Where Appropriate

Many operators hold authorizations on both National Forest System lands and adjacent BLM lands. Divergent definitions and tools can impose compliance costs and complicate administration. In 2025 the Secretaries of Agriculture and Interior coordinated an initiative to develop a USDA–DOI Grazing Action Plan to streamline and modernize livestock grazing on federal lands, with key goals of strengthening rancher resilience, reducing barriers to ranchers through modernization, supporting herd rebuilding, and maintaining working rangelands while sustaining rangeland health and supporting rural economies. In March 2026, Forest Service and BLM signed the Advancing Grazing on Forest Service and BLM Lands Memorandum of Understanding (MOU), which commits the two agencies to coordinated actions, including prioritizing vacant and closed allotments, maximizing grazing flexibilities, streamlining permitting, improving data transparency, expanding targeted and outcome-based grazing, enhancing wildlife liaison functions, and modernizing grazing management practices. The Forest Service has coordinated with the BLM throughout the development of this proposed rule and has incorporated structural and substantive elements that align with the BLM rulemaking, including the surcharge concept and certain policies such as extending temporary non-use for personal convenience from 3 years to 4 years.

At the Department's direction, the Forest Service initiated its collaborative work with the BLM on this proposed rule in January 2026. From the outset, consistency between the Departments' regulations was a key objective. In the early development of this proposed rule the Forest Service and BLM met to identify and discuss consistency on key policy issues such as ensuring livestock grazing increased livestock production, leasing of base property and livestock, expanding opportunities for beginning ranchers, and broadening the definition of base property. From January to June 2026, BLM assisted with the review and participated in development of this rule by integrating BLM rule language to improve consistency in permit administration and rangeland management across administrative boundaries. Development of this proposed rule in its entirety was collaborative and coordinated to improve consistency for livestock operators who graze across both systems. For example, key provisions in this proposed rule reflecting an intentional effort to improve consistency include:

- Allowing leasing of base property and livestock consistent with BLM regulation (36 CFR 222.1, 222.3(h)(2));
- Redefining ''base property'' to include water rights consistent with BLM regulations (36 CFR 222.1); and
- Providing additional opportunities to consult, cooperate, and coordinate with permittees before taking permit action (36 CFR 222.5(c), (d), (e)).
- Extending temporary non-use for personal convenience from 3 to 4 years (36 CFR 222.5(d)(1)(ii)).

Although the agencies have different authorities, the Department has endeavored to achieve consistency regarding policy issues to the benefit of shared livestock operators. The Department seeks public comment on this proposed rule as to whether these objectives have been met, and where even greater consistency and equalization may be achieved. The Department will consider these comments in the development of a final rule.

D. Overview of Proposed Rule

This proposed rule would amend subparts A, B, and C of 36 CFR part 222. Subpart D (Management of Wild Free-Roaming Horses and Burros) is not affected. The principal elements of the proposed rule are summarized below. A section-by-section explanation follows.

The title of part 222 would be revised from Range Management to Rangeland Management to reflect contemporary terminology and to better align the part heading with current agency usage and statutory context.

Subpart A would be reorganized and revised to modernize the framework for issuing and administering grazing permits. Section 222.3 would be revised in full to consolidate the categories of permits, eligibility and qualification requirements, and codify the grant priority process for available grazing capacity. Notable substantive changes include:

- *Livestock use permits.* Extend the maximum term from one year to up to five years to reduce repeat paperwork for research, transportation stock, and targeted vegetation management while preserving their non-renewal priority status (section 222.3(j)(2)). Livestock use permits would also be expanded to include stewardship projects (such as outcome-based grazing and targeted grazing).
- *Discretionary priority and qualification exceptions.* Codify, for existing policies and use of the prospectus-based offerings process, discretionary priority for qualified beginning ranchers and permittee mentees, and add four exceptions that reflect directive-based pathways now common in practice (section 222.3(g), (h), (k)). This formalizes tools used to

reduce barriers and support family and workforce succession.

Section 222.4 would be amended with a revised heading and targeted updates to paragraph (a) to reflect delegation to the authorized officer and maintain current cancellation grounds. Routine adjustments would be addressed in the new section 222.5.

A new section 222.5 would consolidate and codify the framework for changes in permitted, authorized use, and active use including codifying procedures and limits for temporary non-use and permit modifications currently found in Forest Service manual and handbook, including:

- *Temporary non-use for personal convenience.* Clarify limits (up to 4 consecutive years, not to exceed 4 years in a 10-year rolling period when less than 90 percent of permitted numbers are grazed), keeping the concept but adding guardrails to prevent extended temporary non-use from eroding management objectives.
- *Temporary non-use for resource management needs.* Make explicit documentation and monitoring requirements; preserve emergency authority for immediate closures or temporary changes when needed to protect resources.
- *Temporary increases/decreases and forage reserve use.* Clarify written request requirements and a 21-day window for short-term changes within existing permit terms; specify how additional forage is apportioned, including for stewardship outcomes and forage reserves.

Sections 222.6 and 222.7 would each be revised in full. Current section 222.9 would be redesignated as section 222.8 and completely revised to consolidate and update the provisions currently found in sections 222.6, 222.9, and 222.10. Current section 222.7 would be redesignated as section 222.9 and fully revised to update the existing requirements contained in section 222.7. Finally, current section 222.8 would be redesignated as section 222.10 and revised in full to update the provisions of the existing section 222.8.

Subpart B would be amended to revise the heading and introductory text of section 222.20 to clarify that mediation is available in States with a USDA certified mediation program, the heading and paragraph (b) of section 222.21 to clarify the parties to mediation include the authorized officer who made the decision or his or her designee, and section 222.26 in full. These changes would replace references to the ''Chief, Forest Service'' with references to the ''authorized officer'' to reflect current delegations and would clarify the parties to mediation as being the authorized officer or the authorized officer's designee while keeping the scope of ex parte communications the same as the current section.

Subpart C would be amended to revise sections 222.50 and 222.51 in full; remove existing section 222.52 (National Grasslands), the substance of which would be incorporated into revised section 222.51; and redesignate sections 222.53 and 222.54 as sections 222.52 and 222.53, respectively, with conforming and substantive amendments.

Substantive policy changes would (1) expand base property definition from 'land and improvements owned and used by the permittee for a farm or ranch operation and specifically designated by the permittee to qualify for a term grazing permit' to include crop lands and stockwater rights, which provides greater flexibility for applicants to qualify for a term grazing permit, while better aligning with BLM regulations; (2) reduce barriers to permit acquisition for beginning ranchers and mentees through targeted exceptions and discretionary priority in prospectus-based offerings, as these policies are already being widely implemented through Forest Service Handbook 2209.13, chapter 10; (3) expand stewardship-oriented authorities, including adding the ability to implement stewardship projects under a temporary grazing permit or livestock use permit, due to the increasing need for a permit to facilitate implementation of targeted grazing and stewardship agreements; (4) clarify and expand the procedures for temporary non-use, increases and decreases in permitted use, and permit modifications to codify existing practices; (5) codify the rangeland disturbance planning framework for drought, wildfire, and other events; (6) codify a surcharge for authorized leasing of livestock; (7) consolidate fee-setting for the national forests in the 16 contiguous Western States and the national grasslands; (8) codify fee-reduction and fee-credit provisions for grazing on the national grasslands and land utilization projects; (9) replace outdated permit-cap provisions with a more flexible anti-consolidation framework; and (10) improve consistency with BLM livestock grazing regulations and practices.

II. Section-by-Section Explanation of the Proposed Rule

A. Subpart A—Grazing and Livestock Use on the National Forest System

1. Section 222.1 Authority and Definitions

The Department proposes to revise section 222.1 in full. Paragraph (a) would be updated to reflect that the Chief, Forest Service, may redelegate the authority to develop, administer, and protect rangeland resources to the authorized officer through Forest Service Manual 2200, consistent with current practice. The reference to ''range resources'' would be updated to ''rangeland resources'' throughout to align with contemporary usage in directives and planning.

Paragraph (b) would replace the existing list of definitions with an updated, expanded list presented in alphabetical order. New definitions would be added for terms used elsewhere in the proposed rule or as found in the Forest Service Manual and Handbooks, including active allotment; actual use; adjusted grazing value; authorized officer; active use; authorized use; beginning rancher; conservation practice; consultation, cooperation, and coordination; current grazing management; eleven Western States; unauthorized use rate; fair market value; fee credit; forage reserve allotment; grant process; grazing agreement; grazing association; land use practices; lessee of base property; lessee of livestock; livestock use permit; maintenance of rangeland improvements; mentee; monitoring; nine Great Plains States; non-permittee; temporary non-use; permitted use; preferred applicant; rules of management; small farm or ranch; stocking rate; succeeding family member; successional base property; successional livestock arrangement; supplemental feed; targeted grazing; temporary grazing permit; term grazing permit consolidation; term grazing permit with on-and-off provisions; term private land grazing permit; trend; unauthorized livestock; vacant allotment; and waiver of term grazing permit. Most defined terms exist in recently updated Forest Service directives, which went through public notice and comment, and are carried into regulations for transparency and ease of administration, while other terms are being added for consistency with BLM.

Existing definitions would be updated where necessary to reflect current terminology, statutory references, and Forest Service practice. The definition

of range betterment fund would be updated to reflect that the fund consists of 50 percent of all monies received as fees for grazing livestock on the national forests in the 16 contiguous Western States or $10,000,000 per annum, whichever is greater, consistent with title IV, section 401(b)(1), of the Federal Land Policy and Management Act.

2. Section 222.2 Allotment Management

The Department proposes to revise section 222.2 in full and incorporate into this section the provisions on allotment management plans, changes to allotment boundaries, and rangeland disturbance planning.

Paragraph (a) would establish that forage-producing National Forest System lands are managed for livestock grazing in a manner consistent with land management plans. Paragraph (a) has similar wording to the current paragraph (c) of this section. Forest plans guide multiple-use management, and grazing authorizations have long been issued to conform with plan direction; this codifies existing practice.

Paragraph (b) has similar wording and the same intent as the current paragraph (a), carrying forward the existing direction on the designation of allotments. Paragraph (c) would make allotment management plans optional to align with wording in Section 402(d) of the Federal Land Policy and Management Act, whereas the current paragraph (b) makes development of an allotment management plan mandatory. Paragraph (c) carries forward the provisions on allotment management plans, including the consultation, cooperation, and coordination process; if an allotment management plan is developed it will include elements such as prescribe the livestock grazing practices necessary to meet specific resource objectives defined in existing environmental analysis, specify any operational flexibility that can be approved by the authorized officer, and include a monitoring plan; the treatment of private and State lands; and revision and termination procedures. Under current practice, authorized officers frequently use annual operating instructions or functionally equivalent instruments to implement site-specific direction where a full allotment management plan is not necessary. Making allotment management plans optional eliminates duplicative documentation in routine cases and allows allotment management plans to be prepared where they add value. When an allotment management plan is prepared, the content requirements remain mandatory.

Paragraph (d) would codify the provisions on changes to allotment boundaries, such as when the conditions under which a realignment may be considered a technical correction, the procedures for combining vacant allotments, and the requirements applicable when a boundary modification is not appropriately handled as a technical correction. Paragraph (e) would establish the rangeland disturbance planning framework, which provides considerations for the authorized officer to navigate, providing for temporary response actions, such as temporary changes in livestock numbers, season of use, pasture rotation, timing of use, area of use, water use, supplemental feeding locations, targeted grazing, temporary non-use or other actions necessary to maintain rangeland resources and livestock health during drought, wildfire, or other events that materially reduce forage or water availability. Authorized officers and permittees currently navigate disturbance events through case-by-case tools. Codifying a clear, repeatable framework reduces uncertainty, improves timeliness, and delineates documentation and notice expectations. The framework also clarifies that targeted grazing may be used, when appropriate and consistent with applicable law and plan direction, as a tool within wildfire decisions (see section 222.5 for related authorities).

3. Section 222.3 Issuance of Grazing Permits

The Department proposes to revise section 222.3 in full and incorporate into this section the provisions on eligibility and qualification requirements, permits with priority for renewal, permits with no priority for renewal, and grant priority for available grazing capacity. Paragraph (a) retains components of the current wording and further identifies the categories of permits available for grazing and livestock use, including term grazing permits, temporary grazing permits, and livestock use permits. Paragraphs (b) through (e) would describe the substantive content and effect of term grazing permits, including the elements that must be specified on the permit, that grazing is by production-oriented livestock, the treatment of variable-use authorizations, the subjection of all permits to cancellation, suspension, or modification, and the longstanding principle that permits convey no right, title, or interest in any lands or resources. Paragraph (f) would update existing paragraph (c) to allow the authorized officer (rather than the Chief, Forest Service) to issue permits.

Paragraph (g) would carry forward the existing direction at paragraph (c)(1)(vi) on the issuance, renewal, and administration of term permits, and would codify a discretionary priority for qualified beginning ranchers or permittee mentees when a term grazing permit is issued through a prospectus, together with four categories of exceptions to the qualification requirements (phased acquisition of base property or livestock; successional base property arrangements; permittee mentor/mentee arrangements; and successional livestock arrangements). This discretionary priority for qualified beginning ranchers or permittee mentees is a policy from Forest Service Handbook 2209.13 Chapter 10, that is being codified to align with the Department's direction to expand opportunities for beginning ranchers. The prospectus process has historically been used across the Eastern States and National Grasslands when soliciting applicants for a term grazing permit when long term forage is available. The process of prioritizing applicants, the grant priority process, has historically been utilized throughout National Forest System lands. Paragraph (h) would codify eligibility and qualification requirements that are not currently in part 222 but have been long standing policies in the Forest Service Handbook 2209.13 Chapter 10. Paragraph (h) also includes codifying six exceptions to the base property and livestock ownership requirement. Paragraph (i) would carry forward the framework for permits with priority for renewal at the existing paragraph (c)(1), including the 10-year permit term and the priority position of the existing permit holder. Paragraph (j) would carry forward the framework for permits with no priority for renewal at the existing paragraph (c)(2), with two notable updates: it would add a sixth ground for issuing a temporary grazing permit (use on a forage reserve allotment by a non-permittee and use for stewardship and targeted grazing projects), and it would extend the term of livestock use permits from one year to up to five years and expand its use to include stewardship and targeted and grazing projects. Paragraph (j) would also codify the term private land permit. Paragraph (k) would codify the grant priority process for available grazing capacity, including a prospectus-based priority order that favors qualified beginning ranchers, mentees, and small business ranchers. Historically, the grant priority process has been used when grazing capacity becomes available on a permanent sustained-yield basis for grazing across

the Forest Service, giving first priority to existing permittees when unresolved resource or management concerns exist and then to permittees who have invested in the allotment and the increase in available forage is due to their efforts. These priorities remain as they historically have been. However, if these situations are not present when the opportunity for available forage arises, the next order in the grant priority process is to issue a prospectus and solicit applicants, giving priority to a beginning rancher, mentee, or small business rancher; whereas historically this priority was given to owners of livestock currently authorized on ranges administered by the BLM to the extent that the BLM ranges need adjustments and then to a new applicant (not an existing term permittee) who is eligible and qualified. Nearly all grant priority process decisions were issued to existing Forest Service permittees due to unresolved resource or management concerns and rarely came down to the process of seeking new applicants. Thus, the policies rarely provided opportunities to allow new ranchers into the public lands grazing system.

Compared to the current regulation, these changes include the following:

- *Issuance authority.* The authorized officer—rather than the Chief—may issue permits (updates existing paragraph (c)).
- *Eligibility/qualification.* The section codifies eligibility and qualification exceptions (successional arrangements, mentor/mentee, phased acquisition, extended livestock purchase), making transparent practices that have been administered via Forest Service directives.
- *Grant priority for available capacity.* Codifies a prospectus-based priority order that favors qualified beginning ranchers, mentees, and small business ranchers when no preferred applicant exists, while maintaining first priority for renewal with the existing permit holder under 43 U.S.C. 1752(c).

Prioritizing beginning ranchers and mentees for newly available capacity may place other qualified applicants behind those categories in prospectus order. The rule preserves first priority for renewal and does not alter existing permit holders' status on their current allotments.

4. Section 222.4 Cancellation or Suspension of Grazing Permits

The Department proposes to amend section 222.4 by revising the section heading, paragraph (a) introductory text, and paragraph (a)(2)(iv). The section heading would be amended from ''Changes in grazing permits'' to ''Cancellation, modification, or suspension of grazing permits'' to more accurately describe the section's content, which is principally directed at the grounds and procedures for cancellation, modification, and suspension of grazing and livestock use permits. The introductory text of paragraph (a) would be revised to refer to the ''authorized officer'' rather than the ''Chief, Forest Service,'' consistent with the substitution made throughout part 222 to reflect current delegations. Paragraph (a)(2)(iv) would be revised to refer to ''the allotment'' rather than ''the allotted range,'' consistent with the defined term ''allotment'' at section 222.1(b); no substantive change to the grounds for cancellation is intended. The remaining provisions of section 222.4 would not be amended. Routine adjustments to permitted and authorized use—including temporary non-use for permittee personal convenience, temporary non-use for resource management needs, emergency closures, and permit modifications—would be governed by new section 222.5.

5. Section 222.5 Changes in Permitted, Authorized, and Active Use

The Department proposes to add a new section 222.5 to better align wording with BLM, consolidate, codify, and modernize the policies governing changes in the use of National Forest System lands for livestock grazing. This includes adopting common terminology regarding the amount of livestock grazing that may occur in a given year, as ''authorized use.'' To provide clarity across agencies, the Forest Service will use the term ''active use'' when describing the amount of grazing that can be permitted and available for use. Section 222.5 does not currently exist in 36 CFR part 222; the substance of this new section has been administered through Forest Service Manual 2200 and 2230 and Forest Service Handbooks 2209.13 and 2209.16. Paragraph (a) would establish the authorized officer's general responsibility to periodically review allotment management and adjust active use and authorized use as necessary to manage, maintain, or improve rangeland health; assist in restoring riparian ecosystems to properly functioning conditions; or conform with land management plans. The components of paragraph (a) have been interwoven throughout policies in the Forest Service Manual 2200 and 2230 and Forest Service Handbooks 2209.13 and 2209.16; by codifying the policies in paragraph (a) it makes the policies more concise. Paragraph (b) would require that any further modifications to permitted use be based on site-specific analysis informed by monitoring data, documented field observations, ecological site inventories, or other updated information that was included during the site-specific analysis deemed acceptable by the authorized officer, which is consistent with policies in the Forest Service Handbook 2209.13 Chapters 10 and 90, as well as consistent with BLM regulation at 4110.3–2. Paragraph (c) would codify current Forest Service Handbook policies and procedures found in Forest Service Handbook 2209.13 Chapter 10 for increasing permitted, authorized, and active use, including authorizations to fill in behind approved temporary non-use; the conditions for forage reserve use; the apportionment of additional forage for stewardship outcomes as found in Forest Service Handbook 2209.13 Chapter 10 and 30 policies; add the new written-request requirement and 21-day timing window for temporary changes within existing permit terms; and the apportionment of additional forage available on a permanent or sustained-yield basis through the grant process in section 222.3(l), consistent with policies in Forest Service Handbook 2209.13 Chapter 10. Paragraph (d) would codify current Forest Service Handbook 2209.13 Chapter 10 policies and procedures for decreasing permitted use, including adding a new framework for temporary non-use for permittee personal convenience (changing the limit from up to 3 consecutive years to up to 4 consecutive years and not to exceed 4 years in a 10-year rolling period when a permittee plans to graze less than 90 percent of permitted numbers), codifying current Forest Service Handbook 2209.13 Chapter 10 policy for temporary non-use for resource management needs (with documentation requirements and emergency-closure authority), codifying temporary non-use for rangeland research, and codifying the existing framework for temporary non-use of grazing association-issued term grazing permits. Paragraph (e) would codify, with minor changes, current Forest Service Handbook 2209.13 Chapter 10 policies and procedures for permit modifications, including a new consult, cooperate, and coordinate requirement, written documentation through a letter with appropriate attachments, the one-year advance notice requirement for changes in season of use, livestock numbers, kind, class, or allotment (carried forward from existing section 222.4(a)(8), with an emergency exception), and eight enumerated

categories of permit modification purposes.

All frameworks above have been utilized through Forest Service directives Forest Service Handbook 2209.13 Chapter 10 and local program administration. Codification increases transparency, consistency, and efficiency while keeping on-the-ground discretion where needed.

6. Section 222.6 Term Grazing Permit Waivers and Applications

The Department proposes to revise section 222.6 to codify, with minor changes, the procedures for waivers of term grazing permits and applications for term grazing permits as found in Forest Service Handbook 2209.13 Chapter 10. The waiver and application procedures have historically been administered through Forest Service Manual 2230 and the corresponding Handbook 2209.13 Chapter 10; codifying them in regulation provides transparency and increased certainty for permittees and applicants. The section would address the circumstances under which a waiver must be submitted by retaining the existing policies found in Forest Service Handbook 2209.13 Chapter 10 and adding language to address the new ability to lease base property that has a term grazing permit associated with it; the requirements applicable to waivers by retaining the existing policies found in Forest Service Handbook 2209.13 Chapter 10 and adding a 90-day complete and execution requirement when the sale or lease occurs; the effect of approval; the special procedures applicable to inheritance is added to be consistent with BLM language while also codifying language consistent with Forest Service Handbook 2209.13 Chapter 10; new language added to address base property leases, and entity name change policies remain unchanged; the consequences of failure to comply with the requirements; modernization of the upper and special limits concept, as found in existing 222.3 (1)(vi)(E), by focusing on the criteria authorized officers may use to deny an application that would result in excessive consolidation or in an inefficiently small permit; the circumstances under which an application must be submitted following a waiver of term grazing permit; and adding a 90-day complete and execution requirement for applications to be files following a sale or lease.

Bringing waiver and application procedures from Forest Service directives into regulation standardizes expectations nationwide and reduces administrative burden, while providing consistencies with the BLM.

7. Section 222.7 Changes in National Forest System Land Acreage

The Department proposes to revise section 222.7 to codify Forest Service Handbook 2209.13 Chapter 10 and 90 policies and procedures applicable when National Forest System land acreage available for livestock grazing changes. Paragraph (a) was added to align with BLM 4110.4–1 and would address increases in available forage outside designated allotments, providing that such forage shall be made available to eligible and qualified applicants through the grant process at section 222.3(l) (which codifies Forest Service Handbook 2209.13 Chapter 10 policies on the grant process). Paragraph (b) was added to align with BLM 4110.4–2 and would address decreases in land acreage within an allotment, providing for cancellation or modification of grazing permits as appropriate to reflect the changed area of use and codifies language consistent with Forest Service Handbook 2209.13 Chapter 10 and 2209.16 Chapter 10. Paragraph (c) would carry forward, with conforming amendments, the longstanding requirement under 43 U.S.C. 1752(g) that permittees be given two years' prior notification before grazing permits and grazing preference may be cancelled to devote lands to another public purpose, except in cases of emergency, and would preserve the permittee's right to reasonable compensation for authorized permanent rangeland improvements as provided in revised section 222.8(h).

8. Section 222.8 Rangeland Improvements

The Department proposes to redesignate existing section 222.9 as section 222.8 and to revise the redesignated section in full. Paragraph (a) maintains the existing section 222.9 paragraph (a) intent and modernizes the wording by establishing the authorized officer's authority, instead of the Chief, to authorize installation and maintenance of structural and nonstructural rangeland improvements. Paragraph (b) would carry forward the substantive direction on construction, installation, modification, and maintenance of rangeland improvements, while modernizing the language to include consistency with multiple-use management. Paragraph (b) codifies process from Forest Service Manual 2240 and Forest Service Handbook 2209.16 Chapter 10 regarding documentation and authorization of rangeland improvements, including the rules governing title to permanent and temporary improvements and the requirements applicable to cooperators. Paragraph (c) aligns wording found in BLM's section 4120.3–1(f) and expands it to be applicable to Forest Service process. Paragraph (c) would establish the authorized officer's authority to review proposed rangeland improvement projects to determine whether they require analysis under the National Environmental Policy Act and, if so, what level of review applies. Paragraph (d) codifies policy and process from Forest Service Manual 2240 and Forest Service Handbook 2209.16 Chapter 10 regarding the provisions on term grazing permit modifications for rangeland improvements, documentation and permittee contributions. Paragraph (e) codifies policy and process from Forest Service Manual 2240 and Forest Service Handbook 2209.16 Chapter 10 and modernizes language by recognizing the various mechanisms used to capture opportunities presented by external cooperators by establishing the provisions for non-permittee cooperators, including the appropriate use of collection agreements, Challenge Cost Share Agreements, memoranda of understanding, interagency agreements, Good Neighbor Agreements, and Cooperative Agreements. Paragraph (f) was added to better align with BLM section 4120.3–6 and codifies language from Forest Service Manual 2240 by establishing the provisions for removal of rangeland improvements. Paragraph (g) was added to align with BLM section 4120.3–9 and would establish the provisions on water rights for the purpose of livestock grazing. Paragraph (h) aligns with BLM section 4120.3–6(c), modernizes language from existing 222.6 while keeping consistent with its intent, codifies Forest Service Manual 2240 and Forest Service Handbook 2209.13 Chapter 10 and 70. Paragraph (h) would establish, expand, and clarify the provisions on compensation for permittees' interest in authorized permanent rangeland improvements when permits are cancelled to devote lands to another public purpose. Paragraph (i) would establish the provisions on the range betterment fund by retaining and modernizing the existing language found at current 222.10 and 222.10(a). The language is modernized to account for agency realignment shifting away from Forest Service Regions. Paragraph (i)(2) and (3) we added to align intent with BLM language. This consolidated treatment is intended to clarify the relationships among the various provisions governing rangeland improvements and to make

those provisions easier to find and apply.

These provisions consolidate and clarify practices historically addressed in Forest Service directives to make them easier to find and apply. The compensation provision reflects the statutory framework in 43 U.S.C. 1752(g) regarding two-year notice and reasonable compensation.

9. Section 222.9 Cooperation in Management

The Department proposes to redesignate existing section 222.7 as section 222.9 and to revise the redesignated section in full. The section is being revised because the existing section on Cooperation in management was confusing and did not clearly articulate the difference between formally recognized grazing associations and local, county, State, national, or Tribal livestock associations. The revision provides more depth and details for formal recognition and cooperation with grazing associations and codifies Forest Service Handbook 2209.13 Chapter 20. The substantive provisions on cooperation with grazing associations would be reorganized into paragraphs addressing the authority to recognize associations, the requirements for recognition, when withdrawal of recognition is warranted, and rules of management which describe how an association will administer the grazing program for its members on the lands covered by their forest Service grazing agreement, and the purpose is to provide clear and consistent rules that will be applied to each member and to distribute livestock grazing privileges in a fair manner to all qualified members. References to the ''Chief, Forest Service'' would be replaced with references to the ''authorized officer'' to reflect current delegations. Paragraphs on cooperation with national, State, and county livestock organizations adds recognition of Tribal livestock organizations; interagency cooperation; and cooperation with others would be carried forward with minor wording updates.

Reorganization of this section improves clarity without changing substantive policy.

10. Section 222.10 Cooperation in Control of Estray or Unbranded Livestock, Animal Diseases, Noxious Weeds, and Use of Pesticides

The Department proposes to redesignate existing section 222.8 as section 222.10 and to revise the redesignated section. The section heading would be amended to refer to ''noxious weeds'' rather than ''noxious farm weeds.'' References to the ''Chief, Forest Service'' would be replaced with references to the ''authorized officer.'' The substantive provisions governing cooperation with State, county, and Federal agencies on livestock diseases, sanitation, and noxious weeds; with the Animal and Plant Health Inspection Service on pesticide spray programs; and with State cattle and sheep sanitary or brand boards on control of estray and unbranded livestock would be carried forward without substantive change.

B. Subpart B—Mediation of Term Grazing Permit Disputes

1. Section 222.20 State Mediation Program

The Department proposes to revise section 222.20 to update the section heading from ''Decisions subject to mediation'' to ''State mediation program'' and to remove redundant phrasing in the body of the section. The substantive scope of the section—which provides that the holder of a term grazing permit issued in a State with a mediation program certified by the U.S. Department of Agriculture may request mediation of a dispute relating to a decision to suspend or cancel the permit—would not change. However, mediation of a dispute relating to a decision to deny development of a stockwater improvement has been added to the section in order to provide a process for permittees to seek relief from a decision which would prevent them from proving beneficial use of their filed water right application and obtaining the water right.

2. Section 222.21 Parties and Participation

The Department proposes to amend section 222.21 by revising the section heading, the introductory text, and paragraph (b). The section heading would be updated to refer to ''Parties and participation'' rather than ''Parties.'' The introductory text would be revised to clarify that the listed individuals are the parties and participants who may attend mediation of a term grazing permit dispute. This change would replace the current language, which narrows participation to ''parties'' and may imply that only the authorized officer and permittee may participate, when participation is often expanded to include legal counsel, and the permittee's creditors. Paragraph (b) would be revised to identify ''the authorized officer who made the decision being mediated or his or her designee'' as the participating Forest Service representative, replacing the more specific reference to the Chief, Forest Service or other Forest Service employee. Paragraphs (a), (c), (d), and (e) would not be amended.

3. Section 222.26 Ex Parte Communications

The Department proposes to revise section 222.26 in full to update the reference from ''the Chief of the Forest Service or other Forest Service employee who made the decision being mediated, or his or her designee'' to ''the authorized officer or his or her designee.'' The substantive prohibition on ex parte communications between the participating Forest Service official and the Appeal Deciding Officer would not change. Sections 222.22 (Stay of appeal), 222.23 (Confidentiality), 222.24 (Records), and 222.25 (Costs) would not be amended.

C. Subpart C—Grazing Fees

1. Section 222.50 Grazing Fees

The Department proposes to revise section 222.50 in full. The section heading would be amended from ''General procedures'' to ''Grazing fees.'' Paragraph (a) would carry forward the requirement that fees be charged for all livestock grazing or livestock use of National Forest System lands, with cross-references updated to reflect the consolidation of free-use authorities into revised section 222.3. Paragraph (b) would carry forward the policy basis for fee establishment under Office of Management and Budget Circular A–25, as revised in 1993. Paragraphs (c) and (d) would clarify the animal unit month (AUM) definition for fee-calculation purposes by stating that one animal unit month is a month's use of forage and occupancy of rangeland by one cow, bull, steer, heifer, bison, horse (ancillary to livestock production), burro, or mule, or five sheep or goats; and provide expressly that the Forest Service will not charge grazing fees for animals less than 6 months of age that are the progeny of animals upon which fees are paid. Paragraph (e) would establish a surcharge for authorized leasing of livestock owned by persons other than the permittee, equal to 35 percent of the difference between the current year's Federal grazing fee and the prior year's private grazing land lease rate per animal unit month for the appropriate State, as determined by the National Agricultural Statistics Service. The surcharge concept aligns with the Bureau of Land Management's surcharge at 43 CFR 4130.8–1(f). Targeted exemptions that exist in current Forest Service Handbook 2209.13, Chapter 10, and being codified here would be available for livestock owned by

properly documented mentees, beginning ranchers, permittee successors, immediate or extended family members, and operators receiving relief from drought, fire, or other natural causes. Paragraphs (f) through (q) would carry forward and reorganize the provisions on lambing, transportation livestock, billing and rounding, due dates and late fees, fee credits, refunds, fee year, data year, and the unauthorized grazing use rate, including the conditions under which the authorized officer may waive monetary fees for unauthorized grazing use as provided in the 2022 final rule (87 FR 35097, June 9, 2022).

The fee policy at Circular A–25 remains current and aligning surcharge structure with the BLM simplifies program administration for operators that graze across systems.

2. Section 222.51 National Forests in 16 Western States and National Grasslands

The Department proposes to revise section 222.51 in full to consolidate fee-setting for the national forests in the 16 contiguous Western States and the national grasslands. Paragraph (a) would expand the scope from National Forests and Land Utilization Projects in the 16 contiguous Western States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming to also include all national grasslands because the fee formula is the same and this consolidation of sections reduces redundancy found by separating out the national grasslands. Paragraph (b) would set out the grazing fee formula expressly, in the form $GF = BV \times (FVI + (BCPI - PPI))/100$, with definitions for each variable carried forward from existing section 222.51(b) and clarified for ease of administration. Paragraph (c) would carry forward the existing 25-percent annual change limit, and paragraph (d) would carry forward the existing $1.35-per-animal unit month floor. Paragraph (e) would codify the long standing fee-reduction provisions found in the Forest Service Handbook 2209.13, Chapters 20 and 80 and Forest Service Manual 2200, Chapter 40 for authorized land use practice expenditures on the national grasslands and land utilization projects. Land use practices include conservation practices and certain administrative costs incurred by grazing associations for routine administration of the livestock grazing activities of its members under a grazing agreement issued by the Forest Service. Fee reductions have been used on National Grasslands and land utilization projects since the late 1930s, when these lands began to be managed for rehabilitation and sustainable use. This practice was reaffirmed by the Comptroller General's 1950 decision, which confirmed the Secretary's authority under Section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937 to lease lands ''with or without consideration'' and to establish terms that best accomplish the purposes of the Act. Fee reductions continue to be applied when permittees incur required conservation or administrative expenditures.

Paragraph (f) would modernize and codify fee credit language found in Forest Service Handbook 2209.13, Chapters 20 and 80, and Forest Service Manual 2200, Chapter 40 to reflect the long-standing practice of using fee-credits when a permittee or grazing association funds an approved rangeland improvement up-front and receives fee credits in future years to replenish the contributed funds. Fee credits have been long articulated within 36 CFR 222.53(c)(3)(ii) and 36 CFR 222.54(g)(2) for the Eastern States as a mechanism to facilitate required rangeland improvements to maintain and improve rangeland conditions, however fee credits have only been described in policy on the National Grasslands.

These provisions reflect long-standing Forest Service grasslands program practices in Forest Service directives. Consolidation makes the formula and reductions easier to administer across lands where operators often participate in both National Forest and grassland programs.

3. Removal of Section 222.52 (National Grasslands)

The Department proposes to remove existing section 222.52 (National Grasslands), which provides that grazing fees for national grasslands will be established under concepts and principles similar to those in section 222.51(b). Because revised section 222.51 would directly govern fee-setting on the national grasslands, this one-sentence section is no longer necessary.

4. Section 222.52 Grazing Fees in the Eastern States—Noncompetitive Procedures

The Department proposes to redesignate existing section 222.53 as section 222.52 and to revise the redesignated section. Paragraph (a) would be revised to enumerate the Eastern States to which the noncompetitive procedures apply, replacing the existing reference to ''the Eastern and Southern Regions.'' Paragraph (b) would be revised to cross-reference paragraph (a) and to update the cross-reference to the redesignated competitive bidding section. Paragraph (c) would be revised to replace references to ''the Chief, Forest Service, or an authorized officer to whom such authority has been delegated'' with references to the ''authorized officer.'' Paragraphs (c)(2) (Annual Adjustment of Base Grazing Value), (c)(3) (Computation of Annual Grazing Fee), and (c)(4) (Implementation) would not be substantively amended.

5. Section 222.53 Grazing Fees in the Eastern States—Competitive Bidding

The Department proposes to redesignate existing section 222.54 as section 222.53 and to revise the redesignated section. Paragraph (a)(1) would be revised to enumerate the Eastern States to which the competitive bidding procedures apply. Paragraph (a)(2) would be revised to add limited liability companies to the list of allowable bidders because longstanding Forest Service policy found in Forest Service Handbook 2209.13, Chapter 10, recognizes limited liability companies as a legal entity that is eligible to apply for and hold a term grazing permit. Modernization of these regulations is warranted because limited liability companies are more common today, operating in the agricultural industry, than they were the last time 36 CFR 222.54 was updated. Paragraph (b) would be revised to update the cross-reference to the redesignated noncompetitive section. Paragraph (d) would be revised to remove the requirement that each applicant submit a bid deposit equal to 10 percent of the total amount of the bid, eliminating the deposit-and-refund cycle currently required for unsuccessful or unqualified bidders. Eastern States staff indicate that the practice of requiring a deposit for all bidders, processing the deposits, then refunding the deposits for the unsuccessful bids is a burdensome process for employees, as well as bidders. The cost of providing a bid deposit for beginning ranchers, who are trying to establish themselves in the industry, with minimal capital and funding, presents a barrier. Paragraph (e) would be revised conformingly to remove the requirement that the authorized officer refund the deposit. Paragraph (h) would be revised to update the cross-reference to the redesignated noncompetitive section. Paragraphs (c) (Prospectus), (f) (Permit Issuance), and (g) (Computation of Successful Bidder's Annual Fee) would not be substantively amended.

Removing the deposit lowers liquidity barriers and simplifies bid administration. Allowing limited liability companies reflects common, modern business forms among small ranching enterprises.

III. Regulatory Certifications

A. Regulatory Planning and Review

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA has determined that this proposed rule is significant as defined by E.O. 12866. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Department has developed the proposed rule consistent with E.O. 13563.

B. Unleashing Prosperity Through Deregulation

E.O. 14192 requires that an agency, unless prohibited by law, identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. E.O. 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. While there are modest administrative costs, the proposed rule is expected to lower barriers to entry for beginning ranchers and small operations, modernize grazing administration, increase flexibility for permittees, and align more closely with contemporary ranching practices and Bureau of Land Management regulations. Accordingly, this proposed rule is anticipated to be a deregulatory action under Executive Order 14192.

C. National Environmental Policy Act

The proposed rule would amend the regulations governing grazing and livestock use on the National Forest System. Departmental regulations at 7 CFR 1b.4(c)(20) exclude from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish servicewide administrative procedures, program processes, or instructions.'' The Department's preliminary assessment is that this proposed rule is administrative and procedural, falls within this categorical exclusion, and that no extraordinary circumstances exist that would require preparation of an environmental assessment or environmental impact statement. Any subsequent, site-specific grazing authorizations or rangeland actions will undergo National Environmental Policy Act review, as appropriate under Forest Service procedures at 36 CFR part 220 and Departmental regulations at 7 CFR part 1b. A final determination will be made upon adoption of the final rule.

D. Regulatory Flexibility Act

The Department has considered this proposed rule under the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). Most Forest Service grazing permittees would be considered small entities under Small Business Administration size standards. The proposed rule would expand eligibility for term grazing permits to include applicants who own or lease (rather than only own) base property and livestock; would establish discretionary priority for qualified beginning ranchers and mentees; would codify a surcharge for authorized leasing of livestock; and would streamline the Eastern State's competitive bidding process by removing the current 10-percent bid deposit requirement. In the aggregate, the proposed rule is expected to reduce barriers to entry for beginning and small business ranchers by prioritizing them for available forage and by providing opportunities to phase into securing a term grazing permit, a process that better aligns with modern economic constraints experienced by beginning and small ranchers, and to lower compliance costs and increasing consistency in practice by aligning the Forest Service framework with that of the Bureau of Land Management for operators who graze on both Federal land systems. The Department does not currently anticipate that this proposed rule would have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act. However, the Department will consider public comments and any information submitted regarding potential impacts on small entities before making a final certification. The Department specifically invites comment on the potential economic effects of this proposed rule on small entities.

E. Federalism

The Department has considered this proposed rule under the requirements of E.O. 13132, Federalism. The Department has determined that the proposed rule conforms with the federalism principles set out in this E.O., would not impose any compliance costs on the States, and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has concluded that this proposed rule would not have federalism implications.

F. Consultation and Coordination With Indian Tribal Governments

E.O. 13175, Consultation and Coordination with Indian Tribal Governments, 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. Departmental Regulation 1350–002 establishes the Department's policy on Tribal consultation.

The Department has reviewed this proposed rule in accordance with the requirements of E.O. 13175 and Departmental Regulation 1350–002 and has determined that this proposed rule has Tribal implications. Consistent with that determination, the Forest Service has notified Tribal governments about the opportunity to engage in government-to-government consultation. The Forest Service will continue to engage with Tribal governments—and when requested, consult with affected Tribes—throughout the rulemaking process and will fully consider Tribal views in the final rule. The Forest Service specifically invites comment from Tribes on the proposed rule and any aspect of the rule that may affect Tribes, Tribal lands, treaty rights, or trust resources.

G. Family Policymaking Assessment

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for a rule that may affect family well-being. The proposed rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, the Department has concluded that it is not

necessary to prepare a Family Policymaking Assessment for the proposed rule.

H. Takings Implications

The Department has analyzed the proposed rule in accordance with the principles and criteria in E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The Department has determined that the proposed rule would not pose the risk of a taking of private property. Term grazing permits, temporary grazing permits, and livestock use permits convey no right, title, or interest held by the United States in any lands or resources, and the proposed rule expressly preserves the longstanding right to reasonable compensation for a permittee's interest in authorized permanent rangeland improvements when permits are cancelled to devote lands to another public purpose.

I. Energy Effects

The Department has reviewed the proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Department has determined that the proposed rule would not constitute a significant energy action as defined in E.O. 13211.

J. Civil Justice Reform

The Department has analyzed the proposed rule in accordance with the principles and criteria in E.O. 12988, Civil Justice Reform. Upon publication of the proposed rule, (1) all State and local laws and regulations that conflict with the proposed rule or that impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

K. Severability

The Department intends for the provisions of this rule to be considered separately. If any portion of this rule were stayed or invalidated by a reviewing court, the remaining elements would continue to provide the agency with important and independently effective tools to manage livestock grazing on the National Forest System lands. If a court prevents any provision of this proposed rule from taking effect, it is the Department's intent that the other parts of the rule would not be affected. The remaining provisions would remain in force.

L. Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of the proposed rule on State, local, and Tribal governments and the private sector. The proposed rule would not compel the expenditure of $100 million or more, adjusted annually for inflation, in any 1 year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required.

M. Paperwork Reduction Act

This proposed rule contains information collection requirements subject to the Paperwork Reduction Act (44 U.S.C. 3501–3521) and the Office of Management and Budget's regulations at 5 CFR part 1320. The Forest Service will seek Office of Management and Budget approval for rule-specific collections introduced by this proposal currently covered under OMB Control No. 0596–0003 (Grazing Permit Administration Forms).

The anticipated rule-specific collections may include: (1) documentation for eligibility and qualification under leasing, mentor-mentee, succession, and beginning-rancher pathways; (2) written requests and coordination for temporary changes and disturbance-response actions; (3) attestations and documentation for leased-livestock surcharge exemptions; and (4) documentation for eligibility and qualifications for small business ranchers.

The Forest Service will publish a 60-day Paperwork Reduction Act notice followed by a 30-day notice concurrent with submission of the Information Collection Request to the Office of Management and Budget, consistent with 5 CFR 1320.11. We will seek public comment separately on these anticipated collections—specifically on their necessity and practical utility; the accuracy of burden estimates; ways to enhance quality, clarity, and utility; and ways to minimize burden, including automation or streamlined instruments.

List of Subjects in 36 CFR Part 222

Administrative practice and procedure, Grazing lands, Livestock, National forests, Public lands—grazing, Range management, Reporting and recordkeeping requirements.

Therefore, for the reasons set forth in the preamble, the Department proposes to amend chapter II of title 36 of the Code of Federal Regulations as follows:

PART 222—RANGELAND MANAGEMENT

■ 1. The authority citation for part 222 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1010, 1011, 1012; 7 U.S.C. 5101–5106; 16 U.S.C. 472; 16 U.S.C. 481, 551; 16 U.S.C. 528–531; 16 U.S.C. 572, 580d, 580g, 580h, 580k, 580l; 16 U.S.C. 1133; 16 U.S.C. 1600–1605, 1609, 1613; 31 U.S.C. 9701; 43 U.S.C. 1740, 1751–1752; 43 U.S.C. 1901–1908; E.O. 12548 (51 FR 5985).

■ 2. Revise the part heading set forth above.

Subpart A—Grazing and Livestock Use on the National Forest System

■ 3. Revise Subpart A table of contents to read as follows:

Section
222.1 Authority and definitions.
222.2 Allotment management.
222.3 Issuance of grazing permits.
222.4 Cancellation, modification, or suspension of grazing permits.
222.5 Changes in permitted, authorized, and active use.
222.6 Term grazing permit waivers and applications.
222.7 Changes in National Forest System land acreage.
222.8 Rangeland improvements.
222.9 Cooperation.
222.10 Cooperation in control of estray or unbranded livestock, animal diseases, noxious weeds, and use of pesticides.

■ 4. The authority citation for Subpart A is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1010, 1011, 1012; 7 U.S.C. 5101–5106; 16 U.S.C. 472; 16 U.S.C. 481, 551; 16 U.S.C. 528–531; 16 U.S.C. 572, 580d, 580g, 580h, 580k, 580l; 16 U.S.C. 1133; 16 U.S.C. 1600–1605, 1609, 1613; 31 U.S.C. 9701; 43 U.S.C. 1740, 1751–1752; 43 U.S.C. 1901–1908; E.O. 12548 (51 FR 5985).

■ 5. Revise § 222.1 to read as follows:

§ 222.1 Authority and definitions.

(a) *Authority.* The Chief, Forest Service, shall develop, administer, and protect the rangeland resources, and permit and regulate the grazing use of all kinds and classes of livestock on all National Forest System lands and on other lands under Forest Service control. The Chief's authority may be redelegated to the authorized officer through these regulations and Forest Service Manual 2200 Zero Code.

(b) *Definitions.* For purposes of this subpart—

Active allotment means an allotment with a term grazing permit issued authorizing grazing or for which a transition between term grazing permits is occurring.

Active use means that portion of the permitted use within an allotment that

is: (1) Available for livestock grazing use under a permit or lease; (2) Not approved for temporary non-use; and (3) Not in suspension.

Actual use means where, how many, and what kind or class of livestock graze on an allotment, or on a portion or pasture of an allotment, and how long they graze. Actual use may be expressed in terms of animal unit months.

Adjusted grazing value means the total grazing fee calculated as authorized animal unit months (AUMs) multiplied by the grazing fee, minus land use practices on national grasslands or fee credits on eastern national forests. The adjusted grazing value is the amount due shown on the bill for collection. This applies to national grasslands and eastern forests.

Allotment means an area of land designated and managed for grazing and livestock.

Allotment management plan means a document prepared in accordance with 43 U.S.C. 1702(k).

Animal unit month (AUM) means one month's use of forage and occupancy of rangeland by one (1) cow, bull, steer, heifer, bison, horse (ancillary to livestock production), burro, or mule, or five (5) sheep or goats.

Authorized officer means a Forest Service line officer with the authority to take certain actions related to rangeland management on National Forest System lands and other lands under Forest Service control.

Authorized use means the part of active use that is available for grazing in a given year. It is specified on the annual bill for collection and verified by the permittee's payment of fees.

Base property means:

(i) Private land, owned or leased by a permittee or permit applicant, that contains livestock operation facilities capable of serving as a base of operations for the livestock use of National Forest System lands; or

(ii) Private land, owned or leased by a permittee or permit applicant, that has the capability to produce crops or forage that can be used to support authorized livestock for a specific period of the year; or

(iii) Stockwater rights that are vested in the permittee or permit applicant pursuant to State law and appurtenant to National Forest System lands, or private lands owned or leased by a permittee or permit applicant.

Beginning rancher means a permittee's children, grandchildren, or other individuals who has not owned or served as an officer, managing partner or member, or any other deciding individual of a farm or ranching business for a period of 10 or more years;

Cancel or cancellation means action taken through a final written decision to permanently invalidate a term grazing permit in whole or in part.

Carrying capacity means the average number of livestock, wildlife, or both that may be sustained on a management unit, compatible with management objectives for the unit. In addition to site characteristics, carrying capacity is a function of management goals and management intensity.

Class of livestock means an age or sex group of a kind of livestock.

Conservation practice means a type of land use practice consisting of structural and nonstructural rangeland improvements that may be implemented by grazing associations and permittees on national grasslands and land utilization projects, subject to the approval of the authorized officer.

Consultation, cooperation, and coordination means interaction for the purpose of obtaining advice or exchanging opinions on issues, plans, or management actions.

Current grazing management means grazing in accordance with the terms and conditions of an existing permit, including any modifications that are consistent with an applicable Department of Agriculture land management plan.

Direct permittee means, in the context of National Grasslands, an individual or organization that holds a grazing permit (temporary or term) issued directly by the U.S. Forest Service for use of National Grasslands for livestock production. This is distinct from an indirect permittee, who may be a member of a grazing association or other group that holds the permit on behalf of its members.

Eleven Western States means the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming, which are used to calculate the forage value index.

Fair market value (FMV) means the monetary amount that is reasonably expected for use of rangeland, and that applies only to grazing fees. Expressed as an amount per month, fair market value is usually established by competitive conditions. For grazing on National Forest System lands, fair market value is the difference between the total costs associated with livestock grazing on privately leased grazing lands and the total non-fee costs of livestock grazing National Forest System lands.

Fee credit means the value of rangeland improvements required by an authorized officer on eastern national forests, or as conservation practices on national grasslands and land utilization projects, that are credited against the annual grazing value in the determination of a grazing fee.

Forage reserve allotment means an allotment (such as a grass bank or swing allotment) that is used for a short-term (less than three years) when needed and for which a project-level environmental analysis and decision has been made to authorize use of the allotment forage resource. Forage reserves can be used to facilitate landscape-level management by improving flexibility in responding to needs (such as drought, fire, or restoration) or resource management opportunities (such as vegetative manipulation). Intermittent use of forage reserves should occur to ensure they remain in a ready-to-use state to avoid the forage reserve declining into decadent overgrowth or rangeland improvements falling into disrepair.

Grant process means the procedure for identifying an applicant or applicants to receive a term grazing permit when grazing capacity becomes available and there is no preferred applicant.

Grazing agreement means a type of term grazing permit that authorizes eligible grazing associations and grazing districts organized under State or Tribal law to graze livestock on National Forest System lands. It includes provisions to allow the association to distribute its allotment use among its members and administer its members' use in conformance with applicable law, regulation, land management plan and allotment management plan direction, the terms and conditions of the grazing agreement, and the association's rules of management and bylaws.

Grazing association means a cooperative of National Forest System grazing users to which a grazing agreement has been issued. Grazing associations are organized under State or Tribal statutes for the purpose of cooperative management of permitted livestock and to administer the livestock grazing use distributed to its members. Grazing associations may also be referred to as grazing districts.

Grazing permit means a document authorizing livestock to use National Forest System or other lands administered by the Forest Service for the purpose of livestock production (such as the production of meat, milk, fiber, or other products) and includes animals used in support of livestock production operations, such as pack and saddle stock.

Grazing preference or preference (see also *Preferred applicant*) means a

superior or priority position against others for the purpose of receiving or renewing a grazing permit. This priority is attached to base property that is owned or leased by the permittee or it may be attached to permitted livestock owned by the permittee.

Land use practices means practices contained within the conditions of a grazing permit that is issued on national grasslands. The costs of these practices are deducted from the annual grazing value to determine the annual grazing fee. Land use practices include:

(i) *Conservation Practices.* The protection, planning, and land treatment and rangeland improvement measures (structural and nonstructural) that the Forest Service requires in carrying out the provisions of a grazing permit or grazing agreement. Some examples include fences, water developments, and prescribed fire.

(ii) *Administrative Activities.* Allowable administrative and program management activities carried out by a grazing association functioning under a grazing agreement, which would otherwise be an expense incurred by the Forest Service. Examples include billing and oversight of approved rangeland improvement projects.

Lessee of base property means an individual or entity that has a possessory interest under a lease for the base property associated with a grazing permit. A grazing permit can only be issued to a lessee who leases base property that is associated with a grazing permit and meets the other eligibility requirements. To obtain a permit the lessee of base property must prove a possessory interest in the leased base property, that has a grazing permit associated with it, through a formal lease agreement. When a term grazing permit is associated with permitted livestock, an individual or entity may lease property that meets the base property requirements, so they are eligible for a grazing permit.

Lessee of livestock means a permittee that has a possessory interest under a lease agreement for livestock that will be managed by the permittee on the allotment. The permittee must prove a possessory interest in the leased livestock through a formal lease agreement.

Livestock means production oriented animals of any kind kept or raised for the use or production of meat, milk, fiber, or other products, and includes animals used in support of the production operation (such as horses used as permittee pack and saddle stock).

Livestock use permit means a permit issued for purposes other than livestock production (such as research, leased sires, or targeted grazing). The issuance term shall not exceed five years, and the permit has no priority for renewal.

Maintenance of rangeland improvements means the timely repair of rangeland facilities to a condition adequate to ensure proper functioning of the facility, perpetuate its life, and protect or improve the rangeland resource. Satisfactory maintenance of improvements is a mandatory term and condition of the permit for grazing on National Forest System lands.

Mentee means someone who is mentored by an existing permittee and enters into a mentor/mentee agreement approved by the authorized officer.

Monitoring means the observation and orderly collection of data over an appropriate time-period to evaluate:

(i) Effects of management actions; and

(ii) Effectiveness of actions (such as land health).

National forests in the 16 contiguous Western States means lands designated as national forest within the boundaries of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming (national grasslands are excluded) (43 U.S.C. 1902(i)).

National Forest System lands means the national forests, national grasslands, land utilization projects, other Federal lands for which the Forest Service has administrative jurisdiction, and all other lands and interests mentioned in 16 U.S.C. 1609(a).

Nine Great Plains States means the States of Colorado, Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, in which the indices are collected to determine the annual grazing value on the 17 national grasslands in those States.

Non-permittee means a person who owns or leases livestock and does not have a grazing permit to graze livestock on National Forest System lands.

Other lands under Forest Service control means non-Federal public and private lands over which the Forest Service has been given control through lease, agreement, waiver, or otherwise.

Outcome-based grazing means the incorporation of pre-authorized grazing plan modifications, called flexibilities, into grazing authorizations to better respond to changing conditions to achieve vegetation objectives.

Permitted livestock means livestock owned or leased by the permittee that has been identified by brand or other markings as requested on the application for a term grazing permit, temporary grazing permit, or term private land permit.

Permitted use means the forage allocated for grazing by production-oriented livestock in an allotment under a permit and is expressed in AUMs. Permitted use includes authorized use and active use and suspended use AUMs. See also *Active use.*

Permittee means any person who has been issued a grazing permit.

Preferred applicant (see also *Grazing preference*) means an individual who has priority position against others for the purpose of receiving (through waiver or grant) or renewing a grazing permit. The entity remains in preferred applicant status until all required documentation is submitted within the time limit agreed upon by the authorized officer, reviewed, and it is determined that the applicant meets all eligibility and qualification requirements.

Rangeland betterment means rehabilitation, protection, and improvement of National Forest System lands to arrest rangeland deterioration and improve forage conditions, fish and wildlife habitat, watershed protection, and livestock production.

Range betterment fund means the fund established by title IV, section 401(b)(1), of the Federal Land Policy and Management Act of 1976. This fund consists of 50 per centum of all monies received by the United States as fees for grazing livestock on the national forests in the 16 contiguous Western States or $10,000,000 per annum, whichever is greater.

Rangeland improvement means any authorized activity, physical modification, or treatment designed to improve production of forage; change vegetation composition; control patterns of use; provide water; stabilize soil and water conditions; restore, protect, and improve the health of rangeland ecosystems to benefit production-oriented livestock, wild horses and burros, and fish and wildlife. The term includes, but is not limited to structures, treatment projects (*i.e.,* prescribed fire), and use of mechanical devices or modifications achieved through mechanical means (*i.e.,* inter-seeding, pitting).

Rules of management means a set of policies, procedures, and practices, including eligibility requirements, developed by a grazing association or grazing district and approved by the authorized officer, that govern the grazing use both on National Forest System lands covered by a grazing agreement and on private, State, Tribal, or other agency lands under the management of a grazing association.

Small farm or ranch means a business that is classified as a small family farm according to the farm typology maintained and periodically updated by the U.S. Department of Agriculture's Economic Research Service, based on gross cash farm income categories and family ownership criteria. The term small business farm or ranch is synonymous with small farm or ranch.

Stocking rate means the number of specific kinds and classes of animals grazing a given area over a specific time period per acre. Stocking rate is usually expressed in AUMs per acre.

Succeeding family member means child, grandchild, niece, or nephew of a permit holder. The term grazing permit may be waived to such family member.

Successional base property means base property that is leased for the purpose of facilitating the lessee's ability to transition to owning the leased base property within a specified period of time.

Successional livestock arrangement means an approved written agreement between a permittee and the permittee's successor that allows the successor to build a herd by incrementally acquiring the current permittee's permitted livestock operation over a declared period of time, during which the permittee's livestock will be replaced by livestock owned by the successor.

Supplemental feed means a feed or nutritional supplement that augments the forage available from the National Forest System lands and is provided to improve livestock nutrition or rangeland management.

Suspend or suspension means the temporary withholding from active use, through a decision issued by the authorized officer or by agreement, of part or all of the term grazing permit, provided however, such withholding shall not exceed a period of 3 years or until the violation is remedied, or until specified objectives or actions have been met, whichever is earlier.

Sustained yield means the achievement and maintenance, in perpetuity, of a high-level, annual or regular periodic output from the various renewable resources of the National Forest System lands, consistent with multiple use.

Targeted grazing means using livestock as a tool to create strategic linear fuel breaks, to reduce fine fuel height and fuel loading, and to maintain fine fuels reduction for a specified period under, or to address other resource issues such as control of undesirable plant species.

Temporary grazing permit means a type of grazing authorization issued in certain circumstances to allow use of forage available on National Forest System lands (either within or outside of an allotment) when issuance or modification of a term grazing permit is not appropriate or needed, or authorizes the use of livestock to meet other resource objectives (for example, outcome-based grazing or targeted grazing).

Temporary non-use means that portion of active use that the authorized officer approves in writing to not be used temporarily. Temporary non-use may be in response to a request made by the permittee for personal convenience or it may result from resource management needs required by the authorized officer.

Term grazing permit consolidation means the consolidation of two or more term grazing permits for the same entity when the entity obtains qualified base property or permitted livestock, or both, which have been historically associated with separate livestock operations on grazing allotments, and applies to obtain the term grazing permits and consolidate them under a single permit.

Term grazing permit with on-and-off provisions means a type of term grazing permit with a provision that may be issued to a qualified applicant who holds a term grazing permit and who owns or leases non-National Forest System land that is intermingled with, or adjacent to, and used in conjunction with, a Forest Service grazing allotment.

Term private land grazing permit means a permit issued to a person who owns or leases unfenced private, State, or other rangeland parcels that are intermingled with, or adjacent to, a Forest Service grazing allotment, and who does not hold a term grazing permit for grazing on the National Forest System lands on the allotment.

Trend means the measurable direction of change over time, either toward or away from desired management objectives.

Transportation livestock means livestock used as pack and saddle stock for travel on the National Forest System.

Unauthorized leasing and subleasing means:

(i) The lease or sublease of a Federal grazing permit, associated with the lease or sublease of base property, to another party without a required transfer approved by the authorized officer;

(ii) The lease or sublease of a Federal grazing permit to another party without the assignment of the associated base property;

(iii) Allowing another party, other than sons, daughters, and grandchildren of the grazing permittee or beginning ranchers meeting the requirements of § 4130.7(f), to graze on public lands livestock that are not owned or controlled by the permittee; or

(iv) Allowing another party, other than sons, daughters, and grandchildren of the grazing permittee or beginning ranchers meeting the requirements of § 4130.7(f), to graze livestock on public lands under a pasturing agreement without the approval of the authorized officer.

Unauthorized livestock means any cattle, sheep, goat, hog, bison, or equine not defined as a wild free-roaming horse or burro or feral animal (one that is abandoned or unbranded), or any other livestock or exotic ungulate, that is not authorized by a Forest Service permit and bill for collection. Noncommercial pack and saddle stock used by recreationists, travelers, and other forest and grassland visitors for occasional trips, and livestock trailed over an established driveway when there is no overnight stop on National Forest System land, do not fall under this definition.

Unauthorized use rate means the annual fee charged for unauthorized livestock use.

Utilization means the portion of the current year's growth removed during a specified period. The term is also used to refer to the pattern of such use. For guidance on utilization, see *Utilization Studies and Residual Measurements: Interagency Technical Reference* (Technical Reference 1734–3) (Bureau of Land Management et al. 1996, revised 1997, 1999), or subsequent updates.

Vacant allotment means an allotment for which no term grazing permit is currently issued.

Waiver of term grazing permit means a form completed by the holder of a term grazing permit that surrenders all privileges provided under the permit back to the United States. If the holder of the term permit has sold base property or permitted livestock to another individual or entity, the waiver may be executed in favor of the purchaser to apply for the permit.

■ 6. Revise § 222.2 to read as follows:

§ 222.2 Allotment management.

(a) Consistent with land management plans, forage-producing National Forest System lands may be managed for livestock grazing.

(b) Allotments shall be designated on the National Forest System and on other lands under Forest Service administration where the land is available for grazing. Associated private and other public lands may be considered in such designation, with the consent of the landowner, lessee, or agency, to form logical rangeland management units.

(c) *Allotment management plans.* An allotment management plan may be developed for each allotment. If the authorized officer elects to develop an allotment management plan, the plan shall be developed in consultation, cooperation, and coordination with affected permittees, landowners, and any State or Tribe with lands covered by such allotment management plan. The allotment management plan shall be implemented, reviewed periodically, and revised as needed.

(1) Permits may incorporate an allotment management plan for managing livestock grazing.

(2) Allotment Management Plans will:

(i) Prescribe the livestock grazing practices necessary to meet specific resource objectives defined in any existing environmental analysis;

(ii) Specify any operational flexibility that can be approved by the authorized officer; and

(iii) Include a monitoring plan to evaluate the effectiveness of management actions in achieving the specific resource objectives of the plan.

(3) Private, Tribal, and State lands may be included in allotment management plans, dealing with rangeland management, with the consent or at the request of the parties who own or lease those lands.

(4) A requirement to conform with completed allotment management plans shall be incorporated by reference into the terms and conditions of the grazing permit for the allotment.

(5) Allotment management plans may be revised or terminated by the authorized officer. When revisions or terminations occur, the authorized officer shall inform through written notification affected permittees, landowners involved, and any State or Tribe having lands within the area covered by the plan.

(d) *Changes to allotment boundaries.* After consultation, cooperation, and coordination with the affected grazing permittee(s) and any States or Tribe having lands within the allotment to be covered by such allotment management plan, the authorized officer may designate and adjust grazing allotment boundaries. The approach used to modify allotment boundaries shall be determined on a case-by-case basis. In some instances, modifying an allotment boundary may be considered a technical correction, while in other instances, modification may require environmental analysis and decision.

(e) *Rangeland disturbance response actions.* The authorized officer may implement temporary response actions to address drought, wildfire, flood, insect or disease outbreak, loss of water availability, or other events that materially reduce forage or water availability or otherwise threaten rangeland resources or livestock health.

(1) Temporary response actions may include temporary changes in livestock numbers, season of use, pasture rotation, timing of use, area of use, water use, supplemental feeding locations, targeted grazing, temporary non-use, or other actions necessary to protect rangeland resources or livestock health.

(2) Before implementing a temporary response action, the authorized officer shall, to the extent practicable, consult, cooperate, and coordinate with affected permittees and consider reasonable alternatives proposed by affected permittees.

(3) The authorized officer shall document the basis for the temporary response action, including the conditions prompting the action, the expected duration, the affected allotments or pastures, and the criteria for terminating or revising the action.

(4) A temporary response action under this paragraph does not modify the term grazing permit unless the authorized officer separately modifies the permit in accordance with § 222.5(e).

(5) In an emergency, the authorized officer may make a temporary response action effective immediately or on a date specified in the decision. The authorized officer shall provide written notice to affected permittees as soon as practicable.

(6) The authorized officer may determine that vegetation, soil, or other resources on National Forest System lands are at substantial risk of wildfire due to drought, fuels buildup, or other causes, or at immediate risk of erosion or other damage due to wildfire. The authorized officer may include targeted grazing as a component of a wildfire management decision, consistent with applicable law, the applicable land management plan, and agency procedural requirements.

■ 7. Revise § 222.3 to read as follows:

§ 222.3 Issuance of grazing permits.

(a) Unless otherwise specified by the Chief, Forest Service, all grazing and livestock use on National Forest System lands and on other lands under Forest Service control must be authorized by a term grazing permit, a term grazing permit with on-and-off provisions, grazing agreement, term private land grazing permit, a temporary grazing permit, or a livestock use permit.

(b) Term grazing permits (including term grazing permit, term grazing permit with on-and-off provisions, grazing agreement, and term private land grazing permit) authorize grazing by production-oriented livestock on the National Forest System lands, consistent with land management plans as available. Permits must specify the permitted use, the kind and number of livestock, the period of use, the allotment to be used, and the terms and conditions, and must identify the appropriate land management plan and the site-specific analysis and decision associated with the permit.

(c) The number and season of use, and designated areas permitted in a term grazing permit (including term grazing permit, term grazing permit with on-and-off provisions, grazing agreement, and term private land grazing permit) may be changed on an annual basis, through the authorized use, to address resource needs or respond to drought, fire, or other situations.

(d) All permits shall be made subject to cancellation, suspension, or modification for any violation of federal law, these regulations or any terms or conditions of the permit, or Allotment Management Plan.

(e) Term grazing permits, temporary grazing permits, term grazing permits with on-and-off provisions, grazing agreement, and term private land grazing permits, and livestock use permits convey no right, title, or interest held by the United States in any lands or resources.

(f) The authorized officer may issue permits for livestock grazing and other use by livestock, such as for vegetation control or invasive species management, on the National Forest System and on other lands administered by the Forest Service.

(g) The Chief, Forest Service, shall prescribe provisions and requirements under which term permits will be issued, renewed, and administered, including:

(1) The amount and character of base property and livestock that the permit holder shall be required to own or lease.

(2) Conditions for the approval of temporary non-use of the permit for specified periods.

(3) Discretionary priority for a qualified beginning rancher or permittee mentee when issuing a term grazing permit through a prospectus. Beginning ranchers and permittee mentees must meet all eligibility and qualification requirements intended to reduce barriers to entry into the agricultural industry, or demonstrate that they meet the exceptions prescribed by the Chief. Exceptions to the qualification requirements for beginning ranchers and permittee mentees may be approved

singularly or in combination and include:

(i) Allowing for the phased acquisition of base property or livestock, or both, under limited circumstances.

(ii) Allowing for a successional base property arrangement, which essentially sets up an extended purchase and sale agreement. This means that the base property owner agrees to sell the described base property, and the successor agrees to purchase the property by the date specified in the arrangement.

(iii) Allowing a beginning rancher or a mentee to be mentored by a permittee. When a permittee mentor/mentee arrangement is approved by the authorized officer, the mentee is not issued a term grazing permit; instead, the mentee may run up to 50 percent of the permitted livestock numbers under the permittee mentor's term grazing permit.

(iv) Allowing successional livestock arrangements to provide the opportunity for an entity seeking to acquire the current permittee's livestock operation to build a herd by incrementally acquiring livestock from the current permittee.

(h) *Eligibility and qualification requirements.* Term grazing permits may be issued only to individuals or entities who meet the eligibility and qualification requirements.

(1) To be considered eligible to hold a term grazing permit, an applicant must be:

(i) A citizen of the United States who has reached the age of majority by the State where the permitted grazing activity would occur, except for individuals who have not reached the age of majority and have a parent, guardian, or trustee who cosigns the permit; a minor who has obtained the status of legal adulthood before reaching the legal age of majority by court order for emancipation; or a citizen of a foreign country who has demonstrated intent to become a citizen by having filed for naturalization;

(ii) An entity formed and recognized as a legal entity in accordance with applicable Federal and State statutes; or

(iii) An American Indian Tribe, Tribal Organization, or Tribal member.

(2) To be considered as qualified to hold a term grazing permit, an eligible applicant must own or lease base property, as defined in § 222.1, and own or lease the livestock to be permitted. However, when any of the excepted conditions described below apply, an entity may be approved to meet those requirements:

(i) An exception to the base property ownership/lease requirement is provided to allow for successional base property arrangements, providing the opportunity for an entity to incrementally acquire ownership of a current permittee's described base property.

(ii) An exception to the livestock ownership/lease requirement is provided to allow current permittees to mentor an aspiring small business rancher or beginning rancher. When a beginning rancher or mentor/mentee arrangement is approved by the authorized officer, the beginning rancher or mentee is not issued a term grazing permit; instead, the beginning rancher or mentee may run up to 50 percent of permitted livestock numbers under the permittee's term grazing permit.

(iii) An exception to the livestock ownership/lease requirement is provided to allow for successional livestock arrangements, providing the opportunity for an entity seeking to acquire the current permittee's livestock operation to build a herd by incrementally acquiring livestock from the current permittee.

(iv) An exception to the livestock ownership/lease requirement is provided to allow beginning ranchers to enter into extended livestock purchase and sale arrangements when additional time is needed for the beginning rancher to acquire enough livestock to fully stock the term grazing permit.

(v) An exception to the requirement that base property ownership/lease and permitted livestock be held by the same precise legal entity is provided to facilitate estate planning and family livestock operation. Under limited circumstances, one entity may own the base property and a second entity composed of the same individuals may own or lease the livestock to be permitted. The authorized officer may allow up to 50 percent of the permitted livestock to be owned by the permit holder's immediate or extended family members and grazed under the permit holder's term grazing permit, provided the permit holder annually identifies the number, ownership, and brands of such livestock.

(vi) Under instances where a ranch becomes associated with a permanent conservation easement that prohibits subdividing it into parcels, the Forest Service may recognize this one property as the base property qualifying multiple different entities to hold grazing permits associated with that land.

(i) *Permits with priority for renewal.* Term grazing permits authorized in this paragraph have priority for renewal and may be in the form of term grazing permits, grazing permits with on-and-off provisions, or grazing agreements. Permittees and applicants must be eligible and qualified to hold such permits in accordance with paragraph (h) of this section. Permits issued under this paragraph may be issued as follows:

(1) On national forests in the 16 contiguous Western States, 10-year term permits will be issued unless the land is pending disposal, will be devoted to other uses prior to the end of 10 years, or it will be in the best interest of sound land management to specify a shorter term in accordance with 43 U.S.C. 1752(b)(3).

(2) On National Forest System lands other than national forests in the 16 contiguous Western States, the permit term shall be for periods of 10 years or less. Term grazing permits in the form of grazing agreements may be issued to cooperative grazing associations or similar organizations incorporated or otherwise established pursuant to State or Tribal law.

(3) A term permit holder has first priority for receipt of a new permit at the end of the term period, provided the permit holder has fully complied with the terms and conditions of the expiring permit.

(4) To update terms and conditions, term grazing permits may be cancelled at any time, provided a new permit is issued to the existing permit holder for a new term of the appropriate number of years for a new permit, per paragraphs (1) and (2) above.

(5) New term permits may be issued to an eligible and qualified purchaser of a permittee's permitted livestock or base property, or to a lessee of a permittee's base property, provided the permittee waives the term permit to the United States in favor of the purchaser of base property or livestock, or the base property lessee.

(6) When a permit expires or is waived, the authorized officer shall renew an existing permit or issue a new permit to reallocate the use from the expiring/waived permit with terms and conditions consistent with the supporting environmental analysis and decision.

If a permit expires or is waived, and there is no current environmental analysis or a new environmental analysis is necessary, the authorized officer shall:

(i) for the National Forests in the 16 contiguous Western States, issue a permit with the same terms and conditions until the environmental analysis and documentation required under NEPA and other applicable laws is complete. After completion of this process the permit may be canceled, suspended, or modified accordingly.

(ii) for lands other than the National Forests in the 16 contiguous Western States, issuance of the permit shall be consistent with appropriations language, if available, and all applicable laws.

If a permit is cancelled, this paragraph does not apply. See 222.4(c).

(7) If the permittee chooses to dispose of all or part of the permittee's base property or permitted livestock (not under approved temporary non-use), but does not choose to waive the term permit, the authorized officer shall give written notice that the permittee is no longer qualified to hold a permit. The permittee shall be given up to one year to reestablish qualifications before cancellation action is final.

(j) *Permits with no priority for renewal.* Permits with no priority for reissuance are subject to terms and conditions as prescribed by the authorized officer and are authorized as follows:

(1) Temporary grazing permits for periods not to exceed one year, on a charge basis, may be issued provided this use is consistent with multiple-use objectives and does not interfere with existing livestock operations on the National Forest System lands. The authorized officer shall consult, cooperate, and coordinate with affected permittees on common allotments prior to issuance of temporary grazing permits:

(i) to allow for the use of rangelands while a term grazing permit is held in suspension;

(ii) to use additional forage created by unusually favorable climatic conditions;

(iii) to use the permitted rangelands when the permit holder's livestock is in temporary non-use status for reasons of personal convenience;

(iv) to allow a person to continue to graze livestock for the remainder of the grazing season where base property has been sold or the lease cancelled, the permit waived, and a new term permit issued;

(v) to allow grazing use in the event of drought or other emergency of National or Regional scope where such use would not result in permanent resource damage;

(vi) to allow for vegetation control or invasive species management, as well as stewardship projects (such as outcome-based grazing or targeted grazing); or

(vii) to allow use on a forage reserve allotment by an entity who does not have a term grazing permit.

(viii) The permittee or individual who acquires a temporary permit shall perform annual rangeland improvement maintenance prior to turning livestock out on the allotment.

(2) Livestock use permits shall not exceed five years and may be issued consistent with applicable laws and under terms and conditions prescribed by the authorized officer as follows:

(i) paid permits for transportation livestock;

(ii) paid or free permits for research purposes and administrative studies;

(iii) paid or free permits to trail livestock across National Forest System lands;

(iv) free permits to persons who reside on ranch or agricultural lands within or contiguous to National Forest System lands, not to exceed 10 head of livestock owned or kept whose products are consumed or whose services are used directly by the family of the resident, and who distinctly need such National Forest System lands to support such animals;

(v) free permits to campers and travelers for the livestock actually used during the period of occupancy. This may be authorized without a written permit;

(vi) paid or free permits for horses, mules, or burros used by permittees to support management of permitted livestock when they are not included in the term grazing permit;

(vii) free permits for horses, mules, or burros to cooperators who use pack and saddle stock to support research, administration, or other work being conducted. This may be authorized without a written permit;

(viii) paid or free permits for livestock used as a management tool to manipulate or control vegetation or invasive species, as well as implement stewardship projects (such as outcome-based grazing or targeted grazing) on a given parcel of National Forest System land; or

(ix) paid permits to holders of grazing permits for breeding animals used to service livestock permitted to graze on lands administered by the Forest Service.

(3) Term private land permits may be issued to an applicant who owns or leases unfenced private, State, or other rangeland parcels that are intermingled with, or adjacent to, a Forest Service-administered grazing allotment but does not hold a term grazing permit for use of the National Forest System lands, under the following conditions:

(i) The applicant shall provide proof of ownership or lease of the offered land for grazing purposes.

(ii) Issue this permit only if it is in the best interest of the United States, considering the management of National Forest System lands and resources within the allotment, and whether the owned or leased lands should be managed with the National Forest System lands as a logical grazing unit.

(iii) Term private land permits may be issued for a period that coincides with the term of their land lease or other agreement that allows their use, or for a period of up to 10 years, whichever is less.

(iv) The authorized officer shall estimate the grazing capacity for the offered lands identified in the application for a term private land grazing permit.

(v) The applicant must agree to all terms and conditions of the term private land grazing permit, including the overall season of use and the number of livestock on the owned or leased lands.

(vi) Livestock that access National Forest System lands without authorization are unauthorized livestock.

(k) *Grant priority for available grazing capacity.* When grazing capacity becomes available on a permanent sustained-yield basis for grazing, the authorized officer may authorize grazing use of such land or forage on the basis of this section, § 222.5, § 222.7(a), or any of the following factors:

(1) When unresolved resource or management concerns exist on a district or forest, priority consideration shall be given to impacted permittees first. Authorized officers shall document the rationale for determining which permittee will be granted the unobligated capacity when addressing unresolved resource or management concerns.

(2) When no unresolved resource or management concerns exist:

(i) When the available grazing capacity is associated with an allotment with existing permittees and is a direct result of permittees' direct contributions to the completion of rangeland improvements, development programs, or enhanced livestock grazing and rangeland management, the capacity shall be allocated in a proportional manner relative to the contributions made by each permittee leading to the increased capacity;

(ii) When grazing capacity is added through a land exchange, and that land is incorporated into an existing allotment, priority shall be given to existing permittees on the allotment who grazed the acquired land prior to the land exchange; or

(iii) When the available grazing capacity is not associated with paragraph (l)(2)(i) or (ii) of this section, the authorized officer shall solicit applicants by issuing a prospectus in the following priority order:

(A) to a beginning rancher or mentee with a permittee mentor/mentee

agreement who is a small business rancher;

(B) to existing permittees on adjacent allotments who are small business ranchers;

(C) to owners of livestock who are not current Forest Service permittees but are currently in good standing and authorized on rangeland administered by the Bureau of Land Management to the extent provided in the memorandum of understanding between the Forest Service and Bureau of Land Management; and then

(D) to a solicited applicant who has applied in response to a prospectus and is eligible and qualified.

■ 8. Amend § 222.4 by revising the section heading, paragraph (a) introductory text, and paragraph (a)(2)(iv), and by adding paragraph (c) to read as follows:

§ 222.4 Cancellation, modification, or suspension of grazing permits.

(a) The authorized officer may cancel, modify, or suspend any grazing or livestock use permit, in whole or in part, as follows:

* * * * *

(2) * * *

(iv) Fails to restock the allotment after the full extent of approved personal convenience temporary non-use has been exhausted.

* * * * *

(c) If a permit is cancelled, the authorized officer should reallocate the use from the cancelled permit to a new applicant under the grant process (§ 222.3(k)). The issuance shall be consistent with a current environmental analysis, decision authorizing grazing, and all applicable laws. The authorized officer retains sole discretion to determine how to reallocate this use.

■ 9. Add § 222.5 to read as follows:

§ 222.5 Changes in permitted, authorized, and active use.

(a) The authorized officer shall periodically review the permitted use specified in a grazing permit and shall make changes in the permitted use, authorized use, or active use as necessary, when supported by site-specific analysis from monitoring, documented field observations, ecological site inventory, or other data acceptable to the authorized officer to:

(1) Manage, maintain, or improve rangeland health or productivity; or

(2) Assist, if necessary, in making progress toward restoring riparian ecosystems to properly functioning conditions; or

(3) Conform to land management plans.

(b) If sufficient improvement cannot be achieved through adjustments to authorized use, modifications to permitted use may be necessary and should be based on a site-specific analysis, which shows active grazing use is causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as determined through monitoring data, documented field observations, ecological site inventories, or other information deemed acceptable by the authorized officer.

(c) *Allocation of additional forage.* Apportioned forage shall be consistent with multiple-use and sustained-yield management objectives.

(1) Additional forage available on a permanent or sustained-yield basis for grazing by production-oriented livestock shall be apportioned to eligible and qualified applicants in accordance with the grant process in § 222.3(k). The authorized officer shall apportion the available forage after consultation, cooperation, and coordination with affected permittees on a common allotment, and any State having lands within the allotment.

(2) Additional forage temporarily available for grazing by production-oriented livestock may be apportioned on an annual temporary basis, depending on the need by permittees or individuals who acquire a temporary permit, or based on resource management needs.

(3) When additional forage is temporarily available due to temporary non-use for personal convenience by a permittee, the authorized officer may authorize grazing to fill in behind the approved temporary non-use. The use may be made temporarily available to an existing permittee through a bill for collection or to an individual who acquires a temporary permit.

(4) Forage reserve use by existing permittees shall be authorized on the bill for collection. Forage reserve use by a non-permittee shall be authorized by a temporary permit.

(5) When livestock management activities are needed temporarily to achieve identified rangeland condition outcomes, such as invasive species control, vegetation management, or fuels treatments), additional forage may be apportioned to permittees or others in accordance with § 222.3(c), § 222.3(f), § 222.3(j)(1), § 222.3(j)(2), or § 222.3(k).

(6) Permittees who seek temporary changes in grazing use within the terms and conditions of their permit must request the changes in writing from the Forest Service before the requested change in grazing use would be authorized.

(7) The authorized officer may approve temporary changes in livestock number, period of use, or both, provided that any temporary change in the authorized period does not begin more than 21 days before the beginning date specified in the permit and does not extend more than 21 days after the ending date specified on the permit, unless otherwise authorized in an allotment management plan.

(d) *Personal or required non-use.*

(1) *Temporary non-use for the permittee's personal convenience.*

(i) Temporary non-use for the permittee's personal convenience occurs when a permittee requests to graze less than 90 percent of the permitted number of livestock on a specified allotment for a given grazing year. Temporary non-use applies only to the number of animals and can be requested for partial numbers of permitted livestock or for all of the permitted livestock.

(ii) Temporary non-use for the permittee's personal convenience may only be authorized for up to 4 consecutive years and may not exceed 4 years in a 10-year rolling period.

(iii) Temporary non-use for the permittee's personal convenience must be requested in writing by the permittee for each year. Approval or denial shall be documented by the authorized officer in writing.

(2) *Temporary non-use for resource management needs.*

(i) When the authorized officer determines that temporary non-use for resource management needs is necessary, the authorized officer would initiate consultation, and coordination with affected permittees and the State or Tribe having lands within the allotment.

(ii) Permitted use may be placed into temporary non-use for resource management needs, in whole or in part, on a temporary basis due to drought, fire, or other natural causes; or to facilitate installation, maintenance, or modification of rangeland improvements. The temporary non-use shall be implemented and documented through the annual bill for collection.

(iii) Temporary non-use for resource management needs may be requested by the permittee and must be requested in writing for each year it is desired.

(iv) The authorized officer may require temporary non-use for resource management needs or temporarily modify management practices when review of site-specific monitoring shows that current grazing use is causing an unacceptable level or pattern of utilization, or when use exceeds the carrying capacity. Only monitoring methods and data approved by the Forest Service and collected at sites identified in the allotment management

plan, land management plan, or site-specific analysis shall be used.

(v) Where permitted use is reduced under this section, it will be placed in temporary non-use for resource management needs until the authorized officer has determined that the specific objectives that were expected to be met by implementing the temporary non-use for the resource management needs have been met, and livestock can return to the area. The need for temporary non-use should be identified on an allotment-by-allotment basis. When establishing the need for temporary non-use for resource management, the authorized officer shall document the following in a memorandum to the file and a letter to the permittee:

(A) The period and amount of temporary non-use being approved or required must be identified;

(B) The objectives to be achieved, such as how the temporary non-use would enable or support the implementation of vegetation treatments (such as prescribed fire or seeding); the specific resource conditions that are expected to be met, enhanced, or how the temporary non-use will enable progress to be made toward achieving the specific resource conditions;

(C) How the temporary non-use is expected to achieve the described objectives; and

(D) The monitoring that will be conducted (the type, frequency, and so forth), and when the data will be reviewed to determine if the temporary non-use is achieving the described objectives.

(vi) When the temporary non-use is a result of an emergency (such as for drought, fire, flood, or animal disease outbreaks/transmissible livestock disease) and there is a need to immediately protect the soil, vegetation, or other resources, the authorized officer should issue notices of emergency closure and decisions requiring modification of authorized grazing use. The notices may be effective upon issuance or on a date specified in the decision.

(vii) The authorized officer shall not authorize qualified applicants to graze forage made available as a result of temporary non-use for resource management needs.

(3) Temporary non-use for rangeland research may be available under a written agreement between the Forest Service, the permittee, and the entity conducting the research on an allotment, or portion of an allotment, as needed for a study area, and must be requested in writing.

(4) Temporary non-use of grazing association-issued term grazing permits shall be administered as follows:

(i) Associations may approve member requests for temporary non-use for personal convenience and for resource management needs.

(ii) Associations may require their members to take temporary non-use for resource management needs if, in coordination with the Forest Service the Forest Service determines the temporary non-use is needed (such as due to wildfire and drought).

(iii) Grazing associations shall ensure that the implementation of their temporary non-use policy is consistent with the Forest Service temporary non-use policies.

(iv) The Forest Service authorized officer may approve requests by the grazing association for temporary non-use for personal convenience, resource management needs, or require temporary non-use for resource management needs.

(v) Grazing associations must graze at least 90 percent of the number of livestock under their association-issued grazing permit each year, unless the Forest Service approves or requires temporary non-use.

(vi) The need for resource management temporary non-use should be identified on an allotment-by-allotment basis and should include specific objectives that are expected to be met by implementing temporary non-use.

(vii) The grazing association shall be responsible for working with its members to carry out temporary non-use for resource management needs on the associated allotments.

(viii) A member's failure to place livestock on the National Forest System lands without approved or required temporary non-use may be subject to non-compliance actions as described in the association's rules of management.

(ix) A grazing association is authorized to allow association members or temporary non-members to fill in behind a member's temporary non-use for personal convenience. If an association decides not to fill in behind the member's temporary non-use for personal convenience, the association must contact the Forest Service and request that the temporary non-use be approved and reflected on the annual bill for collection issued by the Forest Service to the association.

(e) *Permit modifications.* The authorized officer may make modifications to the terms and conditions of a grazing permit when livestock use or related management practices are not meeting the land management plan, allotment management plan, management objectives, or are not in conformance with the results of the monitoring data. Before any modifications are made to the term grazing permit, the authorized officer will consult, cooperate, and coordinate the need for such action with the permittee, the State, and Tribe having lands or responsibility for managing resources on the allotment. To the extent practical, the authorized officer will provide the permittee and State having lands or responsibility for managing resources in the allotment an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit. Permit modifications are issued through a letter to the permittee. Permit modifications may be for purposes such as:

(1) Achieve resource management objectives or adapt to changed rangeland resource conditions.

(2) Comply with requirements of or changes to applicable laws, regulations, land management plans, decisions, agency policies and procedures, and other legally binding documents. Other management needs could include amendments or revisions to a land management plan, or to conservation recommendations provided in a new biological opinion.

(3) Respond to permittee requests within the parameters of the land management plan, grazing permit terms and conditions, and site specific environmental analysis.

(4) Increase or decrease livestock numbers, period of use or change the kind or class of livestock.

(5) Changes in the area to be grazed, including modification of allotment boundary changes to or inclusion of an allotment management plan.

(6) Modify other terms and conditions of the permit, including provision for construction or reconstruction, and/or maintenance, of rangeland improvements.

(7) Devote lands to other public purposes and provide 2 years notice to permittee if the modification includes a partial cancellation.

■ 10. Revise § 222.6 to read as follows:

§ 222.6 Term grazing permit waivers and applications.

(a) A waiver of the term grazing permit shall be submitted when one of the following occurs:

(1) Sale of base property that has a term grazing permit associated with it;

(2) Lease of base property that has a term grazing permit associated with it;

(3) Sale of permitted livestock that has a term grazing permit associated with them; or

(4) Individual or entity name change requested.

(b) Waiver of a term grazing permit, in whole or in part, are subject to the following requirements:

(1) The current permittee must complete and execute a waiver of the term grazing permit within 90 days of selling or leasing the base property, within 90 days of selling the permitted livestock, or when requesting a name change.

(2) The waiver of the term grazing permit must identify the base property or permitted livestock to which the grazing permit is attached and identify the permitted use being waived.

(3) The waiver of the term grazing permit shall note that the permittee agrees to reasonable compensation as calculated per 222.8(h) for contributions to rangeland improvements and does not hold, and never has, any ownership interest in rangeland improvements constructed, installed, or maintained by the seller on National Forest System lands associated with the waiver.

(4) The authorized officer may modify the terms and conditions of a permit during the permit waiver process when such modifications are needed to conform to current situations brought about by changes in law, regulations, executive orders, allotment management plans, land management planning, resource conditions or management needs, or preferred applicant requests.

(c) At the date of approval of a waiver of term grazing permit, the existing grazing permit shall terminate automatically.

(d) When an individual or entity inherits base property and/or permitted livestock through operation of law or testamentary disposition, and they are otherwise eligible and qualified to hold a term grazing permit, process a waiver of term grazing permit in the same manner as waivers for term grazing permits due to the sale and purchase of base property or permitted livestock.

(1) In the event a will, estate settlement agreement, or probate provides for different owners of the base property and permitted livestock, the opportunity to apply for the term grazing permit is usually provided to the entity that inherits the base property unless otherwise specified or agreed to by the parties.

(2) Strict compliance with the qualification requirements may not be appropriate during the settlement of an estate. The estate shall be required to meet all qualification requirements within three years, unless the administrator of the estate can document why it would be inequitable to do so or why a longer time period is required.

(3) If the individual or entity does not meet the eligibility and qualification requirements in accordance with § 222.3(h) by the end of the three-year period, or as agreed upon by the authorized officer, then the term grazing permit shall be subject to cancellation.

(4) Once a waiver of term grazing permit is received, the individual or entity that inherited the base property should submit an application for a term grazing permit.

(e) When a waiver for a term grazing permit is received due to a base property lease, the following conditions apply:

(1) The base property owner (lessor) must complete and execute a waiver for a term grazing permit within 90 days of signing the lease agreement.

(2) The base property lessee must complete and execute an application for a term grazing permit within 90 days of signing the lease agreement.

(3) Once the application for a term grazing permit is processed, the term grazing permit will be issued for a term that coincides with the expiration of the base property lease agreement or up to 10 years, whichever is shorter. If the permit is issued for a term of less than 10 years, the authorized officer should determine that approving the waiver and issuing the permit will be in the best interest of sound land management to specify a shorter term.

(4) If the base property lease agreement is not renewed, the term grazing permit will be waived back to the base property lessor.

(5) If the term grazing permit is cancelled due to permit violations by the lessee, the grazing preference may be held by the Forest Service for up to one year, while waiting for the lessor to become qualified to hold a term grazing permit. The lessor's term grazing permit application shall be held in preferred applicant status.

(6) If the lessor sells the base property associated with the grazing preference before re-qualifying to hold the term grazing permit, the authorized officer may approve waiving the grazing preference to the base property purchaser. If the grazing preference is not waived with the sale of the base property, then the authorized officer may offer it in accordance with the grant process in section § 222.3(k).

(7) When base property is under lease, a lessee's request for a waiver of the term grazing permit will not be accepted, unless the waiver is waiving the term grazing permit back to the lessor, or unless the lessor agrees, in writing, to allow the lessee to waive the permit to a different entity.

(f) If an entity wishes to change its name on a term grazing permit, it must execute a waiver of the term grazing permit and submit an application for a term grazing permit with all the supporting documents. Term grazing permits cannot be modified to update the name change. Regardless of how many years remain on the old permit, a new 10-year term grazing permit is issued in the name of the new entity.

(g) Following the waiver of a term grazing permit, the authorized officer may consult, cooperate, and coordinate with the preferred applicant, the State or Tribe having lands within the allotment, and affected permittees if the application is for use on a common allotment, before issuing the grazing permit.

(h) The authorized officer may deny an application for a permit from a preferred applicant if approval would result in consolidation of term grazing permits or split a permit into multiple smaller permits.

(1) Limitations on term grazing permit consolidation should be based on whether the consolidation would result in excessive accumulation of term grazing permits by a single family unit or related group of entities, including circumstances where consolidation would:

(i) Reduce opportunities for local or beginning ranchers or permittee mentees;

(ii) Undermine locally based livestock operations;

(iii) Diminish on-the-ground oversight; or

(iv) Impair the economic viability of community scale ranching.

(2) The authorized officer may deny an application for a term grazing permit when approval would result in issuing and administering a small term grazing permit deemed inefficient for the government to administer, does not align with the local livestock industry for the production of food and fiber, or is not in the best interest of the government.

(i) An application for a term grazing permit must be submitted when one of the following occurs:

(1) Purchase of base property that has a term grazing permit associated with it;

(2) Lease of base property that has a term grazing permit associated with it;

(3) Purchase of permitted livestock that have a term grazing permit associated with the livestock;

(4) Permittee requests to reassign or change the base property parcel's legal description; or the name of the permitted entity; or

(5) Expiration of the current term grazing permit. The application for a term grazing permit should be submitted at least 1 month prior to the term grazing permit expiration date to ensure timely processing of the renewal.

(j) The purchaser of base property or permitted livestock must complete and execute the application for a term grazing permit within 90 days of purchasing the base property or permitted livestock, or they will lose their priority for obtaining preferred applicant status. Once their application for a term grazing permit is received, they will become the preferred applicant for the term grazing permit and shall meet all eligibility and qualification requirements consistent with § 222.3(h) or its exceptions within the time limit agreed upon by the authorized officer.

(k) The lessee of base property must complete and submit the application for a term grazing permit within 90 days of signing the base property lease, or they may lose their priority for obtaining preferred applicant status. Upon receipt of their application, they shall become the preferred applicant for the term grazing permit and shall meet all eligibility and qualification requirements consistent with § 222.3(h) or its exceptions within the time limit agreed upon by the authorized officer.

(l) When the permittee requests to change the legal description of base property associated with a term grazing permit, the permittee can submit an application for a term grazing permit and note that it is a request to change the base property. Any newly described land submitted by the permittee must meet all base property requirements. When a grazing agreement is in place, and a member of the grazing association would like to change or reduce their described base property, they must make that request to the association in a manner that is consistent with the grazing association's rules of management.

(m) Failure of either the permittee or the preferred applicant to comply with the regulations of this section may result in rejection of the waiver and application for a term grazing permit or cancellation of the term grazing permit.

■ 11. Redesignate §§ 222.7, 222.8, and 222.9 as §§ 222.9, 222.10, and 222.8, respectively.

■ 12. Add § 222.7 to read as follows:

§ 222.7 Changes in National Forest System land acreage.

(a) When lands are added to the National Forest System or existing National Forest System lands are newly designated as available for livestock grazing under the administration of the Forest Service, the authorized officer may make the forage for livestock available to eligible and qualified applicants through the grant process described in § 222.3(k).

(b) Where there is a decrease in National Forest System land acreage available for livestock grazing within an allotment:

(1) Grazing permits may be cancelled or modified as appropriate to reflect the changed area of use.

(2) Grazing permits may be cancelled in whole or in part. Cancellations determined by the authorized officer to be necessary to protect the National Forest System lands shall be apportioned by the authorized officer based on the level of available forage and the magnitude of the change in National Forest System land acreage available, or as agreed to among the permittees and the authorized officer.

(c) When National Forest System lands are disposed of or devoted to a public purpose that precludes livestock grazing, permittees shall be given two years' prior notification, except in cases of emergency (such as national defense requirements in time of war, natural disasters, or national emergency needs), before grazing permits may be cancelled. A permittee may unconditionally waive the two-year prior notification. Such a waiver shall not prejudice the permittee's right to reasonable compensation for, but not to exceed the fair market value of, the permittee's interest in authorized permanent rangeland improvements located on these National Forest System lands (see § 222.8(h)).

■ 13. Revise the newly redesignated § 222.8 to read as follows:

§ 222.8 Rangeland improvements.

(a) The authorized officer may authorize installation and maintenance of structural and nonstructural rangeland improvements as needed to manage the rangeland resource on National Forest System lands and other lands under Forest Service control.

(b) Rangeland improvements shall be constructed, installed, used, maintained, modified, and removed from National Forest System lands in a manner consistent with multiple-use management, optimal effectiveness, and cost efficiency by permittees or other cooperators (including individuals, organizations, or agencies other than the Forest Service), subject to the following:

(1) All rangeland improvements to be installed, constructed, or modified by the permittee on National Forest System lands and other lands under Forest Service control must be authorized by a term grazing permit modification, the provisions of which become part of the term grazing permit. Term grazing permits require the holder to maintain their assigned rangeland improvements.

(2) All rangeland improvements completed by other cooperators, individuals, organizations, or agencies shall be authorized for construction and maintenance through agreements, contracts, memorandums of understanding, or other appropriate documentation or authorization where the Forest Service is a party. The Forest Service will consult, cooperate, and coordinate with the permittee prior to allowing work by a third party to commence. The Forest Service shall keep a copy of the documentation in the rangeland improvement project file.

(3) If the permittee hires a third party to complete the permittee's required contributions to the rangeland improvement project, the permittee must inform the authorized officer of their decision and secure approval from the authorized officer before work begins on the project.

(4) Title to permanent structural and nonstructural rangeland improvements shall rest in the United States.

(5) Title to temporary and removable structural rangeland improvements (such as corrals, creep feeders, loading chutes, and troughs for hauled water) may be retained by the cooperator if no part of the cost for the rangeland improvement is borne by the United States. Once the use for the season has concluded, the temporary and removable structures will be removed from National Forest System lands.

(6) Rangeland improvement work performed by a cooperator or permittee on National Forest System lands shall not confer the exclusive right to use the improvement or the land influenced; nor does it convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

(c) The authorized officer will review proposed rangeland improvement projects under applicable laws to determine if the proposed action is subject to the requirements of NEPA, as outlined at 7 CFR part 1b, and to determine whether additional analysis or documentation is required under NEPA and applicable implementing procedures. If the authorized officer determines that the proposed action

may proceed consistent with 7 CFR part 1b and other applicable requirements, then a term grazing permit modification is initiated to authorize the project. The permittee may voluntarily accept the modification or appeal the modification under 36 CFR 214.

(d) *Term grazing permit modifications for rangeland improvements.*

(1) A modification to part 3 of the term grazing permit must be completed to authorize and document the work to be completed for rangeland improvement projects with permittees.

(2) Permit modifications for rangeland improvements must include construction specifications, location, estimated cost and degree of cost-sharing, the specific contributions (such as labor, materials, and funding) that will be made by the permittee and the Forest Service, and a timeline for required completion.

(3) Permittees shall contribute the agreed-upon contributions of money, labor, equipment, or materials for new, modified, or reconstructed rangeland improvements on National Forest System lands when the rangeland improvement is used for livestock management purposes. All permittee contributions shall be documented through the permit modification, case files, and database of record.

(4) Once the construction of the rangeland improvement is complete and the authorized officer determines that the rangeland improvement meets the required specifications, part 3 of the term grazing permit must be modified to add the rangeland improvement(s) to the list of improvements assigned to the permittee for maintenance.

(5) Permittees are required to maintain all assigned rangeland improvements related to livestock grazing on National Forest System lands or other lands under Forest Service control and to keep them in standard operable condition throughout their normal life expectancy. This includes periods during temporary non-use and suspension. Permittees are responsible for all maintenance costs associated with rangeland improvements. The permittee will only be assigned maintenance for improvements that they benefit from.

(e) *Non-permittee cooperators for rangeland improvements.*

(1) The authorized officer shall evaluate non-permittee proposals to construct rangeland improvements under the same criteria that apply to permit holders, to determine if the improvements contribute toward accomplishing the overall resource management objectives for the area. Before any work is completed by a non-permittee, the Forest Service will consult, cooperate, and coordinate with any existing permittees, States, and Tribes that have lands within the allotment.

(2) The authorized officer shall ensure that rangeland improvements financed by non-Federal contributions are cost-effective and that they are located and built to Forest Service specifications.

(3) The authorized officer should use a collection agreement for any funds that non-Federal parties deposit with the Forest Service for rangeland improvements.

(4) The authorized officer should use a Challenge Cost Share Agreement when cooperation is between the Forest Service and a non-permittee, involves an exchange of funds, materials, or services that is mutually beneficial, and enhances the Forest Service's activities.

(5) The authorized officer should use a Memorandum of Understanding when cooperation is between the Forest Service and a non-permittee, does not involve an exchange of funds, materials, or services, and the agreement is non-binding.

(6) The authorized officer should use an interagency agreement when an agreement is between the Forest Service and other Federal agencies, including those instances that involve sharing of costs, equipment, and expertise.

(7) If the rangeland improvement is an authorized restoration service with a State, county, or Tribe, and is not excluded, a Good Neighbor Agreement may be appropriate.

(8) The authorized officer should use a Cooperative Agreement when the Forest Service provides materials or funds to the cooperator to complete the project and the cooperator is a non-permittee and non-Federal entity or individual.

(9) The authorized officer should consult with a Grants and Agreements specialist to determine whether a different agreement is available for the type of work being desired.

(f) *Removal of rangeland improvements.*

(1) Rangeland improvements shall not be removed from National Forest System lands without authorization.

(2) The authorized officer may require permittees to remove rangeland improvements when the improvements are no longer helping to achieve land management plan or allotment goals and objectives, or if the improvements fail to meet the criteria under this section.

(g) *Water rights for the purpose of livestock grazing on National Forest System lands.*

(1) Any right asserted by the United States in accordance with State law to use water on National Forest System land for the purpose of livestock watering shall be acquired, perfected, maintained, and administered under the laws of the State where such land is located, as authorized by applicable Federal waivers of sovereign immunity. Any stock water right shall be acquired, perfected, maintained, and administered in the name of the United States, including joint ownership between the United States and permittee where required by State law, expressed or implied principal-agent relationships, or any other legal arrangements recognized under State law and in coordination, consultation, and cooperation with the holder or holders of a valid grazing permit on the allotment.

(2) The Forest Service will not change the purpose of use, place of use, or place of diversion of a water right acquired, perfected, maintained, or administered under paragraph (1) of this section except in accordance with State law. The Forest Service must give a minimum of 30 days' notice and the opportunity to object to any grazing permittees who utilize the subject water for their livestock before making any such application for a change with the State.

(3) The United States shall not condition the authorization of a cooperative range improvement project on the permittee placing the name of the United States on a permittee's water right authorized under State law.

(h) *Compensation for permittees' interest in authorized permanent rangeland improvements.*

(1) A current permittee may be entitled to reasonable compensation for the adjusted value of the permittee's investment in authorized permanent rangeland improvements, as listed in the term grazing permit, in situations where the permit has been cancelled, in whole or in part, to devote the permitted grazing land to another public purpose that precludes livestock grazing. Such compensation shall not exceed the fair market value of the terminated portion of the permittee's interest in such improvements.

(i) This compensation for permittees' interest in authorized permanent rangeland improvements only applies when the current permittee made a quantifiable and verifiable investment of money, labor, or materials to construct one or more permanent improvements on the subject land. Former permittees who contributed to an improvement but lost or waived their term grazing permit prior to the subject lands being devoted to another public purpose are not eligible for compensation, nor are permittees who are grazing their

livestock on the National Forest System lands but did not contribute to the improvement. Investments towards the maintenance of improvements are not eligible for compensation.

(ii) Compensation may be authorized when:

(A) A term permit for grazing on all National Forest System lands in the 16 contiguous Western States is cancelled, in whole or in part, to devote the land to another public purpose that precludes livestock grazing; or

(B) A term permit for grazing on National Forest System lands in the Eastern States is cancelled, in whole or in part, to devote the land to another public purpose that precludes livestock grazing; or

(C) A grazing agreement on National Grasslands is cancelled, in whole or in part, to devote the land to another public purpose that precludes livestock grazing, and the improvements have been constructed by a grazing association or grazing district on a national grassland, entitling the association or district to compensation; provided that the portion of the improvement funded through fee reductions for conservation practices shall not be eligible for compensation. The grazing association has responsibility to distribute any compensation paid by the Forest Service back to the member who contributed funds to the improvement.

(2) Compensation to permittees for their contributions in authorized permanent rangeland improvements does not apply to administrative decisions that temporarily reduce livestock numbers or seasons of use due to resource conditions, or that require a change in the timing of use for compatibility with other resource needs. It also does not apply to permit cancellations due to noncompliance by the permittee.

(3) Pursuant to 43 U.S.C. 1752(g), except in cases of emergency, no term grazing permit shall be cancelled to devote the lands covered by the permit to another public purpose without two years' prior notification. It is the responsibility of the Forest Service to notify the permittee that the permittee is eligible for compensation and to identify the amount of compensation.

(4) Reasonable compensation for the adjusted value of the permittee's investment may not exceed the fair market value of the permittee's investment at the time of permit cancellation.

(5) Any portion of improvement funding contributed by the Forest Service from appropriated funds, including range betterment funds, is not eligible for compensation.

(6) Cooperative construction funds provided by State or other Federal agencies (such as Environmental Quality Incentives Program funds through the Natural Resources Conservation Service) shall not be considered part of the permittee's investment.

(7) A Forest Service appraiser, or the services of a qualified third-party appraiser managed by a qualified Forest Service employee, shall use Forest Service-accepted appraisal methods to determine the adjusted value based on the national and local conditions that influence costs where the improvements are located. Generally, amortization schedules are not to be used to determine adjusted value; the appraisal states the present value, which includes an assessment of the condition of the improvement due to regular maintenance or lack thereof. Only the value of the improvement will be considered for compensation, not how much the improvement may have increased the value of the land for grazing.

(8) Compensation may not exceed the amount of the original investment by the permittee in the construction or reconstruction of the improvement.

(9) Completed permit modifications for rangeland improvement work, electronic improvement records, and other documentation and records from the agency and permittee shall be used to verify the costs incurred by both parties to construct the improvements.

(10) Payments for compensation for the adjusted value of the permittee's investment in authorized permanent rangeland improvements shall be handled as obligations of the United States in conformance with current agency policy.

(11) Compensation cannot be made to persons who are no longer permittees, nor to permittees presently using the allotment and associated permanent rangeland improvements that were placed or constructed by former permittees. When a term grazing permit holder executes a permit waiver, and the waiver is accepted by the authorized officer, all interest in the rangeland structural improvements to which the permittee has contributed, and any potential right to compensation upon permit cancellation, cease to exist.

(i) *Range betterment fund.*

In addition to rangeland development accomplished through funds from the rangeland management budget line item, the Granger-Thye Act, and deposited and non-deposited cooperative funds, rangeland development may also be accomplished through use of the range betterment fund as follows:

(1) On national forests within the 16 contiguous Western States, the authorized officer shall implement rangeland improvement programs where necessary to arrest rangeland deterioration and improve forage conditions, with resulting benefits to wildlife, watershed protection, and livestock production. One-half of the available funds shall be expended on the national forest where derived. The remaining one-half of the fund shall be allocated for rangeland rehabilitation, protection, and improvements on National Forest System lands as the Chief, Forest Service, directs. During the planning process, consultation shall be held with grazing permittees affected by the rangeland rehabilitation, protection, and improvements.

(2) The funds may be used for activities associated with on-the-ground improvements, including the planning, design, layout, contracting, modification, maintenance for which the Forest Service is responsible, and monitoring and evaluating the effectiveness of specific rangeland improvement projects.

(3) During the assessment needs for the rangeland development or rangeland improvement programs, the authorized officer shall consult, cooperate, and coordinate with the affected permittees.

■ 14. Revise the newly redesignated § 222.9 to read as follows:

§ 222.9 Cooperation.

(a) *Cooperation with grazing associations.*

(1) *Authority.* The authorized officer is authorized to recognize, cooperate with, and assist grazing associations in the management of the livestock and rangeland resources on a single grazing allotment, associated groups of allotments, or other association-controlled lands on which the members' livestock are permitted to graze.

(2) *Requirements for recognition.* The requirements for receiving recognition are:

(i) A grazing association must be established as a co-operative pursuant to State or Tribal law as a precursor to being recognized by the Forest Service and considered for the issuance of a grazing agreement. An established grazing association may contact the authorized officer in writing, requesting that the grazing association be formally recognized and issued a grazing agreement;

(ii) The members of the association constitute a majority of the grazing

permittees on the grazing allotment or allotments involved;

(iii) The officers of the association are elected by a majority of the association members or of a quorum as specified by the association's constitution and bylaws;

(iv) The officers other than the Secretary (primary officer) and Treasurer must be grazing permittees on the grazing allotment or allotments involved;

(v) The association's activities must be governed by a constitution and bylaws acceptable to and approved by the authorized Forest Service officer; and

(vi) Rules of management are needed to ensure proper resource management.

(3) *Withdrawing recognition.* The authorized officer may withdraw recognition of the association whenever it is dissolved in accordance with the State or Tribal law where it was established.

(4) *Rules of management.*

(i) Rules of management are developed by the board of directors of a grazing association and used in administering the grazing program for its members on all association-administered lands.

(ii) Grazing associations are responsible for developing their initial rules of management, which are then provided to the Forest Service authorized officer for review and concurrence.

(iii) An association's rules of management may be more restrictive than applicable Federal law, regulation, or Forest Service policy, but they cannot be less restrictive. The authorized officer will not concur with any rules that are less restrictive or are otherwise in conflict with applicable Federal law, regulation, and Forest Service policy.

(iv) The rules of management describe how an association will administer the grazing program for its members on the lands covered by their respective grazing agreements. The purpose of the rules of management is to provide clear and consistent rules that will be applied to each member and to distribute livestock grazing privileges in a fair manner to all qualified members.

(b) *Cooperation with national, State, Tribal and county livestock organizations.* The appropriate authorized officer shall endeavor to establish and maintain close working relationships with national livestock organizations that have an interest in the administration of National Forest System lands and shall work cooperatively with State and county livestock organizations having similar interests. The policies and programs of national, State, Tribal and county livestock organizations give direction to, and reflect in, the practices of their members. Good working relationships with these groups are conducive to the betterment of rangeland management on both public and private lands.

(c) *Interagency cooperation.* The appropriate authorized officer shall cooperate with other Federal agencies that have a jurisdictional interest during development of allotment management plans, and management plans, or site-specific plans on National Forest System lands, as well as coordinate with State and local governments pursuant to 16 U.S.C. 1604(a) as appropriate.

■ 15. Revise the newly redesignated § 222.10 to read as follows:

§ 222.10 Cooperation in control of estray or unbranded livestock, animal diseases, noxious weeds, and use of pesticides.

(a) Insofar as it involves National Forest System lands and other lands under Forest Service control, or the livestock that graze thereon, the authorized officer shall cooperate with:

(1) State, county, and Federal agencies in the application and enforcement of all laws and regulations relating to livestock diseases, sanitation, and noxious weeds;

(2) The Animal and Plant Health Inspection Service and other Federal or State agencies and institutions in surveillance of pesticide spray programs; and

(3) State cattle and sheep sanitary or brand boards in control of estray and unbranded livestock to the extent it does not conflict with the Wild Free-Roaming Horses and Burros Act of 1971.

(b) The authorized officer shall cooperate with county or other local weed control districts in analyzing noxious weed problems and developing control programs in areas of which the national forests and national grasslands are a part.

Subpart B—Mediation of Term Grazing Permit Disputes

■ 16. Revise Subpart B table of contents to read as follows:

Section
222.20 State mediation program.
222.21 Parties and participation.
222.22 Stay of appeal.
222.23 Confidentiality.
222.24 Records.
222.25 Costs.
222.26 Ex parte communications.

■ 17. The authority citation for Subpart B is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 5101–5106; 16 U.S.C. 481, 551; 16 U.S.C. 472.

■ 18. Revise § 222.20 to read as follows:

§ 222.20 State mediation program.

The holder of a term grazing permit issued in a State with a mediation program certified by the U.S. Department of Agriculture may request mediation of a dispute relating to a decision to suspend or cancel the permit as authorized by § 222.4(a)(2)(i), (ii), (iv), and (v) and (a)(3) through (6). Any request for mediation must be included in an appeal filed in accordance with 36 CFR part 214. A holder of a term grazing permit, issued in a State with a certified mediation program, may request in writing, mediation of a dispute relating to a decision denying the development of a stockwater improvement.

■ 19. Amend § 222.21 by revising the section heading, the introductory text, and paragraph (b) to read as follows:

§ 222.21 Parties and participation.

Only the following parties and participants may attend mediation of a term grazing permit dispute:

* * * * *

(b) The authorized officer who made the decision being mediated or his or her designee;

* * * * *

■ 20. Revise § 222.26 to read as follows:

§ 222.26 Ex parte communications.

The authorized officer or the authorized officer's designee shall not discuss mediation with the Appeal Deciding Officer, except to request an extension of time or to communicate the results of mediation.

Subpart C—Grazing Fees

■ 21. Revise Subpart C table of contents to read as follows

Section
222.50 Grazing fees.
222.51 National Forests in 16 Western States and National Grasslands.
222.52 Grazing fees in the Eastern States—noncompetitive procedures.
222.53 Grazing fees in the Eastern States—competitive bidding.

■ 22. The authority citation for Subpart C is revised to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 551; 16 U.S.C. 572, 580d; 31 U.S.C. 9701; 43 U.S.C. 1740, 1751–1752; 43 U.S.C. 1901; E.O. 12548 (51 FR 5985).

■ 23. Revise § 222.50 to read as follows:

§ 222.50 Grazing fees.

(a) Fees shall be charged for all livestock grazing or livestock use of National Forest System lands, or other lands under Forest Service control. An exception applies to livestock use authorized free of charge under § 222.3 (j)(2)(ii)–(viii).

(b) Except as provided in § 222.3 (j)(2)(ii)–(viii) and § 222.50(k), the full

fee shall be charged for each animal unit month of grazing use. For the purposes of calculating the fee, an animal unit month is defined as one month's use of forage and occupancy of range by one (1) cow, bull, steer, heifer, bison, horse (ancillary to livestock production), burro, or mule, or five (5) sheep or goats.

(1) Over the age of 6 months at the time of entering the public lands or other lands administered by the Forest Service;

(2) Weaned regardless of age; or

(3) Becoming 12 months of age during the authorized period of use.

(c) The Forest Service shall not charge grazing fees for animals that are less than 6 months of age at the time of entering National Forest System lands, provided that they are the progeny of animals upon which fees are paid, and provided that they will not become 12 months of age during the authorized period of use.

(d) A surcharge shall be added to the grazing bill for authorized leasing of livestock. The surcharge shall be over and above any other fees that may be charged for livestock grazing on National Forest System lands. Surcharges shall be paid prior to grazing use. The surcharge for authorized leasing of livestock owned by persons other than the permittee shall be equal to 35 percent of the difference between the current year's Federal grazing fee and the prior year's private grazing land lease rate per animal unit month for the appropriate State as determined by the National Agricultural Statistics Service. This surcharge shall be charged per animal unit month.

(e) No additional charge will be made for the privilege of lambing upon National Forest System lands, or other lands under Forest Service control.

(f) In calculating the bill for collection, the authorized officer will round charges to reflect the nearest whole number of animal unit months.

(g) Transportation livestock may be charged at a special rate, and at a minimum established for such use. Fees for horses, mules, or burros associated with management of permitted livestock on an allotment, or for research purposes and administrative studies, and authorized on a charge basis, are determined under provisions of paragraph (b) of this section.

(h) The fees for trailing livestock across National Forest System lands will conform with the rates established for other livestock. Where practicable, fees for trailing permitted livestock will be covered in the regular grazing fee, and the crossing period will be covered in the regular grazing period.

(i) Fees are due on the due date specified on the bill for collection. Payment shall be made prior to grazing use, unless otherwise approved by the authorized officer, as in cases of split billing and actual use billing. Grazing use that occurs prior to payment of a bill, except where specified in an allotment management plan or functional equivalent, is unauthorized use and may be dealt with under § 222.50(k) of this part. If allotment management plans, or the functional equivalent, provide for billing after the grazing season, fees will be based on actual grazing use and will be due upon issuance. Repeated delays in payment of actual use billings, or noncompliance with the terms and conditions of the grazing permit and allotment management plan, or the functional equivalent, shall be dealt with through non-compliance procedures and be cause to revoke provisions for actual use billing.

(j) The unauthorized grazing use rate shall be determined by establishing a base value without giving consideration for those contributions normally made by the permittee under the terms of the grazing permit. This rate is charged for unauthorized forage or forage in excess of authorized use and is separate from any penalties that may be assessed for a violation of a prohibition issued under 36 CFR part 261.7 or from an administrative permit action. This rate shall apply to, but not be limited to, the following circumstances: excess number of livestock grazed; livestock grazed outside the permitted grazing season; livestock grazed in areas not authorized under a grazing permit and a bill for collection; or livestock grazed without a permit. Pursuant to paragraph (a) and (c) of this section, a grazing fee shall be charged for each animal unit month of livestock grazing or use, unless the use is calculated at less than one animal unit month, in which case a minimum of one animal unit month shall be charged. This includes any unauthorized grazing use. The authorized officer may waive monetary fees for unauthorized grazing use only when all three of the following conditions are met:

(1) The unauthorized use was a result of unforeseen or uncontrollable circumstances on behalf of the permittee or non-permittee, and the livestock associated with such use were removed by the permittee or non-permittee within the timeframe required by the authorized officer;

(2) The forage consumed by the unauthorized use is not significant; and

(3) National Forest System lands have not been damaged significantly by the unauthorized use.

(k) Credits on a bill for collection may be allowed under justifiable conditions and circumstances as the authorized officer may specify.

(l) Refunds may be approved at the discretion of the authorized officer unless the request for refund is necessary due to a duplicate or overpayment.

(m) The fee year for the purpose of charging grazing fees will be March 1 through the following February.

(n) The data year for the purpose of collecting beef cattle price data for computing indexes will be November 1 through the following October and apply to the following fee year.

(o) For annual billing prior to the turn-on date and the first bill for collection in a split-billing schedule, bills for collection should be sent to the permittee at least 40 days, but not more than 60 days, before the authorized on-date.

(p) Failure to pay the bill for collection within 15 days of the due date specified in the bill shall result in a late fee assessment of $25.00 or 10 percent of the grazing bill, whichever is greater, but not to exceed $250.00. Payment made later than 15 days after the due date shall include the appropriate interest, administrative fee, and penalty. Failure to make payment within 30 days after the due date is a violation of the term grazing permit and shall result in permit action in accordance with § 222.4(a)(3).

■ 24. Revise § 222.51 to read as follows:

§ 222.51 National Forests in 16 Western States and National Grasslands.

(a) Grazing fees are established on lands designated as national forests and land utilization projects in the 16 contiguous Western States: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming, and on all national grasslands.

(b) Notwithstanding the provisions of § 222.50(b) of this part, the calculated grazing fee shall be equal to the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the National Agricultural Statistics Service) added to the Combined Index (Beef Cattle Price Index minus the Prices Paid Index) and divided by 100, as follows:

$$GF = BV \times (FVI + (BCPI - PPI))/100$$

Where:

GF = *Grazing Fee,* the estimated economic value of livestock grazing, defined by Congress as the fair market value of the forage.

BV = *Base Value* of $1.23, the base economic value of grazing on public rangeland established by the 1966 Western Livestock Grazing Survey.

FVI = *Forage Value Index,* the weighted average estimate of the annual rental charge per animal unit month for pasturing cattle on private rangelands in the eleven Western States (Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California), computed by the National Agricultural Statistics Service from the June Enumerative Survey, divided by $3.65 and multiplied by 100.

BCPI = *Beef Cattle Price Index,* the weighted average annual selling price for beef cattle (excluding calves) in the eleven Western States (Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California) for November through October, computed by the National Agricultural Statistics Service, divided by $22.04 per hundredweight and multiplied by 100.

PPI = *Prices Paid Index,* the following selected components from the National Agricultural Statistics Service's Annual National Index of Prices Paid by Farmers for Goods and Services, adjusted by the weights indicated in parentheses to reflect livestock production costs in the Western States: Fuels and Energy (14.5); Farm and Motor Supplies (12.0); Autos and Trucks (4.5); Tractors and Self-Propelled Machinery (4.5); Other Machinery (12.0); Building and Fencing Materials (14.5); Interest (6.0); Farm Wage Rates (14.0); and Farm Services (18.0).

(c) Any annual increase or decrease in the grazing fee for any given year shall be limited to not more than plus or minus 25 percent of the previous year's fee.

(d) The grazing fee for any year shall not be less than $1.35 per animal unit month.

(e) *Fee reductions for authorized land use practice expenditures.*

(1) The authorized officer may authorize fee reductions on national grasslands and land utilization projects when the permittee incurs approved expenditures for authorized land use practices, including conservation practices and, when applicable, administrative costs. To qualify for a fee reduction, expenditures for approved land use practices must be documented in writing and verified by the authorized officer. Fee reductions apply only to national grasslands and land utilization projects and are not available on national forests.

(2) Fee reductions for administrative activities are only available to grazing associations and grazing districts (''associations'') for routine costs incurred by the association to administer the livestock grazing activities of its members under a grazing agreement issued by the Forest Service. There is no fee reduction for administrative costs for grazing permits issued directly by the Forest Service to individuals, since the Forest Service still performs these administrative functions.

(i) Administrative costs are costs that would otherwise be borne by the Forest Service if it were directly administering the grazing permits of the association members. These costs must be approved in advance by the authorized officer and may include routine administrative and clerical expenses related to issuing association-issued permits, collecting grazing fees, monitoring livestock use, enforcing permit terms and conditions, recordkeeping, and other expenses such as salaries and benefits, payroll taxes, postage, copying, depreciation, office space, utilities, legal and accounting fees, and directors' expenses necessary to administer the agreement.

(ii) Administrative costs shall not include any expenses related to legal challenges or fees of any kind. Association costs for memberships in, dues for, or contributions to advocacy groups are not allowable administrative expenses.

(f) *Fee credits.* A permittee can fund an approved rangeland improvement up-front, then receive fee credits in future years as compensation for the government's cost-share portion of the project. Fee credits may be used on national grasslands where a direct permittee is involved and, in some situations, when a grazing association is involved.

(1) Credit shall not be allowed, and work plans shall not be approved, for more than the number of years remaining of the permittee's 10-year grazing permit. However, in some cases involving large or expensive projects, it may be prudent to issue a new 10-year permit at the beginning of the project to allow for maximum fee credit toward the expense of the large project.

(2) When grazing associations are involved and they are working in conjunction with all of their benefitting members, associations may secure and obligate larger amounts of money to complete large or expensive conservation practice rangeland improvements (such as drilling a one-time water well or installing a water pipeline system).

(3) When total project costs exceed conservation practice funds available in that one year, fee credits may be allowed in future years under approved work plans to credit the association for its initial advance funding provided to complete the project. Credit shall not be allowed, and work plans shall not be approved, for more than the number of years remaining of the 10-year grazing agreement.

■ 25. Remove § 222.52 (National Grasslands).

■ 26. Redesignate § 222.53 as § 222.52, and amend the newly redesignated § 222.52 by revising paragraphs (a), (b), and (c) introductory text, (c)(1) introductory text, (c)(1)(i) through (iii), and adding paragraph (d), to read as follows:

§ 222.52 Grazing fees in the Eastern States—noncompetitive procedures.

(a) *Scope.* Except as provided in § 222.53 of this subpart, the fee charged for commercial livestock grazing use and occupancy on National Forest System lands in the States of New York, Missouri, Vermont, West Virginia, Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Texas, and Virginia shall be determined through noncompetitive, fair market value procedures. These rules do not apply to grazing fees on National Forest System lands in Oklahoma or national grasslands in Texas. Grazing permits under the noncompetitive fee method in the Eastern States are subject to the rules governing grazing permit administration in subpart A of this part.

(b) *Applicability.* The rules of this section apply to the establishment of grazing fees for existing permittees on the lands identified in paragraph (a) of this section, including grazing associations in New York and Missouri as of March 1, 1990, to any livestock on-and-off permits defined in subpart A of this part, and to any allotments advertised for competitive bidding which were not bid on (§ 222.53(h) of this subpart). Noncompetitive permits vacated or terminated by an existing permittee, and any new allotments created after the effective date of this rule, shall be offered on a competitive bid basis as specified in § 222.53 of this subpart. As provided in subpart A of this part, holders of term permits have first priority for receipt of a new permit.

(c) *Fee system.* The grazing fee charged under this section shall be based on fair market value, as determined by using comparable private grazing lease rates, adjusted for the difference in the costs of grazing comparable private leased lands and National Forest System lands, or by reference to prevailing prices in

competitive markets for other Federal or State leased or permitted grazing lands that are the same as, or substantially similar to, grazing lands offered or administered by the Forest Service in the Eastern States, with comparability adjustments as appropriate. Rates for grazing on comparable private lands shall be adjusted for the difference between the total costs of operating on private grazing lands and the total costs (other than grazing fee costs) of operating on National Forest System lands.

(1) *Establishing base grazing value.*

(i) The authorized officer shall determine an estimated base market value of grazing use and occupancy on National Forest System lands in the Eastern States for the following designated subregions:

(A) Corn Belt (Illinois, Indiana, Missouri, and Ohio);

(B) Lake States (Michigan, Minnesota, and Wisconsin);

(C) Northeast (Maine, New Hampshire, New York, Pennsylvania, and Vermont);

(D) Appalachia (Kentucky, North Carolina, Tennessee, Virginia, and West Virginia);

(E) Southeast/Delta (Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Texas); and

(F) Florida.

(ii) The authorized officer shall revise or update estimated market values of grazing use and occupancy as necessary to respond to significant changes in the agricultural economy in the Eastern States, and to ensure that fees represent fair market value.

(iii) The authorized officer, where sufficient market data exist, may establish the base grazing value for grazing allotments using comparable, local rates for leasing private grazing lands.

(d) *Surcharge for leased livestock.* A surcharge for authorized leasing of livestock owned by persons other than the permittee, equal to 35 percent of the non-competitive grazing fee for the Eastern States per animal unit month for the appropriate Subregion, as determined by the National Agricultural Statistics Service. Targeted exemptions would be available for livestock owned by properly documented mentees, beginning ranchers, permittee successors, immediate or extended family members, and operators receiving relief from drought, fire, or other natural causes.

* * * * *

■ 27. Redesignate § 222.54 as § 222.53, and amend the newly redesignated § 222.53 by revising paragraphs (a)(1), (a)(2), (b), (d), (e), and (h), and adding paragraph (i), to read as follows:

§ 222.53 Grazing fees in the Eastern States—competitive bidding.

(a) *General procedures.*

(1) *Applicability.* The rules of this section apply to grazing fees for any allotment established or vacated on National Forest System lands in Illinois, Indiana, Ohio, Michigan, Minnesota, Missouri, New Hampshire, Maine, Pennsylvania, Vermont, West Virginia, Wisconsin, Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Texas, and Virginia, after February 26, 1990, as well as to grazing fees for existing allotments for such lands that have already been established under competitive procedures as of the date of this rule. Permits offered for competitive bidding in the Eastern States are subject to the rules governing grazing permit administration in subpart A of this part. The rules of this section do not apply to negotiated livestock use permits or to permits with on-and-off grazing provisions as authorized in subpart A of this part. Holders of term permits have first priority for receipt of a new term grazing permit in accordance with subpart A of this part. These rules also do not apply to grazing fees on National Forest System lands in Oklahoma or national grasslands in Texas.

(2) *Allowable bidders.* Bids for grazing permits shall be accepted from individuals, partnerships, grazing associations (formed after February 26, 1990), joint ventures, corporations, limited liability companies, and other organizations.

(b) *Establishment of minimum bid price.* Authorized officers shall establish a minimum bid price for each available allotment as described in § 222.52 of this subpart.

* * * * *

(d) *Submission of bid.* Each applicant shall submit an application for the grazing permit and a sealed bid for the grazing fee.

(e) *Qualifications.* Upon opening applicants' bids, the authorized officer shall determine whether each bidder meets the qualifications to hold a permit as set forth in subpart A of this part.

* * * * *

(h) *No bids received.* If qualified sealed bids are not received, the authorized officer reserves the right to conduct an oral auction using the minimum bid price established under paragraph (b) of this section, or to establish grazing fees through noncompetitive grazing fee procedures specified in § 222.52 of this subpart.

(i) *Surcharge for leased livestock.* A surcharge for authorized leasing of livestock owned by persons other than the permittee, equal to 35 percent of the non-competitive grazing fee for the Eastern States per animal unit month for the appropriate Subregion, as determined by the National Agricultural Statistics Service. Targeted exemptions would be available for livestock owned by properly documented mentees, beginning ranchers, permittee successors, immediate or extended family members, and operators receiving relief from drought, fire, or other natural causes.

Michael K. Boren,

Under Secretary, Natural Resources and Environment.

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Part IV

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56, 57, 60, et. al.
Respirable Crystalline Silica and Respiratory Protection; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, 60, 71, and 72

[Docket No. MSHA–2026–0200]

RIN 1219–AC22

Respirable Crystalline Silica and Respiratory Protection

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule, request for comments; notice of public hearing.

SUMMARY: This proposed rule clarifies and modifies provisions of the respirable crystalline silica and respiratory protection standards that were established in MSHA's 2024 final rule titled ''*Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection.*'' The changes provide clarity and make improvements to the requirements for methods of compliance, exposure monitoring, respiratory protection, medical surveillance, and recordkeeping while maintaining strong protection of miners. The proposal also includes related conforming amendments.

DATES:

Written Comments. Written comments must be received or postmarked by midnight Eastern Time on January 11, 2027.

Public Hearing. MSHA will hold a virtual-only public hearing on December 15, 2026. For more information on the public hearing, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: All submissions must include RIN 1219–AC22 or Docket No. MSHA–2026–0200. You should not include personal or proprietary information that you do not wish to disclose publicly. If you mark parts of a comment as ''business confidential'' information, MSHA will not post those parts of the comment. Otherwise, MSHA will post all comments without change, including any personal information provided. MSHA cautions against submitting personal information.

You may submit comments and informational materials, clearly identified by RIN 1219–AC22 or Docket No. MSHA–2026–0200, by any of the following methods:

1. *Federal E-Rulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments for MSHA–2026–0200. A plain language summary of the rule is also available on the Federal E-Rulemaking Portal.

2. *Email: zzMSHA-comments@dol.gov.* Include ''RIN 1219–AC22'' in the subject line of the message.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9440 to make an appointment. No telefacsimiles (''faxes'') will be accepted.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances, MSHA at *MSHARulemaking@dol.gov* (email) or 202–693–9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: MSHA will hold a virtual-only public hearing to provide industry, labor, and other interested parties with an opportunity to present oral statements, written comments, and other information on the proposed rule. The virtual-only public hearing will begin at 9 a.m. Eastern Time on December 15, 2026. If necessary, the hearing will continue on December 16, 2026.

The virtual-only public hearing will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. Speakers and other attendees may present information to MSHA for inclusion in the rulemaking record. The hearing will be conducted in an informal manner. Formal rules of evidence or cross examination will not apply.

A verbatim transcript of the proceeding will be prepared and made a part of the rulemaking record. A copy of the transcript will be available to the public. MSHA will make the transcript of the hearing available at *http://www.regulations.gov.*

MSHA will accept post-hearing written comments and other appropriate information for the record from any interested party, including those not presenting oral statements, received by midnight Eastern Time on January 11, 2027.

Pre-registration is not required to attend the hearing. Additional information on how to attend the virtual-only public hearing will be available at *https://www.msha.gov/regulations/rulemaking/silica-public-hearing-information.*

Those who wish to speak during the virtual public hearing are encouraged to register in advance at *https://www.msha.gov/regulations/rulemaking/public-hearing-information.* Speakers will be called in the order in which they signed up. Those who do not register in advance will have an opportunity to speak after all those who pre-registered have spoken. You may submit hearing testimony and documentary evidence, identified by docket number (MSHA–2026–0200), by any of the methods previously identified.

The preamble to the proposed rule follows this outline:

I. Introduction
II. Background
III. Request for Comments
IV. Section-by-Section Analysis
V. Health Effects Summary
VI. Preliminary Risk Analysis
VII. Preliminary Regulatory Impact Analysis
VIII. Regulatory Alternatives
IX. Regulatory Flexibility Analysis
X. Paperwork Reduction Act of 1995
XI. Other Regulatory Considerations
XII. References
XIII. Authority and Signature

I. Introduction

The purpose of this proposed rule is to provide clarity and make improvements to the requirements established in the April 18, 2024, final rule ''*Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection*'' (2024 Silica Final Rule, 89 FR 28218). The proposed rule includes clarifications and improvements to requirements for methods of compliance, exposure monitoring, respiratory protection, medical surveillance, and recordkeeping while maintaining the protection of miners. The proposal also includes related conforming amendments.

After the 2024 Silica Final Rule's publication, MSHA held seven stakeholder meetings fielding questions from the public and received stakeholder emails asking questions regarding implementation of MSHA's silica requirements. Many stakeholders asked for clarification on interpreting the restriction on the rotation of miners to comply with the silica permissible exposure limit (PEL) under § 60.11 in title 30 of the Code of Federal Regulations (30 CFR). MSHA is proposing changes to the requirements in § 60.11 to clarify when rotation of miners is permitted for miners exposed to respirable crystalline silica.

Additionally, many stakeholders asked on what basis MSHA would issue citations for silica sample results that exceed the PEL. Stakeholders also asked how MSHA would consider error in silica sample results after the Agency determined it would not include a specific error factor in the 2024 Silica Final Rule.

When developing the 2024 Silica Final Rule, MSHA anticipated variability in silica sample results because MSHA provided operators with

the flexibility to choose from multiple commercially available particle size-selective samplers that conform to the International Organization for Standardization (ISO) 7708:1995(E) standard ''*Air quality—Particle size fraction definitions for health-related sampling.*'' from multiple analytical methods, and from third-party laboratories accredited to the ISO/International Electrotechnical Commission (IEC) 17025 standard ''*General requirements for the competence of testing and calibration laboratories.*'' This flexibility allowed mine operators to select sampling equipment, analytical methods, and laboratories that meet their business needs; to avoid equipment availability constraints; and to ensure they receive timely and accurate results needed to protect miners from silica overexposure.

Since the 2024 Silica Final Rule's publication, MSHA reviewed mine operators' and MSHA inspectors' sample results. The review demonstrated consistency across respirable crystalline silica samples taken by MSHA inspectors and more variability across respirable crystalline silica samples taken by mine operators. MSHA is proposing to add a single, uniform error factor adjustment of 21 percent to its standards that would be applied to both MSHA sample results and operators' sample results to determine noncompliance with the PEL or exposure at or above the action level. Additionally, MSHA is proposing that only MSHA samples would be the basis for issuing citations for noncompliance with the PEL because MSHA can ensure accuracy across inspectors' samples with a high level of confidence.

The Agency does not think it is feasible to develop an error factor for each operator sample because mine operators may use any combination of the multiple commercially available particle size-selective samplers, various analytical methods, and different third-party laboratories that meet the requirements of 30 CFR part 60 (Part 60); therefore, each combination would require a separate and unique error factor. As a result, MSHA is proposing to allow operators to apply the same error factor adjustment of 21 percent to their sample results for consistency. Mine operators would use their sample results to determine if silica exposure levels at their mines require them to take action to protect miners from respirable crystalline silica overexposures.

Based on updated analysis and stakeholder comments, MSHA is also proposing other changes to improve exposure monitoring for respirable crystalline silica, to clarify when metal and nonmetal (MNM) mine operators may use respirators, and to adopt the Occupational Safety and Health Administration's (OSHA's) Respiratory Protection Standard which would improve safety for miners when wearing respirators voluntarily.

MSHA is also proposing changes to its medical surveillance requirements to address the potential for constraints on the capacity of NIOSH-certified B Readers for medical examinations due to limitations in multi-state support and expected growth in the number of MNM mines for critical minerals. The proposal would update medical surveillance requirements to be more risk-based, which would provide relevant medical information to those miners (both MNM and coal) at risk of material impairment of health or functional capacity from overexposure to respirable crystalline silica. Other proposed changes to medical surveillance would improve access for MNM miners to obtain voluntary medical examinations and remove the requirement for mine operators to ensure the results of chest X-ray classifications are provided to the National Institute for Occupational Safety and Health (NIOSH).

Additionally, MSHA is proposing changes to the recordkeeping requirements under Part 60 to be consistent with proposed changes elsewhere and is proposing other conforming amendments in 30 CFR parts 56, 57, 71, and 72.

Finally, MSHA is not proposing any changes to the respirable crystalline silica PEL, for all miners, of 50 micrograms per cubic meter of air ($\mu g/m^3$) for a full-shift exposure, or the action level of 25 $\mu g/m^3$ for a full-shift exposure, both calculated as an 8-hour time-weighted average (TWA), established in the 2024 Silica Final Rule. The changes from the 2024 Silica Final Rule that are proposed would clarify and improve mine operators' compliance requirements for respirable crystalline silica overexposure and improve respiratory protections and health protections for all miners. All references in this proposal to the ''existing rule'' refer to the provisions established in the 2024 Silica Final Rule.

II. Background

A. Pertinent Legal Authority

The statutory authority for this proposed rule is provided by the Federal Mine Safety and Health Act of 1977, as amended (Mine Act) under sections 101(a), 103(h), and 508. 30 U.S.C. 811(a), 813(h), and 957. MSHA implements the provisions of the Mine Act to prevent death, illness, and injury from mining and promote safe and healthful workplaces for miners. The Mine Act requires the Secretary of Labor (Secretary) to develop and promulgate improved mandatory health or safety standards to prevent hazardous and unhealthful conditions and protect the health and safety of the nation's miners. 30 U.S.C. 811(a).

Congress passed the Mine Act to address these dangers, finding ''an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal or other mines in order to prevent death and serious physical harm, and in order to prevent occupational diseases originating in such mines.'' 30 U.S.C. 801(c). Congress concluded that ''the existence of unsafe and unhealthful conditions and practices in the Nation's coal or other mines is a serious impediment to the future growth of the coal or other mining industry and cannot be tolerated.'' 30 U.S.C. 801(d). Accordingly, ''the Mine Act evinces a clear bias in favor of miner health and safety.'' *Nat'l Mining Ass'n* v. *Sec'y, U.S. Dep't of Lab.,* 812 F.3d 843, 866 (11th Cir. 2016).

Section 101(a) of the Mine Act gives the Secretary the authority to develop, promulgate, and revise mandatory health standards to address toxic materials or harmful physical agents. 30 U.S.C. 811(a). Under Section 101(a), a standard must protect lives and prevent injuries in mines and be ''improved'' over any standard that it replaces or revises. *Id.* Additionally, Section 101(a)(9) prohibits the Secretary from promulgating a mandatory health or safety standard that reduces the protection afforded miners by an existing mandatory health or safety standard. 30 U.S.C. 811(a)(9). Section 101(a)(9) is also known as the ''no-less protection rule,'' and courts have noted that ''Section 101(a)(9) requires the agency to state the basis for its conclusion that the rule has been satisfied,'' but judicial ''review of that substantive determination is, as always, 'highly deferential and presumes the validity of agency action.'' *Nat'l Min. Ass'n* v. *Mine Safety & Health Admin.,* 116 F.3d 520, 535, 536 (D.C. Cir. 1997) (quoting *United Mine Workers of Am., Int'l Union* v. *Dole,* 870 F.2d 662, 666 (D.C. Cir. 1989)). Section 101(a) of the Mine Act also authorizes the Secretary to ''prescribe the type and frequency of medical examinations or other tests which shall be made available, by the operator at his cost, to miners exposed

to such hazards in order to most effectively determine whether the health of such miners is adversely affected by such exposure.'' 30 U.S.C. 811(a)(7).

The Secretary must set standards to assure, based on the best available evidence, that no miner will suffer material impairment of health or functional capacity from exposure to toxic materials or harmful physical agents over their working lives. 30 U.S.C. 811(a)(6)(A). In developing standards that attain the ''highest degree of health and safety protection for the miner,'' the Mine Act requires that the Secretary consider the latest available scientific data in the field, the feasibility of the standards, and experience gained under the Mine Act and other health and safety laws. *Id.* As a result, courts have found it ''appropriate to 'give an extreme degree of deference''' to MSHA '''when it is evaluating scientific data within its technical expertise.''' *Nat'l Mining Ass'n,* 812 F.3d at 866 (quoting *Kennecott Greens Creek Mining Co.* v. *MSHA,* 476 F.3d 946, 954 (D.C. Cir. 2007)). Consequently, MSHA's ''duty to use the best evidence and to consider feasibility . . . cannot be wielded as counterweight to MSHA's overarching role to protect the life and health of workers in the mining industry.'' *Id.* Thus, ''when MSHA itself weighs the evidence before it, it does so in light of its congressional mandate'' in favor of protecting miners' health. *Id.* Moreover, ''the Mine Act does not contain the 'significant risk' threshold requirement'' from the OSH Act. *Nat'l Mining Ass'n* v. *United Steel Workers,* 985 F.3d 1309, 1319 (11th Cir. 2021); *see also Nat'l Min. Ass'n* v. *Mine Safety & Health Admin.,* 116 F.3d 520, 527–28 (D.C. Cir. 1997) (contrasting the Mine Act at 30 U.S.C. 811(a) with the OSH Act at 29 U.S.C. 652 and noting that ''[a]rguably, *this* language does not mandate the same risk-finding requirement as OSHA'' and holding that ''[a]t most, . . . [MSHA] was required to identify a significant risk associated with having no [relevant] standard at all'').

Section 103(h) of the Mine Act gives the Secretary the authority to promulgate standards involving recordkeeping and reporting. 30 U.S.C. 813(h). Additionally, section 103(h) requires that every mine operator establish and maintain records, make reports, and provide this information as required by the Secretary. *Id.* Section 508 of the Mine Act gives the Secretary the authority to issue regulations to carry out any provision of the Mine Act. 30 U.S.C. 957.

B. Regulatory History

On April 18, 2024, MSHA published the 2024 Silica Final Rule (89 FR 28218). The standalone documents, ''*Effects of Occupational Exposure to Respirable Crystalline Silica on the Health of Miners,*'' ''*Final Risk Analysis,*'' and ''*Final Regulatory Impact Analysis,*'' were also made publicly available at that time. MSHA set the PEL of respirable crystalline silica at 50 μg/m^3 for a full-shift exposure, calculated as an 8-hour TWA. The 2024 Silica Final Rule included other requirements for sampling, qualitative evaluations, corrective actions, and medical surveillance for MNM mines, and also included new requirements for respiratory protection, including the incorporation by reference of ASTM International (ASTM) F3387–19, Standard Practice for Respiratory Protection.

The final rule took effect on June 17, 2024. Compliance with the final rule was scheduled for April 14, 2025, for coal mine operators and April 8, 2026, for MNM mine operators. Following publication of the final rule, industry groups, including the National Stone, Sand and Gravel Association (NSSGA); the Sorptive Minerals Institute (SMI); and others, filed petitions in the United States Court of Appeals for the Eighth Circuit, asserting concerns regarding the rule's feasibility, control methods, and sampling requirements. On April 11, 2025, the Eighth Circuit Court of Appeals issued an order staying the 2024 Silica Final Rule's compliance deadlines until the Court completes a substantive review of the petition. In accordance with the judicial directive, MSHA continues to temporarily pause enforcement of the requirements in the 2024 Silica Final Rule for mine operators.

C. Developments Affecting MSHA's Provisions on Exposure Monitoring

In the 2024 Silica Final Rule, MSHA discussed its decision not to include an error factor for respirable crystalline silica sample results in its standards in response to several comments recommending the adoption of one (89 FR 28317). Commenters recommended that the PEL (30 CFR 60.10) and action level (30 CFR 60.2) should have an error factor to account for sampling and analysis errors. One commenter pointed to the 2014 Respirable Coal Mine Dust standard as an example of MSHA applying an error factor to the PEL to normalize results to account for errors in sampling and weighing that cause deviations in individual concentration measurements.

After careful consideration of these comments, MSHA decided not to include an error factor in the 2024 Silica Final Rule and based its findings on the following considerations: (1) there are many sampling devices available that conform to the ISO 7708:1995(E) standard for particle size-selective samplers with an acceptable level of measurement bias, and (2) both the X-Ray Diffraction (XRD) and Infrared Spectroscopy (IR) analytical methods can measure respirable crystalline silica with acceptable precision at amounts that would be collected by samplers when airborne concentrations are at or around the PEL and action level. Even though an error factor was not published in the 2024 Silica Final Rule, MSHA would have applied an error factor to any MSHA sample result, consistent with the NIOSH Accuracy Criterion and MSHA's long-standing practice, to determine whether the result was an overexposure of the PEL. This is similar to how the Agency applies an error factor to MSHA sample results of the P–2 and P–7 analyses for quartz at MNM and coal mines, respectively.

MSHA's decision not to mandate mine operators to use specific samplers or laboratories in the 2024 Silica Final Rule allows for variability among samplers and laboratory analysis methods. MSHA determined that additional restrictions on the types of samplers would create supply issues for operators because there are not enough of any one type of ISO-conforming sampling equipment to meet the sampling needs of all mines and many mine operators already had ISO-conforming sampling equipment that was being used for respirable crystalline silica sampling. Also, mine operators were concerned about facing significant delays in obtaining sample results, an issue which would have been exacerbated if MSHA had limited the laboratories available to operators by mandating that operators use specific ISO-accredited laboratories for sample analysis.

After publication of the 2024 Silica Final Rule, MSHA continued to receive questions during stakeholder meetings on whether an error factor would be applied to operators' samples. MSHA responded that the Agency, consistent with its practice of applying an error factor to sample results for other health hazards, would apply an error factor to MSHA respirable crystalline silica sample results but did not address whether operator samples for respirable crystalline silica would also have an error factor applied. Since the stakeholder meetings, MSHA observed

variability in silica sample results when comparing different combinations of compliant pumps, samplers, laboratories, and analytic methods used. Specifically, the Agency observed more consistent results for MSHA samples, which are based on a single combination of pump, sampler, and laboratory.

MSHA is proposing in this rule to cite a violation of the respirable crystalline silica PEL only when the Agency has evidence that a violation occurred based on its own samples. Moreover, MSHA would determine that a violation has occurred when an MSHA sample, including an error factor adjustment of 21 percent, exceeds the PEL. MSHA's error factor model accounts for laboratory analyses variability and other sampling variables for samples taken by MSHA inspectors to ensure the Agency's process for its health standards citations and penalties is in accordance with the NIOSH Accuracy Criterion.[1] The error factor is necessary because when an MSHA sample is challenged, it allows the Secretary to show by a preponderance of the evidence that the sample is above the PEL.

MSHA is also proposing to apply an error factor adjustment of 21 percent to operator samples to determine compliance with the requirements of this part and for consistency across all samples, both operator and MSHA samples. While operator samples would not be cited for overexposure, there are still certain actions that operators must take based on their own sampling, such as corrective actions to reduce respirable crystalline silica exposures when sample results are above the PEL. For additional discussion of the error factor model and citing violations of the respirable crystalline silica PEL, see *Section IV.A.2.e. Paragraph (f).*

Furthermore, the Agency is proposing that when mine operator samples are at or above the action level but at or below the PEL in § 60.12(a)(3), mine operators would also be required to provide approved respirators to miners. MSHA expects that providing miners with approved respirators, enrolling them in the proposed respiratory protection program in § 60.14 when any sample results indicate that miners are exposed to respirable crystalline silica at or above the action level but at or below the PEL, and sampling as frequently as necessary (as proposed in § 60.12) would improve miner safety. By providing miners with respirators in this instance, miners are informed and can take action to protect themselves from respirable crystalline silica exposures and possible overexposures by voluntarily wearing a respirator. However, MSHA emphasizes that nothing in the proposal changes the existing requirements for operators to take corrective actions and ensure miners wear approved respirators when working in exposures above the PEL.

Mine operators can continue to rely on sample results from ISO/IEC 17025-accredited laboratories, including the 21 percent error factor adjustment, to determine their compliance with the PEL and action level. Miners should be confident that the sample results, including the 21 percent error factor adjustment, provide them with appropriate measurements of their exposures to respirable crystalline silica. Mine operators may continue to use any type of sampling device they choose for respirable crystalline silica sampling as long as it meets the characteristics for respirable particle-size selective samplers that conform to the ISO 7708:1995(E) standard and, where appropriate, meets MSHA permissibility requirements.

III. Request for Comments

MSHA requests comments on any aspect of the proposed rule and all relevant issues. In addition, MSHA is considering some options that are not included as part of the current proposal. MSHA is soliciting comments on the following options:

- Incorporating a requirement that specifies coal mines must be at normal production volumes when conducting sampling;
- Whether there are alternative error factors for sample results that MSHA should consider for determining compliance with the respirable crystalline silica PEL and exposures at or above the action level;
- Whether the Agency should continue to apply separate error factors based on the analytical precision of the MSHA P–2 and MSHA P–7 analytical methods instead of a single, uniform 21 percent error factor;
- Removing the requirement to include respirable dust results as part of the sampling record;
- Whether the Agency should prohibit the use of irritant smoke as a qualitative respirator fit testing method due to the health risks associated with exposure to irritant smoke. OSHA allows irritant smoke fit testing in Appendix A to 29 CFR 1910.134;
- Additional modifications to the medical evaluation requirements for certain types of respirators or supplemental mining-specific requirements for unique circumstances found in mining environments;
- Tying voluntary medical examinations for MNM miners to exposure levels at or above the action level;
- Whether medical examinations for miners new to the MNM industry should be mandatory, but include additional flexibilities (*e.g.,* X-rays without immediate examination by NIOSH-certified B Readers, or allowing use of the mine operator's pre-employment medical exams);
- Whether mandatory medical examinations should be required for sampled miners when mine operator samples, including the 21 percent error factor, are above the PEL;
- Whether to exempt respirable crystalline silica exposures that result from the mining and processing of sorptive clays; and
- Assumptions and methodologies of regulatory alternatives and data or quantitative information that may be useful in evaluating the estimated costs and benefits associated with regulatory alternatives.

MSHA will consider all timely comments and may change the proposed rule based on comments received.

IV. Section-by-Section Analysis

MSHA proposes to amend 30 CFR part 60, *Respirable Crystalline Silica.* Part 60 contains uniform mandatory health standards to protect all miners from adverse health risks caused by occupational exposure to respirable crystalline silica in MNM and coal mines. Part 60 contains the PEL for respirable crystalline silica for all mines and includes other provisions addressing methods of compliance, exposure monitoring, corrective actions, respiratory protection, medical surveillance for MNM mines, recordkeeping, and severability. MSHA also proposes to adopt by reference the requirements for respiratory protection from OSHA in § 1910.134 of title 29 of the Code of Federal Regulations (29 CFR 1910.134).

This section-by-section analysis discusses each change being proposed under Part 60, the proposed conforming amendments in 30 CFR parts 56, 57, 71, and 72, and the proposed update to MSHA's respiratory protection standard.

A. Part 60—Respirable Crystalline Silica

Part 60 includes 10 sections: Scope and compliance dates; Definitions;

[1] DHHS (NIOSH) Publication No. 95–117. National Institute for Occupational Safety and Health, ''*Guidelines for Air Sampling and Analytical Method Development and Evaluation.*'' May 1, 1995. *https://stacks.cdc.gov/view/cdc/209677* (last accessed Jan. 7, 2026).

Permissible exposure limit; Methods of compliance; Exposure monitoring; Corrective actions; Respiratory protection; Medical surveillance for metal and nonmetal mines; Recordkeeping requirements; and Severability. In the following sections, MSHA discusses each of the proposed amendments to Part 60.

1. Section 60.11—Methods of Compliance

Existing § 60.11 requires mine operators to install, use, and maintain feasible engineering and administrative controls to keep each miner's exposure to respirable crystalline silica at or below the PEL. Mine operators must use feasible engineering controls as the primary means of controlling respirable crystalline silica; administrative controls must be used, when necessary, as a supplementary control.

Existing § 60.11(b) prohibits mine operators from using rotation of miners as an acceptable method of compliance for 30 CFR part 60.

MSHA proposes to amend existing paragraph (b) to clarify that mine operators are prohibited from using rotation of miners as a corrective action under existing § 60.13 when miners' exposures are above the PEL. MSHA thinks this clarification is necessary because many mine operators have indicated that they interpret existing paragraph (b) as a total prohibition against the rotation of miners for any reason when miners are exposed to respirable crystalline silica. Existing paragraph (b) was not intended to bar rotation of miners as an administrative control to reduce exposure to other hazards, or for other reasons. For example, operators rotate miners to limit noise exposure, prevent repetitive strain injuries, and reduce fatigue from strenuous tasks.

After consideration of the concerns raised by stakeholders, MSHA concluded that existing paragraph (b) may be difficult to enforce and may cause confusion for the regulated community. The language in existing paragraph (b) results in operator concern that rotation of miners that is typical in operations and implemented for safety or health reasons could be cited as rotation of miners to limit silica exposures. Existing paragraph (b) may inadvertently lead operators to not rotate miners when appropriate, neglecting other critical health and safety hazards. For instance, it might dissuade implementation of rotation to protect miners from excessive noise exposure and occupational hearing loss.

The proposed change would clarify that existing § 60.11(b) is intended to prohibit the rotation of miners as a corrective action for respirable crystalline silica exposure when exposures are above the PEL. This means when exposure levels are above the PEL, operators may not use rotation of miners as a corrective action to bring silica exposures to levels at or below the PEL. Operators may continue to rotate miners in circumstances consistent with current normal work practices. Therefore, the proposed change would clarify that this section does not bar the use of miner rotation as deemed appropriate by the mine operator in circumstances such as, but not limited to, cross-training, allowing miners to alternate physically demanding tasks with less strenuous activities, or limiting exposure to other hazards for which rotation is a suitable corrective action (*e.g.,* noise or musculoskeletal disorders). Operators may not, however, introduce any new or additional rotation for exposures to other hazards (that could result in additional miners working in conditions above the PEL) while corrective actions under § 60.13 are ongoing for an overexposure to silica.

The following examples help explain MSHA's position prohibiting rotation of miners to be used as a corrective action when exposures are above the PEL:

Example A: At a surface MNM mine, Miner 1 normally operates a haul truck for their entire 8-hour shift. If a silica sample result indicates an exposure above the PEL for Miner 1, MSHA would not allow the operator to rotate another miner for Miner 1 and run the haul truck for any amount of time for the purpose of reducing Miner 1's silica exposure during the shift, as this is not part of current normal work practices. Rather, if the exposure of Miner 1 is above the PEL, the MNM mine operator would be obligated to implement the corrective action for being above the PEL, to protect Miner 1.

Example B: At an underground coal mine, Miner 1 and Miner 2 rotate the duties of operating the continuous mining machine as part of their current normal work practice. If a silica sample result indicates an exposure above the PEL, MSHA would allow the coal mine operator to rotate Miner 1 and Miner 2 working on the continuous mining machine while taking corrective actions because this is part of their normal work practices. MSHA emphasizes that when a sample indicates exposures are over the PEL, under existing § 60.13, *Corrective actions,* the operator must make approved respirators available to affected miners before the start of the next work shift in accordance with existing § 60.14(b) and (c) and ensure that affected miners wear respirators properly until miner exposures are at or below the PEL. In the example given above, both Miner 1 and Miner 2 would be considered affected, and the mine operator would be required to comply with the requirements of § 60.13 for both miners. MSHA also emphasizes that sampling under § 60.12(e)(2)(ii) requires coal operators to conduct occupational environmental sampling (*i.e.,* the sampling device stays with the occupation during the rotation).

Example C: At a surface MNM mine, Miner 1 and Miner 2 normally rotate duties operating a stone cutting saw as an administrative control to reduce noise exposure. If a silica sample result indicates an exposure above the PEL, MSHA would allow the MNM mine operator to continue to rotate Miner 1 and Miner 2 operating the saw while taking corrective actions because this is part of their normal work practices. However, MSHA would not allow the mine operator to add Miner 3 to rotate with Miner 1 and Miner 2 for any amount of time operating the stone cutting saw in order to lower each miner's exposure below the PEL. MSHA emphasizes that when a sample indicates a miner's exposure over the PEL, under existing § 60.13, *Corrective actions,* the operator must make approved respirators available to affected miners before the start of the next work shift in accordance with existing § 60.14(b) and (c) and ensure that affected miners wear respirators properly until miner exposures are at or below the PEL. In the example given above, both Miner 1 and Miner 2 would be considered affected, and the mine operator would be required to comply with the requirements of § 60.13 for both miners. MSHA also emphasizes that sampling under § 60.12(e)(2)(i) requires MNM mine operators to conduct personal breathing-zone sampling (*i.e.,* the sampling device stays with the individual). MSHA expects mine operators to conduct personal breathing-zone sampling on both miners in this example when assessing their exposures to respirable crystalline silica.

This proposed change to § 60.11(b) is consistent with the existing protections for miner safety and health in existing § 60.11 and is intended to clarify MSHA enforcement policy in the Agency's standards. As discussed, amending this provision would not reduce protections afforded to miners as MSHA has consistently recognized that rotation is beneficial for miners' health and safety when used for purposes such as cross-training, alternating physically demanding tasks, or limiting exposure

to other hazards like noise and musculoskeletal disorders when miners' exposures are at or below the respirable crystalline silica PEL.

2. Section 60.12—Exposure Monitoring

Existing § 60.12 sets forth requirements for conducting respirable crystalline silica exposure monitoring, including requirements for sampling, corrective actions sampling, periodic evaluation, post-evaluation sampling, sampling requirements, methods of sampling analysis, and sampling records. The exposure monitoring requirements facilitate operator compliance with the PEL and standardize MSHA's approach to monitoring and evaluating respirable crystalline silica exposures to better protect miners' health.

Under this proposed rule, MSHA would amend the exposure monitoring requirements in existing § 60.12 to do the following: (1) amend the sampling structure to ''as frequently as necessary'', (2) amend the actions mine operators must take when miners' exposure is at or above the action level but at or below the PEL, (3) amend the actions mine operators must take when miners' exposure exceeds the PEL, (4) remove the requirements for periodic evaluation and post-evaluation sampling, (5) establish a uniform error factor adjustment of 21 percent on sample results for determining compliance with the PEL and for determining exposures at or above the action level, and (6) establish that MSHA would issue citations only for MSHA samples of respirable crystalline silica when laboratory analysis results indicate samples exceed the PEL.

a. Paragraph (a)

Existing § 60.12(a), *Sampling,* includes the requirements for sampling conducted by mine operators to assess miners' exposures to respirable crystalline silica. Samples are compared to the action level and the PEL to determine the effectiveness of existing controls and the need for additional controls.

Paragraph (a)(1)

In existing paragraph (a)(1), mine operators are required to commence sampling by the compliance date to assess the full shift, 8-hour TWA exposure of respirable crystalline silica for each miner who is or may reasonably be expected to be exposed to respirable crystalline silica.

Under this proposed rule, MSHA would move the clause ''to assess the full shift, 8-hour TWA exposure of respirable crystalline silica for each miner who is or may reasonably be expected to be exposed to respirable crystalline silica'' from existing paragraph (a)(1) to proposed paragraph (a)(2). Under existing paragraph (a)(1), MSHA does not propose to amend the existing requirement that mine operators must commence sampling by the compliance date in § 60.1.

Paragraph (a)(2)

Under existing paragraph (a)(2), mine operators must take certain actions when sampling is below the action level, at or above the action level but at or below the PEL, or above the PEL.

MSHA proposes to amend the sampling structure in § 60.12 from a periodic initial and quarterly frequency to an ''as frequently as necessary'' sampling structure that assesses actual or reasonably likely exposures at or above the action level.

MSHA expects the ''as frequently as necessary'' sampling structure to be familiar to mine operators because the proposed amendment would be consistent with MSHA's existing requirements for the control of miners' exposures to other health hazards, and the sampling structure could be quickly implemented by mine operators. For example, the proposed ''as frequently as necessary'' sampling structure is consistent with the existing MNM requirement to conduct dust, gas, mist, and fume surveys (sampling) as frequently as necessary to determine the adequacy of control measures (§§ 56.5002 and 57.5002). A similar sampling structure can also be found in the existing noise exposure assessment requirements for MNM and coal mines, which requires that mine operators establish a system of monitoring that evaluates each miner's noise exposure sufficiently to determine continuing compliance with the noise exposure requirements (§ 62.110). The proposed sampling structure for respirable crystalline silica is also consistent with the existing MNM standard for controlling diesel particulate matter (DPM), which requires that mine operators monitor as often as necessary to effectively determine, under conditions that can be reasonably anticipated in the mine, whether the average personal full-shift airborne exposure to DPM exceeds the DPM limit (§ 57.5071(a)). MSHA's experience has shown that requirements for operators to conduct sampling ''as frequently as necessary'' are an appropriate means to determine the adequacy of control measures and protect miner health.

MSHA anticipates that under this proposal, mine operators might determine that some miners are not reasonably likely to be exposed to respirable crystalline silica at or above the action level and would therefore not conduct sampling for those miners. MSHA also anticipates that operators may identify certain miners and occupations requiring more frequent sampling than the initial and subsequent quarterly monitoring for exposures exceeding the action level, particularly when mining conditions, processes, or procedures change (*e.g.,* geological factors or the effectiveness of engineering controls).

Mine operators could use objective data to help determine when to sample and what occupations or areas of a mine may need more frequent sampling to assess respirable crystalline silica exposures. This is consistent with the approach for sampling methods discussed in the 2024 Silica Final Rule, which assigned mine operators responsibility for determining which miners to sample for respirable crystalline silica exposures.

Objective data is information such as air monitoring data from industry-wide surveys or calculations based on the composition of a substance that indicates the level of miner exposure to respirable crystalline silica associated with a specific product, material, process, task, or activity. Mine operators utilizing such data should verify that it represents mining conditions that either closely match, or present greater exposure potential than the processes, material types, control measures, work practices, and environmental conditions present in their current operations.

Some examples of objective data include historical MSHA sampling data, NIOSH Health Hazard Evaluations and other published scientific reports, and air monitoring data from industry-wide surveys that demonstrate miners' exposure to respirable crystalline silica associated with a particular product or material or a specific process, task, or activity. At a minimum, mine operators relying on objective data should obtain objective data that is current and accurately characterizes miner exposures to respirable crystalline silica.

The 2024 Silica Final Rule did not adopt the proposed use of objective data to confirm sample results below the action level and discontinue sampling. However, the rule was silent on operator use of objective data to determine which miners are or may reasonably be expected to be exposed to respirable crystalline silica. MSHA has consistently recognized that mine operators are aware of the extent and degree of miners' exposures to respirable crystalline silica because they

have been complying with respirable dust standards for over 40 years. Mine operators are also aware of the occupations, work areas, and work activities where exposures to respirable crystalline silica at or above the action level are most likely to occur.

Although not explicit in the 2024 Silica Final Rule, it was MSHA's understanding that operators would use their experience and all available data (including objective data) to determine which miners may reasonably be expected to be exposed to respirable crystalline silica. In this proposed rule, MSHA acknowledges the benefits of reviewing, analyzing, and determining the applicability of objective data for the purpose of making judgments about which miners are at risk of exposure at or above the action level for respirable crystalline silica. Objective data is valuable for helping mine operators decide where and when to focus sampling efforts, ensuring that monitoring is concentrated on miners who are at greater risk of exposure to respirable crystalline silica at or above the action level.

MSHA expects that the proposed change to an ''as frequently as necessary'' sampling structure does not reduce protections afforded to miners because it would provide more timely and targeted information about respirable crystalline silica concentrations in mining environments. Mine operators would be expected to sample upon recognizing a change in mining conditions, practices, and procedures that could result in exposures at or above the action level, rather than waiting until the next 3-month sampling interval or qualitative assessment.

The proposed change to an ''as frequently as necessary'' sampling structure modifies specific sampling requirements in § 60.12 related to: (1) the action level trigger, (2) initial sampling and scope, (3) sampling frequency, and (4) discontinuation of sampling. The details of these changes are further described in the following paragraphs.

Action Level Trigger

Under the existing standards, when respirable crystalline silica sample results are at or above the action level but at or below the PEL, operators are required to conduct additional sampling within 3 months. Under the proposed rule, in addition to sampling as frequently as necessary, when miners are exposed at or above the action level but at or below the PEL, mine operators would be required to make approved respirators available before the start of the next work shift in accordance with § 60.14(b) and (c). Miners may choose to wear respirators voluntarily in this instance.

MSHA does not think it is appropriate to require only additional sampling on a set timeframe when sampling indicates exposure at or above the action level. Additional sampling alone does not reduce the health risks for miners. Therefore, the proposed requirement for operators to make approved respirators available by the beginning of the next work shift allows miners to take immediate action to reduce their exposure to respirable crystalline silica. Additionally, operators would be required to sample as frequently as necessary (rather than on a set 3-month timeframe) to determine whether discontinuing the provision of approved respirators is warranted. MSHA expects that these proposed changes would provide greater protection for miners' health than merely requiring additional sampling.

For additional details on the proposed requirement to make approved respirators available, please see the description of paragraph (a)(3) later in this section.

Initial Sampling and Scope

Under the existing standards, mine operators are required to commence sampling by the compliance date for each miner who is or may reasonably be expected to be exposed to respirable crystalline silica. Under the proposed rule, the requirement to commence sampling by the compliance date would remain. Mine operators would conduct sampling ''as frequently as necessary'' after the compliance date. Also, under the proposed rule, mine operators would need to assess exposures for miners who are or may reasonably be expected to be exposed at or above the action level.

Due to the observed variability of silica sample results and MSHA's proposed application of an error factor on sample results, MSHA now considers that a silica exposure approaching the action level would be the appropriate concentration to commence sampling as frequently as necessary rather than a one-time initial sample of any miner reasonably expected to be exposed to silica. Generally, as silica concentration levels approach the limit of detection (LOD) and limit of quantification (LOQ) in measured results (which fall below the action level), the accuracy and precision of exposure assessments tend to diminish significantly.[2]

At these lower concentrations, the magnitude of measurement error increases, resulting in less reliable and less consistent data, which leads to decreased confidence in drawing accurate conclusions about exposure levels. Values below the quartz LOD of 2 µg for MNM samples analyzed using the MSHA P–2 method and below the quartz LOD of 3 µg for coal samples analyzed using the MSHA P–7 method are not technologically feasible because they are too small to reliably indicate the presence of respirable crystalline silica.[3] [4] Also, values below the quartz LOQ of 10 µg for both MNM samples analyzed using the MSHA P–2 method and coal samples analyzed using the MSHA P–7 are considered unreliable.[5] This is because the measured quartz mass below the LOQ, despite usually being detectable, is indistinguishable from instrument noise, resulting in high variability.

Because of these limitations, MSHA has determined that the existing requirement in § 60.12(a)(1) to sample each miner who is or may reasonably be expected to be exposed to respirable crystalline silica is not actually feasible for those miners whose exposures approach levels at or below the established method's quantification

[2] In industrial hygiene, the limit of detection (LOD) is the lowest concentration of a substance that can be reliably detected (distinguished from zero or background noise), while the limit of quantification (LOQ) is the lowest concentration that can be measured with acceptable accuracy and precision. The LOQ is higher than the LOD. The values of LODs and LOQs for respirable crystalline silica samples depend on several factors, including the analytical method used (XRD or FTIR) and the silica polymorph analyzed (quartz, cristobalite, or tridymite). An analytical method LOQ may be referred to as a reporting limit (RL) or reliable quantitation limit (RQL).

[3] The MSHA P–2 detection limit or LOD for quartz is 2 µg. See ''*MSHA P–2: X-Ray Diffraction Determination of Quartz and Cristobalite in Respirable Metal/Nonmetal Mine Dust.*'' October 11, 2024. *https://www.msha.gov/sites/default/files/Support_Resources/PUBLIC%20FINAL%20New_P2%202024.pdf* (last accessed Jan. 7, 2026).

[4] The MSHA P–7 detection limit or LOD for quartz is 3 µg. See ''*MSHA P–7: Infrared Spectroscopy Determination of Quartz in Respirable Coal Mine Dust.*'' October 11, 2024. *https://www.msha.gov/sites/default/files/Support_Resources/PUBLIC%20FINAL%20New_P7%202024.pdf* (last accessed Jan. 7, 2026).

[5] The MSHA P–2 and P–7 reporting limit or LOQ for quartz is 10 µg (October 11, 2024). The Agency's crystalline silica laboratories report only the quartz results that are greater than or equal to 10 µg, which aligns with the lowest mass of the instrument calibration range. This calibration range is verified with each analysis to ensure accuracy and reliability. In addition, each laboratory instrument is tested annually with 10 µg prepared samples of NIST (National Institute of Standards and Technology) traceable standard reference material. These procedures guarantee that the reported quartz measurements are both accurate and precise, adhering to the NIOSH Accuracy Criterion for an unbiased method that measurements will fall within 25 percent of the true measurement 95 percent of the time.

limits. The Agency considers that assessing exposures for miners who are or may reasonably be expected to be exposed at or above the action level, taking into account the error factor, will ensure the accuracy and precision of sample results so that miners and mine operators can be confident in measuring exposures to respirable crystalline silica.

By focusing monitoring efforts and resources on areas where silica concentrations approach the action level, the proposed rule better ensures that measurements are more dependable and protective actions are accurately targeted. This approach directs health and safety interventions toward miners facing the most significant risks from respirable crystalline silica exposure, enhancing overall protection.

MSHA expects that this proposed change would not diminish protections for miners because it would focus mine operator and MSHA resources on protecting miners who are at the greatest risk of respirable crystalline silica overexposure.

Sampling at Least Every 3 Months (Frequency)

Under the existing standards, mine operators must continue to sample at least every 3 months when sampling indicates that miner exposures are at or above the action level but at or below the PEL. Under the proposed rule, mine operators would no longer be required to sample at least every 3 months. Instead, mine operators would be required to continue sampling as frequently as necessary to assess the full-shift, 8-hour TWA exposure of respirable crystalline silica to each miner who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level. Sampling frequency would be based on mine-specific conditions and mine operators would be expected to sample upon recognizing a change in mining conditions, processes, or procedures that could result in exposures at or above the action level.

MSHA anticipates that, in some instances, this proposed change would require more frequent operator sampling than the currently prescribed 3-month frequency, and in other instances less frequent operator sampling may be appropriate. For example, MSHA anticipates that operators may identify certain miners and occupations requiring more frequent sampling when mining conditions, processes, or procedures change due to geological conditions or changes in the effectiveness of engineering and administrative controls. MSHA expects that this proposed change would not reduce protection for miners because it requires sampling when conditions, processes, or procedures necessitate, rather than on a set frequency.

Discontinuation of Sampling (Two Consecutive Samplings Below the Action Level)

Under the existing standards, mine operators may discontinue sampling (*i.e.,* stop sampling on a regular 3-month frequency) when two consecutive sample results indicate that miners' exposures are below the action level. Under the proposed rule, the ''as frequently as necessary'' sampling structure would require that mine operators sample as necessary to assess respirable crystalline silica exposures for each miner who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level. This is more protective because there is no ''discontinuation'' of sampling. Rather, mine operators would continue to evaluate their mines and sample those miners who are exposed or who may reasonably be expected to be exposed to respirable crystalline silica at or above the action level. MSHA expects that this proposed change enhances miner protection by requiring continual evaluation and sampling based on changing conditions, processes, and procedures at the mine instead of allowing operators to discontinue sampling based on two consecutive samples taken 3 months apart.

In existing paragraph (a)(2), MSHA also proposes to add that sampling shall be conducted ''to assess the full shift, 8-hour TWA exposure of respirable crystalline silica for each miner who is or may reasonably be expected to be exposed to respirable crystalline silica.'' This proposed amendment is an editorial change since it moves the requirement from existing paragraph (a)(1) to existing paragraph (a)(2).

MSHA proposes to delete existing paragraph (a)(2)(i) in its entirety. Existing paragraph (a)(2)(i) includes a requirement to take at least one additional sampling within 3 months when concentrations are below the action level. This proposed change corresponds with the previously described ''as frequently as necessary'' sampling structure.

MSHA proposes to delete existing paragraph (a)(2)(ii) in its entirety. Existing paragraph (a)(2)(ii) includes a requirement for additional sampling within 3 months when concentrations are at or above the action level but at or below the PEL. This proposed change corresponds with the previously described ''as frequently as necessary'' sampling structure.

MSHA proposes to delete existing paragraph (a)(2)(iii) in its entirety. Existing paragraph (a)(2)(iii) includes a requirement for taking corrective actions and sampling pursuant to § 60.12(b) when concentrations are above the PEL. MSHA considers this requirement to be redundant because these requirements are covered under existing § 60.12(b) and § 60.13.

Paragraph (a)(3)

In existing paragraph (a)(3), mine operators are required to continue to sample within 3 months of the previous sampling when the most recent sampling analyses show concentrations at or above the action level but at or below the PEL.

MSHA proposes that when sample results reveal concentrations at or above the action level but at or below the PEL, mine operators must ''make approved respirators available before the start of the next work shift in accordance with § 60.14(b) and (c).'' This proposal provides miners with additional protection from respirable crystalline silica and thereby limits the health effects associated with respirable crystalline silica exposures until conditions, processes, or procedures change and sampling indicates exposures are below the action level. Because of the recently observed variability in silica sample results and the associated potential health risks, MSHA considers that it is safer to provide miners with respirators in conjunction with conducting sampling as frequently as necessary to protect miners' health. MSHA notes that the proposal does not allow mine operators to simply provide respirators while neglecting other protective measures. Mine operators would still be required to implement engineering and administrative controls to maintain silica levels below the PEL and conduct sampling as frequently as necessary. However, instead of relying solely on sampling, the Agency aims to equip miners with respirators as an additional and immediate protective measure because exposure levels at or above the action level indicate that miners might be working in concentrations near the PEL. This approach provides an added layer of protection aligned with the hierarchy of controls and ensures that miners are effectively safeguarded against harmful silica exposures.

This proposed change is also consistent with existing coal standards for respirable coal mine dust (RCMD) in §§ 70.208(e)(1), 70.209(c)(1), 71.206(h)(1) and 90.207(c)(1). Under

these existing standards, coal mine operators must make approved respiratory equipment available when one valid RCMD sample, out of the 5 or 15 samples that coal mine operators routinely collect during quarterly sampling, exceeds the excessive concentration value (ECV). In this case, the mine operator is considered to be compliant with the standards because the number of samples in excess of the ECV is less than the number of samples that are noncompliant with the standard. MSHA considers this situation analogous to when mine operators' respirable crystalline silica sample results reach the action level under this proposed rule, as they are not out of compliance with the PEL, but would be required to provide respirators to protect miners' health as exposure levels approach the PEL.

In existing paragraph (a)(3), MSHA also proposes to change the requirement from ''continue to sample within 3 months of the previous sampling'' to ''until sampling indicates exposures are below the action level'' in proposed paragraph (a)(3). This proposed change corresponds to the previously described ''as frequently as necessary'' sampling structure.

Paragraph (a)(4)

In existing paragraph (a)(4), mine operators may discontinue sampling when two consecutive samplings indicate that miner exposures are below the action level. Existing paragraph (a)(4) also states that the second sampling must be taken after the operator receives the results of the prior sampling but no sooner than 7 days after the prior sampling was conducted.

MSHA proposes to remove existing requirements in paragraph (a)(4) in their entirety because it is unnecessary. In the interest of protecting miners' health, MSHA would no longer allow mine operators to discontinue sampling (see the discussion of discontinuation of sampling presented in the description of paragraph (a)(2) earlier in this section).

MSHA proposes to add a requirement for mine operators to immediately report all sample results conducted pursuant to proposed paragraph (a)(2) that show concentrations above the PEL, to the appropriate District Manager or other MSHA official designated by the District Manager. This proposed change is editorial, as it moves the requirement from existing paragraph (b) to paragraph (a)(4). MSHA also notes that when sample results show concentrations above the PEL, the mine operator would still be required to make approved respirators available to affected miners before the start of the next work shift under existing § 60.13(a)(1). MSHA is not proposing to change the respirator requirement in § 60.13(a)(1).

b. Paragraph (b)

Existing § 60.12(b), *Corrective actions sampling,* requires that where the most recent sampling indicates that miner exposures are above the PEL, the mine operator must conduct sampling after corrective actions are taken, and until sampling indicates that miner exposures are at or below the PEL. The existing requirements do not define a specific sampling frequency when concentrations are above the PEL, but MSHA anticipates that operators will sample once they have taken corrective actions and continue to sample as frequently as needed until corrective actions have resolved the overexposure. Under existing § 60.12(b) MSHA also requires that mine operators immediately report all operator samples above the PEL to the District Manager or to any other MSHA official designated by the District Manager.

MSHA proposes to amend existing paragraph (b) of § 60.12 to remove the requirement to immediately report all operator samples above the PEL since that requirement is now added to proposed paragraph (a)(4) as described previously.

Additionally, MSHA proposes to amend paragraph (b) to add the requirement that once operator sampling (conducted as frequently as necessary) indicates that miner exposures are at or below the PEL, the mine operator would be required to contact the MSHA District Manager or any other MSHA official designated by the MSHA District Manager.

This proposed follow-up notification requirement ensures that MSHA is informed once the operator has successfully implemented sufficient corrective actions to reduce concentrations below the PEL. Requiring timely communication after exposure levels are reduced enhances miner safety and health by allowing MSHA to verify that effective protective measures are in place and maintained to prevent future overexposures. Pursuant to the proposed change in § 60.12(b), once the mine operator achieves a sample result below the PEL and reports the sample result to MSHA, the mine operator would not be required to continue reporting every subsequent sample result indicating exposures are at or below the PEL.

c. Paragraphs (c) and (d)

Existing § 60.12(c), *Periodic evaluation,* establishes the requirements for mine operators to conduct periodic evaluations at least every 6 months or whenever there is a change in mining conditions, processes, or procedures, make a record of the periodic evaluations, and conduct post-evaluation sampling of those miners who, as a result of the periodic evaluation, were identified as potentially being exposed at or above the action level. Periodic evaluations support mine operator assessments of changing processes, conditions, and procedures that may impact miner exposure levels on a regular basis. Under existing § 60.12(d), *Post-evaluation sampling,* the mine operator shall conduct sampling if they determine that miners may be exposed to respirable crystalline silica at or above the action level as a result of a change in processes or conditions at the mine.

In this proposed rule, MSHA would remove existing paragraphs (c) and (d) in their entirety. MSHA expects that there is no longer a need for periodic evaluation and post-evaluation sampling because the proposed change to an ''as frequently as necessary'' sampling structure makes these requirements redundant, and considers existing paragraphs (c) and (d) equivalent to the ''as frequently as necessary'' sampling required under proposed paragraph (a)(2). MSHA's intent is that the proposed ''as frequently as necessary'' requirement would require mine operators to evaluate potential exposures any time changes in conditions, processes, and procedures at the mine could reasonably result in exposures at or above the action level, and to sample, as needed, based on those evaluations. The evaluations and sampling prescribed in existing paragraphs (c) and (d) are inherent to the ''as frequently as necessary'' approach of this proposal. Removing them would clarify the overall sampling scheme.

MSHA expects that under the proposed ''as frequently as necessary'' sampling structure mine operators would continually evaluate their mines for the same conditions that triggered a periodic evaluation under existing paragraph (c): changes in production, processes, installation and maintenance of engineering controls, installation and maintenance of equipment, administrative controls, or geological conditions. This targeted, continual approach is intended to be as protective for miners as the existing requirements for conducting periodic evaluations at least every 6 months or whenever there is a change in processes or conditions at the mine.

The proposed change to an ''as frequently as necessary'' sampling structure resolves the concerns raised by stakeholders about the frequency of qualitative evaluations in the existing standards in paragraphs (c) and (d). As described in the 2024 Silica Final Rule, the United Mine Workers of America (UMWA) stated that mine operators should be constantly conducting qualitative evaluations any time a change occurs that may reasonably be expected to result in new or increased respirable crystalline silica exposures. The UMWA and the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) stated the proposed evaluation requirement could create the possibility for miners to be exposed to dangerous levels of silica for up to 6 months. Also, the National Stone, Sand & Gravel Association (NSSGA) stated that MSHA should adopt OSHA's requirement to reassess respirable crystalline silica exposures whenever there has been a change that may reasonably be expected to result in new or additional exposures at or above the action level, or when the employer has any reason to believe that new or additional exposures at or above the action level have occurred and eliminate the 6-month qualitative evaluation requirement (89 FR 28327). In this proposed rule, MSHA's proposed change to sampling ''as frequently as necessary'' addresses these stakeholder concerns because mine operators would be expected to continually evaluate changes in mining conditions, processes, and procedures to determine where and how frequently to conduct respirable crystalline silica sampling.

MSHA proposes to make editorial changes by redesignating subsequent paragraphs in § 60.12: existing paragraph (e), *Sampling requirements,* is proposed to be redesignated as paragraph (c); existing paragraph (f), *Methods of sample analysis,* is proposed to be redesignated as paragraph (d); and existing paragraph (g), *Sampling records,* is proposed to be redesignated as paragraph (e).

d. Paragraph (e)

Existing § 60.12(e), *Sampling requirements,* (redesignated as paragraph (c) in this proposed rule) includes sampling requirements to ensure mine operators' respirable crystalline silica monitoring is representative of miners' actual exposure levels. Because of the proposed removal of existing paragraphs (c) and (d) described previously, MSHA proposes to redesignate paragraphs (e)(1) through (e)(4) as paragraphs (c)(1) through (c)(4). In addition, MSHA proposes to change the language in redesignated (c)(3) from ''in paragraphs (a) through (e) of this section'' to ''in paragraphs (a) through (c) of this section.''

Existing § 60.12(e)(1) (redesignated as paragraph (c) in this proposed rule), discusses requirements for sampling to be conducted ''during typical mining activities.'' Consistent with §§ 70.208, 70.209, 71.206, and 90.207, MSHA is considering incorporating a requirement, not currently included in the proposal, that specifies coal mines must be at normal production volumes when sampling under § 60.12(e). MSHA requests comment on whether this clarification would be beneficial.

e. Paragraph (f)

Existing § 60.12(f), *Methods of sample analysis* (redesignated as paragraph (d) in this proposed rule), specifies the methods to be used for analyzing respirable crystalline silica samples, including the qualifications of the laboratories where the samples are to be analyzed (under existing paragraph (f)(1)) and the specific analytical methods to be used (under existing paragraph (f)(2)). MSHA does not propose to change the existing requirements under existing paragraph (f)(1) or (f)(2).

In this proposed rule, MSHA would add a new paragraph designated as paragraph (d)(3) to clarify that an error factor of 21 percent would be applied to sample results when determining compliance with the PEL and when determining exposures at or above the action level. The error factor would be applied to full-shift, 8-hour TWA sample results of respirable crystalline silica. The proposed addition of new paragraph (d)(3) clarifies MSHA's enforcement position and procedure for determining compliance with the respirable crystalline silica PEL and exposures at or above the action level. MSHA will continue to evaluate the error factor as the accuracy of sampling technology or laboratory methodology improve to determine if the error factor should be changed to reflect such improvements. Following such evaluation, MSHA will use the appropriate rulemaking process to amend the error factor.

Applying an error factor to sample results is consistent with current MSHA enforcement policies for other airborne contaminants and health hazards.[6] As discussed in the May 1, 2014, final rule ''*Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors*'' (Coal Dust Rule, 79 FR 24814), MSHA addresses uncertainty due to measurement error by applying a margin of error before issuing a finding that the applicable standard was exceeded (79 FR 24972). Applying this margin of error ensures that noncompliance determinations are made only when there is at least 95 percent confidence that the applicable standard has been exceeded. To achieve this confidence level, the applicable margin of error is constructed by applying an error factor appropriate for the measurement being considered. For respirable coal mine dust, the error factor is calculated as: $EF = 1 + (1.645 \times CV_{total})$, where CV_{total} is the total coefficient of variation. Therefore, when $CV_{total} = 7.8$ percent for respirable coal mine dust sample measurements, the calculated value of EF is 1.128. If, for example, the sampled occupation is on a 1.5 milligrams per cubic meter of air (mg/m^3) standard, the operator would be in violation of the applicable standard if a single, full-shift MRE-equivalent concentration measurement times the EF exceeds 1.692 mg/m^3.[7]

Another example is MSHA's use of an error factor when assessing compliance with the Agency's occupational noise standard in 30 CFR part 62. This standard allows, in part, a maximum noise PEL of 90 dBA (A-weighted decibels), corresponding to 100 percent of allowable exposure (or 100 percent dose), for an 8-hour period. MSHA considers noise exposures to be noncompliant when the noise standard, adjusted for the error factor, is exceeded.[8] Most noise exposures at mining operations vary in level and frequency during a working shift. MSHA measures personal noise exposure with a noise dosimeter with an attached microphone worn near the miner's ear for a full shift. The noise dosimeter has a 2 dBA (32 percent) range of uncertainty, or error.[9] MSHA applies this error in its determination of compliance by issuing citations for excessive noise exposure only when the exposure, as measured with a dosimeter, exceeds the standard including the error

[6] MSHA Handbook Number: PH20–V–4, ''*Health Inspection Procedures Handbook.*'' December 2020. *https://www.msha.gov/sites/default/files/Directive%20%26%20Guidance/Handbooks/PH20-V-4%20Health%20Inspection%20Procedures%20Handbook.pdf* (last accessed Jan. 7, 2026).

[7] $1.5 \times 1.128 = 1.692$.

[8] MSHA Program Policy Manual Volume III (30 CFR parts 40 through 50 and Parts 62 and 100), *https://www.msha.gov/sites/default/files/Directive%20%26%20Guidance/Manuals/PPM-Vol-III.pdf* (last accessed Mar. 12, 2026).

[9] MSHA Health Hazard Information Card, April 2006, *https://www.msha.gov/sites/default/files/Alerts%20and%20Hazards/HH%20Cards/HH-15%20Hazards%20of%20Noise.pdf* (last accessed Mar. 12, 2026).

factor, which corresponds to 132 percent for the PEL exposure level.

The application of an error factor to sample results is also consistent with the treatment of measurement uncertainties at OSHA. OSHA's approach of accounting for sampling and analytical error (SAE) in its enforcement of PELs includes the OSHA silica PEL.[10] As described in the OSHA Technical Manual, the sample result being analyzed by OSHA's lab must exceed the PEL by more than the PEL multiplied by the SAE to be considered as an overexposure.[11] For example, given the OSHA silica PEL of 50 μg/m^3 and assuming an SAE of 17 percent, an air sample result greater than 58.5 μg/m^3 is considered as exceeding the PEL.[12] This policy gives employers the benefit of the doubt because it assumes that a sample result that is above the PEL, but below the PEL adjusted for the SAE (*i.e.,* PEL + (PEL × SAE)), is not a violation of the standard. OSHA does not cite an employer for a violation of the exposure limit unless the Agency has obtained a sample measurement that is above the PEL after accounting for SAE.

Use of an error factor is also consistent with NIOSH's identification of error in validated sampling and analytical methods. The NIOSH Manual of Analytical Methods (NMAM) is a compilation of analytical methods used for occupational exposure assessments.[13] The NMAM presents various analytical methods, including the NIOSH 7500, 7602, and 7603 methods used for silica analysis, and each method lists its respective analytical error. Given the variability MSHA observed in silica sample results, MSHA considers incorporating an error factor directly into the standards to be consistent with sound scientific principles and MSHA's long-standing enforcement practices. It will also ensure consistency, uniformity, and clarity for miners, mine operators, and the Agency in evaluating respirable crystalline silica exposure levels.

Existing § 60.12(f) requires operators to follow specific requirements for respirable crystalline silica sampling. For example, samples must be collected using respirable-particle-size-selective samplers that conform to the ISO 7708:1995(E) standard. Operators must also select a laboratory for analysis of their respirable crystalline silica samples that is accredited to the ISO/IEC 17025 standard. In addition, operators must select a laboratory that evaluates all samples collected and submitted for analysis for compliance with existing MSHA standards related to respirable crystalline silica exposure, using a respirable crystalline silica analytical method specified by one of three entities: MSHA, NIOSH, or OSHA. MSHA does not propose to amend these requirements.

However, MSHA recognizes that any measurement process has inherent variabilities caused by sampling and analytical error. Such variabilities cause individual measurements to deviate above or below a true value by a random but statistically quantifiable amount. The magnitude of the deviation or error depends on the sampling method and analysis technique used. The accuracy of a measurement depends on both precision and bias (NIOSH, 1995). Precision refers to consistency or repeatability of results, while bias refers to a systematic error that is present in every measurement. The NIOSH Accuracy Criterion establishes a standard for acceptance of dependable analytical methods that accurately reflect real workplace exposures. It requires that measurements consistently fall within a specified percentage of the true concentration, setting a maximum acceptable limit for precision and bias errors combined.

For unbiased sampling and analytical methods, a standard statistic called the coefficient of variation (CV) is used to determine if the method meets the NIOSH Accuracy Criterion. The CV, which is expressed as either a fraction (*e.g.,* 0.05) or a percentage (*e.g.,* 5 percent), quantifies measurement accuracy for an unbiased method. An unbiased method meets the NIOSH Accuracy Criterion if the ''true'' CV is no more than 0.128 (12.8 percent). However, because it is not possible to determine the true CV with 100 percent confidence, the NIOSH Accuracy Criterion requires 95 percent confidence that measurements by the method fall within 25 percent of the true concentration 95 percent of the time. Stated in mathematically equivalent terms, an unbiased method meets the NIOSH Accuracy Criterion if there is 95 percent confidence that the true CV is less than or equal to 0.128 (12.8 percent).

For MSHA silica sampling, the MSHA laboratory calculates the relative standard deviation (RSD) to define the CV for health enforcement samples. The RSD is also known as the total coefficient of variation (CV_{total}). For respirable crystalline silica analysis, MSHA calculates the RSD using three components: (1) analysis precision, (2) sampling pump (flow rate) error, and (3) sampler error.

MSHA analyzes respirable crystalline silica samples using two primary analytical methods: (1) the MSHA P–2 method, *P–2: X-Ray Diffraction Determination Of Quartz And Cristobalite In Respirable Metal/Nonmetal Mine Dust* (analysis by X-ray diffraction, XRD) for MNM mines, and (2) the MSHA P–7 method, *P–7: Determination Of Quartz In Respirable Coal Mine Dust By Fourier Transform Infrared Spectroscopy* (analysis by infrared spectroscopy, FTIR or IR) for coal mines. Both of MSHA's silica methods pass the NIOSH Accuracy Criterion; that is, they measure exposures within 25 percent of the true value 95 percent of the time. The MSHA P–2 method has a higher RSD (11 percent analytical error) compared to the MSHA P–7 method (5.3 percent analytical error).[14] [15] MSHA is proposing to use the 11 percent value for the analysis precision component of the RSD under this proposed rule. For the sampling pump (flow rate) error component, MSHA is proposing to use a general value of 5 percent, which is consistent with the acceptable variation limits recognized by both OSHA and MSHA for the flow rate of personal air sampling pumps.[16] [17] For the sampler error component, MSHA is proposing to use a general value of 4.8 percent. This value is selected because the existing

[10] OSHA FAQ—Occupational Exposure to Respirable Crystalline Silica 29 CFR 1910.1053—question # 21 (How does OSHA take into account the SAE when evaluating compliance with the PEL?) *https://www.osha.gov/silica-crystalline/general-industry-info#:~:text=The%20standard%20requires%20employers%20to,or%20a%20scheduled%20monitoring%20option* (last accessed Feb. 18, 2026).

[11] Section II, Chapter 1, IV.D of the OSHA Technical Manual (OSHA Instruction TED 01–00–015), *https://www.osha.gov/dts/osta/otm/otm_ii/otm_ii_1.html* (last accessed Mar. 11, 2026).

[12] 50 + (50 × 0.17) = 58.5.

[13] NIOSH Manual of Analytical Methods (NMAM), 5th Edition, *https://www.cdc.gov/niosh/nmam/pdf/NMAM_5thEd_EBook-508-final.pdf,* February 2020 (last accessed Mar. 12, 2026).

[14] The MSHA P–2 analytical error is 11 percent. See ''*MSHA P–2: X-Ray Diffraction Determination of Quartz and Cristobalite in Respirable Metal/Nonmetal Mine Dust.*'' October 11, 2024. *https://www.msha.gov/sites/default/files/Support_Resources/PUBLIC%20FINAL%20New_P2%202024.pdf* (last accessed Jan. 7, 2026).

[15] The MSHA P–7 analytical error is 5.3 percent. See ''*MSHA P–7: Infrared Spectroscopy Determination of Quartz in Respirable Coal Mine Dust.*'' October 11, 2024. *https://www.msha.gov/sites/default/files/Support_Resources/PUBLIC%20FINAL%20New_P7%202024.pdf* (last accessed Jan. 7, 2026).

[16] OSHA Method Guideline 1, ''*Sampling and Analytical Methods.*'' May 10, 2024. *https://www.osha.gov/sites/default/files/sampling-and-analytical-methods1.pdf* (last accessed Jan. 7, 2026).

[17] MSHA Handbook Number: PH20–V–4, ''*Health Inspection Procedures Handbook.*'' December 2020. *https://www.msha.gov/sites/default/files/Directive%20%26%20Guidance/Handbooks/PH20-V-4%20Health%20Inspection%20Procedures%20Handbook.pdf* (last accessed Jan. 7, 2026).

provision in § 60.12(e)(4) allows mine operators to use any sampling device that complies with the ISO 7708:1995(E) standard, and while a wide range of compliant samplers are available on the market, there are limited precision data available for many of them. Considering this data limitation, MSHA is proposing to use a single, uniform 4.8 percent value corresponding to the error associated with the sampling device the Agency uses for health enforcement sampling.

Combining these three components—11 percent for analysis precision, 5 percent for sampling pump error, and 4.8 percent for sampler error—gives a total RSD of 13.0 percent.[18] Applying this RSD to calculate the one-sided 95 percent upper confidence limit (UCL) results in a value of 21.385 percent.[19] The corresponding error factor is 1.21385, or 1.21 when rounded (*i.e.,* 21 percent error factor).[20]

MSHA is proposing in new paragraph (d)(3) to apply a single, constant error factor of 21 percent to sample results when determining compliance with the respirable crystalline silica PEL and exposures at or above the action level. The proposed 21 percent value would be used regardless of the sampling equipment, laboratory, or analytical method used for the sample, and regardless of whether the sample is collected by MSHA or taken by the operator. MSHA considers that 21 percent is an appropriate value that is consistent with MSHA's current enforcement policy and sampling program for determining compliance with other respirable dust samples, with at least a 95 percent statistical confidence.

MSHA is seeking comments and data from stakeholders on the application and implementation of a 21 percent error factor and whether there are alternative error factors that MSHA should consider for determining compliance with the respirable crystalline silica PEL and exposures at or above the action level. In addition, MSHA requests comments on whether the Agency should continue to apply separate error factors based on the analytical precision of the MSHA P–2 and MSHA P–7 analytical methods instead of a single, uniform 21 percent error factor.

[18] $\sqrt{(11^2 + 5^2 + 4.8^2)} = 13.0$. This is equivalent to the sampling and analytical error specified for the MSHA P–2 method.

[19] $13.0 \times 1.645 = 21.385$. The 1.645 value is the z-statistic that corresponds to a 95 percent confidence level for a single-sided (one-tailed) confidence interval.

[20] 1 + 0.21385 = 1.21385.

MSHA proposes to add a second new paragraph to existing § 60.12, designated as paragraph (d)(4), to state that MSHA would only issue citations for noncompliance with the PEL based on MSHA respirable crystalline silica samples. MSHA would not issue a citation under this proposed rule based solely on an operator-reported sample result that exceeds the PEL. MSHA inspector samples are obtained and analyzed under conditions within the Agency's control, and those samples are the only ones that will be used to issue citations. However, operator sample results may be used to determine the operator's compliance with other provisions of the respirable crystalline silica standards (*e.g.,* reporting operator samples above the PEL to MSHA under existing § 60.12 and taking certain corrective actions in accordance with existing § 60.13(a)(1) through (3)).

f. Paragraph (g)

Existing § 60.12(g), *Sampling records,* (redesignated as paragraph (e) in this proposed rule), requires mine operators to create and post a record for each sample taken. Because of the proposed removal of existing paragraphs (c) and (d), MSHA proposes to make a related editorial change to paragraph (g) (redesignated as paragraph (e)) to change the language from ''in paragraphs (a) through (e) of this section'' to ''in paragraphs (a) through (c) of this section.''

Existing § 60.12(g) requires mine operators to make and post a record that includes both the concentrations of respirable crystalline silica and of respirable dust for each operator sample taken. During stakeholder meetings to discuss the implementation of the 2024 Silica Final Rule, mine operators voiced confusion over inclusion of the respirable dust concentration in the record because 30 CFR part 60 does not regulate respirable dust. Additionally, coal mine operators raised concern about confusion between the respirable dust concentration results under Part 60 and the respirable dust concentration sampling requirements under 30 CFR parts 70, 71, and 90, given that respirable dust sample results under Part 60 rely on different methodology and equipment. MSHA understands that respirable dust concentrations may not always be included in the laboratory report that operators receive for analysis of respirable crystalline silica samples. MSHA is maintaining the requirement to include respirable dust concentrations as part of the sampling record in this proposal but is requesting additional stakeholder input on removing the requirement.

3. Section 60.14—Respiratory Protection

Existing § 60.14 establishes the requirements for the use of respiratory protection for respirable crystalline silica.

a. Paragraph (a)

Existing § 60.14(a), *Temporary use of respirators at metal and nonmetal mines,* states that when MNM miners must work in concentrations of respirable crystalline silica above the PEL while engineering controls are being developed and implemented or it is necessary by the nature of the work involved, the mine operator shall use respiratory protection as a temporary measure.

MSHA proposes to amend paragraph (a) to remove the term ''temporary measure'' and replace it with ''miners may work for reasonable periods of time.'' Thus, proposed paragraph (a) would allow affected miners to work for a reasonable period of time using respiratory protection in concentrations of respirable crystalline silica above the PEL while engineering controls are being developed and implemented, or it is necessary by the nature of the work involved. MSHA also proposes to remove the word ''temporary'' from the paragraph (a) heading to be consistent with the removal of the term ''temporary measure'' from the text of the paragraph. MSHA proposes to make these changes for clarity.

After publication of the 2024 Silica Final Rule, MSHA became aware that many mine operators interpreted ''temporary'' to mean a fixed period of time. Additionally, several stakeholders requested that MSHA clarify the meaning of ''temporary'' and specify time limitations.

In the 2024 Silica Final Rule, the Agency intended for ''temporary'' use of respirators in exposures above the PEL to mean miners could work in exposures above the PEL for reasonable periods of time depending on the work being performed, or when developing and implementing engineering controls (89 FR 28336). For example, MSHA expects that respirators could be used for a longer period of time in exposures above the PEL if installing several, complex engineering controls; however, MSHA would expect that respirators would likely be worn for a shorter duration in exposures above the PEL when installing fewer, less complex engineering controls. Another instance where the Agency would anticipate longer respirator use is when a miner conducts scheduled maintenance on baghouse filters, as opposed to making

a quick entry into the baghouse for a visual equipment inspection.

Other examples where respirators could be used for reasonable periods of time are when miners are tasked with cleaning a large material spill or circumstances where other applicable laws require a process to be confined to prevent releases of material to the environment, and working within such spaces may necessitate a respirator to control exposure. Also, transient events such as high wind might increase concentrations temporarily, and respirator use might be appropriate to manage exposure in such situations.

Thus, MSHA proposes the change in existing § 60.14(a) to clarify for stakeholders that the use of respirators is not dependent on a specific time limit but is instead determined to be reasonable based on the nature of the work affected miners are performing while wearing respirators given the variability of mining processes, activities, and commodities that are mined. In addition, MNM mine operators should be familiar with the proposed change since the statement that ''miners may work for reasonable periods of time'' if they are protected by appropriate respiratory protective equipment when working in concentrations of respirable crystalline silica above the PEL was in the previous standard in §§ 56.5005 and 57.5005 before the 2024 Silica Final Rule. The proposed changes would continue to limit the use of respirators while affected miners work in respirable crystalline silica exposures above the PEL, and the Agency expects that the proposed changes would not result in any reduction in safety for miners.

b. Paragraph (c)

Existing § 60.14(c), *Respiratory protection requirements at all mines,* sets forth the requirements for respiratory protection at MNM and coal mines. Existing paragraph (c)(2) requires that when approved respirators are used, mine operators must have a written respiratory protection program in accordance with ASTM F3387–19, ''Standard Practice for Respiratory Protection.''

MSHA proposes to revise paragraph (c)(2) to require mine operators to comply with the respiratory protection requirements from OSHA in 29 CFR 1910.134 (OSHA Respiratory Protection Standard). MSHA would adopt by reference the requirements of 29 CFR 1910.134, *Respiratory protection,* in this section in proposed paragraphs (c)(3)(i) and (ii), with two exclusions.

The first proposed exclusion in paragraph (c)(3)(i) would be for 29 CFR 1910.134(d)(2)(iii), the altitude exceptions for respirators for Immediately Dangerous to Life and Health (IDLH) atmospheres. Under 29 CFR 1910.134 (d)(2)(iii), all oxygen-deficient atmospheres are considered IDLH. OSHA permits exceptions based on altitude ranges which are listed in Table II to paragraph (c). Instead of adopting these altitude exceptions, MSHA proposes to continue its longstanding practice of classifying all atmospheres below 19.5 percent oxygen as IDLH and would not permit altitude adjustments for oxygen concentrations. MSHA proposes not to adopt this exception because mining operations are inherently unpredictable, with conditions that can rapidly become life-threatening. Additionally, MSHA's approach to IDLH atmospheres is consistent across all mines and is easily implemented by mine operators to ensure miners' safety and health. For a more detailed discussion of this IDLH exclusion, see *Section IV. C. Updating MSHA's Respiratory Protection Standard by Adopting by Reference OSHA's Respiratory Protection Standard in 29 CFR 1910.134.*

The second proposed exclusion in paragraph (c)(3)(ii) would be for the record retention period for medical evaluations under OSHA's Respiratory Protection Standard in 29 CFR 1910.134(m)(1), which is for the duration of the miner's employment plus 30 years. MSHA is proposing to exclude the OSHA retention period because it is not enforced under 29 CFR 1910.134 but rather 29 CFR 1910.1020; therefore, the record retention period would not be adopted by reference in this proposal.

c. Paragraph (d)

Under a new proposed paragraph (d), MSHA would add a record retention requirement for medical evaluations of miners to determine a miner's ability to wear a respirator. This is not a new record retention requirement because both ASTM F3387–19 and the OSHA Respiratory Protection Standard require retention of medical evaluation records as part of a written respiratory protection program. MSHA is proposing the record retention requirement in this section so that mine operators would not have to follow OSHA's record retention requirements in 29 CFR 1910.1020. Thus, in proposed paragraph (d), MSHA would require the mine operator to maintain a record of the medical evaluation received from the physician or other licensed health care professional (PLHCP) or specialist under paragraph (c) of this section.

d. Voluntary Respirator Use

Under proposed § 60.12(a)(3), mine operators would be required to provide approved respirators for voluntary respirator use to miners exposed at or above the action level but at or below the PEL. The current respiratory protection standard, ASTM F3387–19, does not address voluntary respirator use. MSHA has determined that the OSHA Respiratory Protection Standard is more protective and better suited for the mining industry for multiple reasons, including the fact that it explicitly addresses voluntary respirator use and requires operators to implement certain elements of a written respiratory protection program to ensure safe voluntary respirator use. The Agency expects that changing from ASTM F3387–19 to OSHA's Respiratory Protection Standard would enhance protections for miners who voluntarily wear respirators when permitted by the operator.

MSHA also understands that the OSHA Respiratory Protection Standard would provide other safety advantages over the ASTM standard. For example, the OSHA Respiratory Protection Standard includes a straightforward fixed threshold for oxygen deficiency and a provision for providing powered air purifying respirators (PAPRs) to miners who are not medically cleared for negative-pressure respirator use (29 CFR 1910.134(e)(6)(ii)). Further, the OSHA Respiratory Protection Standard is freely available to the public in the CFR and on the OSHA website, and OSHA has published an extensive catalog of compliance assistance materials to aid workers and employers with understanding the standard. Adoption of the OSHA Respiratory Protection Standard would reduce administrative complexity and potential for confusion at mining facilities that fall under both OSHA and MSHA jurisdictions.

The existing respiratory protection standard is ASTM F3387–19, a voluntary consensus standard published by ASTM International in 2019. MSHA incorporated the requirements of ASTM F3387–19 into the Agency's standards in the 2024 Silica Final Rule because it provides detailed information on respirator selection that is based on NIOSH's extensive experience in testing and certifying respirators for occupational use as well as OSHA's research and regulatory development in respiratory protection. Thus, in MSHA's experience, the provisions of the ASTM F3387–19 standard and OSHA's requirements in 29 CFR 1910.134 are largely equivalent with respect to

respiratory protection program practices. For a detailed discussion of OSHA's respiratory protection requirements in 29 CFR 1910.134, see *Section IV.C, Updating MSHA's Respiratory Protection Standard by Adopting by Reference OSHA's Respiratory Protection Standard in 29 CFR 1910.134.*

One area that ASTM F3387–19 does not address, and which OSHA's respiratory protection requirements do address, is voluntary respirator use when exposures are below the PEL and miners are not required by the operator to wear a respirator. MSHA's existing requirements do not specify what actions mine operators must take to prevent health or safety hazards when miners choose to wear respirators voluntarily.

Under the OSHA Respiratory Protection Standard, respiratory protection is required in any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer. For example, if a mine operator requires a respirator to be worn in a particular area, even when the miner is working in exposures determined to be below the respirable crystalline silica standard or other recognized exposure limits, any respirator use (including a P100 filtering facepiece respirator) would not be considered voluntary. In this instance, the miner would need to be enrolled in a written respiratory protection program meeting the requirements of 29 CFR 1910.134.

If respiratory protection is not required and the mine operator does not advise the miner to use a respirator, but the miner requests to use a respirator, the respirator use is considered voluntary under the OSHA Respiratory Protection Standard, whether the respirator is provided by the mine operator or the miner is permitted to use their own respirator. If the mine operator determines that voluntary respirator use will not in itself create a hazard and determines respirator use is permissible, the mine operator must provide respirator users with a copy of Appendix D to § 1910.134 titled, *(Mandatory) Information for Employees Using Respirators When Not Required Under the Standard* (Appendix D).

Generally, for voluntary respirator use, Appendix D instructs the user to:

1. Choose respirators that have been certified by NIOSH;

2. Follow the manufacturer's instructions provided with the respirator including information on how to properly use the respirator and maintain and care for the respirator, and also follow warnings on the limitations of the respirator;

3. Wear a respirator appropriate for the contaminant to be protected against; and

4. Keep track of the user's respirator so that the user does not mistakenly use someone else's respirator.

Under 29 CFR 1910.134(c)(2)(i), the mine operator would be required to provide the advisory information on respirators presented in Appendix D to any miners who voluntarily use respirators. MSHA agrees with this approach and expects that Appendix D would provide essential guidance for miners who voluntarily wear respirators to ensure their proper and effective use.

Under these voluntary use conditions, the OSHA Respiratory Protection Standard would require mine operators to develop a written respiratory protection program and implement those elements necessary to ensure that any miner using a respirator voluntarily is medically able to do so (29 CFR 1910.134(c)(1)(ii)), and that the respirator is cleaned, stored, and maintained so that its use does not present a health hazard to the user (29 CFR 1910.134(c)(1)(v)). Voluntary use of respirators does not require all elements of the OSHA Respiratory Protection Standard to be included in the written program. Mine operators would not be required to include in a written respiratory protection program those miners who voluntarily use only filtering facepiece respirators (*e.g.,* N95 and P100 filtering facepiece respirators).

MSHA proposes adopting the OSHA Respiratory Protection Standard by reference for four reasons.

First, the OSHA Respiratory Protection Standard reflects current respirator technology and best practices for effective respiratory protection. It is freely available to the public in the CFR and on OSHA's website, including guidance on fit testing, medical evaluation, and voluntary use.

Second, the OSHA Respiratory Protection Standard comprehensively covers all aspects of respiratory protection programs, from establishment through implementation and evaluation. It addresses program administration, standard operating procedures, medical evaluation, respirator selection, training, fit testing, and respirator maintenance, inspection, and storage. Based on MSHA's experience, adopting the OSHA Respiratory Protection Standard would help mine operators establish and implement effective respiratory protection programs to protect miners. This adoption would enhance miner safety and health since many mine operators already know how to apply the OSHA standard to their mine-specific conditions.

Third, the OSHA Respiratory Protection Standard recognizes voluntary use of respirators. The standard requires employers to provide information on the voluntary use of respirators (Appendix D to § 1910.134) and develop and implement certain elements of a written respiratory protection program to ensure the safe and effective voluntary use of respirators to protect miner health and safety. Therefore, the standard does not discourage mine operators from allowing the voluntary use of respirators for added protection.

Fourth, OSHA has compiled extensive, freely available general guidance for employers, respirator program administrators, and respirator users to ensure the effective development and administration of respiratory protection programs. The guidance includes web pages, and online tools related to respiratory protection created by OSHA and other agencies, such as NIOSH. For example, OSHA provides employers with guidance on selecting appropriate respirators for workers using Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs). Additionally, OSHA's Small Entity Compliance Guide offers a detailed step-by-step resource, featuring checklists and frequently asked questions that enhance both worker and employer understanding of the OSHA Respiratory Protection Standard.[21]

Under this proposed rule, mine operators requiring respiratory protection would need to ensure the proper selection, fit testing, medical evaluation, training, use, and maintenance of NIOSH-approved respirators in accordance with 29 CFR 1910.134, so that no miner is exposed to respirable crystalline silica at or above the action level.

MSHA recognizes that OSHA is currently considering revising the medical evaluation requirements for certain types of respirators in the OSHA Respiratory Protection Standard. On July 1, 2025, OSHA published the proposed rule titled ''*Amending the Medical Evaluation Requirements in the Respiratory Protection Standard for Certain Types of Respirators.*'' 90 FR 28463. OSHA's proposed rule, if finalized, would remove medical evaluation requirements for employees

[21] OSHA3384–09, ''*Small Entity Compliance Guide for the Respiratory Protection Standard.*'' 2011 *https://www.osha.gov/sites/default/files/publications/3384small-entity-for-respiratory-protection-standard-rev.pdf* (last accessed Jan. 7, 2026).

required to use filtering facepiece respirators and loose-fitting powered air purifying respirators. 90 FR 28471–28472. MSHA will monitor this rulemaking and may consider whether additional modifications to the standard or supplemental mining-specific requirements would be necessary for unique circumstances found in mining environments.

4. Section 60.15—Medical Surveillance

Existing § 60.15 requires MNM mine operators to provide medical surveillance at no cost to miners.

MSHA is proposing to amend the medical surveillance requirements in existing § 60.15 to: (1) change from mandatory to voluntary medical examinations for miners new to the MNM industry; (2) require mandatory medical examinations for all sampled miners, both MNM and coal miners, when the sampled miner is exposed above the PEL, as indicated by an MSHA sample; [22] (3) modify the frequency of voluntary medical surveillance for MNM miners; (4) remove the requirement for reporting chest X-ray classifications to NIOSH; and (5) remove the requirement for the PLHCP to provide any recommended limitations on the miner's use of respirators in the PLHCP's written medical opinion.

Existing § 60.15 is titled *Medical surveillance for metal and nonmetal mines.* However, one provision of proposed § 60.15 would apply to both coal mine operators and MNM mine operators. Accordingly, MSHA proposes to change the title of § 60.15 to ''*Medical surveillance.*''

a. Paragraph (a)

Existing § 60.15(a), *Medical surveillance,* requires MNM mine operators to provide each MNM miner medical examinations. Existing paragraph (a)(2) outlines the requirements of the medical examination including: medical and work history, physical examination with special emphasis on the respiratory system, chest X-ray, and pulmonary function test. The medical and work history covers a miner's present and past work exposures, illnesses, history of smoking including e-cigarette use and vaping, and any symptoms indicating respirable crystalline silica related diseases and compromised lung function.

Under this proposed rule, MSHA would revise § 60.15(a) to apply to all mine operators, both MNM and coal. The Agency is proposing this change to paragraph (a) because § 60.15(c) would require mandatory medical examinations for all sampled miners, both MNM and coal miners, when the sampled miner (or miners that were part of a representative sample) is exposed above the PEL, as indicated by an MSHA sample.[23] When a personal breathing-zone air sample result is above the PEL, the mandatory medical examination would be required for the sampled miner. When an occupational environmental sample result is above the PEL, the mandatory medical examination would be required for all sampled miners who rotated through that occupation on the sampled shift.

b. Paragraph (b)

Existing § 60.15(b), *Voluntary medical examinations,* requires MNM mine operators to provide the opportunity to all MNM miners employed at the mine to have voluntary medical examinations during an initial 12-month period and at least every 5 years after the end of the initial 12-month period. MSHA proposes to make an editorial change in the § 60.15(b) paragraph heading to *Voluntary metal and nonmetal medical examinations.* Additionally, MSHA proposes to add the words ''metal and nonmetal'' to this paragraph to specify that the requirement to offer voluntary medical examinations would continue to apply only to MNM mine operators. This clarification is necessary due to the proposed removal of ''for metal and nonmetal mines'' in the title of this section.

MSHA proposes to amend § 60.15(b)(1) to expand the initial period for offering medical examinations to a 5-year period for all MNM miners employed at a mine. The existing requirement in § 60.15(b)(2) for MNM mine operators to make periodic medical examinations available at least every 5 years after the end of the initial period in § 60.15(b)(1) is unchanged. MSHA expects that this proposed amendment would allow more miners to successfully participate in the medical surveillance program for the following reasons.

In the preamble to the 2024 Silica Final Rule, MSHA carefully considered comments related to availability of NIOSH-certified B Readers and issues with access to a PLHCP or specialist qualified to perform the medical surveillance examinations, especially for mines in rural locations. MSHA determined that MNM mine operators should not experience any significant issues identifying a PLHCP or specialist to conduct medical examinations and emphasizes that the 2024 Silica Final Rule allows flexibility by not mandating that the medical examinations be conducted by full-time health care professionals employed by mine operators.

MSHA also determined that technological advancements eliminating the need for geographic proximity between patients and technicians such as NIOSH-certified B Readers, combined with the widespread availability of X-ray testing, make obtaining X-rays and having the results classified by NIOSH-certified B Readers technologically feasible. MSHA found that digital X-ray technology enables chest X-rays to be submitted electronically to remotely located NIOSH-certified B Readers for classification and interpretation. Following consultation with NIOSH, MSHA concluded that NIOSH-certified B Readers with remote reading capabilities are available in sufficient numbers to satisfy the 2024 Silica Final Rule's requirements. Therefore, MSHA determined that the limited number of NIOSH-certified B Readers in certain geographic locations will not be an obstacle for MNM operators. MSHA further concluded that any increase in demand for these services can be addressed by providers.

Since the 2024 Silica Final Rule's publication, MSHA has become aware that state medical licensing rules could impact the availability of NIOSH-certified B Readers in some states. MSHA is now aware that NIOSH-certified B Readers with remote reading capabilities must be medically licensed in the state where they practice remotely. Therefore, a NIOSH-certified B Reader with remote reading capabilities does not guarantee that miners in other states can access that NIOSH-certified B Reader. MSHA is aware that this could limit access for mine operators and miners attempting to complete initial medical examinations within the 12-month period required in existing § 60.15(b)(1). Also, MSHA is aware of the Interstate Medical Licensure Compact, an agreement among participating states and territories designed to streamline the licensing process for physicians who want to practice in multiple states. However, it is unclear how the Interstate Medical Licensure Compact has affected

[22] MSHA Handbook Number: PH20–V–4, ''*Health Inspection Procedures Handbook.*'' December 2020. *https://www.msha.gov/sites/default/files/Directive%20%26%20Guidance/Handbooks/PH20-V-4%20Health%20Inspection%20Procedures%20Handbook.pdf* (last accessed Jan. 7, 2026).

[23] MSHA Handbook Number: PH20–V–4, ''*Health Inspection Procedures Handbook.*'' December 2020. *https://www.msha.gov/sites/default/files/Directive%20%26%20Guidance/Handbooks/PH20-V-4%20Health%20Inspection%20Procedures%20Handbook.pdf* (last accessed Jan. 7, 2026).

the number of multi-state licensed NIOSH-certified B Readers.

MSHA has data on the number of NIOSH-certified B Readers located in each state. However, MSHA does not have information on NIOSH-certified B Readers licensed to practice in additional states. The available information indicates that many states with significant MNM mining employment have few in-state NIOSH-certified B Readers. MSHA requests additional data on the sufficiency of NIOSH-certified B Reader availability to meet the needs of MNM mine operators providing voluntary medical examinations.

In addition, MSHA is aware that demand for critical minerals is expected to continue to increase.[24] This would likely result in an increase in the number of MNM mines and in the number of miners at existing mines, which would therefore increase the number of MNM miners seeking voluntary medical examinations. MSHA's proposed change in § 60.15(b)(1) to expand the initial period for offering medical examinations to a 5-year period for all MNM miners employed at a mine would smooth out demand over the course of 5 years instead of an initial 12-month period, ensuring mine operators' and miners' access to PLHCPs, certified specialists, and NIOSH-certified B Readers.

MSHA expects that this would facilitate miner access to medical examinations under the existing § 60.15(b)(2) requirement for MNM mine operators to make periodic medical examinations available at least every 5 years after the initial medical examinations. By extending the initial period for medical examinations in § 60.15(b)(1), miners who may otherwise encounter resource constraints when accessing PLHCPs, certified specialists, and NIOSH-certified B Readers under § 60.15(b)(2) due to the demand created when numerous miners seek these same resources within a 12-month timeframe, should find it easier to obtain access to those resources.

Miners should use the information obtained from medical surveillance to establish a baseline for their health status and may use information from periodic medical examinations to make informed decisions regarding their health.

MSHA proposes to revise § 60.15 by adding a new paragraph designated as paragraph (b)(3). The proposed requirements in new paragraph (b)(3) are substantially similar to the requirements for new miners in existing § 60.15(c), *Mandatory medical examinations;* however, medical examinations for MNM miners new to the mining industry would be voluntary instead of mandatory under this proposed change. The proposed addition of new paragraph (b)(3) includes: (i) an initial examination no later than 60 days after starting employment, (ii) a follow-up examination within 3 years of the initial examination, and (iii) a follow-up examination by a specialist no later than 2 years after the follow-up examination in proposed (b)(3)(ii) if the X-ray shows evidence of pneumoconiosis or the spirometry examination indicates evidence of decreased lung function.

MSHA expects that this change would not result in a reduction of safety because MNM miners new to the mining industry would still be provided with the opportunity to voluntarily participate in medical surveillance, with the opportunity for a baseline medical examination provided within 60 days of beginning work in the mining industry and the opportunity for at least one medical examination every 5 years after the initial medical examination. This proposed change would help address concerns about the availability of NIOSH-certified B Readers to ensure those miners, both MNM and coal, exposed above the PEL can access the mandatory exams in proposed § 60.15(c). In the Agency's experience, the coal miners' medical surveillance program (30 CFR 72.100) is appropriate to provide coal miners with information needed for early detection of silica-related disease.

MSHA requests comments on whether the Agency should tie voluntary medical examinations for MNM miners to exposure levels at or above the action level. Please provide comments on the potential benefits and challenges of implementing such a measure and its effectiveness in enhancing miner health and safety.

MSHA is considering allowing employers to use pre-employment medical exams required by the mine operator as a condition of employment to satisfy the requirements for initial medical exams under existing § 60.15(c)(1), which is § 60.15(c)(3)(i) in this proposed rule. The changes would allow pre-employment exams that fulfill the requirements of the initial medical exam in existing § 60.15(a)(2) and existing § 60.15(d)(1) to fulfill the requirements of the initial medical exam. The mine operator, or their selected PLHCP or specialist, would provide miners with an authorization form stating that miners' participation in the medical surveillance portion of the exam is voluntary and explaining that detailed results from the medical surveillance portion of the exam would only be provided to the miner. The miner would need to authorize the voluntary medical examination. MSHA anticipates this dual-purpose exam structure would reduce time miners must spend traveling for medical exams and mitigate issues related to access to a PLHCP or specialist qualified to perform the medical surveillance examinations, especially for mines in locations with limited access to health care. MSHA requests comments on adding provisions that would allow pre-employment exams to serve the dual purpose of fit-for-duty examinations and medical surveillance. In particular, MSHA is interested in the potential benefits for miners and the potential cost implications for mine operators (including estimates of increases in paperwork costs). For a more detailed discussion of paperwork costs, see *Section X. Paperwork Reduction Act of 1995.*

c. Paragraph (c)

Existing § 60.15(c), *Mandatory medical examinations,* requires MNM mine operators to provide mandatory medical examinations for miners who are beginning work in the mining industry for the first time. As discussed, the proposed addition of § 60.15(b)(3) would make medical examinations voluntary for MNM miners who begin work in the mining industry for the first time.

Proposed § 60.15(c), *Mandatory medical examinations for all miners exposed above the PEL,* would require mandatory medical examinations for all sampled miners (both MNM and coal) who are exposed above the PEL based on an MSHA sample, within 60 days of receiving the sample results, except for miners who have received a medical examination within the past 2 years under § 60.15 or in accordance with 30 CFR 72.100.

This proposed revision would reflect a risk-based approach to medical surveillance because it involves identifying and prioritizing both MNM and coal miners who have overexposures to respirable crystalline silica for medical examinations. MSHA expects that miners, both MNM and coal miners, who have confirmed overexposures to respirable crystalline silica face the greatest risk of developing silica-related diseases and, therefore, are most in need of mandatory medical examinations. MSHA is aware that a

[24] International Energy Agency (IEA). 2025. Global Critical Minerals Outlook 2025, IEA, Paris *https://www.iea.org/reports/global-critical-minerals-outlook-2025,* License: CC BY 4.0

single examination at the time of an over-exposure would be unlikely to identify silicosis unless the miner had acute silicosis or the miner had a previous history of exposure over years; however, a mandatory examination would provide a baseline for later comparison and would help indicate disease progression.

MSHA emphasizes that coal mine operators would continue to provide medical examinations for coal miners under 30 CFR 72.100, which is unchanged by this proposal. The proposed change in this section would apply to coal mine operators only when coal miners have been exposed to respirable crystalline silica above the PEL, as confirmed by an MSHA sample. In this instance, coal mine operators would be required to provide medical examinations in accordance with this section (§ 60.15). Coal mine operators must separately comply with existing § 72.100 for all other required medical examinations in that section for coal miners.

The proposed change to a risk-based mandatory medical examination structure based on exposures above the PEL resolves the concerns raised by stakeholders about the 60-day timeframe for when medical examinations would be required to be offered and the capacity of PLHCPs and NIOSH-certified B Readers to meet the demands for those medical examinations in the existing standards in § 60.15(c). MSHA expects that this proposal addresses concerns about availability of NIOSH-certified B Readers for medical examinations by providing more time for initial voluntary exams and targeting mandatory exams for those miners at greatest risk, *i.e.,* miners with known exposures above the PEL. Furthermore, the Agency expects this proposal to increase safety for all miners compared to the 2024 Silica Final Rule by requiring all miners to get a mandatory medical examination when exposed to respirable crystalline silica above the PEL.

As described in the 2024 Silica Final Rule, commenters requested that the Agency consider a risk-based approach for medical surveillance in which examinations would be triggered for miners exposed to respirable crystalline silica above a specific level of exposure. One commenter stated that the need for medical surveillance depends on the extent of workplace silica exposures and must be coordinated with industrial hygiene exposure monitoring results. Representatives of industry also supported a risk-based approach with a threshold or exposure trigger for medical surveillance. MSHA's proposed change to mandatory medical examinations for miners with exposures above the PEL addresses these stakeholder concerns by requiring mine operators to provide mandatory medical examinations to all miners with documented overexposures based on MSHA samples. This approach ensures that medical examinations occur closer in time to confirmed overexposures, enabling earlier detection of potential health effects and more timely medical intervention, which can lead to improved health outcomes compared to examinations conducted on an arbitrary schedule potentially years after an overexposure event.

MSHA expects that these proposed mandatory medical surveillance requirements would enhance protections for miners because the mandatory medical examinations would be required for all sampled miners who are overexposed, including both miners new to the industry and experienced miners. Additionally, the proposed changes would extend these protections to both MNM and coal miners. The information obtained from a mandatory medical examination for sampled miners exposed to respirable crystalline silica levels above the PEL would allow miners to make informed decisions about their health.

MSHA requests comments on whether the proposed mandatory medical examination requirements for sampled miners should be required for when mine operator samples, including the 21 percent error factor adjustment, are above the PEL.

d. Paragraph (d)

Existing § 60.15(d), *Medical examination results,* requires that mine operators ensure that, within 30 days of the medical examination, the PLHCP or specialist will provide (1) the results of the medical examination to the miner, the miner's designated representative, or another designee identified by the miner, and (2) the results of the chest X-ray classification to NIOSH.

MSHA proposes to remove the requirements of § 60.15(d)(2), which requires mine operators to ensure that the PLHCP or specialist provides the results of chest X-ray classifications to NIOSH within 30 days of the medical examination ''once NIOSH establishes a reporting system.'' MSHA does not have the authority to impose regulatory requirements on PLHCPs or specialists. While MSHA can regulate mine operators, it would be difficult for MSHA to enforce a requirement for mine operators to require PLHCPs or specialists to submit medical information to another government agency.

With the proposed removal of paragraph (d)(2), MSHA also proposes to make an editorial change by removing the designation for paragraph (d)(1).

e. Paragraph (e)

Existing § 60.15(e), *Written medical opinion,* outlines the requirements for the written medical opinion that the mine operator will obtain from the PLHCP or specialist within 30 days of the medical examination. These requirements include: (1) the date of the medical examination; (2) a statement that the medical examination has met the requirements of this section; and (3) any recommended limitations on the miner's use of respirators.

Proposed changes to § 60.15(e) would remove the requirement of § 60.15(e)(3) to include a written medical opinion from the PLHCP or specialist regarding limitations on the miner's use of respirators because it is redundant with the requirements for respiratory protection in both the Agency's existing respiratory protection standard (ASTM F3387–19) and the proposed adoption of OSHA's respiratory protection standard requirements. This proposed change would separate the requirements for medical evaluations conducted for respirator use from the medical surveillance program. The requirements of § 60.15(e)(3) would instead be addressed through MSHA's proposed adoption by reference of OSHA's respiratory protection program requirements, which include the requirement for a written medical determination by a PLHCP regarding the miner's ability to wear a respirator under 29 CFR 1910.134(e)(6). MSHA also proposes to change the description of the record that the mine operator must receive from the PLHCP or specialist from written medical opinion to written confirmation of medical examination. The Agency expects that this better describes the purpose of the written confirmation and will avoid confusion with medical evaluation records created and retained under § 60.14(c). MSHA also proposes to change the paragraph heading from ''Written medical opinion'' to ''Written confirmation of medical examination'' to reflect these changes.

With the proposed removal of paragraph (e)(3), MSHA also proposes to make an editorial change by adding the word ''and'' to the end of paragraph (e)(1) and removing the word ''and'' from the end of paragraph (e)(2).

f. Paragraph (f)

Existing § 60.15(f), *Written medical opinion records,* outlines the requirement that mine operators must maintain written medical opinion records. MSHA proposes to change the paragraph heading from ''Written medical opinion records'' to ''Written confirmation of medical examination records'' to reflect the changes previously discussed for § 60.15(e). The Agency also proposes the same change, replacing ''written medical opinion records received'' with ''written confirmation of medical examination records'' to the description of the record that must be retained under paragraph (f). MSHA considers this a more accurate description of the record that a mine operator must retain and reflects the proposed changes already discussed in § 60.15(e).

5. Section 60.16—Recordkeeping Requirements

Existing § 60.16 identifies recordkeeping retention requirements for records created in Part 60, including evaluation, sampling, and corrective actions records, as well as written determination records and written medical opinion records.

MSHA proposes to make corresponding changes to the record retention requirements in § 60.16 related to the proposed removal of the periodic evaluation and post-evaluation sampling requirements in existing paragraphs § 60.12(c) and (d).

MSHA is also proposing to add a retention period for medical evaluations of miners to determine a miner's ability to wear a respirator under proposed § 60.14(d), *Medical evaluation records.* This is not a new record retention requirement because both ASTM F3387–19 and the OSHA Respiratory Protection Standard require retention of medical evaluation records as part of a written respiratory protection program. As previously described in § 60.14, MSHA is proposing to exclude the OSHA retention period for medical evaluations made as part of the OSHA Respiratory Protection Program because it is not enforced under 29 CFR 1910.134; therefore, the record retention period would not be adopted by reference in this proposal.

Existing paragraph (a)(1) sets the retention period for evaluation records made under § 60.12(c) to be at least 5 years from the date of each evaluation. With the proposed removal of § 60.12(c) and (d), existing paragraph (a)(1) is no longer needed. Therefore, MSHA proposes to remove paragraph (a)(1) from § 60.16 in its entirety and redesignate existing paragraphs (a)(2) through (a)(4) as paragraphs (a)(1) through (a)(3).

Existing paragraph (a)(2) (redesignated as paragraph (a)(1) under this proposed rule) sets the retention period for sampling records made under § 60.12(g) to be at least 5 years from the sample date. With the proposed removal of § 60.12(c) and (d), MSHA proposes to amend the section reference noted in this sentence from ''§ 60.12(g)'' to ''§ 60.12(e).'' The sampling records retention period would remain unchanged.

Existing paragraph (a)(3) (redesignated as paragraph (a)(2) under this proposed rule) sets the retention period for corrective actions records made under § 60.13(c) to be at least 5 years from the date of each corrective action. In addition, these records must be stored with the records of related sampling under § 60.12(g). With the proposed removal of § 60.12(c) and (d), MSHA proposes to amend the section reference noted in the last sentence from ''§ 60.12(g)'' to ''§ 60.12(e).'' The corrective actions records retention period would remain unchanged.

MSHA proposes adding a new paragraph (a)(4) for the retention of medical evaluation records from the OSHA Respiratory Protection Program under § 60.14(c)(2). Proposed paragraph (a)(4) sets the retention period for medical evaluation records from a respiratory protection program made under § 60.14(c) to be the duration of a miner's employment plus 6 months. This proposed retention period is consistent with existing requirements for similar records in this section and § 57.5075.

Existing paragraph (a)(4) would be redesignated as paragraph (a)(5). The record description would also be changed from ''Written medical opinion records received from a PLHCP or specialist'' to ''Written confirmation of medical examination records received from a PLHCP or specialist'' to reflect the changes previously discussed for existing § 60.15(e) and (f).

Existing *Table 1 to Paragraph (a)—Recordkeeping Requirements* lists the record retention requirements of § 60.16. MSHA proposes to amend the table to reflect the proposed amendments to § 60.16 already discussed.

6. Section 60.17—Severability

Existing § 60.17 includes a statement of severability that each section of this part, as well as sections in 30 CFR parts 56, 57, 70, 71, 72, 75, and 90 that address respirable crystalline silica or respiratory protection, is separate and severable from the other sections and provisions. In the event that a court of competent jurisdiction stays, enjoins, or invalidates any provision, section, or application of this rule, the remainder of the rule would be allowed to take effect.

Under this proposed rule, MSHA is proposing to make editorial clarifications to the severability statement in § 60.17 by adding the words ''and provision'' to the first sentence and ''of sections or provisions'' to the end of the second sentence. These proposed additions do not change the intent or meaning of the severability statement. Rather, going forward they would clarify MSHA's intent that if any section or provision of the ''*Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection*'' rule—including sections of 30 CFR parts 56, 57, 70, 71, 72, 75, and 90 that address respirable crystalline silica or respiratory protection—is held invalid or unenforceable or is stayed or enjoined by any court of competent jurisdiction, the remaining sections or provisions would remain effective and operative. This is intended to clarify that MSHA intends that the severability provisions of the rule are intended to be applied at the smallest possible level so as to minimize any disruption caused by the potential severability of any section or provision and to maximize the survivability of the remaining portions of the part.

B. Conforming Amendments

In this proposed rule, MSHA makes proposed conforming amendments in 30 CFR parts 56, 57, 71, and 72. The conforming amendments in 30 CFR parts 56, 57, and 72 are based on the proposed changes to the Agency's written respiratory protection program requirements in Part 60. Specifically, MSHA is proposing conforming amendments to update the existing written respiratory protection program requirements for MNM mines and coal mines based on the proposed amendment to adopt by reference OSHA's requirements in 29 CFR 1910.134. In 30 CFR parts 56 and 57, MSHA is making this change to the temporary sections designated as 30 CFR 56.5005T and 57.5005T. These ''T'' sections were the conforming amendments established in the 2024 Silica Final Rule and their effective date was delayed due to a court-ordered stay (91 FR 17143). MSHA will notify the regulated community when the delay in the effective date ends and sections 56.5005T and 57.5005T are redesignated as sections 56.5005 and 57.5005.

The conforming amendment in 30 CFR part 71 removes an outdated

reference to respirable dust containing quartz and replaces it with respirable crystalline silica.

1. Part 56—Safety and Health Standards—Surface Metal and Nonmetal Mines

a. Section 56.5005T—Control of Exposure to Airborne Contaminants

Existing § 56.5005T sets forth the requirements for the control of exposures to harmful airborne contaminants and the use of respiratory protective equipment in surface MNM mines. Whenever respiratory protective equipment is used, its selection, fitting, maintenance, cleaning, training, supervision, and use must meet certain requirements. Existing paragraph (b) of § 56.5005T requires a written respiratory protection program consistent with the requirements of ASTM F3387–19, *Standard Practice for Respiratory Protection,* approved on August 1, 2019.

MSHA is proposing to amend the written respiratory protection program requirement in § 56.5005T by deleting the reference to ASTM F3387–19 and instead including the reference to OSHA's requirements in 29 CFR 1910.134. MSHA would adopt by reference the requirements of 29 CFR 1910.134, *Respiratory protection,* in this section with two exclusions in proposed paragraphs (b)(1)(i) and (ii). This is a conforming amendment consistent with the proposed change to the written respiratory protection program requirement in paragraph (c)(2) of § 60.14.

The first proposed exclusion in paragraph (b)(1)(i) would be for 29 CFR 1910.134(d)(2)(iii), specifically the altitude exceptions for respirators for IDLH atmospheres. Under 29 CFR 1910.134(d)(2)(iii), all oxygen-deficient atmospheres are considered IDLH. OSHA permits exceptions based on altitude ranges which are listed in Table II to paragraph (c). Instead of adopting these altitude exceptions, MSHA proposes to continue its longstanding practice of classifying all atmospheres below 19.5 percent oxygen as IDLH and would not permit altitude adjustments for oxygen concentrations. MSHA proposes not to adopt this exception because mining operations are inherently unpredictable, with conditions that can rapidly become life-threatening. Additionally, MSHA's approach to IDLH atmospheres is consistent across all mines and is easily understood by mine operators and can be safely implemented to ensure miners' safety and health. For a more detailed discussion of this IDLH exclusion, see *Section IV.C. Updating MSHA's Respiratory Protection Standard by Adopting by Reference OSHA's Respiratory Protection Standard in 29 CFR 1910.134*

The second proposed exclusion in paragraph (b)(1)(ii) would be for the record retention period for medical evaluations under OSHA's Respiratory Protection Standard in 29 CFR 1910.134(m)(1), which is for the duration of the miner's employment plus 30 years. MSHA is proposing to exclude the OSHA retention period because it is not enforced under 29 CFR 1910.134; therefore, the record retention period would not be adopted by reference in this proposal.

MSHA is also proposing to add a retention period for records of medical evaluations of miners to determine a miner's ability to wear a respirator under proposed paragraph (b)(2). This is not a new record retention requirement because both ASTM F3387–19 and the OSHA Respiratory Protection Standard require retention of medical evaluation records as part of a written respiratory protection program. In proposed paragraph (b)(2), MSHA would require the medical evaluation records to be maintained and be made available for the duration of the miner's employment plus 6 months. This proposed retention period is consistent with existing requirements for similar records in §§ 57.5075 and 60.16.

MSHA also proposes to remove paragraph (c) because it is redundant with the requirements for respirator use in IDLH atmospheres in OSHA's Respiratory Protection Standard. Existing § 56.5005T(c) requires that at least one other person with backup equipment and rescue capability must be present when respiratory protection is used in IDLH atmospheres. This same requirement with additional safety measures is in OSHA's Respiratory Protection Standard at 29 CFR 1910.134(g)(3), *Procedures for IDLH atmospheres.* For example, in addition to the requirements in paragraph (c), the OSHA standard also requires visual, voice, or signal line communications be maintained and the employee located outside the IDLH atmosphere be trained and equipped to provide effective emergency rescue. Therefore, with the adoption of OSHA's Respiratory Protection Standard in part 56 the requirement in existing § 56.5005T(c) would be removed.

2. Part 57—Safety and Health Standards—Underground Metal and Nonmetal Mines

a. Section 57.5005T—Control of Exposure to Airborne Contaminants

Similar to existing § 56.5005T, existing § 57.5005T sets forth the requirements for the control of exposures to harmful airborne contaminants and the use of respiratory protective equipment in underground MNM mines. Whenever respiratory protective equipment is used, its selection, fitting, maintenance, cleaning, training, supervision, and use must meet certain requirements. Existing paragraph (b) of § 57.5005T requires a written respiratory protection program consistent with the requirements of ASTM F3387–19, *Standard Practice for Respiratory Protection,* approved on August 1, 2019.

MSHA is proposing to amend the written respiratory protection program requirement in § 57.5005T by deleting the reference to ASTM F3387–19 and instead including the reference to OSHA's requirements in 29 CFR 1910.134. MSHA would adopt by reference the requirements of 29 CFR 1910.134, *Respiratory protection,* in this section with two exclusions in proposed paragraphs (b)(1)(i) and (ii). This is a conforming amendment consistent with the proposed change to the written respiratory protection program requirement in paragraph (c)(2) of § 60.14.

The first proposed exclusion in paragraph (b)(1)(i) would be for 29 CFR 1910.134(d)(2)(iii), specifically the altitude exceptions for respirators for IDLH atmospheres. Under 29 CFR 1910.134(d)(2)(iii), all oxygen-deficient atmospheres are considered IDLH. OSHA permits exceptions based on altitude ranges which are listed in Table II to paragraph (c). Instead of adopting these altitude exceptions, MSHA proposes to continue its longstanding practice of classifying all atmospheres below 19.5 percent oxygen as IDLH and would not permit altitude adjustments for oxygen concentrations. MSHA proposes not to adopt this exception because mining operations are inherently unpredictable, with conditions that can rapidly become life-threatening. Additionally, MSHA's approach to IDLH atmospheres is consistent across all mines and is easily understood by mine operators and can be safely implemented to ensure miners' safety and health. For a more detailed discussion of this IDLH exclusion, see *Section IV.C. Updating MSHA's Respiratory Protection Standard by Adopting by Reference OSHA's*

Respiratory Protection Standard in 29 CFR 1910.134.

The second proposed exclusion in paragraph (b)(1)(ii) would be for the record retention period for medical evaluations under OSHA's Respiratory Protection Standard in 29 CFR 1910.134(m)(1), which is for the duration of the miner's employment plus 30 years. MSHA is proposing to exclude the OSHA retention period because it is not enforced under 29 CFR 1910.134; therefore, the record retention period would not be adopted by reference in this proposal.

MSHA is also proposing to add a retention period for records of medical evaluations of miners to determine a miner's ability to wear a respirator under proposed paragraph (b)(2). This is not a new record retention requirement because both ASTM F3387–19 and the OSHA Respiratory Protection Standard require retention of medical evaluation records as part of a written respiratory protection program. In proposed paragraph (b)(2), MSHA would require the medical evaluation records to be maintained and be made available for the duration of the miner's employment plus 6 months. This proposed retention period is consistent with existing requirements for similar records in §§ 57.5075 and 60.16.

MSHA also proposes to remove paragraph (c) because it is redundant with the requirements for respirator use in IDLH atmospheres in OSHA's Respiratory Protection Standard. Existing § 57.5005T(c) requires that at least one other person with backup equipment and rescue capability must be present when respiratory protection is used in IDLH atmospheres. This same requirement with additional safety measures is in OSHA's Respiratory Protection Standard at 29 CFR 1910.134(g)(3), *Procedures for IDLH atmospheres.* For example, in addition to the requirements in paragraph (c), the OSHA standard also requires visual, voice, or signal line communications be maintained and the employee located outside the IDLH atmosphere be trained and equipped to provide effective emergency rescue. Therefore, with the adoption of OSHA's Respiratory Protection Standard in part 57 the requirement in existing § 57.5005T(c) would be removed.

3. Part 71—Mandatory Health Standards—Surface Coal Mines and Surface Work Areas of Underground Coal Mines

a. Section 71.700—Inhalation Hazards; Threshold Limit Values for Gases, Dust, Fumes, Mists, and Vapors

Under existing § 71.700(a), no operator of a coal mine may permit any person working at a surface installation or surface worksite to be exposed to airborne contaminants (other than respirable coal mine dust, respirable dust containing quartz, and asbestos dust) in excess of, on the basis of a TWA, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists in ''Threshold Limit Values of Airborne Contaminants'' (1972), which is incorporated by reference.

MSHA is proposing to amend § 71.700(a) by removing the reference to ''respirable dust containing quartz'' and replacing it with ''respirable crystalline silica'' and also making a non-substantive change to update the terminology for the name of the MSHA District Office to the Mine Safety and Health Enforcement District Office. This conforming amendment is consistent with prior changes made to 30 CFR parts 56 and 57 for MNM mines in the 2024 Silica Final Rule, to add respirable crystalline silica as an exception. The Mine Safety and Health Enforcement District Office covers both MNM mines and coal mines since the Agency no longer differentiates between MNM District Offices and Coal District Offices.

4. Part 72—Health Standards for Coal Mines

a. Section 72.710—Selection, Fit, Use, and Maintenance of Approved Respirators

Existing § 72.710 sets forth the requirements for the use of approved respirators in coal mines. Under existing § 72.710, approved respirators must be selected, fitted, used, and maintained in accordance with the provisions of a written respiratory protection program consistent with the requirements of ASTM F3387–19, *Standard Practice for Respiratory Protection,* approved August 1, 2019.

MSHA is proposing to amend the written respiratory protection program requirement in § 72.710 by deleting the reference to ASTM F3387–19 and instead including the reference to OSHA's requirements in 29 CFR 1910.134. MSHA proposes to designate the existing section text as paragraph (a). MSHA would adopt by reference the requirements of 29 CFR 1910.134, *Respiratory protection,* in this paragraph with two exclusions in proposed paragraphs (b)(1) and (2). This conforming amendment is consistent with the proposed change to the written respiratory protection program requirements discussed previously in §§ 56.5005T, 57.5005T, and 60.14.

The first proposed exclusion in paragraph (b)(1) would be for 29 CFR 1910.134(d)(2)(iii), specifically the altitude exceptions for respirators for IDLH atmospheres. OSHA permits exceptions based on altitude ranges which are listed in Table II to paragraph (c) of 29 CFR 1910.134. Instead of adopting these altitude exceptions, MSHA proposes to continue its longstanding practice of classifying all atmospheres below 19.5 percent oxygen as IDLH and would not permit altitude adjustments for oxygen concentrations. MSHA proposes not to adopt this exception because mining operations are inherently unpredictable, with conditions that can rapidly become life-threatening. Additionally, MSHA's approach to IDLH atmospheres is consistent across all mines and is easily understood by mine operators and can be safely implemented to ensure miners' safety and health. For a more detailed discussion of this IDLH exclusion, see *Section IV.C. Updating MSHA's Respiratory Protection Standard by Adopting by Reference OSHA's Respiratory Protection Standard in 29 CFR 1910.134.*

The second proposed exclusion in paragraph (b)(2) would be for the record retention period for medical evaluations under OSHA's Respiratory Protection Standard in 29 CFR 1910.134(m)(1), which is for the duration of the miner's employment plus 30 years. MSHA is proposing to exclude the OSHA retention period because it is not enforced under 29 CFR 1910.134; therefore, the record retention period would not be adopted by reference in this proposal.

MSHA is also proposing to add a retention period for records of medical evaluations of miners to determine a miner's ability to wear a respirator under proposed paragraph (b)(2). This is not a new record retention requirement because both ASTM F3387–19 and the OSHA Respiratory Protection Standard require retention of medical evaluation records as part of a written respiratory protection program. In proposed paragraph (b)(2), MSHA would require the medical evaluation records to be maintained and be made available for the duration of the miner's employment plus 6 months. This proposed retention period is consistent with existing requirements for similar records in §§ 57.5075 and 60.16.

C. Updating MSHA's Respiratory Protection Standard by Adopting by Reference OSHA's Respiratory Protection Standard in 29 CFR 1910.134

MSHA is proposing to update the Agency's existing respiratory protection standard to help safeguard the life and health of all miners exposed to respirable airborne hazards at MNM and coal mines. The proposed rule would adopt by reference OSHA's Respiratory Protection Standard, 29 CFR 1910.134, in existing §§ 56.5005T, 57.5005T, 60.14, and 72.710. OSHA's Respiratory Protection Standard mandates a comprehensive respiratory protection program whenever respirators are needed for hazardous airborne contaminants, covering respirator selection, medical clearance, fit testing, training, proper use procedures, maintenance, and regular program evaluation to ensure worker safety. A formal respiratory protection program is required by OSHA whenever respirators are necessary to protect employee health or whenever respirators are required by the employer. This includes both air purifying respirators (*e.g.,* filters, cartridges, canisters) and atmosphere-supplying respirators (*e.g.,* self-contained breathing apparatus, airline).

OSHA's Respiratory Protection Standard is widely recognized by experts, industry leaders, government, and professional associations as an effective standard for protecting workers' health. The standard requires employers to select NIOSH-approved respirators when effective engineering controls are not feasible, or while they are being implemented. Respirator selection is based on hazard assessments (*e.g.,* contaminant type, concentration, PEL), work-site conditions, respirator limitations, fit testing, and OSHA's Assigned Protection Factors (APFs), ensuring respirators adequately protect workers while allowing for job performance. In sum, the OSHA standard comprehensively addresses all necessary aspects of a respiratory protection program to ensure its effectiveness.

Since its comprehensive revision in 1998 (63 FR 1152, Jan. 8, 1998), OSHA's Respiratory Protection Standard has been updated several times to reflect advancements in respirator technology and industry best practices.[25] In particular, in 2006, OSHA revised its respiratory protection standard to incorporate definitions and requirements for APFs and Maximum Use Concentrations (MUCs), providing employers clear guidelines for selecting respirators based on contaminant levels and required protection. 71 FR 50121, 50122, Aug. 24, 2006. Most recently in 2019, OSHA updated Appendix A to § 1910.134, *Fit Testing Procedures,* to incorporate advances in quantitative fit testing technology 84 FR 50739, 50755, Sept. 26, 2019.

In the 2024 Silica Final Rule, MSHA updated the Agency's respiratory protection standard by incorporating by reference the ASTM F3387–19 standard because it provides mine operators with information and guidance on the proper selection, use, and maintenance of respirators. The ASTM F3387–19 standard replaced the American National Standards Institute's ANSI Z88.2–1969, ''Practices for Respiratory Protection'' (ANSI Z88.2–1969), which was the Agency's respiratory protection standard for more than 40 years.

During the public comment period for the silica proposed rule, one commenter recommended that MSHA align its proposed respiratory protection requirements with OSHA's requirements in 29 CFR 1910.134. Also, during meetings with stakeholders to discuss the 2024 Silica Final Rule's implementation, many operators stated that they already followed OSHA's Respiratory Protection Standard requirements at their mines or in other areas of their operations. Operators with dual MSHA and OSHA jurisdiction raised concerns about having to maintain two separate written respiratory protection programs: one program to meet MSHA's requirements under ASTM F3387–19 and another program to meet OSHA's requirements in 29 CFR 1910.134.

In response to comments received on the silica proposed rule suggesting that MSHA adopt the OSHA Respiratory Protection Standard, MSHA stated that ASTM F3387–19 references OSHA's Respiratory Protection Standard including APFs and MUCs, and fit testing. 89 FR 28339, 28352. Furthermore, MSHA observed that many operators, in particular larger mine operators, had already implemented many OSHA requirements in their respiratory protection programs, which are substantially similar to the requirements in ASTM F3387–19. 89 FR 28339. Also, MSHA responded that the Agency considers the mining industry to be already familiar with many requirements in ASTM F3387–19 because of its familiarity with OSHA's Respiratory Protection Standard requirements. *Id.* Like the ASTM F3387–19 standard, OSHA's Respiratory Protection Standard contains requirements for: program administration; worksite-specific procedures; respirator selection; employee training; fit testing; user seal checks; medical evaluations; respirator use; respirator cleaning, maintenance, and repair; and other similar provisions. However, MSHA is aware that ASTM F3387–19 and OSHA's 29 CFR 1910.134 requirements differ in some areas such as voluntary respirator use, oxygen-deficiency evaluation, and PAPR accommodations for employees who are not medically cleared for negative-pressure respirator use.

During stakeholder meetings to discuss the implementation of the 2024 Silica Final Rule, MSHA emphasized that any miner who wears a respirator must be enrolled in the mine's respiratory protection program. Some stakeholders raised the issue of voluntary respirator use, and the Agency's response was that a miner who uses a respirator voluntarily would have to be enrolled in the full respiratory protection program according to the requirements of the ASTM F3387–19 standard. Some stakeholders asked if this applied to miners who use dust masks (*e.g.,* N95 filtering facepiece respirators) to protect against nuisance dust. MSHA's response was yes, this applied to all voluntary use of respirators since ASTM F3387–19 did not distinguish between required use and voluntary use.

In light of these questions and issues, MSHA has reconsidered the ASTM F3387–19 standard's lack of voluntary use provisions. The Agency has determined that without voluntary use requirements, some miners may not be permitted to use certain respirators voluntarily because of the burden of enrolling these miners in a complete respiratory protection program. MSHA did not intend for the incorporation by reference of ASTM F3387–19 to discourage miners from voluntarily wearing certain respirators such as dust masks. The Agency expects that adopting by reference OSHA's Respiratory Protection Standard in 29 CFR 1910.134 would protect the health and safety of miners, both those who are required to wear respirators for reasonable periods of time while working in exposures above the PEL and those who choose to voluntarily wear respirators, such as dust masks, in non-hazardous environments.

OSHA's voluntary use requirements in 29 CFR 1910.134(c)(2) apply when employers allow employees to use respirators when such use is not

[25] **Federal Register** Citations: 63 FR 20098, 20099, Apr. 23, 1998, as amended at 69 FR 46993, Aug. 4, 2004; 71 FR 16672, Apr. 3, 2006; 71 FR 50187, Aug. 24, 2006; 73 FR 75584, Dec. 12, 2008; 76 FR 33607, June 8, 2011; 77 FR 46949, Aug. 7, 2012; 84 FR 50755, Sept. 26, 2019.

required by the employer or by the standard. Section 29 CFR 1910.134(c)(2)(i) states that employers must first determine that the respirator use will not in itself create a hazard. If the employer allows voluntary respirator use, section 29 CFR 1910.134(c)(2)(i) requires the employer to provide the employee with the information contained in Appendix D to 29 CFR 1910.134, titled ''*Information for Employees Using Respirators When Not Required Under the Standard*.'' OSHA has determined that all the protections in the respiratory protection standard are not necessary in situations where respirator use is not required, *i.e.,* voluntary use when working in exposures below the PEL. In cases where an employee is voluntarily using a respirator, the employer must implement some of the elements of a written respiratory protection program such as the medical evaluation component of the program and the cleaning, storage, and maintenance provisions, as applicable. 29 CFR 1910.134(c)(2)(ii). However, 29 CFR 1910.134(c)(2)(ii) provides that employers are not required to include in a written respiratory protection program those employees whose only use of respirators involves the voluntary use of filtering facepieces (dust masks).

Both OSHA (29 CFR 1910.134(b)) and MSHA (30 CFR 57.5015, 75.321) consider atmospheres with less than 19.5 percent oxygen by volume to be oxygen-deficient and IDLH, requiring the most protective level of respiratory protection (*i.e.,* self-contained breathing apparatus). In contrast, ASTM F3387–19 permits lower oxygen concentrations before classifying an atmosphere as IDLH, provided that the source of oxygen reduction is understood and controlled. Reduced-oxygen atmospheres often appear unexpectedly and are rarely stable and controlled in the mining, general, and construction industries. Further, ASTM's complex oxygen-deficiency characterization approach requires atmospheric pressure measurements and calculations to determine the exact oxygen partial pressure (PO_2) and corresponding safe oxygen percentage for a specific altitude and environment. It involves multiple thresholds and ranges for IDLH and non-IDLH conditions, making it more complex for workplace applications compared to the single MSHA and OSHA percentage that can be directly read from standard gas monitors. MSHA considers that a simple oxygen percentage cut-off is far more direct for compliance and immediate danger recognition and is also less prone to misinterpretation than ASTM's complex situation-dependent calculations.

Additionally, both OSHA and MSHA have recognized that certain underlying health issues can complicate negative pressure respirator use, often necessitating PAPRs for better comfort and protection. Under 29 CFR 1910.134(e)(6)(ii), if a PLHCP identifies a health risk with a negative-pressure respirator, the employer must provide a PAPR if the PLHCP confirms the employee can use a PAPR, effectively accommodating the employee's medical needs. MSHA incorporated this and other OSHA Respiratory Protection Standard provisions in its Diesel Particulate Matter Standard under 30 CFR 57.5060. While the ASTM F3387–19 standard includes medical evaluation as a required element of a compliant respiratory protection program, it does not directly address issues related to respirator medical clearance, which are found in a different voluntary consensus standard, ASTM F3620–22 *Standard Practice for Respiratory Protection—Respirator Use—Physical Qualifications for Personnel* (formerly ANSI Z88.6–2006). In the Agency's view, eliminating the need to cross-reference additional standards would be an improvement because it reduces complexity and decreases the potential for confusion in implementing respiratory protection requirements. Therefore, MSHA considers that adopting by reference 29 CFR 1910.134 would improve clarity and reduce confusion for mine operators in implementing their respiratory protection programs.

For these reasons, MSHA expects that OSHA's Respiratory Protection Standard in 29 CFR 1910.134 provides greater protection for miners' health and safety than the ASTM F3387–19 standard. While the ASTM F3387–19 standard serves as a valuable technical resource for respiratory protection program managers and other health and safety professionals, it is not written in plain language and incorporates by reference numerous other technical standards that are not freely available to the public. In contrast, OSHA provides an extensive collection of free resources and compliance guides for respiratory protection, including its comprehensive *Small Entity Compliance Guide.*

As discussed, MSHA expects that the mining industry is already familiar with many requirements in OSHA's Respiratory Protection Standard. In fact, ASTM F3387–19 references OSHA's substance-specific regulations, APFs and MUCs, fit testing methods and fit factors, and cartridge/canister service life estimator software. MSHA anticipates that many mine operators will need to make few, if any, changes to their existing respiratory protection programs. Additionally, mine operators with mining and other operations under both MSHA and OSHA jurisdiction have already implemented written respiratory protection programs compliant with OSHA's standard. However, the Agency recognizes that mines using respirators intermittently or infrequently may need to revise their respiratory protection practices in accordance with the requirements, as applicable, of OSHA's Respiratory Protection Standard in 29 CFR 1910.134.

1. Respiratory Protection Program Requirements

The following provisions, as applicable, would be required in each written respiratory protection program including: procedures for proper respirator selection; medical evaluations; fit testing procedures for tight-fitting respirators; procedures for proper respirator use; procedures for cleaning, disinfecting, storing, inspecting, repairing, discarding, and maintaining respirators; procedures for ensuring atmosphere-supplying respirator breathing-air quality; training; and program evaluation. In addition, certain program elements may be required for voluntary respirator use to prevent potential hazards that could result from such discretionary use. The following subsections outline key requirements specified in 29 CFR 1910.134.

a. Program Administration

Title 29 CFR 1910.134 specifies several practices related to respiratory protection program administration, including the qualifications and responsibilities of a program administrator. The respiratory protection program must be administered by a suitably trained program administrator who is qualified to administer the program. 29 CFR 1910.134(c)(3). Because many mines use dangerous chemicals and/or high exposures may be present, or sophisticated respirators are used, the program administrator must have the appropriate knowledge and experience to administer a respiratory protection program at such mines. In these circumstances, it would be necessary for the program administrator to seek out the expertise needed or to obtain appropriate training. For example, a program administrator's qualifications may have been gained through training or experience; however, the qualifications of a program administrator must be commensurate

with the respiratory hazards present at a mine.

The qualified program administrator would ensure the respiratory protection program is in writing and would include mine-site specific procedures. The written respiratory protection program would be updated as often as necessary to reflect changing conditions at the mine that affect respirator use. The respiratory protection program administrator's responsibilities should include: measuring, estimating, or reviewing information on the concentration of airborne contaminants; ensuring that medical evaluations, training, and fit testing are performed; selecting the appropriate type or class of respirator that will provide adequate protection for each contaminant; maintaining records; evaluating the respirator program's effectiveness; and revising the program, as necessary.

b. Respirator Selection

Proper respirator selection is an important component of an effective respiratory protection program. OSHA's Respiratory Protection Standard provides that proper respirator selection considers the following: the nature of the hazard, user activity and workplace factors, use of NIOSH-approved (*i.e.,* certified) respirators, and respirator limitations and compliance requirements. 29 CFR 1910.134(d)(1)(i)-(iii). The mine operator would also select approved respirators from a sufficient number of respirator models and sizes so that the respirator is acceptable to, and correctly fits, the miner. 29 CFR 1910.134(d)(1)(iv).

The OSHA Respiratory Protection Standard provides specific requirements for establishing the nature of inhalation hazards, including determining the following: the types of airborne contaminants present in the workplace; the physical state and chemical properties of these contaminants; the likely airborne concentration of the contaminants (by estimate or measurement); the potential for an oxygen-deficient environment, the existence of an IDLH atmosphere; and compliance with applicable health standards for the contaminants. 29 CFR 1910.134(d)(1)(iii). The OSHA Respiratory Protection Standard includes other critical information to support the respirator selection process. This includes APFs to ensure selected respirators meet or exceed required protection levels based on exposure and mode of operation, and MUCs that identify the highest contaminant concentration for safe respirator use. 29 CFR 1910.134(d)(3)(i)(A)–(B) and Table 1. Both factors must be considered during the selection process.

Environments containing less than 19.5 percent oxygen are classified as IDLH and necessitate the most protective respiratory protection equipment—specifically, full facepiece pressure demand self-contained breathing apparatus (SCBA) certified by NIOSH for a minimum service life of 30 minutes, or a combination full facepiece pressure demand supplied-air respirator (SAR) equipped with an auxiliary self-contained air supply. 29 CFR 1910.134(d)(2)(i)(A) and (B). Additionally, respirators provided only for escape from IDLH atmospheres must be NIOSH-certified for escape from the atmosphere in which they will be used. 29 CFR 1910.134(d)(2)(ii).

The OSHA Respiratory Protection Standard at 29 CFR 1910.134(d)(2)(iii) provides a limited exception in IDLH environments—employers may use alternative atmosphere-supplying respirators if they can demonstrate that oxygen concentrations will consistently remain within the safe ranges specified in Table II of this section under all reasonably foreseeable circumstances (these ranges vary based on altitude). In practical terms, this allows the use of less complex atmosphere-supplying systems, such as airline respirators, when employers can verify that oxygen levels will remain stable and within non-IDLH parameters according to altitude-adjusted thresholds.

This exception applies only in tightly controlled environments where conditions are thoroughly understood and predictable, for example, high-altitude operations where oxygen depletion patterns are consistent and manageable. In practice, employers seldom invoke this exception because most oxygen-deficient environments lack such control, and unexpected oxygen drops pose severe risks.

MSHA proposes to continue its longstanding practice of classifying all atmospheres below 19.5 percent oxygen as IDLH and requiring the most protective level of respiratory protection in these environments. While OSHA provides an altitude-based exception, MSHA proposes not to adopt this exception for mining operations. Mining environments are inherently unpredictable, with conditions that can rapidly become life-threatening. Hazards such as sudden methane releases, other gas emissions, ongoing oxidation reactions, or mine fires can cause abrupt oxygen depletion, creating IDLH conditions that require the highest level of respiratory protection.

c. Medical Evaluation

Medical evaluations determine a miner's ability to use a respirator safely. 29 CFR 1910.134(e). The mine operator would provide the medical evaluation before the miner is fit tested or is required to use the respirator in the workplace. 29 CFR 1910.134(e)(1). The OSHA Respiratory Protection Standard specifies medical evaluation procedures and provides a medical questionnaire to identify general medical conditions that could place miners who use respirators at risk of serious medical consequences. 29 CFR 1910.134(e)(2); Appendix C to 1910.134. The OSHA Respiratory Protection Standard provides that a program administrator would advise the PLHCP of the following conditions to aid in determining the need for a medical evaluation: type and weight of the respirator to be used; duration and frequency of respirator use (including use for rescue and escape); expected physical work effort; additional protective clothing and equipment to be worn; and temperature and humidity extremes. The PLHCP would provide a written recommendation regarding a miner's ability to use a respirator. 29 CFR 1910.134(e)(6)(i). The written recommendation would only specify any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator; the need, if any, for follow-up medical evaluations; and a statement that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.

The medical questionnaire and examinations would be administered confidentially during the miner's normal working hours or at a time and place convenient to the miner. 29 CFR 1910.134(e)(4)(i). Additionally, the medical questionnaire would be administered in a manner that ensures that the miner understands its content. 29 CFR 1910.134(e)(4)(ii).

Additional medical evaluations may be required under the following circumstances: (1) a miner reports medical signs or symptoms that are related to their ability to use a respirator; (2) a PLHCP, supervisor, or the respirator program administrator informs the mine operator that a miner needs to be reevaluated; (3) information from the respiratory protection program, including observations made during fit testing and program evaluation, indicates a need for a miner's reevaluation; or (4) a change occurs in workplace conditions (*e.g.,* physical

work effort, protective clothing, temperature) that may result in a substantial increase in the physiological burden placed on a miner. 29 CFR 1910.134(e)(7).

d. Respirator Fit Testing

A serious hazard may occur if a tight-fitting respirator, even though correctly selected, is not properly fitted. For example, if an adequate face seal is not achieved, the respirator will provide less protection than designed because contaminants can leak into the breathing zone. Fit testing verifies that the selected make, model, and size of a respirator fits adequately and ensures that the expected level of protection is provided. The OSHA Respiratory Protection Standard specifies the types of fit tests allowed, procedures for conducting them, and how the fit test results must be used. The standard allows both qualitative fit testing (QLFT) and quantitative fit testing (QNFT) to verify that wearers achieve a satisfactory fit with tight-fitting respirators. Acceptable QLFT and QNFT protocols are contained in Appendix A of 29 CFR 1910.134. QLFT is limited to negative-pressure respirators requiring a fit factor of 100 or less (*i.e.,* half-mask respirator), as it relies on a pass/fail test based on the wearer's ability to detect taste or odor. This method cannot reliably confirm the higher seal integrity necessary for full-facepiece respirators or advanced protection levels, which require QNFT to attain higher fit factors (*e.g.,* 500 or greater).

The standard provides for each respirator wearer to be fit tested before being assigned a tight-fitting respirator. Fit testing must be conducted at least once every 12 months or whenever a wearer or observer expresses concern about respirator fit or comfort, or the wearer has a condition that may interfere with the face piece seal.

OSHA permits the use of stannic chloride as an irritant smoke used in its QLFT protocols in Appendix A to § 1910.134—*Fit Testing Procedures (Mandatory).* MSHA is aware of concerns with using stannic chloride as an irritant smoke due to health risks associated with exposure such as coughing, chest discomfort, shortness of breath, and mucous membrane burns if inhaled or exposed to the eyes. OSHA acknowledged these concerns in its 1998 rulemaking (63 FR 1152) but chose to retain irritant smoke as a permissible qualitative fit testing method for several reasons discussed in the following.

- *Historical use and familiarity:* Irritant smoke had been in use for decades and was deeply embedded in existing respirator programs, particularly in industries like firefighting and hazmat response. Eliminating it abruptly would have disrupted established programs;
- *Practical detection advantage:* The involuntary cough/irritation response was seen by some stakeholders as a more objective indicator of fit failure compared to taste- or smell-based methods, which depend on the worker's subjective reporting;
- *Industry and stakeholder pressure:* During the comment and rulemaking process, some employers and industry groups argued for retaining it as a legitimate option, and OSHA gave weight to that input; and
- *Conditional safeguards:* OSHA's position was essentially that with proper precautions and procedures—such as not using it on workers with respiratory conditions—the risk could be managed to an acceptable level.

MSHA requests comments on whether the agency should prohibit the use of stannic chloride during fit testing. MSHA is particularly interested in comments that provide information on the advantages and disadvantages in allowing its continued use.

e. Use of Respirators

Written procedures are essential for the proper use of respirators. Specific procedures are required to prevent leaks in the respirator facepiece seal, prevent miners from removing respirators in hazardous environments, ensure that respirators operate effectively throughout the work shift, and protect miners entering IDLH atmospheres. The OSHA Respiratory Protection Standard would mandate that operators prohibit miners from wearing tight-fitting respirators if they have any condition that would interfere with the respirator seal or valve function. For example, facial hair that comes between the facepiece sealing surface and the face, or that interferes with valve operation, is prohibited.

For all tight-fitting respirators, the operator would ensure that miners perform a user seal check, or follow manufacturers' recommended procedures, each time they put on a respirator. The OSHA Respiratory Protection Standard also specifies procedures for continued respirator effectiveness, including maintaining appropriate surveillance of work area conditions and degree of miner exposure or stress. The standard would require mine operators to ensure miners leave the respirator use area: (1) to wash their faces and facepieces as necessary to prevent eye or skin irritation from respirator use; (2) when they detect vapor or gas breakthrough, changes in breathing resistance, or facepiece leakage; and (3) to replace respirator filters, cartridges, or canister elements. Additionally, the OSHA Respiratory Protection Standard specifies several requirements for protecting miners in IDLH atmospheres, including standby rescue personnel, communication systems, and appropriate atmosphere-supplying respirators.

f. Maintenance and Care of Respirators

Proper care and maintenance of respirators is necessary to ensure they function as designed and protect miner safety and health. The OSHA Respiratory Protection Standard includes specific provisions for respirator cleaning, disinfecting, storage, inspection, and repair. For example, the cleaning and disinfecting provisions state that respirators must be disinfected and cleaned using procedures in Appendix B–2 or equivalent manufacturer procedures. The standard specifies different cleaning intervals based on respirator use: exclusive-use respirators must be cleaned as needed to maintain sanitary conditions, shared respirators must be cleaned between users, and emergency respirators must be cleaned after each use.

The OSHA Respiratory Protection Standard would require that respirators be stored in a manner that will protect them against damage (*e.g.,* contamination, dust, sunlight, extreme temperatures, excessive moisture, damaging chemicals) and prevent distortion of the facepiece and exhalation valve. Emergency respirators would be required to be kept accessible to the work area and stored in clearly marked compartments per manufacturer instructions.

The OSHA Respiratory Protection Standard would require inspection of respirators based on their intended use. Routine use respirators would be inspected during cleaning and disinfection, and before each use to verify proper working condition. Emergency respirators would be required to be inspected at least monthly and in accordance with manufacturer recommendations and checked for proper function before and after each use. Emergency escape-only respirators would be inspected before being carried into the workplace. The OSHA Respiratory Protection Standard states that mine operators would inspect respirators to ensure function, tightness of connections, and the condition of the various parts including, but not limited to, the facepiece, head straps, valves, connecting tube, and cartridges, canisters or filters, and a check of

elastomeric parts for pliability and signs of deterioration.

In addition to the general inspection requirements, the OSHA Respiratory Protection standard would require SCBAs to be inspected monthly. Air and oxygen cylinders would be required to be maintained in a fully charged state and recharged when pressure falls to 90 percent of the manufacturer's recommended level. Operators would need to verify that the regulator and warning devices function properly. Operators would be required to document each emergency respirator inspection with the date, inspector's name, findings, any needed repairs, and the respirator's serial number. This documentation would be required to be kept on a tag attached to the respirator or storage compartment, or in inspection files, until the next inspection.

The OSHA Respiratory Protection Standard would require respirators that fail inspection or are otherwise found to be defective to be removed from service and discarded or repaired in accordance with specific procedures. Repairs would be required to be performed by trained individuals following manufacturer specifications and using NIOSH-approved manufacturer parts.

g. Breathing Air Quality and Use

It is essential that atmosphere supplying respirators, like supplied-air respirators (SAR) and SCBA, operate reliably and deliver high-quality air to avoid serious health hazards. The OSHA Respiratory Protection Standard would require mine operators to provide high purity breathing air for use in all atmosphere supplying respirators, regardless of whether the air is supplied from purchased cylinders or generated by an on-site compressor. Specifically, compressed or liquid oxygen must meet United States Pharmacopoeia standards for medical or breathing oxygen, while compressed breathing air must meet or exceed the Grade D breathing air specifications of ANSI/Compressed Gas Association (CGA) Commodity Specification for Air, G–7.1–1989.

Grade D breathing air is the most commonly cited standard for industrial breathing air, and its specifications are as follows: an oxygen content ranging from 19.5 to 23.5 percent by volume; a condensed hydrocarbon (oil) content of 5 milligrams (mg) per cubic meter (m^3) of air or less; a carbon monoxide (CO) content of 10 parts per million (ppm) or less; a carbon dioxide (CO_2) content of 1,000 ppm or less; and the absence of any noticeable odor.

The OSHA Respiratory Protection Standard would require mine operators who purchase cylinders for breathing air use to obtain a supplier certificate of analysis indicating that the air meets Grade D breathing air quality. The operator would also need to ensure that cylinder moisture content remains at or below a dew point of minus 50 degrees Fahrenheit (at one atmosphere of pressure) and that cylinders are tested and maintained according to the U.S. Department of Transportation (DOT) regulations.

Mine operators utilizing respirable air compressor systems would be subject to specific safety and air quality requirements under the OSHA Respiratory Protection Standard. These requirements mandate that systems must: be positioned to prevent the intake of contaminated air; maintain a dew point at least 10 degrees Fahrenheit below the ambient temperature; be equipped with filters and sorbent beds to remove oil, odors, and other impurities; and have a display tag indicating the most current filter service date and the signature of the authorized person who performed the change. The standard requires employers to keep CO below 10 ppm, use alarms (CO or high-temp) for oil-lubricated compressors, install incompatible couplings to prevent contamination, avoid introducing asphyxiants into lines, and use only NIOSH-approved, properly maintained breathing-gas containers for respirators.

Lastly, the OSHA Respiratory Protection Standard addresses specific safety measures regarding oxygen usage in respiratory protection equipment to prevent fire and explosion hazards. Specifically, compressed oxygen must not be used in air-supplied respirators that were previously used with compressed air. Furthermore, oxygen concentrations exceeding 23.5 percent are strictly reserved for specialized oxygen equipment designed for such conditions, and not for use in standard breathing air systems.

h. Training

Employee training is essential for correct respirator use. The OSHA Respiratory Protection Standard would require mine operators to provide effective training to miners who are required to use respirators. The training must be comprehensive, understandable, and recur annually, and more often if necessary. The standard would also require mine operators to provide specific basic information about respirators to miners who choose to voluntarily wear respirators when such use is not required by an existing MSHA standard nor required by the mine operator.

To ensure the proper and safe use of a respirator, the standard would also require mine operators to cover several specific elements, ensuring that miners can demonstrate knowledge of the following: why the respirator is necessary and how improper fit, usage and maintenance can make the respirator ineffective; the limitations and capabilities of the selected respirator; how to properly select cartridges and canisters and know the assigned cartridge and canister change schedules for the devices selected; how to use the respirator effectively in emergency situations; how to inspect, put on and remove, use and check the seals of the respirator; the respirator maintenance and storage procedures; how to recognize medical signs and symptoms that may limit or prevent effective use of the respirator; and the general requirements of OSHA's respiratory protection standard.

i. Program Evaluation

To ensure that the written respiratory protection program is being effectively implemented, the OSHA Respiratory Protection Standard would require mine operators to conduct evaluations of the workplace as necessary. Additionally, the standard would require operators to regularly consult with miners who use respirators to assess the effectiveness of the respiratory protection program and to identify and correct any problems encountered with respirator use. At a minimum, the assessment must cover respirator fit, appropriate respirator selection, and proper respirator use and maintenance.

j. Recordkeeping

Like ASTM F3387–19, OSHA's Respiratory Protection Standard would require mine operators to establish and retain written information regarding medical evaluations, fit testing, and their respiratory protection programs. Recordkeeping is an important means of verifying operator compliance with respiratory protection program requirements. Records also enhance miner involvement in the program and support operators in their efforts to audit their program's overall effectiveness.

Under 29 CFR 1910.134, mine operators would be required to maintain a written copy of their current respiratory protection program. Operators would also be required to retain written fit testing records of QLFTs and QNFTs administered to miners in accordance with 29 CFR 1910.134. These records would include: (1) name or identification of the miner fit tested; (2) type of fit test performed;

(3) make, model and size of respirator tested; (4) date of the fit test; (5) pass/fail results if QLFT is used, or the fit factor or other test result record if a QNFT is used. Fit test records would be required to be retained until the next fit test is administered.

Under 29 CFR 1910.134(m)(1), OSHA requires employers to keep medical evaluation records, including respirator questionnaires and determinations, for the entire period of employment plus 30 years, following the retention rules in the Access to Employee Exposure and Medical Records standard. 29 CFR 1910.1020. MSHA proposes not to adopt this OSHA requirement. Instead, MSHA would require records of written determinations regarding a miner's ability to wear a respirator to be retained and made available for the duration of the miner's employment plus 6 months under §§ 56.5005T, 57.5005T, 60.16, and 72.710. This requirement is consistent with the existing requirements of § 57.5075 and § 60.16.

MSHA requests comments on these proposed recordkeeping requirements.

V. Health Effects Summary

The health outcomes from exposures to respirable crystalline silica were identified in ''*Effects of Occupational Exposure to Respirable Crystalline Silica on the Health of Miners*'' (MSHA–2023–0001–1579),[26] the standalone health effects document that was published in support of the 2024 Silica Final Rule. The document discussed health research literature concerning the adverse health effects associated with exposure to respirable crystalline silica including silicosis, non-malignant respiratory disease (NMRD), lung cancer, renal disease, and autoimmune diseases. MSHA summarized study findings regarding the relationship between disease and exposure to respirable crystalline silica.

For this proposed rule, MSHA conducted a search of literature published since the 2024 Silica Final Rule and found 195 new studies.[27] MSHA is continuing to review these new studies relevant to occupational exposures and health risks from respirable crystalline silica. However, MSHA has preliminarily determined that none of the new studies altered the findings and conclusions of the 2024 standalone health effects document, which was published in support of the 2024 Silica Final Rule.

MSHA requests comments on this preliminary determination. In particular, MSHA requests whether there are additional peer-reviewed publications not in MSHA's listing of recent studies that MSHA should consider. MSHA requests that commenters submit the additional studies or their citations.

MSHA is considering whether to exempt respirable crystalline silica exposures that result from the mining and processing of sorptive clays and requests comment on such an exemption. In particular, MSHA requests that commenters submit recent peer-reviewed publications and data that address occupational exposures, epidemiological studies, toxicity, and/or human health risks from inhalation exposures to respirable crystalline silica in sorptive clays. MSHA seeks all information on whether the existence or lack of human health risk data from inhalation exposures to respirable crystalline silica in the sorptive clay industry is significant. Additionally, MSHA requests information about the mining process in sorptive clay operations including: details about the nature of the overburden material and depth of overburden; the extraction and processing method for sorptive clay operations; evidence that occluded surfaces do not fracture during mining operations; and evidence that the overburden material does not provide a source of unoccluded or fractured respirable crystalline silica in sorptive clay mining operations.

VI. Preliminary Risk Analysis

MSHA's preliminary risk analysis relies on the ''*Final Risk Analysis*'' (MSHA–2023–0001–1581)[28] standalone document that was published in support of the 2024 Silica Final Rule.

The 2024 final risk analysis quantitatively explored risks associated with five specific health outcomes: silicosis morbidity and mortality, mortality from NMRD, lung cancer, and end stage renal disease (ESRD). These health outcomes were identified in ''*Effects of Occupational Exposure to Respirable Crystalline Silica on the Health of Miners*'' (MSHA–2023–0001–1579),[29] the standalone health effects document that was published in support of the 2024 Silica Final Rule. The 2024 final risk analysis quantified the health risk to miners exposed, over various hypothetical multi-year periods of employment, to respirable crystalline silica under the exposure limits for MNM and coal miners at the PEL of 50 $\mu g/m^3$ and at the action level of 25 $\mu g/m^3$. MSHA has preliminarily determined that the hypothetical calculations from the 2024 final risk analysis are still applicable for this preliminary risk analysis because MSHA is not proposing any changes to the PEL of 50 $\mu g/m^3$ and the action level of 25 $\mu g/m^3$. In order to estimate the health effects of the proposed rule or possible regulatory alternatives, MSHA requests empirical evidence regarding length of miner employment or, more precisely, length over time of miner exposure to respirable crystalline silica.

VII. Preliminary Regulatory Impact Analysis

A. Introduction

Executive Order (E.O.) 12866, ''Regulatory Planning and Review'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. E.O.13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O.

[26] The 2024 Health Effects standalone document is available on the 2024 Silica Final Rule docket, as cited; the document is also included in this docket.

[27] A listing of the recent studies identified for consideration by MSHA is included in this docket.

[28] The 2024 Final Risk Analysis standalone document is available on the 2024 Silica Final Rule docket, as cited; the document is also included in this docket.

[29] The 2024 Health Effects standalone document is available on the 2024 Silica Final Rule docket, as cited; the document is also included in this docket.

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. 12866 and E.O. 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether Agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a ''significant regulatory action'' is a regulatory action that is likely to result in a rule that may:

(1). Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant);

(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; or

(4). Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

To comply with E.O.s 12866 and 13563, MSHA has prepared a preliminary regulatory impact analysis (PRIA) for this proposed rule. The purpose of the PRIA is to provide a profile of the mining industry impacted by the proposed rule and to estimate the cost savings that the mining industry expects to achieve while in compliance with the proposed rule. MSHA requests comments on all estimates of costs and benefits presented in this PRIA and on the data, assumptions, and methodologies the Agency used to develop the cost and benefit estimates.

This PRIA relies extensively on detailed supporting data and discussions presented in the standalone final regulatory impact analysis (FRIA) of the 2024 Silica Final Rule, including the profile of the mining industry and estimated costs and benefits. The standalone FRIA is available in the rulemaking docket at *www.regulations.gov,* docket number MSHA–2023–0001.

B. Miners and the Mining Industry

The proposed rule would affect mine operators and miners. This section provides information on the structure of the MNM and coal mining industries, including the revenue, number of mines and miners, employment by commodity and size, and economic characteristics of MNM and coal mines. The data come from the U.S. Department of the Interior (DOI), U.S. Geological Survey (USGS); U.S. Department of Labor (DOL), the MSHA Office of Educational Policy and Development and the MSHA Office of Program Evaluation and Information Resources; the Statistics of U.S. Businesses (SUSB); and the Energy Information Administration (EIA).

1. Structure of the Mining Industry

The mining industry can be divided into two major sectors: (1) MNM mines and (2) coal mines, with further distinction made regarding type of operation: (1) underground mines and (2) surface mines. The MNM mining sector is made up of metal mines (*e.g.,* copper, iron ore, gold, silver) and nonmetal mines. Nonmetal mines can be further categorized into four commodity groups: (1) nonmetal (mineral) materials such as clays, potash, soda ash, salt, talc, and rare earth elements; (2) stone, including granite, limestone, dolomite, sandstone, slate, and marble; (3) crushed limestone; and (4) sand and gravel, including industrial sands.

MSHA tracks several characteristics of mines and categorizes mines by employment size. In this industry profile, MSHA has categorized mines into the following size groups: mines that employ: (1) 1 to 20 miners; (2) 21 to 50 miners; (3) 51 to 100 miners; (4) 101 to 500 miners; and (5) 501 or more miners.[30] MSHA also collects data on independent contractor firms and their employed contract miners' hours worked. Contract miners may work at any mine and more than one mine within a year.

Table VII–1 presents an overview of the mining industry by commodity and size: coal production in short tons, estimated revenues, number of mines, employment, and hours worked for all mines that were active in 2019.[31] To ensure comparability with the 2024 Silica Final Rule, MSHA chooses to use 2019 data for the same mine coverage and estimation calibration.[32] The table shows that while the MNM sector accounts for 91 percent of active mines, it employs 75 percent of miners.

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[30] Miner employment is based on the information submitted quarterly through the MSHA Form 7000–2, excluding Subunit 99—Office (professional and clerical employees at the mine or plant working in an office); *https://www.msha.gov/sites/default/files/Support_Resources/Forms/7000-2_0.pdf.*

[31] To be considered 'active' a mine must have reported at least 2,000 hours worked by miners in 2019. Employment includes all subunits except for (99)—''Office Workers at Mine Site.''

[32] In the 2024 Silica Final Rule, MSHA chose to use 2019 data in order to capture a 'typical' year for the mining industry, one that was not impacted by the pandemic. MSHA compared mine production information between 2019 and 2024 and did not observe any significant differences in the number of mines and miners.

Table VII-1. Profile of MNM and Coal Mines in 2019, by Mine Size

Mine Category	Range by Miner Employment	Tons (millions)		Revenues [a]		Number of Mines [b]		Production Employees [b]		Production Hours (thousands) [b]		Total Employment [b]	
		Millions	*Percent*	Millions in 2024 $	*Percent*	Number	*Percent*	Number	*Percent*	Number	*Percent*	Number	*Percent*
Metal	Emp <= 20	NA	NA	$608.9	*1.9%*	157	*56.1%*	851	*2.3%*	1,433.8	*1.9%*	999	*2.5%*
Metal	20 < Emp <= 100	NA	NA	$1,665.1	*5.1%*	39	*13.9%*	1,947	*5.3%*	3,921.3	*5.1%*	2,251	*5.6%*
Metal	100 < Emp <= 500	NA	NA	$13,628.5	*42.0%*	62	*22.1%*	15,060	*40.7%*	32,094.2	*42.0%*	16,508	*40.7%*
Metal	500 > Emp	NA	NA	$16,546.2	*51.0%*	22	*7.9%*	19,168	*51.8%*	38,965.3	*51.0%*	20,771	*51.2%*
Metal	***Total***	***NA***	***NA***	***$32,448.7***	***100.0%***	***280***	***100.0%***	***37,026***	***100.0%***	***76,414.7***	***100.0%***	***40,529***	***100.0%***
Nonmetal	Emp <= 20	NA	NA	$ 3,882.5	*14.4%*	645	*71.9%*	3,694	*16.3%*	6,397.5	*14.4%*	4,237	*16.6%*
Nonmetal	20 < Emp <= 100	NA	NA	$10,805.4	*40.1%*	207	*23.1%*	8,921	*39.3%*	17,805.0	*40.1%*	10,065	*39.3%*
Nonmetal	100 < Emp <= 500	NA	NA	$10,008.2	*37.1%*	42	*4.7%*	8,220	*36.2%*	16,491.4	*37.1%*	9,163	*35.8%*
Nonmetal	500 > Emp	NA	NA	$2,258.6	*8.4%*	3	*0.3%*	1,845	*8.1%*	3,721.6	*8.4%*	2,134	*8.3%*
Nonmetal	***Total***	***NA***	***NA***	***$26,954.6***	***100.0%***	***897***	***100.0%***	***22,680***	***100.0%***	***44,415.4***	***100.0%***	***25,599***	***100.0%***
Sand and Gravel	Emp <= 20	NA	NA	$7,560.4	*69.7%*	5,879	*96.7%*	23,887	*75.0%*	39,673.3	*69.7%*	27,262	*75.9%*
Sand and Gravel	20 < Emp <= 100	NA	NA	$2,755.5	*25.4%*	188	*3.1%*	6,703	*21.1%*	14,459.5	*25.4%*	7,320	*20.4%*
Sand and Gravel	100 < Emp <= 500	NA	NA	$529.3	*4.9%*	10	*0.2%*	1,247	*3.9%*	2,777.6	*4.9%*	1,337	*3.7%*
Sand and Gravel	500 > Emp	NA	NA	$0.0	*0.0%*	0	*0.0%*	0	*0.0%*	0.0	*0.0%*	0	*0.0%*
Sand and Gravel	***Total***	***NA***	***NA***	***$10,845.2***	***100.0%***	***6,077***	***100.0%***	***31,837***	***100.0%***	***56,910.5***	***100.0%***	***35,919***	***100.0%***
Stone	Emp <= 20	NA	NA	$4,406.9	*28.5%*	2,002	*83.1%*	11,198	*31.7%*	20,035.5	*28.5%*	12,563	*31.5%*
Stone	20 < Emp <= 100	NA	NA	$6,783.9	*43.8%*	339	*14.1%*	14,779	*41.9%*	30,842.4	*43.8%*	16,824	*42.2%*
Stone	100 < Emp <= 500	NA	NA	$4,049.7	*26.2%*	67	*2.8%*	8,762	*24.8%*	18,411.6	*26.2%*	9,896	*24.8%*
Stone	500 > Emp	NA	NA	$241.7	*1.6%*	1	*0.0%*	539	*1.5%*	1,098.8	*1.6%*	602	*1.5%*
Stone	***Total***	***NA***	***NA***	***$15,482.2***	***100.0%***	***2,409***	***100.0%***	***35,278***	***100.0%***	***70,388.3***	***100.0%***	***39,885***	***100.0%***
Crushed Limestone	Emp <= 20	NA	NA	$7,040.1	*45.8%*	1,555	*83.5%*	11,771	*48.8%*	22,834.9	*45.8%*	13,495	*49.7%*
Crushed Limestone	20 < Emp <= 100	NA	NA	$6,984.8	*45.5%*	293	*15.7%*	10,480	*43.5%*	22,655.5	*45.5%*	11,641	*42.9%*
Crushed Limestone	100 < Emp <= 500	NA	NA	$1,329.8	*8.7%*	14	*0.8%*	1,856	*7.7%*	4,313.4	*8.7%*	2,002	*7.4%*
Crushed Limestone	500 > Emp	NA	NA	$0.0	*0.0%*	0	*0.0%*	0	*0.0%*	0.0	*0.0%*	0	*0.0%*
Crushed Limestone	***Total***	***NA***	***NA***	***$15,354.8***	***100.0%***	***1,862***	***100.0%***	***24,107***	***100.0%***	***49,803.8***	***100.0%***	***27,138***	***100.0%***
MNM Total	**Emp <= 20**	**NA**	**NA**	**$23,498.7**	***23.2%***	**10,238**	***88.8%***	**51,401**	***34.1%***	**90,375.0**	***30.3%***	**58,556**	***34.6%***
MNM Total	**20 < Emp <= 100**	**NA**	**NA**	**$28,994.8**	***28.7%***	**1,066**	***9.2%***	**42,830**	***28.4%***	**89,683.7**	***30.1%***	**48,101**	***28.5%***
MNM Total	**100 < Emp <= 500**	**NA**	**NA**	**$29,545.6**	***29.2%***	**195**	***1.7%***	**35,145**	***23.3%***	**74,088.3**	***24.9%***	**38,906**	***23.0%***
MNM Total	**500 > Emp**	**NA**	**NA**	**$19,046.4**	***18.8%***	**26**	***0.2%***	**21,552**	***14.3%***	**43,785.7**	***14.7%***	**23,507**	***13.9%***
MNM Total	***Total***	***NA***	***NA***	***$101,085.5***	***100.0%***	***11,525***	***100.0%***	***150,928***	***100.0%***	***297,932.6***	***100.0%***	***169,070***	***100.0%***
Coal	Emp <= 20	16.6	*2.3%*	$1,215.3	*3.9%*	707	*63.9%*	4,358	*8.5%*	9,077.4	*7.7%*	4,611	*8.7%*
Coal	20 < Emp <= 100	66.3	*9.4%*	$3,891.0	*12.6%*	271	*24.5%*	11,814	*22.9%*	27,591.7	*23.5%*	12,145	*22.9%*
Coal	100 < Emp <= 500	366.8	*51.9%*	$17,388.3	*56.2%*	116	*10.5%*	26,145	*50.7%*	59,897.7	*51.0%*	26,818	*50.6%*
Coal	500 > Emp	256.4	*36.3%*	$8,445.8	*27.3%*	12	*1.1%*	9,256	*17.9%*	20,962.2	*17.8%*	9,392	*17.7%*
Coal	***Total***	***706.1***	***100.0%***	***$30,940.3***	***100.0%***	***1,106***	***100.0%***	***51,573***	***100.0%***	***117,529.0***	***100.0%***	***52,966***	***100.0%***

NA = Not available

[a] Coal Revenues were calculated using MSHA Production Figures in Short Tons by Rank: 650.3 million tons Bituminous Coal and Subbituminous, 53.2 million tons Lignite Coal, 2.6 million tons Anthracite Coal; and EIA price's per short ton by Coal Rank: EIA Annual Coal Report 2019; Table 31 Average Sales Price of Coal by State And Rank, 2019; US Total: $58.93/ton Bituminous Coal, $14.01/ton Subbituminous, $19.86/ton Lignite Coal, $102.22/ton Anthracite Coal; https://www.eia.gov/coal/annual/archive/0584_2019.pdf. The revenues for MNM commodities are calculated by applying the proportion of revenues represented by each commodity among all MNM commodities in the 2017 SUSB data and applying that proportion to the 2019 production value for all industrial minerals reported by USGS.

Revenues inflated from 2019 dollars to 2024 dollars using the annual U.S. GDP Price Deflator. The U.S. GDP Price Deflator is obtained from U.S. Bureau of Economic Analysis, Gross Domestic Product: Implicit Price Deflator, Series ID GDPDEF#0. Available at https://fred.stlouisfed.org/series/GDPDEF#0, last accessed on 12/17/2025. MSHA determines the annual GDP Price Deflator by calculating the average of the quarterly GDP Price Deflators for each quarter within a calendar year.

[b] The estimated number of current and future mines, miners, and production hours are obtained from MSHA Standardized Information System (MSIS).

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a. Metal Mining

There are 24 groups of metal commodities mined in the U.S. Metal mines, representing about 2.4 percent (280 out of 11,525) of all MNM mines and employed about 24.5 percent of all MNM miners. Of these 280 mines, 157 employed 20 or fewer miners and 22 employed more than 500 miners. Additionally, the 2019 MSHA data show that there were 13,792 contract miners in the metal mining industry.

b. Nonmetal (Mineral Mining)

This analysis identifies 35 nonmetal commodities mined in the U.S., not

including stone, and sand and gravel. Nonmetal mines represented about 7.8 percent of all MNM mines and employed roughly 15 percent of all MNM miners. The majority of nonmetal mines (71.9 percent) employed fewer than 20 miners and less than 1 percent employed more than 500 employees. In 2019, there were 11,346 contract miners in the nonmetal mining industry.

c. Stone Mining

The stone mining subsector includes eight different stone commodities. Seven of the eight are further classified as either dimension stone or crushed and broken stone. Stone mines made up 20.9 percent of all MNM mines and employed 23.4 percent of all MNM miners. The majority of these mines (83.1 percent) employed fewer than 20 miners. In 2019, there were 18,559 contract miners in the stone mining industry.

d. Crushed Limestone

Crushed limestone mines made up 16.2 percent of all MNM mines and employed about the same percentage (16.0 percent) of all MNM miners. Of the 1,862 crushed limestone mines, 83.5 percent employed fewer than 20 miners, and there were no crushed limestone mines that employed over 500 miners. In 2019, there were 9,605 contract miners in the crushed limestone mining industry.

e. Sand and Gravel Mining

Sand and gravel mines accounted for 52.7 percent of all MNM mines and employed 21.1 percent of all MNM miners. Nearly all (96.7 percent) of these mines employed fewer than 20 employees. In 2019, the MSHA data show that there were 7,512 contract miners in the sand and gravel mining industry.

f. Coal

In the coal sector, 707 mines (63.9 percent) employed fewer than 20 miners. Overall, coal mine employment in 2019 was 52,966. Of those, 51,573 of the employment were miners and the remaining 1,393 were office workers. Additionally, there were a total of 22,003 contract miners in the coal mining industry in 2019.

2. Economic Characteristics of the Metal/Nonmetal Mining Industry

The value of all MNM mining output in 2019 is estimated at $101.1 billion in 2024 dollars (U.S. DOI, 2019), which is measured in 2022 dollars and updated to 2024 dollars using the U.S. GDP Price Deflator. Metal mines, which include iron, gold, copper, silver, nickel, lead, zinc, uranium, radium, and vanadium mines, contributed $32.4 billion. In the USGS Mineral Commodity Summaries, nonmetals, stone, sand and gravel, and crushed limestone are combined into one commodity group called industrial minerals. MSHA estimates the production value of each individual commodity by applying the proportion of revenues of each commodity in the SUSB to the 2019 production value for all industrial minerals reported by USGS. This approach yields the following values in 2024 dollars: metal production is valued at $32.4 billion, nonmetal production at $27.0 billion, stone mining at $15.5 billion, sand and gravel at $10.8 billion, and crushed limestone at $15.4 billion.

3. Economic Characteristics of the Coal Industry

Production in the U.S. coal sector amounted to 706.1 million tons in 2019. To estimate coal revenues in 2019, MSHA combines production estimates with prices per ton. Mine production data is taken from MSHA quarterly data and the coal price per ton is taken from the 2019 EIA Annual Coal Report. As shown in Table VII–1, total coal revenues in 2019 are estimated to be $25.6 billion in 2022 dollars, which is updated to $30.9 billion in 2024 dollars using the U.S. GDP Price Deflator.

C. Cost-Benefit Analysis

The baseline for this PRIA analysis is the standards for respirable crystalline silica or quartz exposure in 30 CFR parts 56, 57, 70, 71, 72, 75, and 90 prior to the publication of the 2024 Silica Final Rule.

Compliance costs of the 2024 Silica Final Rule are built on the framework of the standalone FRIA of the 2024 Silica Final Rule. In that standalone FRIA, MSHA estimated compliance costs by provision:

- exposure monitoring (§§ 60.12 and 60.13);
- engineering, improved maintenance and repair, and administrative controls (§ 60.11);
- respiratory protection (*e.g.,* when miners need temporary respiratory protection from overexposure) (§ 60.14);
- medical surveillance (§ 60.15); and
- incorporation of ASTM F3387–19 (see *FRIA Table ES–1* for more details) (§ 60.14).

MSHA estimated that the MNM sector represents 90.9 percent of the annualized compliance costs and the coal sector represents 9.1 percent (see *FRIA Table ES–2*). The costs of the 2024 Silica Final Rule are adjusted from values expressed in 2022 dollars (as reported in the FRIA of the 2024 Silica Final Rule) to values in 2024 dollars in this PRIA analysis for comparison purposes. MSHA also updated the compliance date to be the first year after implementing the proposed rule for both MNM and coal mines.

This PRIA analysis presents the estimated compliance costs in the MNM and coal sectors under the proposed rule. The proposed changes provide clarifications for the regulated community and updates to requirements for methods of compliance, exposure monitoring, respiratory protection, medical surveillance, and recordkeeping. MSHA estimates compliance costs of the proposed rule by provision. The cost components are similar to those found in the 2024 Silica Final Rule's FRIA but the estimation methodology has been updated in this PRIA to reflect the following:

- Implement exposure controls (§ 60.11): same requirements as the 2024 Silica Final Rule;
- Conduct exposure monitoring (§ 60.12):
  - update requirements for first-time sampling and eliminate second-time sampling (§ 60.12(a)(1));
  - add as-needed sampling as frequently as necessary (§ 60.12(a)(2));
  - reduce above-action-level sampling and add respirator availability when sampling between the action level and the PEL (§ 60.12(a)(3));
  - report all samples over the PEL to MSHA (§ 60.12(a)(4));
  - eliminate post-evaluation sampling; and
  - eliminate process change evaluations.
- Take corrective actions (§ 60.13): same requirements as the 2024 Silica Final Rule.
- Require respiratory protection (§ 60.14(a) and (b)): clarify respiratory protection requirements at MNM mines.
- Update medical surveillance (§ 60.15):
  - change from mandatory to voluntary examinations for new MNM miners,
  - add mandatory examinations for all miners (MNM and coal) exposed above the PEL.
- Replace ASTM standard with the OSHA Respiratory Protection Standard (§ 60.14(c)(2)): clear guidelines for voluntary respirator use and reduced administrative complexity.

MSHA estimates the annualized compliance costs of the proposed rule (in the hypothetical absence of the 2024 Silica Final Rule) range from $71.2 million to $79.3 million, depending on the discount rate used (see *Table VII–2*). Of this total, about 91 percent would be incurred by mine operators in the MNM

sector and 9 percent by mine operators in the coal sector. The difference in cost between the MNM and coal sectors is driven by the much larger number of MNM mines, as well as differences in mine size and exposures.

Table VII-2. Summary of Estimated Annualized Compliance Costs by Sector, Proposed Rule (in millions of 2024 dollars)

Sector	Number of Mines [a]	0 Percent Discount Rate		3 Percent Discount Rate		7 Percent Discount Rate	
		Annualized Cost	Percent	Annualized Cost	Percent	Annualized Cost	Percent
Total, All Mines	***12,631***	***$71.22***	***100.0%***	***$74.43***	***100.0%***	***$79.38***	***100.0%***
Metal/ Nonmetal, Total	11,525	$64.97	91.2%	$68.02	91.4%	$72.70	91.6%
Coal, Total	1,106	$6.25	8.8%	$6.41	8.6%	$6.67	8.4%

Note: [a] The estimated number of current and future mines are based on 2019 data (MSHA, 2024d) and are assumed to have remained constant throughout the implementation of the proposed rule.

Based on these proposed requirements, MSHA calculates cost savings from the proposed rule by comparing compliance costs characterized by the presence of the 2024 rule and costs under the proposed rule. The proposed rule is projected to generate total annualized cost savings of $28.7 million in 2024 dollars at a discount rate of 7 percent. The breakdown of the annualized compliance cost savings by provision is as follows:

- Exposure monitoring: $24.9 million, 87 percent of total cost savings;
- Exposure controls: no change in compliance cost and no cost savings;
- Respiratory protection: no change in compliance cost and no cost savings;
- Medical surveillance: $3.9 million, 13 percent of total cost savings; and
- Updates to OSHA Respiratory Protection Standard: no change in compliance cost and no cost savings.

Of the estimated annualized compliance cost savings of $28.7 million, the MNM sector would experience $26.3 million (approximately 92 percent) and the coal sector would experience $2.43 million (approximately 8 percent).

MSHA presents the methods, data, and rationale used to estimate the expected compliance costs of the proposed rule, including exposure monitoring, exposure controls, additional respiratory protection, medical surveillance, and changes in respiratory protection practices due to the adoption by reference of the OSHA Respiratory Protection Standard.

1. Exposure Monitoring (§ 60.12)

i. 2024 Silica Final Rule

Under the standards established by the 2024 Silica Final Rule, mine operators are required to conduct five types of exposure monitoring, including: first- and second-time sampling, above-action-level sampling, corrective actions sampling, periodic evaluations, and post evaluation sampling.

ii. Proposed Rule

MSHA models the following changes from the 2024 Silica Final Rule in this PRIA:

First-time Sampling:

- Only sample miners who are or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level.
- Remove mandatory second-time sampling.

Above-action-level Sampling:

- (new) Make approved respirators available before the start of the next work shift if sampling falls between the action level and the PEL.
- End the required availability of approved respirators if one sample is below the action level.

Corrective Actions Sampling:

- No change.

Periodic Evaluations and Post Evaluation Sampling:

- Eliminated.

(new) As-needed Sampling:

- Conduct sampling as frequently as necessary to assess the full-shift, 8-hour TWA exposure of respirable crystalline silica to each miner who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level.

Under proposed § 60.12, mine operators would conduct first-time sampling, above-action-level sampling, corrective actions sampling, and as-needed sampling. In this section, MSHA presents its analysis and estimated costs attributable to exposure monitoring under the proposed rule.

Mines Impacted by Exposure Monitoring Requirements

For this PRIA, MSHA uses the same profile of mines impacted by exposure monitoring requirements as the standalone FRIA of the 2024 Silica Final Rule.

All active mines would be required to conduct exposure monitoring; however, MSHA expects that the costs for exposure monitoring vary by mine size and the number of quarters they are in operation. Table VII–3 describes active mines affected by the exposure monitoring requirements under proposed § 60.12 and characterizes mines by the number of quarters in which they were active in 2019 (*i.e.,* whether a mine reported at least 520 miner working hours in any quarter of 2019).

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Table VII-3. Mines and Miners, Activity by Quarter, by Sector, 2019

Sector and Mine Size	Total		Active 4 Quarters		Active 3 Quarters	
	Mines	Miners Including Contractor Miners	Mines	Miners Including Contractor Miners	Mines	Miners Including Contractor Miners
All Mines						
Miners ≤ 20	10,945	75,737	7,203	64,330	2,077	7,505
20 < Miners ≤ 100	1,337	78,170	1,298	76,208	33	1,592
100 < Miners ≤ 500	311	87,768	310	87,599	0	0
500 < Miners	38	43,104	38	43,104	0	0
Total	***12,631***	***284,779***	***8,849***	***271,240***	***2,110***	***9,097***
MNM						
Miners ≤ 20	10,238	69,520	6,764	59,495	1,978	6,817
20 < Miners ≤ 100	1,066	61,316	1,047	60,359	15	726
100 < Miners ≤ 500	195	50,469	194	50,299	0	0
500 < Miners	26	29,899	26	29,899	0	0
Total	***11,525***	***211,203***	***8,031***	***200,052***	***1,993***	***7,544***
Coal						
Miners ≤ 20	707	6,217	439	4,835	99	688
20 < Miners ≤ 100	271	16,854	251	15,849	18	866
100 < Miners ≤ 500	116	37,299	116	37,299	0	0
500 < Miners	12	13,205	12	13,205	0	0
Total	***1,106***	***73,576***	***818***	***71,188***	***117***	***1,554***
	Active 2 Quarters		**Active 1 Quarter**			
All Mines						
Miners ≤ 20	1,087	2,776	578	1,127		
20 < Miners ≤ 100	2	140	4	230		
100 < Miners ≤ 500	0	0	1	170		
500 < Miners	0	0	0	0		
Total	***1,089***	***2,916***	***583***	***1,526***		
MNM						
Miners ≤ 20	1,004	2,344	492	864		
20 < Miners ≤ 100	0	0	4	230		
100 < Miners ≤ 500	0	0	1	170		
500 < Miners	0	0	0	0		
Total	***1,004***	***2,344***	***497***	***1,264***		
Coal						
Miners ≤ 20	83	432	86	263		
20 < Miners ≤ 100	2	140	0	0		
100 < Miners ≤ 500	0	0	0	0		
500 < Miners	0	0	0	0		
Total	***85***	***572***	***86***	***263***		

Notes: To be considered active a mine must have reported at least 520 hours in a quarter; excluding Subunit 99 – Office (professional and clerical employees at the mine or plant working in an office).
The number of contractor miners by mine size is estimated by using the same distribution as miners by mine size.
The small discrepancies in total numbers of miners (including contractor miners) are due to rounding in the numbers of contractor miners.

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Monitoring Costs

MSHA estimates total sampling costs as a function of several factors: the unit cost of sampling, which is made up of labor costs (time and hourly wage of miners and the persons conducting sampling), laboratory costs for analyzing the samples, and clerical costs for recording the results; the number of samples that constitute the required representative fraction, each time the operator conducts sampling; and the frequency with which operators would be assumed to carry out different types of monitoring. Details of the cost components are:

- Labor costs:
- *Sampling time:* time taken to prepare for and take the samples.
- Lost work time: time lost from work to equip a miner with a sampling device.

- Recordkeeping time: time to record and report sample results.
- Laboratory analysis fees.

The number of samples is determined by evaluating the following factors:

- Representativeness: when several miners perform the same tasks on the same shift and in the same work area, the fraction of those miners sampled to obtain a representative sample, which MSHA estimated based on mine employment and occupation profiles.
- Type of exposure monitoring (*i.e.,* above-action-level sampling, corrective actions sampling, and as-needed sampling).
- Exposure level (*i.e.,* below the action level, between the action level and the PEL, or above the PEL).

To calculate total sampling costs under the proposed rule, MSHA estimates the number of samples taken based on the type of sampling. For example, exposure levels affect sampling costs because under the proposed rule one sample below the action level would be needed to cease above-action-level sampling. The frequency of corrective actions sampling is based on the exposure level, which is determined by previous samples.

Table VII–4 summarizes the major cost components of each type of monitoring under proposed § 60.12, and how the costs of each of the types of monitoring measures are estimated. In addition, the table summarizes the changes of each component under the proposed rule. MSHA's estimates for individual cost components are based on market research, exposure data, operator data, and Agency experience.

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Table VII-4. Exposure Monitoring Estimation Methodology, Proposed Rule

Exposure Monitoring Requirement [a]	Determination of Cost per Sample [a], [b]	Number of Samples [a]	Condition for Exposure Monitoring Requirement and Frequency [a]
First-time sampling	Sampling labor cost + lost work time + recording time + laboratory fees	Representative sample of all miners that are or may reasonably be expected to be exposed at or above the action level, by mine size	All mines Only sample once if below the action level
Above-action-level sampling	Sampling labor cost + lost work time + recording time + laboratory fees	Miners who meet conditions for as-needed sampling × percent of miners needed for representative sample, by mine size	Miners between the action level and the PEL Sampling frequency - 4 Quarters: Once every 6 months 3 Quarters: Once every 9 months 2 Quarters: Once every 12 months 1 Quarter: Once every 24 months Cease sampling if one sample below the action level
Corrective actions sampling	Sampling labor cost + lost work time + recording time + laboratory fees	Sample results above the PEL × 1.25	Sampling after corrective actions are taken because first-time, above-action-level, or as-needed samples above the PEL Stop sampling if one post-corrective action sample at or below the PEL
Periodic evaluation			Removed under the proposed rule
Post-evaluation sampling			Removed under the proposed rule
As-needed Sampling	Sampling labor cost + lost work time + recording time + laboratory fees	Miners who are or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level	Sampling frequency - 4 Quarters: Once every 12 months 3 Quarters: Once every 18 months 1 or 2 Quarters: Once every 24 months

Notes: [a] Throughout this table, miners refer to both miners (excluding contract miners) and contract miners.
[b] Lost work time, recording time, and laboratory cost fees as presented in Table VII-5 and are constant within each commodity type (coal, metal, nonmetal) across all mine sizes. Sampling labor costs are constant within each commodity but vary by mine size because there is a fixed component (e.g., the cost of an IH) that is spread over more samples as mine size increases.

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Labor Costs

The largest component of sampling cost is the labor time required to conduct the activities. For sampling, this includes the time needed to prepare for sampling, take the samples, and perform recordkeeping tasks on the results. Sampling takes time, which is valued at the hourly wage of the person wearing the sampling equipment and the person conducting the sampling. To err on the side of overestimation, MSHA assumed that in MNM mines, sample preparation and collection would be performed by an industrial hygienist (IH). The IH may be an in-house specialist or an external consultant.[33] As a national average, the IH consultant is assumed to charge $1,708 per day, including travel and report preparation costs. The time for the in-house IH is valued at their loaded average hourly wage. MSHA assumed that half of MNM mine operators would hire a contract IH, while the other half would use an on-staff IH for sampling. For coal mines, miners certified to perform sampling under §§ 70.202, 71.202, and 90.202 can conduct the sampling required under the proposed rule. MSHA assumed coal mine operators would use certified miners for sample preparation and collection; therefore, the average labor cost for coal mine sampling is less than 40 percent of that for MNM mine sampling.

In addition to the labor time of the person conducting sample preparation and collection, there are other activities associated with sampling which cost labor time. Time miners spend being equipped with a sampling device is time they do not spend working. MSHA assumes time lost to work is one half hour of labor time valued at the average loaded hourly wage of mine ''Extraction Workers'' (Standard Occupational Code 47–5000).

MSHA assumes that recordkeeping takes 15 minutes per sample, which is valued at the average loaded hourly wage of mine ''Occupational Health and Safety Specialists'' (Standard Occupational Code 19–5011). MSHA assumes an additional 2 minutes per sample would be needed for the mine operator to report sample results above the PEL to the MSHA District Manager. Because only a fraction of sample results would be reported to the District Manager, the effective time allotted is substantially larger; for example, if 50 percent of sample results are reported to MSHA, this 2-minute estimate effectively allots 4 minutes per sample that is actually reported.

MSHA also assumes the personnel conducting sampling can collect 2, 3, and 4 samples per day at small, medium, and large mines, respectively. This determines the number of days needed to complete sampling at a mine, and therefore directly affects the labor costs of sampling.

The average labor cost of exposure monitoring is summarized in Table VII–5.

Table VII-5. Sampling Labor Cost, Average Unit Costs

Labor cost		
Sampling labor cost Metal Mine Nonmetal Mine Coal Mine	 $1,172* per day sampling $1,133* per day sampling $425 per day sampling *The average of using an independent IH contractor ($1,708 per day) and using an in-house IH ($635 for metal mines and $559 for nonmetal mines)	Preparing and setting up sampling equipment; collecting samples; sending samples to laboratory; recording results
Lost work time due to sampling Metal Mine Nonmetal Mine Coal Mine	 $27 per miner sampled $22 per miner sampled $27 per miner sampled	30 minutes of ''Extraction Worker'' valued at loaded hourly wage
Recordkeeping time due to sampling Metal Mine Nonmetal Mine Coal Mine	 $22 per sample $20 per sample $24 per sample	17 minutes of IH valued at loaded hourly wage
Laboratory fees for sample analysis Laboratory fee	 $159 per sample	Processing samples and reporting results

Laboratory Fees for Sample Analysis

MSHA estimates that laboratory analysis would cost the mine operator $159 per sample. This includes the cost of packing and shipping the sample to the lab, the laboratory analysis, and reporting sample results to the operator.

Number of Samples—Representative Sampling

Mine operators would be required to conduct sampling systematically to ensure representativeness and sufficient miner coverage. Because this determines the minimum number of samples required each time sampling is carried out, it is a major determinant of sampling costs. Where several miners

[33] Some MNM mines may train their miners or other in-house employees to conduct sampling. In such scenarios, an IH would not be used and the labor cost of sampling would be based on the loaded hourly wage for the participating employee.

perform the same tasks on the same shift and in the same work area, the mine operator may sample a representative fraction (*e.g.,* at least two) of these miners to meet the sampling requirements. MSHA estimates for the number of miners considered a representative sample are based on the size of the mine. In small mines that employ 20 or fewer miners (including contract miners), MSHA assumes that a sample comprising at least 50 percent of miners would be necessary to collect a representative sample. In medium-sized mines with 20 to 100 miners, the assumption is that a minimum of 25 percent of miners would need to be sampled for the sample to be representative. In large mines with 100 or more miners, the Agency assumes that a minimum of 15 percent of miners would need to be sampled for the sample to be representative.

Frequency of Exposure Monitoring—Number of Samples

Another component of sampling cost is the frequency with which it must be performed as not all mines operate year-round. Except for first-time sampling, MSHA adjusted all types of sampling for mines that operate fewer than four quarters per year. Each mine would be assumed to take sampling with a frequency equal to the number of quarters the mine is open. For example, mines which are open only two quarters per year would conduct sampling twice during a calendar year. Portable mines are not exempt from the requirements. For corrective actions sampling, sampling frequency depends on sample results as specified by MSHA's exposure monitoring requirements.

Trends in Sample Results and Sampling Costs

Under proposed § 60.12, MSHA expects the percentage of samples that exceed the action level or exceed the PEL would decline over the first several years following promulgation. The decline would be due to several factors: first, mine operators would gain experience and incur increased maintenance and repair to reduce exposure levels to below the action level so they may limit above-action-level sampling. Second, some engineering controls are likely to reduce exposures below the PEL and/or the action level. Third, improving the control of respirable crystalline silica dust in part of the mine is likely to reduce exposure elsewhere in the mine. The combination of these effects is especially observable in the coal industry. Although the 2024 Silica Final Rule established a PEL of 50 µg/m^3, less than 20 percent of samples at coal mines exceed the action level (see *Table VII–6*).

MSHA estimates the percentages of samples exceeding the action level and the PEL in the first year of compliance based on its historical exposure profile developed using the Agency's compliance sampling data. Because no available data indicate the yearly rate at which mine operators would reduce miner exposures to levels below the action level, MSHA assumed the percentage of samples exceeding the action level and the PEL would decline linearly until reaching a steady value in Year 7 and subsequent years.

Table VII-6. Estimated Percentage of Sample Results Taken by Type and Year

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Years 7 - 60
Percent of samples ≥ 25 µg/m^3							
All Mines [a]	***32.2%***	***29.3%***	***26.5%***	***23.6%***	***20.7%***	***17.9%***	***15.0%***
Metal/Nonmetal [b]	36.8%	33.2%	29.5%	25.9%	22.3%	18.6%	15.0%
Coal	19.0%	18.3%	17.7%	17.0%	16.3%	15.7%	15.0%
Percent of samples > 50 µg/m^3							
All Mines [a]	***14.8%***	***13.5%***	***12.2%***	***11.0%***	***9.7%***	***8.5%***	***7.2%***
Metal/Nonmetal [b]	18.0%	16.3%	14.7%	13.0%	11.3%	9.7%	8.0%
Coal	5.5%	5.4%	5.3%	5.3%	5.2%	5.1%	5.0%

Notes: [a] Estimated as a weighted average of results for MNM mines and coal mines.
[b] Estimated as a weighted average of results for the five commodity types comprising MNM mines.

a. First-Time Sampling

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.12(a)(1) and (a)(2)(i), samples would be taken based on a representative fraction of the miners who are or may reasonably be expected to be exposed to respirable crystalline silica. First-time sampling occurs at the start of the 2024 Silica Final Rule's respective compliance date for coal mines and MNM mines. Second-time sampling occurs within 3 months of first-time sampling.

Under the 2024 Silica Final Rule's requirements in § 60.12(a)(2)(ii), if the additional sample is between the action level and the PEL, the mine operator would be required to take another sampling within 3 months, transitioning into the above-action-level sampling as described in the 2024 Silica Final Rule's requirements in § 60.12(a)(3) and (4).

The assumptions used in calculating the number of first- and second-time samples can be found in the FRIA of the 2024 Silica Final Rule.

ii. Proposed Rule

Under proposed § 60.12(a)(2), mine operators would not be required to perform second-time sampling. MSHA, however, anticipates that all mines would perform first-time sampling to collect valuable data concerning respirable crystalline silica exposure rates in their mine. Under the proposed rule, mine operators would only need to sample the miners that are or may reasonably be expected to be exposed at or above the action level, instead of all miners expected to be exposed to any respirable crystalline silica. This decreases the number of miners the operator must sample.

In subsequent years only new mines would be performing first-time sampling. MSHA projects that about 2 percent of mines in any given year

would be new entrants to the mining industry.

iii. Summary of Changes

Under the 2024 Silica Final Rule's requirements in § 60.12(a)(1) and (a)(2)(i), MSHA estimates the number of first- and second-time samples for the first 7 years in the top panel of Table VII–7. Under the proposed rule, the number of first-time samples would be halved because mine operators would no longer be required to conduct second-time sampling (bottom panel of Table VII–7).

Table VII-7. First-Time Sampling, 2024 Silica Final Rule and Proposed Rule

Type of Sample	Year 1	Year 2 [a]	Year 3 [a]	Year 4 [a]	Year 5 [a]	Year 6 [a]	Year 7 [a]
2024 Silica Final Rule – First- and Second-time Sampling							
Mines	12,631	253	253	253	253	253	253
Miners	284,779	5,696	5,696	5,696	5,696	5,696	5,696
Samples	154,084	3,082	3,082	3,082	3,082	3,082	3,082
Proposed Rule - First-time Sampling							
Mines	12,631	253	253	253	253	253	253
Miners	284,779	5,696	5,696	5,696	5,696	5,696	5,696
Samples	77,042	1,541	1,541	1,541	1,541	1,541	1,541

Notes: [a] MSHA assumes that 2 percent of mines are new and therefore undertake first-time sampling in years 2 – 60, but total number of mines remain constant.
[b] The calculations for first-time sampling are based on the number of mines. Because of sampling representativeness, in general the number of samples taken would be less than the number of miners.

b. Above-Action-Level Sampling

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.12(a)(2)(ii), if the sampling under this section is between the action level and the PEL, the mine operator is required to take another sampling within 3 months. This sampling can be discontinued when the two most recent sample results demonstrate exposure below the action level.

Although reducing exposures below the action level is costly for mine operators, repeated sampling is also costly. Mine operators have both a financial incentive and a human resource incentive to reduce exposures not just below the PEL but below the action level. From a human resource standpoint, reducing exposures below the action level would ensure that mine operators have a healthier miner population, thus reducing employee time-off and turnover. Reducing exposures below the action level would also ensure that mine operators can discontinue sampling if exposures consistently remain below the action level.

MSHA expects that the number of above-action-level samples would decline over time as mine operators come into compliance through engineering controls and administrative controls but would not entirely disappear. For the specific assumptions used in calculating the number of above-action-level samples taken each year, see the FRIA of the 2024 Silica Final Rule.

ii. Proposed Rule

Under proposed § 60.12(a)(3), if the sampling of any miner who may reasonably be expected to be exposed to respirable crystalline silica at or above the action level is between the action level and the PEL, the mine operator would be required to make approved respirators available before the start of the next work shift in accordance with § 60.14(b) and (c) until sampling indicates exposures are below the action level. Mine operators would need only one sample result at or below the action level to stop sampling and to discontinue providing respirators to affected miners.

iii. Summary of Changes

The total number of above-action-level samples that would be taken under the 2024 Silica Final Rule and the proposed rule in the first 7 years of implementation is presented in Table VII–8.[34] MSHA assumes the number of above-action-level samples under the proposed rule would decrease substantially from the 2024 Silica Final Rule for two reasons. First, instead of sampling any miners who are or may reasonably be expected to be exposed to respirable crystalline silica at any level in the 2024 Silica Final Rule, only miners who are or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level would be sampled under the proposed rule. This proposed change would substantially reduce the number of miners being sampled as miners expected to be exposed below the action level are no longer required to be sampled. Second, mine operators do not need to take a sample if a miner's exposure is below the PEL. However, we expect that for some miners who are reasonably expected to be at or above the action level, mine operators will sample as frequently as necessary to ensure these miners are not exposed to RCS above the PEL. In contrast, the 2024 Silica Final Rule requires continued sampling until two consecutive sample results are below the action level.

[34] All mine operators would be performing first-time sampling in first year, so they do not need to conduct above-action-level sampling in the Year 1.

Table VII-8. Above-Action-Level Sampling, 2024 Silica Final Rule and Proposed Rule

Type of Sample	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
2024 Silica Final Rule – Above-action-level Sampling [a]							
Mines [b]	-	-	-	-	-	-	-
Miners	150,008	147,650	131,319	114,989	98,659	86,167	85,434
Samples [c]	47,506	88,176	79,062	69,948	60,834	51,720	44,885
Proposed Rule – Above-action-level Sampling [a]							
Mines [b]	-	-	-	-	-	-	-
Miners	84,031	75,866	67,701	59,536	51,371	43,206	42,717
Samples [c]	47,506	42,949	38,392	33,835	29,278	24,721	22,442

Notes: [a] This includes above-action-level sampling between the action level and the PEL. Above-action-level sampling is expected to decline linearly from current exposure levels from Year 1 to Year 7, after which time the frequency of sampling at or above the action level would be constant.
[b] The calculations for above-action-level sampling are based on the number of miners. Because of sampling representativeness (see discussion in *FRIA Table 4-3*), in general the number of samples taken would be less than the number of miners.
[c] Above-action-level sampling occurs in the second half of Year 1 for MNM and coal mines.

(New) Making Respirators Available

Additionally, mine operators would be expected to make approved respirators available for miners if the sampling result is between the action level and the PEL. To estimate the cost of new respirators, MSHA assumed that mine operators would purchase tight-fitting, reuseable half-mask elastomeric respirators at a cost of $42.05 each plus $18.38 for filters.[35] In addition, MSHA assumed respirators would be assigned to individuals, not shared equipment. Furthermore, miners issued new respirators would require an additional 2 hours of labor time for fit testing and training, which is valued at the weighted average loaded wage rates of all mine workers in the given sector ($93.73 for Metal and Nonmetal miners and $106.30 for coal miners).[36] [37] The estimated total cost of a new respirator is presented in Table VII–9.

Table VII-9. Estimated Cost of New Respirators per Miner (in 2024 dollars)

Cost Components	Mine Sector	New Respirator Cost Per Miner	Fit Testing and Training	Annual Cost Per Entity-Standard Respirator Usage
-- Respirators cost $42.05 -- Respirator filters cost $18.38 -- 2 hours per miner for fit testing and training	MNM	$60.43	$93.73	$154.16
	Coal	$60.43	$106.30	$166.73

Using the exposure profile detailed in the FRIA of the 2024 Silica Final Rule, MSHA estimated that in Year 1 the number of miners exposed between the action level and the PEL to be 49,662 (39,770 MNM and 9,892 coal miners). Under the proposed rule, mine operators would need to make respirators available for these miners.[38] Since the number of above-action-level samples decreases across the first 6 years of the analysis (Table VII–8), it is

[35] Based on online (non-discount) prices: Websites for Northern Safety, 2022: $29.14/each for 3M Series 6500 half mask respirator, $10.25/pair for P100 pancake filters; and Grainger, 2022: $50.00 for MSA 420 series half mask respirator, $24.32 for P100 filter cartridges (package of 2). Prices are higher end of potential range, supplier bulk discounts available from numerous other sources.

[36] OSHA APF rulemaking (update to 29 CFR 1910.134) Unit Costs: 1 hour employee training, 1 hour employee qualitative fit testing. Alternatively, 2 hours for quantitative fit testing (from costs estimated in 2001–2006; may be reduced due to efficiency of more modern quantitative fit testing equipment currently available and widely used). MSHA assumed that worker fit testing is conducted in small groups; two to four miners are fit tested during the hour, but all remain part of the group for the full hour.

[37] MSHA assumed there will be no additional labor costs for personnel conducting fit testing or training because current respiratory protection programs already require these activities.

[38] MSHA is making the assumption that all miners exposed at or above the action level but at or below the PEL will need to have a respirator purchased for them in the first year. MSHA is making this assumption to ensure that the Agency does not underestimate the potential costs that would be incurred by operators while providing sufficient protection to affected miners.

assumed that the number of miners exposed between the action level and the PEL would also decrease. MSHA assumes the decreases would be linear with the number of MNM miners decreasing by 4,124 each year and coal miners decreasing by 352 between Year 1 and 6. In Years 7–60, the number of miners exposed between the action level and the PEL would drop to steady values of 18,788 MNM miners and 4,673 coal miners, matching the percentage reduction of samples that MSHA anticipates would fall in this range.

In Year 1, MSHA assumes that mine operators would purchase a new respirator for every eligible miner, resulting in 39,770 respirators for MNM miners and 9,892 for coal miners. MSHA assumes that respirators have a 5-year effective life, thus each year 80 percent of miners exposed between the action level and the PEL would already have working respirators. Mine operators would need to purchase replacement respirators for the remaining 20 percent of the exposed miners whose respirators have reached the end of their working life, MSHA's calculations anticipate this would begin in year 2 of the analysis. MSHA estimates that in Years 7–60 of the analysis, each year MNM mine operators would purchase 3,421 respirators and coal operators would purchase 1,591 respirators.

Table VII-10. Estimated Annual Number and Cost of Respirators (in 2024 dollars)

Mine Sector	Miners Between the Action Level and the PEL	Respirators Purchased	Total Annual Cost	Percent by Sector
Year 1				
Total	***49,662***	***49,662***	***$4,779,231***	***100.0%***
MNM	39,770	39,770	$3,727,781	78.0%
Coal	9,892	9,892	$1,051,450	22.0%
Year 2				
Total	***45,185***	***9,038***	***$871,094***	***100.0%***
MNM	35,646	7,130	$668,298	76.7%
Coal	9,539	1,908	$202,797	23.3%
Year 3				
Total	***40,709***	***8,143***	***$786,342***	***100.0%***
MNM	31,522	6,306	$591,039	75.2%
Coal	9,187	1,837	$195,304	24.8%
Year 4				
Total	***36,233***	***7,248***	***$701,591***	***100.0%***
MNM	27,399	5,481	$513,780	73.2%
Coal	8,834	1,767	$187,810	26.8%
Year 5				
Total	***31,756***	***6,353***	***$616,839***	***100.0%***
MNM	23,275	4,657	$436,522	70.8%
Coal	8,482	1,696	$180,317	29.2%
Year 6				
Total	***27,280***	***5,459***	***$532,087***	***100.0%***
MNM	19,151	3,833	$359,263	67.5%
Coal	8,129	1,626	$172,824	32.5%
Years 7-60				
Total	***23,461***	***5,011***	***$489,711***	***100.0%***
MNM	18,788	3,421	$320,634	65.5%
Coal	4,673	1,591	$169,077	34.5%

c. Corrective Actions Sampling

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.13(b), mine operators are required to conduct sampling once corrective actions have been taken to lower the concentration of respirable crystalline silica to levels at or below the PEL. The mine operator is required to take additional or new corrective actions until sampling indicates miner exposures are at or below the PEL.

ii. Proposed Rule

The proposed rule would keep the requirement to conduct corrective actions sampling.

iii. Summary of Changes

The proposed rule would make no changes to the 2024 Silica Final Rule requirements concerning corrective

actions sampling. MSHA assumes the number of corrective actions and corrective actions sampling would remain the same in this analysis.

Table VII-11. Corrective Actions Sampling, 2024 Silica Final Rule and Proposed Rule

Type of Sample	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
2024 Silica Final Rule – Corrective Actions Sampling [a]							
Mines	-	-	-	-	-	-	-
Miners [b]	71,183	68,095	60,944	53,793	46,641	41,246	41,246
Samples	27,929	52,023	46,912	41,800	36,689	31,577	27,743
Proposed Rule – Corrective Actions Sampling [a]							
Mines	-	-	-	-	-	-	-
Miners [b]	71,183	68,095	60,944	53,793	46,641	41,246	41,246
Samples	27,929	52,023	46,912	41,800	36,689	31,577	27,743

Notes: [a] Corrective actions sampling is expected to decline from current exposure levels from Year 1 to Year 7, after which time the frequency of sampling would be constant.
[b] The calculations for corrective actions sampling are based on the number of miners. Because of sampling representativeness (see discussion in *FRIA Table 4-3*), in general the number of samples taken would be less than the number of miners.
[c] Corrective actions sampling occurs in the second half Year 1 for MNM and coal mines.

d. Periodic Evaluations and Post Evaluation Sampling

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.12(c), at least every 6 months after commencing sampling under § 60.12(a)(1) or whenever there is a change in: production; processes; installation or maintenance of engineering controls; installation or maintenance of equipment; administrative controls; or geological conditions; mine operators are required to evaluate whether the change may reasonably be expected to result in new or increased respirable crystalline silica exposures. Once the evaluation is completed, the mine operator is required to: (1) make a record of the evaluation, including the evaluated change, the impact on respirable crystalline silica exposure, and the date of the evaluation; and (2) post the record on the mine bulletin board and, if applicable, by electronic means, for the next 31 days.

Under the 2024 Silica Final Rule's requirements in § 60.12(d), if the mine operator determines as a result of the periodic evaluation that miners may be exposed to respirable crystalline silica at or above the action level, the mine operator is required to perform sampling to assess the full shift, 8-hour TWA exposure of respirable crystalline silica for each miner who is or may reasonably be expected to be at or above the action level.

ii. Proposed Rule

The proposed rule would remove the requirements to conduct periodic evaluations and post-evaluation sampling.

iii. Summary of Changes

Under the proposed rule, MSHA would remove the requirements for periodic evaluations and post-evaluation sampling. The proposed change to an ''as frequently as necessary'' sampling structure makes these requirements redundant. Under the ''as frequently as necessary'' sampling structure, mine operators would continually evaluate their mines for the same conditions, processes, or procedures that triggered a periodic evaluation under the 2024 Silica Final Rule, such as changes in production, installation and maintenance of engineering controls, installation and maintenance of equipment, administrative controls, or geological conditions.

e. (New) As-Needed Sampling

i. 2024 Silica Final Rule

There are no requirements concerning as-needed sampling in the 2024 Silica Final Rule.

ii. Proposed Rule

Under proposed § 60.12(a)(2), mine operators would conduct sampling as frequently as necessary to assess the full-shift, 8-hour TWA exposure of respirable crystalline silica for each miner who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level.

The assumptions MSHA used for the frequency of this type of sampling are based on the number of quarters a mine is active in a year:

- 4 Quarters: once every 12 months.
- 3 Quarters: once every 18 months.
- 1 or 2 Quarters: once every 24 months.

iii. Summary of Changes

Although post evaluation sampling in the 2024 Silica Final Rule is no longer required, the proposed rule introduces as-needed sampling, which would require mine operators to sample as frequently as necessary rather than sampling within three months as required in the 2024 Silica Final Rule. When sample results are between the action level and the PEL, miners would receive better protection when respirators are provided in combination with sampling ''as frequently as necessary.'' Since as-needed sampling is not currently required, all changes would represent an increase in the number of samples and compliance costs. MSHA estimates that each year 6,988 as-needed samples would be taken (see *Table VII–12*).

Table VII-12. As-needed Sampling, 2024 Silica Final Rule and Proposed Rule

Type of Sample	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
2024 Silica Final Rule – As-needed Sampling [a]							
Mines [b]	-	-	-	-	-	-	-
Miners	-	-	-	-	-	-	-
Samples [c]	-	-	-	-	-	-	-
Proposed Rule – As-needed Sampling [a]							
Mines [b]	-	-	-	-	-	-	-
Miners	7,119	7,119	7,119	7,119	7,119	7,119	7,119
Samples [c]	6,988	6,988	6,988	6,988	6,988	6,988	6,988

Notes: [a] As-needed sampling is performed to assess if the exposure level is at or above the action level.
[b] The calculations for as-needed sampling are based on the number of miners. Because of sampling representativeness (see discussion below *FRIA Table 4-3*), in general the number of samples taken would be less than the number of miners.
[c] As-needed sampling occurs every year for MNM and coal mines.

f. Storage of Exposure Monitoring Records

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.12(g), for each sample, the mine operator is required to make a record of the sample date, the occupations sampled, and the concentrations of respirable crystalline silica and respirable dust and post the record and the laboratory report on the mine bulletin board and, if applicable, by electronic means, for the next 31 days, upon receipt.

ii. Proposed Rule

There would be no changes from the 2024 Silica Final Rule requirements concerning sampling records.

iii. Summary of Changes

Recordkeeping costs for samples are already included in total sampling costs as discussed in Table VII–5. Therefore, under the proposed rule, there would be no change to the costs concerning the storage of exposure monitoring records.

g. Total Annualized Monitoring Costs

i. 2024 Silica Final Rule

Table VII–13 presents estimated total annualized costs of exposure monitoring by type of exposure monitoring and mining sector under standards set by the 2024 Silica Final Rule.

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Table VII-13. Total Annualized Exposure Monitoring Costs by Mine Sector, 2024 Silica Final Rule (in millions of 2024 dollars)

Cost Type	Total Cost over 60 Years	Annualized Costs			Percent Annualized Costs [a]
		0 Percent Discount Rate	3 Percent Discount Rate	7 Percent Discount Rate	
All Mines					
First- and second-time sampling	$182.5	$3.0	$4.6	$7.1	10.9%
Above-action-level - sampling	$1,527.9	$25.5	$26.7	$28.6	43.7%
Above-action-level - respirators	-	-	-	-	-
Corrective actions sampling	$970.6	$16.2	$16.9	$17.9	27.4%
Process change evaluations	$242.9	$4.0	$4.0	$4.0	6.2%
Post evaluation sampling	$459.8	$7.7	$7.7	$7.7	11.7%
As-needed sampling	-	-	-	-	-
Total	***$3,383.7***	***$56.4***	***$59.8***	***$65.4***	***100.0%***
MNM					
First- and second-time sampling	$162.4	$2.7	$4.1	$6.4	9.7%
Above-action-level - sampling	$1,367.0	$22.8	$24.0	$25.9	39.6%
Above-action-level - respirators	-	-	-	-	-
Corrective actions sampling	$904.1	$15.1	$15.8	$16.8	25.8%
Process change evaluations	$217.6	$3.6	$3.6	$3.6	5.5%
Post evaluation sampling	$383.6	$6.4	$6.4	$6.4	9.8%
As-needed sampling	-	-	-	-	-
MNM Subtotal	***$3,034.6***	***$50.6***	***$53.9***	***$59.1***	***90.4%***
Coal					
First- and second-time sampling	$20.0	$0.3	$0.5	$0.8	1.2%
Above-action-level - sampling	$160.9	$2.7	$2.7	$2.7	4.1%
Above-action-level - respirators	-	-	-	-	-
Corrective actions sampling	$66.5	$1.1	$1.1	$1.1	1.7%
Process change evaluations	$25.4	$0.4	$0.4	$0.4	0.6%
Post evaluation sampling	$76.2	$1.3	$1.3	$1.3	1.9%
As-needed sampling	-	-	-	-	-
Coal Subtotal	***$349.1***	***$5.8***	***$6.0***	***$6.3***	***9.6%***

Note: [a] At the 7 percent discount rate.

ii. Proposed Rule

Table VII–14 presents estimated total annualized costs of exposure monitoring by type of exposure monitoring and mining sector under the proposed rule. The different types of sampling are projected to cost mine operators an average of about $40.5 million (at a 7 percent discount rate) per year over 60 years. Of the total exposure monitoring costs, about 91 percent of these costs are expected to be incurred by MNM mines and the remaining 9 percent by coal mines. When broken down by type of sampling: first-time sampling ($3.6 million annualized cost) would comprise about 8.8 percent of monitoring costs; above-action-level sampling ($15.0 million) would account for about 37.1 percent; above-action-level respirator purchase and maintenance ($0.8 million) would account for about 2.1 percent; corrective actions sampling ($17.9 million) would account for 44.3 percent; and as-needed sampling ($3.1 million) would account for 7.8 percent. Periodic evaluations and post-evaluation sampling would no longer occur.

Table VII-14. Total Annualized Exposure Monitoring Costs by Mine Sector, Proposed Rule (in millions of 2024 dollars)

Cost Type	Total Cost over 60 Years	Annualized Costs			Percent Annualized Costs [a]
		0% Real Discount Rate	3% Real Discount Rate	7% Real Discount Rate	
All Mines					
First- and second-time sampling	$91.2	$1.5	$2.3	$3.6	8.8%
Above-action-level sampling	$774.0	$12.9	$13.7	$15.0	37.1%
Above-action-level respirators	$34.7	$0.6	$0.7	$0.8	2.1%
Corrective actions sampling	$970.6	$16.2	$16.9	$17.9	44.3%
Post-evaluation sampling	$0.0	$0.0	$0.0	$0.0	0.0%
Process change evaluations	$0.0	$0.0	$0.0	$0.0	0.0%
As-needed sampling	$188.6	$3.1	$3.1	$3.1	7.8%
Total	***$2,059.2***	***$34.3***	***$36.7***	***$40.5***	***100.0%***
MNM					
First- and second-time sampling	$81.2	$1.4	$2.0	$3.2	7.8%
Above-action-level sampling	$692.8	$11.5	$12.3	$13.6	33.6%
Above-action-level respirators	$23.6	$0.4	$0.5	$0.6	1.5%
Corrective actions sampling	$904.1	$15.1	$15.8	$16.8	41.6%
Post-evaluation sampling	$0.0	$0.0	$0.0	$0.0	0.0%
Process change evaluations	$0.0	$0.0	$0.0	$0.0	0.0%
As-needed sampling	$157.1	$2.6	$2.6	$2.6	6.5%
MNM Subtotal	***$1,858.8***	***$31.0***	***$33.2***	***$36.9***	***91.0%***
Coal					
First- and second-time sampling	$10.0	$0.2	$0.2	$0.4	1.0%
Above-action-level sampling	$81.2	$1.4	$1.4	$1.4	3.5%
Above-action-level respirators	$11.1	$0.2	$0.2	$0.2	0.6%
Corrective actions sampling	$66.5	$1.1	$1.1	$1.1	2.7%
Post-evaluation sampling	$0.0	$0.0	$0.0	$0.0	0.0%
Process change evaluations	$0.0	$0.0	$0.0	$0.0	0.0%
As-needed sampling	$31.5	$0.5	$0.5	$0.5	1.3%
Coal Subtotal	***$200.4***	***$3.3***	***$3.5***	***$3.6***	***9.0%***

Note: [a] At the 7 percent discount rate.

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2. Exposure Control (§ 60.11)

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.11, mine operators are required to install, use, and maintain feasible engineering controls, supplemented by administrative controls when necessary, to keep each miner's exposure at or below the PEL.

To estimate the cost of control measures, MSHA estimated three categories of exposure controls:

- *Installation costs:* consisting of the costs of purchasing new engineering control equipment and installing them or purchasing new services to clean or ventilate dust from work areas.
- *Maintenance and repair costs:* to ensure proper use of existing engineering controls with increased frequency of dust control maintenance and repair.
- *Costs of administrative controls to reduce dust exposure:* the costs of training or posting signage regarding new policies.

ii. Proposed Rule

MSHA proposes to amend the 2024 Silica Final Rule's requirements in § 60.11(b) to clarify that mine operators would be prohibited from using rotation of miners as a corrective action when miners' exposures are above the PEL.

iii. Summary of Changes

This proposed change is consistent with the protections for miner safety and health in the 2024 Silica Final Rule standards and only clarifies MSHA requirements in the Agency's standards. Amending this provision would not change compliance costs concerning exposure control.

3. Respiratory Protection (§ 60.14)

i. 2024 Silica Final Rule

The requirements for the use of respiratory protection at MNM mines are presented in the 2024 Silica Final Rule's requirements in § 60.14(a). If sample results indicate miners' exposure exceeds the PEL, mine operators are required to use respiratory protection as a temporary measure when miners must work in concentrations of respirable crystalline silica above the PEL while engineering control measures are being developed and implemented or it is necessary by the nature of work involved.

ii. Proposed Rule

MSHA proposes to amend the 2024 Silica Final Rule's requirements in § 60.14(a) to clarify the use of respirators at MNM mines. Miners are allowed to work for reasonable periods of time using respiratory protection when they must work in an environment when silica concentrations are above the PEL.

iii. Summary of Changes

This proposed change clarifies that mine operators may allow miners to use respiratory protection for reasonable periods of time, instead of as a temporary measure. Amending provisions in the 2024 Silica Final Rule would not change compliance costs concerning the number of affected miners or required respirators when miners are exposed above the PEL, and the change would not result in any reduction in safety for miners.

The additional costs for respirator use identified in proposed § 60.12(a)(3) are discussed above in above-action-level sampling.

4. Medical Surveillance (§ 60.15)

i. 2024 Silica Final Rule

In the 2024 Silica Final Rule, § 60.15 requires MNM mine operators to provide mandatory medical examinations to new miners within 60 days of beginning employment with limited exceptions, and at multiple other intervals. It also requires MNM mine operators to provide voluntary medical examinations to all miners during an initial 12-month period and every 5 years.

ii. Proposed Rule

The proposed rule would require MNM mine operators to provide voluntary medical examinations to new miners within 60 days of beginning employment and at multiple other intervals. MSHA also proposes language that would require MNM mine operators to provide all miners the opportunity for voluntary medical examinations at least every 5 years. Additionally, MSHA proposes that all mine operators (coal and MNM) would be required to provide mandatory medical examinations to sampled miners who are exposed above the PEL based on an MSHA sample, within 60 days of the sample results, except for miners that have received a medical examination within the last 2 years.

The proposed rule changes mandatory medical surveillance to voluntary medical surveillance for new MNM miners and extends the initial time to provide medical examinations under voluntary medical surveillance from 1 year to 5 years. This is not expected to reduce miners' access to medical examinations as operators are still required to provide examinations on a voluntary basis.

The proposed rule adds a new requirement for both MNM and coal mine operators to provide mandatory medical examinations to sampled miners with exposures above the PEL, except for miners who have received a medical examination within the last two years. The proposal requires MNM and coal mine operators to provide medical examinations to sampled miners with overexposures within 60 days of the operator's receipt of the sample results to allow for early detection and help allocate limited medical resources to the most at-risk miners.

In this section, MSHA considers the cost to mine operators for providing medical examinations to MNM and coal miners under the proposed requirements in § 60.15. These examinations include both voluntary and mandatory examinations for MNM miners and mandatory examinations for coal miners. Specifically, MSHA estimates the following medical examinations:

- MNM mine operators would provide voluntary medical examinations for new miners who begin work in the mining industry for the first time, including initial, 3-year follow-up, and 2-year follow-up examinations;
- MNM mine operators would provide voluntary 5-year examinations for both new and current miners;
- MNM mine operators would provide mandatory examinations if an MSHA sample shows that the miner is exposed above the PEL; and
- Coal mine operators would provide mandatory examinations if an MSHA sample shows that the miner is exposed above the PEL.

To estimate the compliance costs to mine operators, MSHA estimates the cost of a medical examination, and the number of medical examinations miners would receive.

a. Costs of A Medical Examination

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.15(a), MNM mine operators are required to provide each miner with periodic medical examinations at no cost to the miner. The medical examinations must include the following information: medical and work history, physical examination, chest X-ray, and pulmonary function test. Mine operators are also required to obtain a written medical opinion from the PLHCP or specialist within 30 days of the medical examination that contains any recommended limitations on the miner's use of respirators.

ii. Proposed Rule

Under proposed § 60.15(a), each mine operator would be required to provide to each miner periodic medical examinations at no cost to the miner and at specified frequencies. The medical examinations would need to include the following information: a medical and work history; a physical examination; a chest X-ray; and a pulmonary function test, administered by a spirometry technician. Mine operators would also be required to obtain a written confirmation of the medical examination from the PLHCP or specialist within 30 days of the medical examination.

MSHA assumes that a medical examination has the following cost elements: chest X-ray, spirometry test, symptom assessment and occupational history, the physical examination, lost work time while being examined, lost travel time, transportation cost, and recordkeeping of the mine operator.

MSHA calculates the unit cost of an examination using the same method as OSHA's Final Economic Analysis (FEA) of medical surveillance associated with the OSHA Silica Rule (OSHA, 2016).[39] In its silica rule FEA, OSHA first presented cost estimates in 2009 dollars, then converted to 2012 dollars using the Consumer Price Index (CPI) for Medical Care in US. MSHA has used the same CPI series for Medical Care to further inflate costs associated with medical services (chest X-ray, spirometry, symptom assessment and occupational history, and physical examination) to 2024 dollars (Bureau of Labor Statistics, 2025).[40] MSHA additionally estimates

[39] *https://www.federalregister.gov/d/2016-17270,* last accessed on 1/29/2026.

[40] The cost of medical examinations are inflated using Bureau of Labor Statistics (BLS) CPI for All Urban Consumers: Medical Care in U.S. City

the labor cost of examinations for mine operators (lost work time while being examined, lost travel time, transportation cost, and recordkeeping) using MNM and coal miner average wages. MSHA uses data from the May 2021 Occupational Employment and Wage Statistics (OEWS) for miner wage rates and inflates wages to 2024 dollars for this PRIA analysis using the U.S. GDP Price Deflator.[41]

Table VII–15 shows estimated cost components in 2024 dollars, which sum to a unit cost of $700.51 per examination for MNM miners and $730.35 for coal miners. The cost of a medical examination would be the same for either a voluntary or a mandatory examination.

Table VII-15. Estimated Cost Per Medical Examination (in 2024 dollars)

Cost Components	MNM Exam Cost	Coal Exam Cost
Chest X-Ray	$136.08	$136.08
Spirometry	$93.48	$93.48
Symptom Assessment and Occupational History	$56.97	$56.97
Physical Examination	$181.17	$181.17
Lost Work Time While Being Examined	$92.84	$106.30
Lost Travel Time	$92.84	$106.30
Transportation Cost	$28.46	$28.46
Recordkeeping of Mine Operator	$18.66	$21.58
Total	***$700.51***	***$730.35***

b. Voluntary Medical Examinations for MNM Miners

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule's requirements in § 60.15(b), MNM mine operators are required to provide mandatory medical examinations to new miners within 60 days of beginning employment with limited exceptions and at multiple other time intervals. These initial medical examinations are mandatory for miners joining the mining industry. MNM operators are also required to provide voluntary medical examinations to all miners during an initial 12-month period and then once every 5 years.

ii. Proposed Rule

Under proposed § 60.15(b), each MNM mine operator would provide the opportunity to all miners employed at the mine to take the medical examinations at specified frequencies. These examinations would be provided to new miners within 60 days of beginning employment and at multiple other time intervals (including 3-year follow-up, 2-year follow-up, and 5-year examinations). These examinations would be provided to all miners at least every 5 years. Miners could take voluntary medical examinations if they choose to, but MNM mine operators would be required to offer them to eligible miners.

There is no readily available data on MNM miners' participation rate. For purposes of this analysis, MSHA estimates compliance costs for voluntary examinations using two participation rates to determine the proportion of eligible MNM miners who would choose to take a voluntary examination: low 25% and high 75%. At a 25 percent participation rate, 25 percent of eligible miners would choose to take the voluntary examinations offered by mine operators. MSHA presents the cost estimations for each participation rate in Table VII–30. For illustrative purposes, MSHA presents the calculation using a 25 percent participation rate in the first 11 years of the purposed rule's implementation, while the full analysis period is 60 years. Results from a 75 percent participation rate are reported in Table VII–30.

ii–1. Voluntary Examinations for MNM Miners During the First 5 Years of Employment

Initial Examinations

Under proposed § 60.15(b)(3)(i), MNM mine operators would be required to provide the opportunity for an initial voluntary medical examination no later than 60 days after beginning employment for each miner who begins work in the mining industry for the first time.

MSHA assumes the total number of MNM miners would remain constant at 184,615 over the analysis period. MSHA estimates that the average tenure (number of years on the job) of an MNM miner (before leaving the mining industry) is 22 years, which is derived from a 2012 survey conducted by NIOSH.[42] Assuming an average miner staying employed for 22 years in mining, MSHA estimated that 1/22 of all MNM miners (8,392 miners) would leave and be replaced by the same number of new miners joining the industry each year. MSHA assumes that each of the 8,392 new miners are eligible for an initial medical examination within 60 days of

Average, all urban consumers, not seasonally adjusted, Series ID CUUR0000SAM. Available at: *https://data.bls.gov/cgi-bin/srgate,* last accessed on 12/18/2025.

[41] This hourly rate was derived from the OEWS May 2021 survey for both MNM and coal miner wages. OEWS May 2021 reports wages in 2021 dollars. MSHA uses the OEWS May 2021 survey to be consistent with the 2024 Silica Final Rule. Bureau of Labor Statistics: Occupational Employment and Wage Statistics (OEWS). National industry-specific and by ownership. Downloaded from *https://www.bls.gov/oes/tables.htm* on April 29, 2022.

[42] The 2012 report by NIOSH, entitled, ''National Survey of the Mining Population: Part 1: Employees,'' (*https://www.cdc.gov/niosh/mining/works/coversheet776.html*) includes the findings of its 2008 survey on mine operators and miners in the U.S. (Details on the survey methodology and results are available in the link.) The NIOSH survey found the following mine experiences for different types of MNM mines, which average to about 11 years (11.375 to be precise): metal mines, 10.7 years; nonmetal, 12.0 years; stone, 12.5 years, and sand and gravel 10.3 years. For comparison, the same survey found the average mining experience for coal miners was 16.0 years. These averages reflected the average number of years that respondent miners had worked at mines at the time the survey was conducted. MSHA considered these average mine experiences to represent approximately one half of the mining tenure these miners would have (the years in mining when they leave). Conversely, MSHA estimated miners' total expected tenure to be twice these average mining experiences.

employment. Under the assumption of a 25 percent participation rate, MSHA calculates that 2,098 miners would opt to take the initial examination each year.

3-Year Follow-Up Examinations

Under proposed § 60.15(b)(3)(ii), each MNM mine operator would be required to offer a voluntary follow-up examination no later than 3 years after the initial examination for new MNM miners. Only miners who choose to take the initial examination are eligible for the voluntary 3-year follow-up examination. Among the 2,098 miners who choose to take the initial examination and thus are eligible for the 3-year follow-up examination, 525 miners would elect to participate in the 3-year follow-up examination each year assuming a 25 percent participation rate. MSHA assumes that the voluntary 3-year follow-up examination would apply to all eligible new MNM miners each year, starting at Year 4 of the rule's implementation.

2-Year Follow-Up Examinations for High-Risk Miners

Under proposed § 60.15(b)(3)(iii), MNM mine operators would provide the miner with a voluntary follow-up medical examination conducted by a specialist no later than 2 years after the 3-year follow-up examination if a miner's chest X-ray at the voluntary 3-year follow-up examination shows evidence of pneumoconiosis or the spirometry examination indicates evidence of decreased lung function (these miners are hereby identified as high-risk).

In this analysis, MSHA does not have information to accurately measure the percentage of MNM miners who would be offered another follow-up exam 2 years after the initial 3-year follow-up exam. MSHA assumes that only a small fraction of MNM miners, 5 percent of the 525 miners who participate in the 3-year examinations (26 miners), would be high-risk and show evidence of pneumoconiosis. MSHA further assumes that at a 90 percent participation rate, 24 out of the 26 high-risk miners would choose to take the 2-year follow-up examination each year, starting at Year 6 after the proposed rule is implemented.

Table VII–16 summarizes the total number of estimated voluntary medical examinations from voluntary initial, 3-year follow-up, and 2-year follow-up examinations for new miners in the first 11 years after the rule's implementation.

Table VII-16. Voluntary Initial, 3-Year Follow-up, and 2-Year Follow-up Examinations for New Miners Within 5 Years of Joining MNM Mines (25 Percent Participation Rate)

Year	New MNM Miners	Initial Exams	3-Year Follow-up Exams	High-Risk Miners after 3-Year Follow-up Exams	2-Year Follow-up Exams for High-Risk Miners	Total Exams of New Miners Within 5 Years of Joining
	(A)	(B)=(A)x25%	(C)=(B)x25%	(D)=(C)x5%	(E)=(D)x90%	(B)+(C)+(E)
1	8,392	2,098	0	0	0	2,098
2	8,392	2,098	0	0	0	2,098
3	8,392	2,098	0	0	0	2,098
4	8,392	2,098	525	26	0	2,623
5	8,392	2,098	525	26	0	2,623
6	8,392	2,098	525	26	24	2,646
7	8,392	2,098	525	26	24	2,646
8	8,392	2,098	525	26	24	2,646
9	8,392	2,098	525	26	24	2,646
10	8,392	2,098	525	26	24	2,646
11	8,392	2,098	525	26	24	2,646

Notes: The numbers of miners and examinations are rounded. Follow-up examinations do not start until Year 4, for 3-year follow-up examinations, and Year 6, for 2-year follow-up examinations, as miners would need to have an initial examination before being eligible.

ii–2. Voluntary 5-Year Medical Examinations for All MNM Miners

Under proposed § 60.15(b)(1) and (b)(2), each MNM mine operator would provide voluntary medical examinations during an initial 5-year period and at least every 5 years after the end of the initial period. The medical examinations would be available during a 6-month period that begins no less than 3.5 years and not more than 4.5 years from the end of the last 6-month period. MSHA assumes these examinations would be offered by MNM mine operators at a fixed schedule, starting at Year 1 and offered every 5 years afterwards.

Current MNM Miners

MSHA assumes that all current MNM miners who already work in the mining industry prior to the implementation of the proposed rule would be offered the voluntary 5-year examination at a 5-year interval, starting in Year 1.

MSHA estimates that in Year 1, 176,223 current MNM miners working in mining would be eligible for the 5-year voluntary examination. The number of eligible current miners declines steadily over time due to current miners leaving the mining industry. Each year, MSHA estimates that 1/22 of all MNM miners (8,392 miners) would exit the industry.

In Year 1, 176,223 current MNM miners would be offered the 5-year medical examination. At a 25 percent

participation rate, 44,056 current miners would choose to take the examination.

Five years later, in Year 6, the cohort of 176,233 current miners decreases to 134,263 miners due to worker turnover (losing 8,392 miners every year). Assuming a 25 percent participation rate, MSHA estimates that 33,566 current MNM miners would choose to receive voluntary 5-year examinations. Similarly, 23,076 current MNM miners would participate in the voluntary 5-year examinations in Year 11.

Table VII-17. Voluntary 5-Year Examinations for Current MNM Miners (25 Percent Participation Rate)

Year	5-Year Exams Offered	Current MNM Miners	5-Year Exams of Current Miners
	(A)	(B)	(B)x25%
1	Yes	176,223	44,056
2	No	167,831	0
3	No	159,439	0
4	No	151,047	0
5	No	142,655	0
6	Yes	134,263	33,566
7	No	125,871	0
8	No	117,479	0
9	No	109,087	0
10	No	100,695	0
11	Yes	92,303	23,076

Note: The numbers of examinations are rounded.

New MNM Miners

Under proposed § 60.15(b)(3), mine operators would be required to provide subsequent initial, 3-year follow-up, and 2-year follow-up (if identified as high-risk) examinations to new miners after they first join the mining industry. In this PRIA, MSHA assumes a miner would not receive more than one medical examination a year due to the level of effort and limited value in redundant examinations. If a miner is already offered one of these examinations under § 60.15(b)(3), they would not be offered a 5-year examination if both are scheduled to occur in the same year. MSHA assumes that new MNM miners who first join the mining industry would be offered a voluntary 5-year examination at a 5-year interval, starting at Year 6.

In Year 6 when eligible new miners would first be offered voluntary 5-year examinations, some miners would be excluded from the 5-year examinations if the miner is offered other voluntary medical examinations: initial, 3-year follow-up, and 2-year follow-up (if identified as high-risk) examinations, depending on the new miner's tenure.

For miners joining the industry in Year 1, 8,392 new MNM miners would be offered initial examinations within 60 days of employment. At a participation rate of 25 percent, a total of 2,098 new MNM miners would elect to participate in the initial examinations in the same year. Among the 2,098 miners, 525 miners would choose to take the 3-year follow-up examinations in Year 4, assuming a participation rate of 25 percent. A small portion, 26 of those miners, would be identified as high-risk and would be provided with the opportunity for the 2-year follow-up examinations in Year 6. These 26 high-risk new miners would not be offered the 5-year voluntary medical examinations provided by mine operators in Year 6.

Similarly for miners starting in Year 3, 8,392 new MNM miners joining the mining industry would be provided with voluntary initial examinations and 2,098 miners would choose to participate. These 2,098 miners would be offered a 3-year follow up examination in Year 6. The same schedule would apply for new MNM miners joining in other years.

In Year 6, a total of 50,352 new MNM miners would be eligible for the voluntary 5-year examinations (8,392 new miners per year through Year 1 through Year 6). Miners would not be offered the 5-year examinations if the miner is offered any of the other voluntary medical examinations: initial, 3-year follow-up, or 2-year follow-up (if identified as high-risk) examinations. There would be 10,516 new miners not offered the 5-year voluntary medical examinations in Year 6: 26 high-risk miners, who join the mining industry in Year 1, would be eligible for the 2-year follow-up examinations; 2,098 miners who join the industry in Year 3 would be eligible for the 3-year follow-up examinations; and 8,392 miners who join in Year 6 would be eligible for the initial examinations.

After accounting for the new miners who would be offered the voluntary initial, 3-year follow-up, or 2-year follow-up examinations in Year 6, MNM mine operators would be required to offer voluntary 5-year examinations to 39,836 new miners. Assuming a 25 percent participation rate, 9,959 new miners would be expected to take the voluntary 5-year examinations in Year 6.

Similar calculations apply to the subsequent years at a 5-year interval: Year 11, Year 16, etc.

Table VII-18. Voluntary 5-Year Examinations for New MNM Miners after 5 Years of Joining MNM Mines (25 Percent Participation Rate)

Year	5-Year Exams Offered	New Miners Offered for 5-Year Exams	New Miners Offered Exams Earlier			New Miners Eligible for 5-Year Exams	5-Year Exams of New Miners
			Initial Exams	3-Year Follow-up Exams	2-Year Follow-up Exams for High-Risk Miners		
	(A)	(B)	(C)	(D)	(E)	(F)=(B)-(C)-(D)-(E)	(F)x25%
1	Yes	0	8,392	0	0	0	0
2	No	0	8,392	0	0	0	0
3	No	0	8,392	0	0	0	0
4	No	0	8,392	2,098	0	0	0
5	No	0	8,392	2,098	0	0	0
6	Yes	50,352	8,392	2,098	26	39,836	9,959
7	No	0	8,392	2,098	26	0	0
8	No	0	8,392	2,098	26	0	0
9	No	0	8,392	2,098	26	0	0
10	No	0	8,392	2,098	26	0	0
11	Yes	92,312	8,392	2,098	26	81,769	20,449

Note: The numbers of examinations are rounded.

The table below presents total numbers of voluntary examinations for new MNM miners, including initial, 3-year follow-up, and 2-year follow-up (if identified as high-risk) examinations, as well as voluntary 5-year examinations for both current and new MNM miners.

Table VII-19. Total Number of Voluntary Examinations for New and Current MNM Miners (25 Percent Participation Rate)

Year	New Miner Initial Exams	New Miner 3-Year Follow-up Exams	New Miner 2-Year Follow-up Exams for High-Risk Miners	Current Miners 5-Year Exams	New Miners 5-Year Exams	Total Voluntary Exams of MNM Miners
	(A)	(B)	(C)	(D)	(E)	(A)+(B)+(C)+(D)+(E)
1	2,098	0	0	44,056	0	46,154
2	2,098	0	0	0	0	2,098
3	2,098	0	0	0	0	2,098
4	2,098	525	0	0	0	2,623
5	2,098	525	0	0	0	2,623
6	2,098	525	24	33,566	9,959	46,171
7	2,098	525	24	0	0	2,646
8	2,098	525	24	0	0	2,646
9	2,098	525	24	0	0	2,646
10	2,098	525	24	0	0	2,646
11	2,098	525	24	23,076	20,449	46,171

Note: The numbers of examinations are rounded.

c. Mandatory Medical Examinations for Exposed MNM and Coal Miners

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule standards, there is no requirement for mine operators to provide medical examinations to miners who have been exposed above the PEL.

ii. Proposed Rule

Under proposed § 60.15(c), both MNM and coal mine operators would be required to provide mandatory medical examinations to miners who are exposed above the PEL based upon an MSHA sample within 60 days of the operator's receipt of the sample results. However, a miner who has been exposed above the PEL, based upon an MSHA sample, would not be provided with a mandatory medical examination if the miner has taken a medical examination within the last two years. The examination taken within the last two years include voluntary examinations offered in proposed § 60.15(b) or mandatory examinations required in proposed § 60.15(c), or in accordance with § 72.100.

Miners who would choose to take voluntary examinations within the last two years would not be provided with a mandatory examination even when they would be found to be exposed above the PEL. For illustrative purposes, MSHA presents the calculation of mandatory examinations in the first 11 years of the proposed rule's implementation, excluding any voluntary examinations (under a 25 percent participation rate) and mandatory examinations in the last two years. This participation rate affects how many miners would be excluded from the requirement to take mandatory medical examinations.

ii–1. Mandatory Medical Examinations for Exposed MNM Miners

Number of Sampled Exposed MNM Miners

Under proposed § 60.15(c), sampled miners would be required to get mandatory medical examinations if an MSHA sample indicates an exposure above the PEL. In this analysis, MSHA uses the samples presented in the FRIA Table 2–5 from the 2024 Silica Final Rule to estimate the number of MNM miners sampled each year by MSHA. Between 2005–2019, MSHA inspectors conducted 57,769 samples at MNM mines, averaging 3,851 samples per year.

To calculate the number of samples that would be above the PEL, MSHA uses the exposure rate in Table VII–6, derived from the Agency's compliance sampling data, to estimate the number of exposed MNM miners each year. Because no available data indicate the yearly rate at which mine operators would reduce miner exposures to levels below the action level, MSHA assumed the share of exposed MNM miners would decline linearly from Year 1 to Year 7 until reaching a steady value in Year 7 and subsequent years.

Table VII-20. Exposed MNM Miners Based on MSHA Samples

Year	MNM Miners Sampled	Projected Exposed MNM Miners	Exposed MNM Miners Sampled by MSHA
	(A)	(B)	(C)=(A)x(B)
1	3,851	18.0%	692
2	3,851	16.3%	628
3	3,851	14.7%	564
4	3,851	13.0%	500
5	3,851	11.3%	436
6	3,851	9.7%	372
7	3,851	8.0%	308
8	3,851	8.0%	308
9	3,851	8.0%	308
10	3,851	8.0%	308
11	3,851	8.0%	308

Note: The number of exposed MNM miners sampled by MSHA in column (C) is rounded.

Voluntary Examinations Within the Last Two Years for MNM Miners

Not all exposed MNM miners would be required to take mandatory medical examinations, as some exposed miners may have taken voluntary or mandatory medical examinations within the last two years. For this analysis, MSHA considers a miner excluded for the mandatory examination if the miner has received an examination (regardless of whether the examination was voluntary or mandatory) during the two previous years or in current year. For example, if a miner would be found to be exposed to levels above the PEL in Year 3, the miner would not be able to take a mandatory examination if the miner already received an examination in two previous years (Year 1 or Year 2) or in the current year (Year 3).

Table VII–21 below presents the number of total MNM miners, voluntary examinations (including initial, 3-year follow-up, 2-year follow-up (if identified as high-risk), and 5-year examinations), and total number of voluntary examinations received within the last two years.

Table VII-21. Voluntary Medical Examinations for MNM Miners Within the Last Two Years (25 Percent Participation Rate)

Year	Total MNM Miners	MNM Voluntary Exams in that Year	MNM Voluntary Exams in Prior Year	MNM Voluntary Exams 2 Years Ago	Total Voluntary Exams for MNM Miners Within the Last 2 Years
	(A)	(B)	(C)	(D)	(E)=(B)+(C)+(D)
1	184,615	46,154	0	0	46,154
2	184,615	2,098	46,154	0	48,252
3	184,615	2,098	2,098	46,154	50,350
4	184,615	2,623	2,098	2,098	6,819
5	184,615	2,623	2,623	2,098	7,343
6	184,615	46,171	2,623	2,623	51,416
7	184,615	2,646	46,171	2,623	51,439
8	184,615	2,646	2,646	46,171	51,463
9	184,615	2,646	2,646	2,646	7,938
10	184,615	2,646	2,646	2,646	7,938
11	184,615	46,171	2,646	2,646	51,463

Notes: The numbers of examinations (including contractor miners) are rounded.

Mandatory Examinations for MNM Miners

All exposed miners would be required to take mandatory medical examinations if identified by MSHA samples unless they already take voluntary or mandatory examinations within the last two years and thus would be excluded from mandatory examinations. To calculate the number of mandatory examinations of exposed miners, MSHA first estimates the share of miners taking examinations within the last two years, including both voluntary and mandatory examinations.

In Year 1, 46,154 voluntary examinations and no mandatory examinations would be taken for 184,615 MNM miners. As a result, about 25 percent of MNM miners would take examinations in Year 1. MSHA applies the same ratio for mandatory examinations among exposed miners and estimates that for the 692 exposed miners in Year 1, 25 percent would have taken examinations and would be excluded from taking mandatory medical examinations. The remaining 75 percent (519 miners) would be required to take mandatory examinations.

In Year 2, 48,252 voluntary examinations would be taken within the last 2 years (in Year 1 and 2) and 519 mandatory examinations in Year 1, which implies that 26 percent of MNM miners would take either voluntary or mandatory medical examinations in Year 1 or Year 2. For the 628 exposed MNM miners, 74 percent (462 miners) would be required to take mandatory examinations after excluding the miners who receive examinations within the last two years.

Similarly, in Year 3, 50,350 voluntary examinations would be taken within the last 2 years (in Year 1, 2 and 3), and 981 mandatory examinations would be taken in Year 1 and Year 2. In total, 28 percent of miners would have received voluntary or mandatory medical examinations within the last 2 years. Of the 564 exposed miners, 407 miners would be required to take mandatory medical examinations in Year 3.

Table VII-22. Mandatory Examinations for Exposed MNM Miners (25 Percent Participation Rate)

Year	MNM Miners	Miners Receiving Exams Within the Last 2 Years			Percent of Miners Examined Within the Last 2 Years	Exposed MNM Miners	Mandatory Exams of Exposed MNM Miners
		Miners Receiving Voluntary Exams within the Last 2 Years	Exposed Miners Examined Last Year	Exposed Miners Examined 2 Years Ago			
	(A)	(B)	(C)	(D)	(E)=((B)+(C)+(D))/(A)	(F)	(G)=(F)x(1-(E))
1	184,615	46,154	0	0	25%	692	519
2	184,615	48,252	519	0	26%	628	462
3	184,615	50,350	462	519	28%	564	407
4	184,615	6,819	407	462	4%	500	479
5	184,615	7,343	479	407	4%	436	417
6	184,615	51,416	417	479	28%	372	267
7	184,615	51,439	267	417	28%	308	221
8	184,615	51,463	221	267	28%	308	221
9	184,615	7,938	221	221	5%	308	294
10	184,615	7,938	294	221	5%	308	294
11	184,615	51,463	294	294	28%	308	221

Note: The numbers of miners and examinations are rounded.

ii–2. Coal Mandatory Exposed Miner Examinations

In 2019, there were 1,106 active coal mines and 72,768 coal miners. MSHA uses the samples presented in the FRIA Table 2–6 from the 2024 Silica Final Rule to estimate the number of coal miners sampled each year by MSHA. Between 2016–2021, MSHA inspectors conducted 63,127 samples at coal mines, averaging 10,521 samples per year.

To calculate the number of samples that would be above the PEL, MSHA uses the exposure rate in Table VII–6, reported in the 2024 Silica Final Rule, to estimate the number of exposed coal miners each year. Because no available data indicate the yearly rate at which mine operators would reduce miner exposures to levels below the action level, MSHA assumed the share of exposed coal miners would decline linearly from Year 1 to Year 7 until reaching a steady value in Year 7 and subsequent years.

Table VII-23. Exposed Coal Miners Based on MSHA Samples

Year	Coal Miners Sampled	Projected Exposed Coal Miners	Exposed Coal Miners Sampled by MSHA
	(A)	(B)	(C)=(A)x(B)
1	10,521	5.5%	579
2	10,521	5.4%	568
3	10,521	5.3%	558
4	10,521	5.3%	558
5	10,521	5.2%	547
6	10,521	5.1%	537
7	10,521	5.0%	526
8	10,521	5.0%	526
9	10,521	5.0%	526
10	10,521	5.0%	526
11	10,521	5.0%	526

Note: The number of coal miners sampled by MSHA in column (C) is rounded.

Not all exposed coal miners identified by MSHA samples would be required to take mandatory medical examinations, as some exposed miners would be excluded because they have taken voluntary or mandatory medical examinations in accordance with § 72.100.

Unlike the voluntary medical examinations for new MNM miners in proposed § 60.15(b)(3), under § 72.100(c) the medical examinations would be mandatory for new coal miners entering the industry. The frequency of mandatory examinations for coal miners is similar to that of voluntary examinations for MNM miners specified in the proposed rule: an initial examination no later than 30 days after beginning employment, a follow-up examination no later than 3 years after the initial examination, and a follow-up examination no later than 2 years after the 3-year follow-up examinations if the coal miner is identified as high-risk.

MSHA assumes the total number of coal miners would remain constant at 72,768 over the analysis period. MSHA estimates that the average tenure (number of years on the job) of a coal miner (before leaving the mining industry) is 32 years, which is derived from a 2012 survey conducted by NIOSH.[43] Assuming an average miner staying employed for 32 years in mining, MSHA estimates that 1/32 of all coal miners (2,274 miners) would leave and be replaced by the same number of new miners joining the industry each year.

MSHA uses the same methodology to estimate the number of coal miners that receive mandatory examinations under the 2024 Silica Final Rule's requirements in § 72.100(c) as for MNM miners that would receive voluntary examinations under proposed § 60.15(b)(3).

Table VII-24. Mandatory Initial, 3-Year Follow-up, and 2-Year Follow-up Examinations for New Miners Within 5 Years of Joining Coal Mines

Year	New Coal Miners	Initial Exams	3-Year Follow-up Exams	2-Year Follow-up Exams for High-Risk Miners	Total Mandatory Exams of New Coal Miners
	(A)	(B)=(A)x100%	(C)=(B)x100%	(D)=(C)x5%	(B)+(C)+(D)
1	2,274	2,274	2,274	114	4,662
2	2,274	2,274	2,274	114	4,662
3	2,274	2,274	2,274	114	4,662
4	2,274	2,274	2,274	114	4,662
5	2,274	2,274	2,274	114	4,662
6	2,274	2,274	2,274	114	4,662
7	2,274	2,274	2,274	114	4,662
8	2,274	2,274	2,274	114	4,662
9	2,274	2,274	2,274	114	4,662
10	2,274	2,274	2,274	114	4,662
11	2,274	2,274	2,274	114	4,662

Note: The numbers of miners and examinations are rounded.

Similar to the voluntary examinations for MNM miners in proposed § 60.15(b)(1) and (b)(2), each coal mine operator would be required to provide voluntary examinations at least every 5 years to all miners employed at a coal mine, in accordance with § 72.100(b). The voluntary examinations would be available during a 6-month period that begins no less than 3.5 years and not more than 4.5 years from the end of the last 6-month period.

MSHA uses the same methodology to estimate the number of coal miners that receive voluntary examinations as MNM miners using a 25 percent participation rate.

[43] The 2012 report by NIOSH, entitled, ''National Survey of the Mining Population: Part 1: Employees,'' (*https://www.cdc.gov/niosh/mining/works/coversheet776.html*) includes the findings of its 2008 survey on mine operators and miners in the U.S. (Details on the survey methodology and results are available in the link.) The survey found the average mining experience for coal miners was 16.0 years. These averages reflected the average number of years that respondent miners had worked at mines at the time the survey was conducted. MSHA considered these average mine experiences to represent approximately one half of the mining tenure these miners would have (the years in mining when they leave). Conversely, MSHA estimated miners' total expected tenure to be twice these average mining experiences.

Table VII-25. Voluntary 5-Year Examinations for Coal Miners (25 Percent Participation Rate)

Year	5-Year Voluntary Exams Offered	Miners Offered Voluntary Exams	New Miners Receiving Mandatory Exams	Miners Eligible for Voluntary 5-Year Exams	Voluntary 5-Year Exams of Coal Miners
	(A)	(B)	(C)	(D)=(B)-(C)	(E)=(D)x25%
1	Yes	72,768	4,662	68,106	17,027
2	No	0	4,662	0	0
3	No	0	4,662	0	0
4	No	0	4,662	0	0
5	No	0	4,662	0	0
6	Yes	72,768	4,662	68,106	17,027
7	No	0	4,662	0	0
8	No	0	4,662	0	0
9	No	0	4,662	0	0
10	No	0	4,662	0	0
11	Yes	72,768	4,662	68,106	17,027

Note: The numbers of examinations are rounded.

All exposed coal miners would be required to take mandatory medical examinations if identified by MSHA samples unless they have already taken voluntary or mandatory examinations within the last two years and thus would be excluded from mandatory examinations. To calculate the number of mandatory examinations of exposed miners, MSHA first estimates the share of miners taking examinations within the last two years, including both voluntary and mandatory examinations.

Table VII–26 presents the number of total coal miners and examinations within the last two years, including mandatory initial, 3-year follow-up, and 2-year follow-up (if identified as high-risk) examinations, as well as voluntary 5-year examinations as specified in § 72.100.

Table VII-26. Examinations within the Last Two Years for Coal Miners (25 Percent Participation Rate)

Year	Total Coal Miners	Mandatory Exams for New Miners	5-Year Voluntary Exams for All Miners	Total Exams in that Year	Total Exams in Prior Year	Total Exams Year 2 Years Ago	Total Exams for Coal Miners within the Last 2 Years
	(A)	(B)	(C)	(D)=(B)+(C)	(E)	(F)	(G)= (D)+(E)+(F)
1	72,768	4,662	17,027	21,688	4,662	4,662	31,012
2	72,768	4,662	0	4,662	21,688	4,662	31,012
3	72,768	4,662	0	4,662	4,662	21,688	31,012
4	72,768	4,662	0	4,662	4,662	4,662	13,985
5	72,768	4,662	0	4,662	4,662	4,662	13,985
6	72,768	4,662	17,027	21,688	4,662	4,662	31,012
7	72,768	4,662	0	4,662	21,688	4,662	31,012
8	72,768	4,662	0	4,662	4,662	21,688	31,012
9	72,768	4,662	0	4,662	4,662	4,662	13,985
10	72,768	4,662	0	4,662	4,662	4,662	13,985
11	72,768	4,662	17,027	21,688	4,662	4,662	31,012

Note: The numbers of miners and examinations are rounded.

MSHA uses the same methodology when calculating the number of mandatory examinations for MNM miners as for coal miners.

Table VII–27 presents the number of total coal miners, examinations (including initial, 3-year follow-up, 2-year follow-up (if identified as high-risk), and 5-year examinations), and total number of examinations received within the last two years.

Table VII-27. Mandatory Examinations for Exposed Coal Miners (25 Percent Participation Rate)

Year	Coal Miners	Miners Receiving Exams Within the Last 2 Years			Percent of Miners Examined Within the Last 2 Years	Exposed Coal Miners	Mandatory Exams of Exposed Coal Miners
		Miners Receiving Exams within the Last 2 Years	Exposed Miners Examined Last Year	Exposed Miners Examined 2 Years Ago			
	(A)	(B)	(C)	(D)	(E)=((B)+(C)+(D))/(A)	(F)	(G)=(F)x(1-(E))
1	72,768	31,012	0	0	43%	579	332
2	72,768	31,012	332	0	43%	568	323
3	72,768	31,012	323	332	44%	558	315
4	72,768	13,985	315	323	20%	558	446
5	72,768	13,985	446	315	20%	547	436
6	72,768	31,012	436	446	44%	537	301
7	72,768	31,012	301	436	44%	526	297
8	72,768	31,012	297	301	43%	526	298
9	72,768	13,985	298	297	20%	526	421
10	72,768	13,985	421	298	20%	526	420
11	72,768	31,012	420	421	44%	526	296

Note: The numbers of miners and examinations are rounded. Mandatory examinations begin in Year 1 and because of this there are no prior mandatory examinations.

d. Total Examinations

The table below summarizes the number of both voluntary and mandatory examinations for MNM miners and mandatory examinations for coal miners under the proposed rule.

Table VII-28. Total Examinations for Miners in First 11 Years (25 Percent Participation Rate)

Year	Voluntary Exams for New MNM Miners within 5-Year of Joining	Voluntary 5-year Exams for all MNM Miners	Mandatory Exams for Exposed MNM Miners	Total Exams for MNM Miners	Mandatory Exams for Exposed Coal Miners	Total Exams
1	2,098	44,056	519	46,673	332	47,005
2	2,098	0	462	2,560	323	2,884
3	2,098	0	407	2,505	315	2,820
4	2,623	0	479	3,102	446	3,547
5	2,623	0	417	3,039	436	3,475
6	2,646	43,525	267	46,438	301	46,739
7	2,646	0	221	2,867	297	3,164
8	2,646	0	221	2,867	298	3,165
9	2,646	0	294	2,940	421	3,361
10	2,646	0	294	2,940	420	3,360
11	2,646	43,525	221	46,392	296	46,688

Note: The numbers of examinations are rounded.

MSHA also estimates the number of voluntary examinations under a 75 percent participation rate in the table below.

Table VII-29. Total Examinations for Miners in First 11 Years (75 Percent Participation Rate)

Year	Voluntary Exams for New MNM Miners within 5-Year of Joining	Voluntary 5-year Exams for all MNM Miners	Mandatory Exams for Exposed MNM Miners	Total Exams for MNM Miners	Mandatory Exams for Exposed Coal Miners	Total Exams
1	6,294	132,167	173	138,635	61	138,696
2	6,294	0	135	6,429	60	6,489
3	6,294	0	102	6,396	58	6,454
4	11,015	0	436	11,450	450	11,900
5	11,015	0	368	11,382	438	11,821
6	11,227	127,270	47	138,544	50	138,594
7	11,227	0	39	11,266	52	11,318
8	11,227	0	39	11,266	55	11,321
9	11,227	0	252	11,479	424	11,903
10	11,227	0	251	11,478	421	11,900
11	11,227	127,270	39	138,536	50	138,585

Note: The numbers of examinations are rounded.

Based on unit costs of a medical examination for MNM and coal miners presented in the tables above, Table VII–30 indicates that average annualized costs would range from $17.1 million (at a 0 percent discount rate) to $18.6 million (at a 7 percent discount rate), and total costs over 60 years would range from $261.3 million to $1 billion.

Table VII-30. Summary of Estimated Medical Surveillance Costs for Miners by Participation Rate and Discount Rate (in millions of 2024 dollars)

Cost Type	Discount Rate		
	0 percent	3 percent	7 percent
60-year Total Costs (millions of 2024 dollars)			
25 percent participation rate	$502.8	$242.0	$129.5
75 percent participation rate	$1,548.9	$740.7	$393.0
Average of participation rates	*$1,025.9*	*$491.3*	*$261.3*
Annualized Cost (millions of 2024 dollars)			
25 percent participation rate	$8.4	$8.7	$9.2
75 percent participation rate	$25.8	$26.8	$28.0
Average of participation rates	*$17.1*	*$17.8*	*$18.6*

5. Updates to OSHA Respiratory Protection Standard (§ 60.14(c)(2))

i. 2024 Silica Final Rule

In the 2024 Silica Final Rule, § 60.14(c)(2) requires mine operator to have a written respiratory protection program that meets requirements in accordance with ASTM F3387–19, *Standard Practice for Respiratory Protection.* The 2024 Silica Final Rule requires mine operators who would allow or direct miners to use respirators for protection from airborne hazards to develop a written respiratory protection program that meets the requirements of ASTM F3387–19, an industry consensus standard.

ii. Proposed Rule

Under the proposed rule, mine operators would follow the requirements for respiratory protection from OSHA's Respiratory Protection

Standard, instead of the ASTM F3387–19 standard. The OSHA Respiratory Protection Standard includes provisions for voluntary respirator use, which would provide miners with access to greater protection from respirator use when their exposure is between the action level and the PEL. The proposed rule contains language that would require mine operators' written respiratory protection programs to conform to OSHA Respiratory Protection requirements set forth in 29 CFR 1910.134, rather than ASTM F3387–19.

iii. Summary of Changes

The OSHA Respiratory Protection Standard would be more protective and appropriate for the mining industry. It also explicitly addresses voluntary respirator use and requires operators to implement certain elements of a written respiratory protection program for safe voluntary respirator use. To err on the side of overestimation, MSHA has determined that amending the 2024 Silica Final Rule's requirements in § 60.14(c)(2) would not change mine operators' compliance costs as it does not change requirements for respiratory protection programs, such as written standard operating procedures or fit testing.

6. Familiarization Costs

MSHA recognizes there are potential one-time and recurring costs associated with the rule for the mining community to get familiar with the rule. Regulatory familiarization costs represent direct costs on businesses for familiarizing themselves with the compliance requirements within the rule.

i. 2024 Silica Final Rule

In the 2024 Silica Final Rule, regulatory familiarization costs are not considered.

ii. Proposed Rule

Under the proposed rule, mine operators would incur familiarization costs. MSHA assumes that regulatory familiarization costs are estimated as a function of mine size: 0.5 hour for mines with 20 or fewer employees, 1 hour for mines with 20 to 100 employees, 1.5 hours for mines with 100 to 500 employees, and 2 hours for mines with more than 500 employees. MSHA estimates that it takes a mine supervisor, earning $88.08 per hour at coal mines and $71.08 at MNM mines, to review and understand the proposed regulation.

MSHA assumes the cost of rule familiarization for this proposal is low because mine operators already have knowledge of the respirable crystalline silica requirements in 30 CFR part 60 after the 2024 Silica Final Rule was published, combined with familiarity with existing requirements for sampling (airborne contaminants in 30 CFR parts 56 and 57 and respirable coal mine dust sampling in 30 CFR parts 70, 71 and 90), sampling devices (30 CFR parts 18 and 74), respiratory programs (30 CFR parts 56, 57 and 72), and periodic medical surveillance (30 CFR part 72). Additionally, MSHA provides compliance assistance in the development and improvement of health and safety programs, which also lowers familiarization cost for mine operators and contractors.

iii. Summary of Changes

The proposed rule changes in Part 60 are consistent with the protections for miner safety and health in the 2024 Silica Final Rule standards and only clarify MSHA requirements in the Agency's standards. Amending the provisions in this part would add compliance costs concerning reading, understanding, and communicating the new requirements in the proposed rule.

7. Summary

i. 2024 Silica Final Rule

Under the 2024 Silica Final Rule standards, total compliance costs are largely derived from the 2024 Silica Final Rule FRIA Table 4–33 and the costs are inflated to 2024 dollars using the U.S. GDP Price Deflator.

As shown in Table VII–31, MSHA projects that the annualized compliance costs would total $108.1 million per year over 60 years at a 7 percent discount rate. By provision, annualized costs for exposure monitoring would be $65.4 million per year, which accounts for 60 percent of total annualized compliance costs. Annualized costs of exposure controls are $15.1 million, representing 14 percent of total annualized costs. Respiratory protection comprises about 3 percent of total annualized compliance costs at $3.7 million. The costs of medical surveillance are $22.5 million, which is about 21 percent of total annualized costs. The costs of adopting the ASTM standard adds another $1.5 million (1 percent). Approximately 92 percent of compliance costs are estimated to come from MNM mines and the remaining 8 percent from coal mines.

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Table VII-31. Total Annualized Compliance Costs by Rule Provision and Mine Sector, 2024 Silica Final Rule (in millions of 2024 dollars)

Mine Sector	0 Percent Discount Rate		3 Percent Discount Rate		7 Percent Discount Rate	
	Annualized Cost (millions of dollars)	Percent Subtotal	Annualized Cost (millions of dollars)	Percent Subtotal	Annualized Cost (millions of dollars)	Percent Subtotal
All Mines						
Exposure Monitoring	$56.40	57.8%	$59.85	58.9%	$65.39	60.5%
Exposure Controls	$14.87	15.3%	$14.97	14.7%	$15.11	14.0%
Respiratory Protection	$3.65	3.7%	$3.65	3.6%	$3.66	3.4%
Medical Surveillance [a]	$21.32	21.9%	$21.75	21.4%	$22.46	20.8%
Subtotal, Part 60 Costs	*$96.23*	*98.7%*	*$100.22*	*98.7%*	*$106.62*	*98.7%*
ASTM Standard Updates	$1.27	1.3%	$1.33	1.3%	$1.45	1.3%
Total	***$97.50***	***100.0%***	***$101.55***	***100.0%***	***$108.07***	***100.0%***
As Percent of All Mines	***100.0%***		***100.0%***		***100.0%***	
MNM						
Exposure Monitoring	$50.58	56.8%	$53.86	58.0%	$59.12	59.7%
Exposure Controls	$12.82	14.4%	$12.90	13.9%	$13.01	13.1%
Respiratory Protection	$3.58	4.0%	$3.59	3.9%	$3.59	3.6%
Medical Surveillance [a]	$21.32	24.0%	$21.75	23.4%	$22.46	22.7%
Subtotal, Part 60 Costs	*$88.30*	*99.2%*	*$92.09*	*99.2%*	*$98.19*	*99.2%*
ASTM Standard Updates	$0.68	0.8%	$0.72	0.8%	$0.79	0.8%
MNM Subtotal	***$88.97***	***100.0%***	***$92.81***	***100.0%***	***$98.98***	***100.0%***
As Percent of All Mines	***91.3%***		***91.4%***		***91.6%***	
Coal						
Exposure Monitoring	$5.82	68.2%	$5.99	68.5%	$6.27	68.9%
Exposure Controls	$2.05	24.1%	$2.07	23.7%	$2.10	23.1%
Respiratory Protection	$0.07	0.8%	$0.07	0.7%	$0.07	0.7%
Medical Surveillance [b]	-	-	-	-	-	-
Subtotal, Part 60 Costs	*$7.94*	*93.1%*	*$8.12*	*93.0%*	*$8.43*	*92.7%*
ASTM Standard Updates	$0.59	6.9%	$0.61	7.0%	$0.66	7.3%
Coal Subtotal	***$8.53***	***100.0%***	***$8.74***	***100.0%***	***$9.09***	***100.0%***
As Percent of All Mines	***8.7%***		***8.6%***		***8.4%***	

Notes: [a] Medical surveillance cost is presented as the average of the assumed participation rates of 25 percent and 75 percent.
[b] No Medical Surveillance costs assigned to coal because that sector is already required to have equivalent medical surveillance program.

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ii. Proposed Rule

Under the proposed rule, MSHA totals the annualized costs of each of the estimated cost components examined above: exposure monitoring, exposure controls (engineering and administrative controls), respiratory protection, medical surveillance, updates to the OSHA Respiratory Protection Standard, and familiarization. As shown in Table VII–32, MSHA estimates that the annualized compliance costs would total $79.4 million per year over 60 years at a 7 percent discount rate. By provision, exposure monitoring accounts for $40.5 million per year, which is 51 percent of total annualized costs. Annualized costs of exposure controls are $15.1 million, representing 19 percent of total annualized costs. Respiratory protection would comprise about 5 percent of total annualized compliance costs at $3.7 million. The costs of medical surveillance are $18.6 million, about 23 percent of total annualized costs. The cost of adopting the OSHA Respiratory Protection Standard would add another $1.5 million or 2 percent. Familiarization with the proposed rule would be $0.05 million and represents 0.1 percent of total annualized costs. Approximately

92 percent of compliance costs are estimated to be from MNM mines while the remaining 8 percent from coal mines.

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Table VII-32. Total Annualized Compliance Costs by Rule Provision and Mine Sector, Proposed Rule (in millions of 2024 dollars)

Mine Sector	0 Percent Discount Rate		3 Percent Discount Rate		7 Percent Discount Rate	
	Annualized Cost (millions of dollars)	Percent Subtotal	Annualized Cost (millions of dollars)	Percent Subtotal	Annualized Cost (millions of dollars)	Percent Subtotal
All Mines						
Exposure Monitoring	$34.32	48.2%	$36.69	49.3%	$40.50	51.0%
Exposure Controls	$14.87	20.9%	$14.97	20.1%	$15.11	19.0%
Respiratory Protection	$3.65	5.1%	$3.65	4.9%	$3.66	4.6%
Medical Surveillance [a]	$17.10	24.0%	$17.75	23.9%	$18.61	23.4%
Subtotal, Part 60 Costs	*$69.94*	*98.2%*	*$73.06*	*98.2%*	*$77.88*	*98.1%*
OSHA Standard Updates	$1.27	1.8%	$1.33	1.8%	$1.45	1.8%
Familiarization	$0.02	0.03%	$0.03	0.04%	$0.05	0.1%
Total	***$71.22***	***100.0%***	***$74.43***	***100.0%***	***$79.38***	***100.0%***
As Percent of All Mines	***100.0%***		***100.0%***		***100.0%***	
MNM						
Exposure Monitoring	$30.98	47.7%	$33.23	48.9%	$36.85	50.7%
Exposure Controls	$12.82	19.7%	$12.90	19.0%	$13.01	17.9%
Respiratory Protection	$3.58	5.5%	$3.59	5.3%	$3.59	4.9%
Medical Surveillance [a]	$16.90	26.0%	$17.56	25.8%	$18.42	25.3%
Subtotal, Part 60 Costs	*$64.28*	*98.9%*	*$67.27*	*98.9%*	*$71.88*	*98.9%*
OSHA Standard Updates	$0.68	1.0%	$0.72	1.1%	$0.79	1.1%
Familiarization	$0.02	0.03%	$0.03	0.04%	$0.04	0.1%
MNM Subtotal	***$64.97***	***100.0%***	***$68.02***	***100.0%***	***$72.70***	***100.0%***
As Percent of All Mines	***91.2%***		***91.4%***		***91.6%***	
Coal						
Exposure Monitoring	$3.34	53.4%	$3.45	53.9%	$3.64	54.6%
Exposure Controls	$2.05	32.9%	$2.07	32.3%	$2.10	31.4%
Respiratory Protection	$0.07	1.0%	$0.07	1.0%	$0.07	1.0%
Medical Surveillance [a]	$0.20	3.2%	$0.20	3.1%	$0.20	2.9%
Subtotal, Part 60 Costs	*$5.66*	*90.6%*	*$5.79*	*90.3%*	*$6.00*	*90.0%*
OSHA Standard Updates	$0.59	9.4%	$0.61	9.6%	$0.66	9.9%
Familiarization	$0.003	0.04%	$0.004	0.1%	$0.01	0.1%
Coal Subtotal	***$6.25***	***100.0%***	***$6.41***	***100.0%***	***$6.67***	***100.0%***
As Percent of All Mines	***8.8%***		***8.6%***		***8.4%***	

Note: [a] Medical surveillance cost is presented as the average of the assumed participation rates of 25 percent and 75 percent.

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iii. Summary of Changes

MSHA calculates cost savings from the proposed rule by comparing compliance costs of the 2024 Silica Final Rule and the proposed rule. Table VII–33 presents estimated differences between annualized exposure monitoring costs under the 2024 Silica Final Rule and the proposed rule. Compared with the 2024 Silica Final Rule, it is estimated that annualized costs of exposure monitoring under the proposed rule would decrease by $24.9 million (at a 7 percent discount rate). The breakdown of annualized exposure monitoring cost savings is estimated to

be as follows: costs of first-time sampling would decrease by $3.6 million per year, above-action-level sampling would decrease by $13.6 million, and corrective actions sampling would not change. Since periodic evaluations and post-evaluation sampling would no longer occur, the costs are projected to drop to zero, a decrease of $4.0 and $7.7 million, respectively. The proposed rule introduces two new requirements: as-needed sampling would add an annualized cost of $3.1 million, and above-action-level respirator purchases and maintenance would add an annualized cost of $0.8 million.

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Table VII-33. Total Annualized Exposure Monitoring Cost Savings by Mine Sector, between 2024 Silica Final Rule and Proposed Rule (in millions of 2024 dollars)

Cost Type	Total Cost over 60 Years	Annualized Costs		
		0% Discount Rate	3% Discount Rate	7% Discount Rate
All Mines				
First- and second-time sampling	$91.2	$1.5	$2.3	$3.6
Above-action-level - sampling	$753.9	$12.6	$13.0	$13.6
Above-action-level - respirators	-$34.7	-$0.6	-$0.7	-$0.8
Corrective actions sampling	$0.0	$0.0	$0.0	$0.0
Process change evaluations	$242.9	$4.0	$4.0	$4.0
Post-evaluation sampling	$459.8	$7.7	$7.7	$7.7
As-needed sampling	-$188.6	-$3.1	-$3.1	-$3.1
Total	***$1,324.5***	***$22.1***	***$23.2***	***$24.9***
MNM				
First- and second-time sampling	$81.2	$1.4	$2.0	$3.2
Above-action-level - sampling	$674.2	$11.2	$11.7	$12.3
Above-action-level - respirators	-$23.6	-$0.4	-$0.5	-$0.6
Corrective actions sampling	$0.0	$0.0	$0.0	$0.0
Process change evaluations	$217.6	$3.6	$3.6	$3.6
Post-evaluation sampling	$383.6	$6.4	$6.4	$6.4
As-needed sampling	-$157.1	-$2.6	-$2.6	-$2.6
MNM Subtotal	***$1,175.8***	***$19.6***	***$20.6***	***$22.3***
Coal				
First- and second-time sampling	$10.0	$0.2	$0.2	$0.4
Above-action-level - sampling	$79.7	$1.3	$1.3	$1.3
Above-action-level - respirators	-$11.1	-$0.2	-$0.2	-$0.2
Corrective actions sampling	$0.0	$0.0	$0.0	$0.0
Process change evaluations	$25.4	$0.4	$0.4	$0.4
Post-evaluation sampling	$76.2	$1.3	$1.3	$1.3
As-needed sampling	-$31.5	-$0.5	-$0.5	-$0.5
Coal Subtotal	***$148.7***	***$2.5***	***$2.5***	***$2.6***

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Table VII–34 compares annualized compliance costs at a 0 and 7 percent discount rate. MSHA estimates the proposed rule would have annualized cost savings of $26.3 and $28.7 million in 2024 dollars at a discount rate of 0 and 7 percent, respectively. At a discount rate of 7 percent, the majority of annualized cost savings associated with the proposed rule would be attributable to changes in the exposure monitoring requirements of proposed § 60.12, accounting for 87 percent of total cost savings at $24.9 million. Medical surveillance would make up 13 percent of total cost savings at $3.9 million a year. The MNM sector would be expected to realize $26.3 million (92 percent of the savings), and the coal sector $2.4 million (8 percent) in annualized compliance cost savings.

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Table VII-34. Total Annualized Compliance Costs and Cost Savings by Rule Provision and Mine Sector, between 2024 Silica Final Rule and Proposed Rule (in millions of 2024 dollars)

Mine Sector	0 Percent Discount Rate			7 Percent Discount Rate		
	2024 Silica Final Rule	Proposed Rule	Cost Saving	2024 Silica Final Rule	Proposed Rule	Cost Saving
All Mines						
Exposure Monitoring	$56.40	$34.32	$22.08	$65.39	$40.50	$24.89
Exposure Controls	$14.87	$14.87	$0.00	$15.11	$15.11	$0.00
Respiratory Protection	$3.65	$3.65	$0.00	$3.66	$3.66	$0.00
Medical Surveillance [a]	$21.32	$17.10	$4.22	$22.46	$18.61	$3.85
Subtotal, Part 60 Costs	*$96.23*	*$69.94*	*$26.29*	*$106.62*	*$77.88*	*$28.74*
ASTM/OSHA Standard Updates	$1.27	$1.27	$0.00	$1.45	$1.45	$0.00
Familiarization	$0.00	$0.02	-$0.02	$0.00	$0.05	-$0.05
Total	***$97.50***	***$71.22***	***$26.28***	***$108.07***	***$79.38***	***$28.70***
As Percent of All Mines	***100.0%***	***100.0%***	***100.0%***	***100.0%***	***100.0%***	***100.0%***
MNM						
Exposure Monitoring	$50.58	$30.98	$19.60	$59.12	$36.85	$22.27
Exposure Controls	$12.82	$12.82	$0.00	$13.01	$13.01	$0.00
Respiratory Protection	$3.58	$3.58	$0.00	$3.59	$3.59	$0.00
Medical Surveillance [a]	$21.32	$16.90	$4.42	$22.46	$18.42	$4.05
Subtotal, Part 60 Costs	*$88.30*	*$64.28*	*$24.02*	*$98.19*	*$71.88*	*$26.31*
ASTM/OSHA Standard Updates	$0.68	$0.68	$0.00	$0.79	$0.79	$0.00
Familiarization	$0.00	$0.02	-$0.02	$0.00	$0.04	-$0.04
MNM Subtotal	***$88.97***	***$64.97***	***$24.00***	***$98.98***	***$72.70***	***$26.27***
As Percent of All Mines	***91.3%***	***91.2%***	***91.3%***	***91.6%***	***91.6%***	***91.6%***
Coal						
Exposure Monitoring	$5.82	$3.34	$2.48	$6.27	$3.64	$2.62
Exposure Controls	$2.05	$2.05	$0.00	$2.10	$2.10	$0.00
Respiratory Protection	$0.07	$0.07	$0.00	$0.07	$0.07	$0.00
Medical Surveillance [a]	$0.00	$0.20	-$0.20	$0.00	$0.20	-$0.20
Subtotal, Part 60 Costs	*$7.94*	*$5.66*	*$2.28*	*$8.43*	*$6.00*	*$2.43*
ASTM/OSHA Standard Updates	$0.59	$0.59	$0.00	$0.66	$0.66	$0.00
Familiarization	$0.00	$0.003	-$0.003	$0.00	$0.01	-$0.01
Coal Subtotal	***$8.53***	***$6.25***	***$2.28***	***$9.09***	***$6.67***	***$2.42***
As Percent of All Mines	***8.7%***	***8.8%***	***8.7%***	***8.4%***	***8.4%***	***8.4%***

Note: [a] Medical surveillance cost is presented as the average of the assumed participation rates of 25 percent and 75 percent.

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Under the proposed rule, MSHA estimates that mine operators would incur aggregate annualized costs of $71-$79 million in 2024 dollars at 0, 3, and 7 percent discount rate. These annualized compliance costs are expected to comprise about 0.06 percent of annual estimated industry revenues, well below the 1 percent threshold that represents a presumption of no significant economic impacts to the industry.

This rule, if finalized, is expected to be a deregulatory action under E.O. 14192. Using a perpetual time horizon to allow cost comparisons under E.O. 14192, the Department estimates that the annualized cost savings amount to $24 million in 2024 dollars if Year 1 is 2027, using a 7 percent discount rate.

VIII. Regulatory Alternatives

MSHA examined three regulatory alternatives in the 2024 Silica Final Rule, which comparatively present alternative approaches for lowering

miners' exposure to respirable crystalline silica and improving respiratory protection for all airborne contaminants (89 FR 28389).

The first alternative contains less stringent provisions of lower frequency exposure monitoring but includes no change to the PEL and action level. This regulatory alternative would result in lower costs of compliance. However, MSHA thought that more frequent sampling would provide multiple unquantified benefits, including closely monitored miner exposure trends, higher confidence of continued compliance, and better protection of miners' health. Therefore, this regulatory alternative was not selected.

The second alternative combines less stringent exposure monitoring with a more stringent PEL at 25 μg/m^3. To meet the PEL of 25 μg/m^3, mine operators would incur substantially greater engineering control costs when compared to the estimated compliance costs for reaching a PEL of 50 μg/m^3. This regulatory alternative would increase miner protection, resulting in measurable increases in avoided mortality and other health benefits as compared to a PEL of 50 μg/m^3. MSHA did not select this regulatory alternative because the net benefits of this alternative would be negative due to much higher compliance costs. Additionally, MSHA determined that meeting a PEL of 25 μg/m^3 is not achievable for all mines. Therefore, MSHA is not selecting this alternative under the proposed rule.

The third regulatory alternative examines a different methodology for calculating miners' exposures and assesses the impact on compliance cost reductions and other effects of using the full-shift TWA instead of the full-shift, 8-hour TWA specified in this proposed rule. In the 2024 Silica Final Rule, MSHA did not select this alternative.

Additionally, the proposal would likely be more burdensome for some operators and less burdensome for others, while maintaining equal or greater protections compared to the 2024 Silica Final Rule standards; therefore, the Agency has not identified a viable alternative to this rule that would provide the desired contrast and analysis, beyond maintaining the status quo of the 2024 Silica Final Rule.

Under the Mine Act, MSHA is not required to use estimated net benefits as the basis for its decision. MSHA requests comments on the assumptions and methodologies of regulatory alternatives and also asks for any data or quantitative information that may be useful in evaluating the estimated costs and benefits associated with the alternatives.

IX. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires preparation of an Initial Regulatory Flexibility Analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule ''will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The RFA defines small entities to include small businesses, small organizations, including not-for-profit organizations, and small governmental jurisdictions.

This proposed rule amends standards established by the 2024 Silica Final Rule. The 2024 Silica Final Rule included a regulatory flexibility analysis that concluded the Agency could certify the standards would not have a significant economic impact on a substantial number of small entities. That regulatory flexibility analysis identified the total number of regulated small entities, evaluated the compliance costs for small entities, and compared the annual compliance costs relative to annual revenue. Compliance costs were found to be less than 0.5 percent of the revenues for all small entities and less for small entities with fewer than 5 employees.

Key inputs for MSHA's identification of small entities have not changed meaningfully in the interim period since the publication of the 2024 Silica Final Rule. MSHA estimated there were 5,462 mine controllers that met the definition of small entity in the 2024 Silica Final Rule analysis.

This proposed rule contains provisions that would affect costs to small mines. MSHA considered the changes in costs to small mines when developing this proposed rule under the provisions of the RFA. The PRIA presented in Section VII of this preamble finds that the estimated cost burdens of this proposed rule are substantially lower than the standards established by the 2024 Silica Final Rule. The annualized compliance costs are projected to comprise less than 0.06 percent of annual estimated industry revenues. Thus, MSHA considers the conclusions of the April 2024 analysis to still be applicable, and compliance costs are expected to remain less than 0.5 percent of revenues for small entities.

MSHA initially concludes that the impacts of this proposed rule would not have a ''significant economic impact on a substantial number of small entities'' and that the preparation of an IRFA is not warranted. MSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

In keeping with the 2024 Silica Final Rule, MSHA commits to provide compliance assistance (including training and best practice materials) to all mine operators, with an emphasis on small operators.

MSHA requests comments on whether the proposed rule would significantly increase costs for small entities relative to the standards established in the 2024 Silica Final Rule.

X. Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring ''a collection of information'' from the public.

The proposed amendments to 30 CFR part 60 in this proposed rule would impose no new information collection or recordkeeping requirements. However, the proposed rule would result in substantive changes to a currently approved information collection request (ICR), OMB Control Number 1219–0156 ''*Respirable Crystalline Silica Standard.*'' The currently approved ICR under OMB Control Number 1219–0156 covers requirements in Part 60, which includes a uniform PEL for respirable crystalline silica and other requirements to protect miners' health, such as exposure monitoring, periodic evaluations, post-evaluation sampling, corrective actions to be taken when a miner's exposure exceeds the PEL, and medical surveillance for metal and nonmetal (MNM) mines. The 2024 Silica Final Rule standard in Part 60 also incorporates by reference ASTM F3387–19, ''*Standard Practice for Respiratory Protection.*'' The proposed rule would update requirements in Part 60 for methods of compliance, exposure monitoring, respiratory protection, medical surveillance, and recordkeeping.

The proposed rule would also amend the respiratory protection requirement in proposed § 60.14(c)(2) by replacing

the reference to ASTM F3387–19 with a reference to the OSHA Respiratory Protection Standard in 29 CFR 1910.134, ''*Respiratory protection.*'' In addition, the proposed rule would include a reference to the OSHA Respiratory Protection Standard in 30 CFR parts 56, 57, and 72, which would be a conforming amendment consistent with the proposed change to the respiratory protection requirement in Part 60. Both the ASTM and the OSHA standard set forth the requirements for the control of exposures to harmful airborne contaminants and the use of respiratory protective equipment in mines. Whenever respiratory protective equipment is used, its selection, fitting, maintenance, cleaning, training, supervision, and use must meet certain requirements.

The proposed amendments to the respiratory protection requirements would result in non-substantive changes to two existing ICRs: OMB Control Number 1219–0048, ''*Respirator Program Records,*'' for MNM mines; and OMB Control Number 1219–0158, ''*Respiratory Protection Program at Coal Mines.*'' The two ICRs involve recordkeeping requirements under parts 56 and 57 for MNM mines and part 72 for coal mines when respiratory protection is used. However, there would be no changes to the authority or paperwork burden and costs in these information collections from the proposed rule.

A. Existing Information Collection 1219–0156

Type of Review: Revision of a currently approved information collection.

OMB Control Number: 1219–0156.

Title: Respirable Crystalline Silica Standard.

Summary of the Collection of Information:

Highlighted below are the key assumptions, by provision, used in the burden estimates in Table X–1.

1. Exposure Monitoring—Sampling (§ 60.12)

Under proposed § 60.12(e), the mine operator would be required to make a record of each sample, including the sample date, the occupations sampled, and the concentrations of respirable crystalline silica and respirable dust and post the record and the laboratory report on the mine bulletin board and, if applicable, by electronic means, for the next 31 days, upon receipt. Under proposed § 60.16(a)(1), sampling records would be required to be retained at least 5 years from the sample date.

Number of respondents. For proposed § 60.12, the respondents would consist of all active mines because operators of active mines are assumed to perform sampling. MSHA counts the number of active mines in 2019, defining an active mine as one that had at least 520 employment hours (equivalent to 1 person working full time for a quarter of a year) in at least one quarter of 2019. Using this definition, MSHA estimates that a total of 12,631 mines (11,525 MNM mines and 1,106 coal mines) would generate sampling records.

Annual number of responses. Annual responses are summed from several separate activities including all types of sampling: first-time sampling, above-action-level sampling, corrective actions sampling, and as-needed sampling. The estimated average annual number of responses (including sampling conducted by the compliance date or sampling conducted by new mines after beginning operations) would be 161,221, including 26,708 first-time samples, 42,949 above-action-level samples, 42,288 corrective action sampling notifications, 42,288 corrective action samples, and 6,988 as-needed samples. Details of each type of sampling are discussed below.

1–1. First-Time Sampling (§ 60.12(a)(1))

First-time sampling applies to all coal and MNM mines. However, a certain number of mines would be expected to sample only once if the results of these samples are below the action level. Furthermore, after Year 1, all first-time sampling would only be performed by new mines. MSHA estimates that about 2 percent of mines in any given year would be new entrants to the mining industry.

MSHA assumes that all active coal mines (1,106 mines) would conduct first-time sampling in Year 1 of compliance and produce 14,898 samples. In Years 2 and 3, an estimated 22 new coal mines would conduct first-time sampling and produce 298 samples each year. Similarly, MSHA assumes that all 11,525 MNM mines would conduct first-time sampling in Year 1 of compliance and produce 62,144 samples. In Years 2 and 3, 231 new MNM mines would conduct first-time sampling and produce 1,243 samples. MSHA estimates that an annual average of 26,708 first-time samples would be collected from 4,379 mines in the first 3 years of compliance.

1–2. Above-Action-Level Sampling (§ 60.12(a)(3))

The estimated number of above-action-level sampling is calculated based on the following factors: the number of miners with sample results at or above the action level (25 $\mu g/m^3$) but at or below the PEL (50 $\mu g/m^3$), the percent of miners needed for representative samples, and the number of quarters in a year that mines would be in operation. The assumptions MSHA used for the frequency of this type of sampling are based on the number of quarters a mine is active in a year: a mine would be sampled once every 6 months if it operates in 4 quarters, once every 9 months if it operates in 3 quarters, once every 12 months if it operates in 2 quarters, and once every 24 months if it operators in 1 quarter. Estimation of above-action-level sampling does not include costs related to first-time sampling.

MSHA assumes above-action-level sampling would begin in the second half of Year 1 for all mines, and there would be 5,423 above-action-level coal samples and 42,083 MNM samples in the second half of Year 1. MSHA expects the share of samples over the action level would decrease over time because of more mines engaging in increased administrative controls and frequent maintenance and repair. Hence, the number of above-action-level samples is projected to decrease to 5,230 in Year 2 and 5,036 in Year 3 for coal mine compliance. Similarly, above-action-level MNM samples would decrease to 37,719 in Year 2 and to 33,355 in Year 3. Consequently, MSHA estimates that an annual average of 42,949 above-action-level samples would be collected from 2,086 coal and MNM mines in the first 3 years of compliance.

1–3. Corrective Actions Sampling (§ 60.12(b))

MSHA estimates that 129 coal mines and 1,045 MNM mines would need to take corrective actions in Year 1, producing 1,991 corrective actions coal samples and 25,938 corrective actions MNM samples in that year. The number of corrective actions samples is based on the projected share of samples over the PEL, increased by 25 percent to account for some operators needing multiple corrective actions and samples before obtaining a sample below the PEL. The number of corrective actions samples would start with the number of operators with an overexposure in their last sampling event and decreases each year: corrective actions samples are projected to decrease to 3,934 in Year 2 and 3,871 in Year 3 for coal mines, and 48,090 in Year 2 and 43,041 in Year 3 for MNM mines.

Mine operators would have to immediately notify MSHA about each overexposure above the PEL. MSHA

assumes that mines would conduct corrective actions sampling for each corrective action taken, thus the number of corrective actions MSHA notifications is the same as the number of corrective action samples.

MSHA estimates that an annual average of 1,097 active mines (969 MNM and 127 coal) would carry out 42,288 corrective actions sampling (39,023 MNM and 3,265 coal) due to overexposure, send 42,288 notifications to MSHA for each action, and make records of 42,288 corrective actions sampling after each action.

1–4. (New) As-Needed Sampling (§ 60.12(a)(2))

Under the proposed rule, mine operators would conduct sampling as frequently as necessary to assess the full-shift, 8-hour TWA exposure of respirable crystalline silica for each miner who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level. The assumptions MSHA used for the frequency of (newly required) as-needed sampling are based on the number of quarters a mine is active in a year: a mine is sampled once every 12 months if it operates in 4 quarters of a year, once every 18 months if it operates in 3 quarters of a year, and once every 24 months if it operates in 1 or 2 quarters of a year.

MSHA assumes that all active coal mines (1,106 mines) would conduct as-needed sampling each year and produce 1,816 as-needed samples. Similarly, MSHA assumes that all 11,525 MNM mines would conduct as-needed sampling each year and produce 5,172 samples. MSHA estimates that an annual average of 6,988 as-needed samples would be collected in each of the first 3 years of compliance.

Estimated annual burden. MSHA estimates that it takes 15 minutes for an industrial hygienist to record the sample results and 5 minutes to notify MSHA after an overexposure. The estimated average annual burden would be 33,257 hours, including 6,677 hours for first-time sampling, 10,737 hours for above-action-level sampling, 10,572 for corrective actions sampling, 3,524 for corrective actions sampling notification, and 1,747 hours for as-needed sampling.

Estimated recordkeeping cost. MSHA estimates that printing the results of sampling and posting the record on the mine bulletin board would cost $2.28 in terms of paper, ink, and folders for each of the 12,631 active MNM and coal mines. MSHA estimates that this would generate an average annual recordkeeping cost of $28,763.

2. Corrective Actions (§ 60.13)

The proposed rule would not change the 2024 Silica Final Rule corrective actions requirements in § 60.13 that require mine operators to make approved respirators available to affected miners and immediately take corrective actions to lower the concentration of respirable crystalline silica at or below the PEL if any sampling indicates overexposure. Under § 60.13(c), once corrective actions are taken, the mine operator is required to make a record of corrective actions and the dates of the corrective actions. MSHA assumes the paperwork cost of providing respirators required in § 60.13(a)(1) is part of the corrective action records, and the paperwork burden of respirator records is not a separate cost. Under proposed § 60.16(a)(2), corrective actions records must be retained at least 5 years from date of each corrective action. These records must be stored with related sampling records.

Number of respondents. For § 60.13, MSHA assumes only those mines with at least one miner exposed above the PEL would carry out the requirement. Based on the assumptions of corrective actions sampling described above, MSHA estimates that an annual average of 1,097 active mines (969 MNM mines and 127 coal mines) would require corrective actions.

Annual number of responses. MSHA assumes that each corrective actions sample, preceded by a corrective action, would result in a corrective action record. The estimated average annual number of responses would be 42,288 (39,023 MNM and 3,265 coal), the same as the number of corrective actions samples or corrective actions notifications after overexposure.

Estimated annual burden. MSHA estimates that on average it takes 5 minutes for a clerk to record a corrective action. The estimated average annual burden associated with corrective actions would be 3,524 hours.

3. Respiratory Protection—Written Determination (§ 60.14)

Under proposed § 60.14(b), the mine operator would be required to temporarily transfer a miner either to work in a separate area of the same mine or to an occupation at the same mine where respiratory protection is not required, if the miner has a written determination from a PLHCP that the affected miner is unable to wear a respirator. Under proposed § 60.16(a)(3), the written determination record received from a PLHCP would need to be retained for the duration of a miner's employment plus 6 months.

Number of respondents. For proposed § 60.14(b), MSHA assumes that each mine taking a corrective action would have one miner unable to wear a respirator. Under proposed § 60.12(a)(3), mine operators would have to make respirators available to miners exposed at or above the action level but at or below the PEL for above-action-level sampling. MSHA estimates that the annual average would be 1,943 MNM and 143 coal mines that would have a miner unable to wear a respirator. Additionally, under proposed § 60.13(a)(1), mine operators would be required to make respirators available to miners exposed above the PEL while corrective actions are taken, which is estimated to be an additional 10 percent of MNM mines. MSHA estimates that the annual average would be 2,249 (2,122 MNM and 127 coal) mines that would have a miner unable to wear a respirator.

Annual number of responses. The estimated average annual number of responses would be 4,335, one response in each of the 4,335 affected mines, for records relating to miners' inability to wear respirators.

Estimated annual burden. MSHA assumes it takes 30 minutes for a PLHCP to prepare a written determination record where a miner unable to wear a respirator can be temporarily transferred. The estimated annual burden would be 2,167 hours for records relating to miners' inability to wear respirators.

4. Medical Surveillance (§ 60.15)

Under proposed § 60.15, mine operators would be required to provide medical examinations to both MNM and coal miners. Under proposed § 60.15(e) and (f), mine operators would be required to obtain and maintain a record of written confirmation of medical examination records from a PLHCP, containing the date and a statement that the examination has met the requirements, within 30 days of the medical examination. Under proposed § 60.16(a)(5), written confirmation of medical examination records received from a PLHCP or specialist would be retained for the duration of the miner's employment plus 6 months.

MSHA identifies 4 different types of medical examinations in Year 1 through Year 3 under proposed § 60.15: voluntary examinations for new miners, voluntary 5-year examinations for existing miners, mandatory examinations for exposed MNM miners, and mandatory examinations for exposed coal miners. A written

confirmation of medical examination record would be obtained within 30 days of every medical examination.

Number of respondents. The number of respondents would consist of all active mines because operators of active mines are assumed to provide miners with medical examinations. MSHA counts the number of active mines in 2019, defining an active mine as one that had at least 520 employment hours (equivalent to 1 person working full time for a quarter of a year) in at least one quarter of 2019. Using this definition, MSHA estimates that a total of 12,631 mines (11,525 MNM mines and 1,106 coal mines) would provide medical examinations and obtain written confirmation of medical examinations.

Annual number of responses. MSHA assumes that the number of responses is equal to the number of medical examinations. To be consistent with PRIA estimates, the values presented here are the average number of MNM miners between the assumed participation rates of 25 percent and 75 percent. MSHA estimates that the annual average number of voluntary examinations would be 4,196 for new miners and 29,371 for existing miners. Any follow-up examinations not scheduled to occur within the first 3 years of implementation are not covered by this ICR and related recordkeeping cost are not included in this document.

MNM and coal mine operators would be required to provide mandatory medical examinations to miners exposed above the PEL based on MSHA samples. MSHA estimates an average of 300 examinations for exposed MNM miners and 192 examinations for exposed coal miners each year.

Estimated annual burden. MSHA estimates it would take 15 minutes for a PLHCP or a specialist to prepare a written confirmation of medical examination for each of the 34,058 miners. MSHA estimates the annual burden would be 8,514 hours, including 1,049 hours for new MNM miners, 7,343 hours for current MNM miners, 75 hours for exposed MNM miners, and 48 hours for exposed coal miners.

Estimated annual recordkeeping cost. MSHA estimates that it would cost $11.39 per miner to send a medical examination result to the miner. The estimated annual recordkeeping cost would be $387,772, including $47,775 for new MNM miners, $334,405 for current MNM miners, $3,412 for exposed MNM miners, and $2,180 for exposed coal miners.

5. Providing Access (§ 60.16(b))

Under proposed § 60.16(b), mine operators would promptly provide access to any record upon request from an authorized representative of the Secretary, from an authorized representative of miners, or from miners. MSHA assumes that the cost of providing access would be de minimis.

6. Updates to OSHA Respiratory Protection Standard

Under proposed § 60.14(c)(2), when approved respirators are used, the mine operator would be required to have a written respiratory protection program that meets the requirements of the OSHA Respiratory Protection Standard in 29 CFR 1910.134.

Number of respondents. For the OSHA Respiratory Protection Standard adoption by reference under proposed § 60.14(c)(2), MSHA assumes that a total of 3,411 mine respondents (20 percent of MNM mines or 2,305, and all 1,106 coal mines) would have respiratory protection programs. MSHA further assumes that half of the MNM and coal mines (1,153 MNM and 553 coal mines) would write a new standard operating procedure (SOP) relating to the respiratory protection program and the remaining half would revise existing SOPs in year 1. The number of new mines annually is estimated at 2 percent (46 MNM and 22 coal mines), which are assumed to write respiratory protection SOPs in Years 2 and 3.

Annual number of responses. The estimated average annual number of responses is 4,594 for respiratory protection requirements of writing and updating SOPs. The annual responses of 4,594 concerning the OSHA standard updates are estimated as follows.

First, MSHA assumes that approximately half of the 3,411 existing mine operators affected by respiratory protection requirements, as well as all new mines affected by these requirements, would have to write new respiratory protection SOPs, resulting in an annual average of 614 new written SOPs (1,706 in Year 1, 68 in Year 2, and 68 in Year 3). Second, MSHA makes a similar assumption that the other half of mines affected by respiratory protection requirements would have to revise existing SOPs, generating an annual average of 569 revised SOPs (1,706 in Year 1, 0 in Year 2, and 0 in Year 3). Together, there would be a total of 1,183 records of new and revised SOPs per year.

Additionally, MSHA assumes that 20 percent of existing MNM mines (2,305) and all existing coal mines (1,106) would be affected by the proposed rule to keep records related to OSHA Respiratory Protection Standard. MSHA also assumes that 2 percent of affected mines would be replaced by new mines in Years 2 and 3. (New mines in Year 1 are included in the calculation of existing mines.) The annual responses are projected to be 46 for new MNM mines, 22 for new coal mines, 2,259 for existing MNM mines, and 1,084 for existing coal mines in Year 2 and Year 3. Together, MSHA estimates an annual average of 3,411 records related to OSHA Respiratory Protection Standard.

Combining new and revised SOPs with records related to OSHA Respiratory Protection Standard, MSHA estimates that total annual average records for adopting OSHA standard would be 4,594.

Estimated annual burden. MSHA assumes that, on average, it would take 4 hours for an industrial hygienist to write a new respiratory protection program SOP and 1 hour to revise an existing SOP. MSHA further assumes that it would take 4 hours for a clerk to carry out recordkeeping relating to OSHA Respiratory Protection Standard in the first year and 2 hours in subsequent years. The estimated total annual burden of incorporating by reference the OSHA respiratory protection standard would be 12,211 hours.

Total recordkeeping burden under the proposed rule is summarized in Table X–1.

Table X-1: Estimated Average Annual Recordkeeping Burden under the Proposed Rule

Rule Provision	Annual Number of Respondents	Annual Number of Responses	Estimated Annual Burden (Hours)
§ 60.12 – Exposure Monitoring	12,631	161,221	33,257
§ 60.13 – Corrective Actions	1,097	42,288	3,524
§ 60.14 – Respiratory Protection	4,335	4,335	2,167
§ 60.15 – Medical Surveillance	12,631	34,058	8,514
§ 60.14 – OSHA Respiratory Protection Standard	4,594	4,594	12,211
Total	***12,631***	***246,496***	***59,674***

Note: Total number of respondents is not a sum of respondents from each row. The respondents (mine operators) carrying out corrective actions and adhering to respiratory protection program requirements are a subset of the respondents carrying out exposure monitoring. The responses and burden hours column totals might not add up to the sum of the items in each column due to rounding.

The total annual average number of respondents would be 12,631; the total annual average number of responses would be 246,496; and the estimated annual average burden would be 59,674 hours.

The following estimates of information collection burden under the proposed rule are summarized in Table X–2.

Affected Public: Businesses or For-Profit.

Estimated Number of Respondents: 12,631 respondents in Year 1; 12,631 respondents in Year 2; and 12,631 respondents in Year 3.

Frequency: On Occasion.

Estimated Number of Responses: 319,642 responses in Year 1; 220,076 responses in Year 2; and 199,770 responses in Year 3.

Estimated Number of Burden Hours: 92,231 hours in Year 1; 45,128 hours in Year 2; and 41,665 hours in Year 3.

Estimated Recordkeeping Costs to Respondents: $1,085,930 in Year 1; $82,116 in Year 2; and $81,558 in Year 3.

Table X-2: Summary of Information Collection Burden for Proposed Part 60

	Year 1	Year 2	Year 3	3-Year Average
Number of Respondents	12,631	12,631	12,631	12,631
Number of Responses	319,642	220,076	199,770	246,496
Number of Burden Hours	92,231	45,128	41,665	59,674
Recordkeeping Costs	$1,085,930	$82,116	$81,558	$416,535

The number of responses and burden hours would decrease in Year 2 and Year 3 mainly as a result of decreases in sampling in MNM mines.

Number of Respondents: The estimated number of respondents decreases from 47,596 to 12,631 due to the changes in the proposed rule.

Number of Responses: The estimated number of responses decreased from 265,509 to 246,496 due to the changes in the proposed rule.

Annual Time Burden: The estimated annual time burden decreased from 63,972 hours to 59,674 hours due to the changes in the proposed rule.

Annual Recordkeeping Costs: The estimated annual recordkeeping costs decreased from $775,683 to $416,535 due to the changes in the proposed rule.

Table X-3: Summary of Change in Information Collection Burden

	Currently Approved ICR	Proposed Rule	Difference
Number of Respondents	47,596	12,631	-34,965
Number of Responses	265,509	246,496	-19,013
Annual Time Burden	63,972	59,674	-4,298
Annual Recordkeeping Costs	$775,683	$416,535	-$359,149

B. Existing Information Collection 1219–0048

Type of Review: Non-substantive change to currently approved information collection.

OMB Control Number: 1219–0048.

Title: Respirator Program Records.

Background

30 CFR parts 56 and 57 incorporate by reference requirements of ASTM F3387–19, *Standard Practice for Respiratory Protection.* Under this standard, certain records are required to be kept in connection with respirators in MNM mines. This proposed rule amends the written respiratory protection program requirement by replacing the reference to ASTM F3387–19 with the reference to the OSHA requirements of 29 CFR 1910.134, *Respiratory protection,* in these sections.

Summary of Changes

Since the OSHA respiratory protection requirements are generally equivalent to the ASTM standard, the proposed rule would result in a non-substantive change to the ICR under OMB Control Number 1219–0048, ''*Respirator Program Records.*'' This change does not modify the authority or affected mine operators in this ICR. Therefore, there would be no changes in paperwork burden and costs from the approved ICR. This non-substantive change request revises the supporting statement for this ICR due to the updated reference to the OSHA Respiratory Protection Standard.

Summary of the Collection of Information

Changes in Burden

The calculated burden including respondents and responses remain the same.

Affected Public: Businesses or For-Profit.

Estimated Number of Respondents: 2,305 (0 from this proposed rule).

Frequency: On occasion.

Estimated Number of Responses: 43,795 (0 from this proposed rule).

Estimated Number of Burden Hours: 23,626 (0 from this proposed rule).

Estimated Recordkeeping Costs to Respondents: $140,000 ($0 from this proposed rule).

C. Existing Information Collection 1219–0158

Type of Review: Non-substantive change to currently approved information collection.

OMB Control Number: 1219–0158.

Title: Respiratory Protection Program at Coal Mines.

Background

30 CFR part 72 incorporates by reference requirements of ASTM F3387–19, *Standard Practice for Respiratory Protection.* Under this standard, certain records are required to be kept in connection with respirators in coal mines. This proposed rule amends the written respiratory protection program requirement by replacing the reference to ASTM F3387–19 with the reference to the OSHA requirements of 29 CFR 1910.134, *Respiratory protection,* in this section.

Summary of Changes

Since the OSHA respiratory protection requirements are generally equivalent to the ASTM standard, the proposed rule would result in a non-substantive change to the ICR under OMB Control Number 1219–0158, ''*Respiratory Protection Program at Coal Mines.*'' This change does not modify the authority or affected mine operators in this ICR. Therefore, there would be no changes in paperwork burden and costs from the approved ICR. This non-substantive change request revises the supporting statement for this ICR due to the updated reference to the OSHA Respiratory Protection Standard.

Summary of the Collection of Information:

Changes in Burden

The calculated burden including respondents and responses remain the same.

Affected Public: Businesses or For-Profit.

Estimated Number of Respondents: 1,106 (0 from this proposed rule).

Frequency: On occasion.

Estimated Number of Responses: 19,908 (0 from this proposed rule).

Estimated Number of Burden Hours: 11,060 (0 from this proposed rule).

Estimated Recordkeeping Costs to Respondents: $0 ($0 from this proposed rule).

The requirements of information collection contained in the proposed rule will be submitted to OIRA for review.

MSHA is soliciting comments concerning proposed changes to these currently approved information collections under OMB Control Numbers 1219–0156, 1219–0048, and 1219–0158. MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has will have practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

XI. Other Regulatory Considerations

A. Review Under Executive Order 13132

E.O. 13132, ''Federalism'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt state law or that have federalism implications. The E.O. requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the states and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this proposed rule and has determined that it 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.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. MSHA has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of E.O. 12988.

C. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on state, local, and tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of state, local, and tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this proposed rule according to UMRA and its statement of policy and determined that the proposal does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

D. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on Agency actions that would significantly affect the quality of the environment; unless the action is considered categorically excluded under 29 CFR 11.10. MSHA has reviewed the proposed rule in accordance with NEPA requirements and the Department of Labor's NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this proposed rule would not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not provided an environmental impact statement.

E. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

F. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), MSHA has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

G. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this proposed rule and has preliminarily concluded that it is consistent with applicable policies in the OMB guidelines.

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

E.O. 13045 requires Federal agencies submitting covered regulatory actions to OIRA for review, pursuant to E.O. 12866, to provide OIRA with (1) an evaluation of the environmental health or safety effects that the planned regulation may have on children, and (2) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency. In E.O. 13045, ''covered regulatory action'' is defined as rules that may (1) be significant under Executive Order 12866 Section 3(f)(1) (*i.e.,* a rulemaking that has an annual effect on the economy of $100 million or more or would 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, territorial, or tribal governments or communities), and (2) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children. Environmental health risks and safety risks refer to risks to health or to safety that are attributable to products or substances that the child is likely to come into contact with or ingest through air, food, water, soil, or product use or exposure.

MSHA has preliminarily determined that this proposed rule does not concern an environmental health or safety risk that may have a disproportionate impact on children. MSHA's proposed rule would continue to limit miners' exposures to respirable crystalline silica. Overall, the Agency's standards, mine operators' policies and procedures, and other safety and health practices including the use of clothing cleaning systems help to reduce or eliminate the amount of take-home exposure, therefore protecting other persons in a miner's household or persons who come into contact with the miner outside of the mine site, including children. MSHA has preliminarily determined that the proposed rule would maintain the lower occupational exposure limit to respirable crystalline silica for all miners that was established in the 2024 Silica Final Rule. These lowered exposure limits provide increased protections for pregnant miners and reduced potential take-home exposures. The proposed rule includes requirements for other actions to protect miners from adverse health risks associated with exposure to respirable crystalline silica and updated respiratory protection standards to better protect miners from hazardous airborne contaminants.

MSHA has no evidence that the environmental health or safety risks posed by respirable crystalline silica, including ''take-home'' exposure to respirable crystalline silica, disproportionately affect children. Therefore, MSHA concludes no further analysis or action is needed, in accordance with E.O. 13045.

I. Review Under Executive Order 13175

E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments'' 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have ''tribal implications.'' This proposed rule does not have ''tribal implications'' because it will not ''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.'' Accordingly, under E.O. 13175, no further Agency action or analysis is required.

J. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this proposed rule for its energy effects. For the energy analysis, this proposed rule would not exceed the relevant criteria for adverse impact.

K. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

MSHA has reviewed the proposed rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. MSHA's analysis is presented in *Section IX. Regulatory Flexibility Analysis.*

L. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this proposed rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation'' 90 FR 9065 (Feb. 6, 2025); and the Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis'' 90 FR 8245 (Jan. 28, 2025).

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XIII. Authority and Signature

Wayne D. Palmer,

Assistant Secretary for Mine Safety and Health.

List of Subjects

30 CFR Part 56

Chemicals, Electric power, Explosives, Fire prevention, Hazardous substances, Incorporation by reference, Metals, Mine safety and health, Noise control, Nonmetal, Reporting and recordkeeping requirements, Surface mines.

30 CFR Part 57

Chemicals, Electric power, Explosives, Fire prevention, Gases, Hazardous substances, Incorporation by reference, Metals, Mine safety and health, Noise control, Nonmetal, Radiation protection, Reporting and recordkeeping requirements, Underground mines.

30 CFR Part 60

Coal, Incorporation by reference, metal and nonmetal mines, Medical surveillance, Mine safety and health, Respirable crystalline silica, Reporting and recordkeeping requirements; Surface mines, Underground mines.

30 CFR Part 71

Coal, Incorporation by reference, Mine safety and health, Respirable crystalline silica, Surface coal mines, Underground coal mines.

30 CFR Part 72

Coal, Health standards, Incorporation by reference, Mine safety and health, Training, Underground mines.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended, MSHA proposes to amend chapter I of title 30 of the Code of Federal Regulations as follows:

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

Subpart D—Air Quality and Physical Agents

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 2. Amend § 56.5005T by:
■ a. Revising paragraph (b); and
■ b. Removing and reserving paragraph (c).

The revisions read as follows:

§ 56.5005T Control of exposure to airborne contaminants.

* * * * *

(b) A written respiratory protection program consistent with the requirements of the Department of Labor's Occupational Safety and Health Administration in § 1910.134 of title 29 of the Code of Federal Regulations (29 CFR 1910.134). MSHA adopts by reference the requirements of 29 CFR 1910.134, Respiratory protection, into this section.

(1) Comply with 29 CFR 1910.134 with the following exclusions:

(i) Do not comply with the exception for oxygen-deficient atmospheres in paragraph (d)(2)(iii) of 29 CFR 1910.134.

(ii) Do not comply with the recordkeeping requirements for medical evaluations in paragraph (m)(1) of 29 CFR 1910.134.

(2) Medical evaluation records required under this section shall be retained for the duration of the miner's employment plus 6 months.

(c) [Reserved]

PART 57—SAFETY AND HEALTH STANDARDS—UNDERGROUND METAL AND NONMETAL MINES

■ 3. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

Subpart D—Air Quality, Radiation, Physical Agents, and Diesel Particulate Matter

■ 4. Amend § 57.5005T by:
■ a. Revising paragraph (b); and
■ b. Removing and reserving paragraph (c).

The revisions read as follows:

§ 57.5005T Control of exposure to airborne contaminants.

* * * * *

(b) A written respiratory protection program consistent with the requirements of the Department of Labor's Occupational Safety and Health Administration in § 1910.134 of title 29 of the Code of Federal Regulations (29 CFR 1910.134). MSHA adopts by reference the requirements of 29 CFR 1910.134, Respiratory protection, into this section.

(1) Comply with 29 CFR 1910.134 with the following exclusions:

(i) Do not comply with the exception for oxygen-deficient atmospheres in paragraph (d)(2)(iii) of 29 CFR 1910.134.

(ii) Do not comply with the recordkeeping requirements for medical evaluations in paragraph (m)(1) of 29 CFR 1910.134.

(2) Medical evaluation records required under this section shall be retained for the duration of the miner's employment plus 6 months.

(c) [Reserved]

PART 60—RESPIRABLE CRYSTALLINE SILICA

■ 5. The authority citation for part 60 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h) and 957.

■ 6. Amend § 60.11 by revising paragraph (b) to read as follows:

§ 60.11 Methods of compliance.

* * * * *

(b) Rotation of miners shall not be used as a corrective action under § 60.13 when a miner's exposure is above the PEL.

■ 7. Revise and republish § 60.12 to read as follows:

§ 60.12 Exposure monitoring.

(a) *Sampling.*

(1) Mine operators shall commence sampling by the compliance date in § 60.1.

(2) Mine operators shall conduct sampling as frequently as necessary to assess the full-shift, 8-hour TWA exposure of respirable crystalline silica to each miner who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the action level.

(3) If the sampling under paragraph (a)(2) of this section is at or above the action level but at or below the PEL, then the mine operator shall make approved respirators available before the start of the next work shift in accordance with § 60.14(b) and (c) until sampling indicates exposures are below the action level.

(4) If the sampling under paragraph (a)(2) of this section is above the PEL, then the mine operator shall immediately report all operator samples above the PEL to the MSHA District Manager or to any other MSHA office designated by the MSHA District Manager.

(b) *Corrective actions sampling.* Where the most recent sampling indicates that miner exposures are above the PEL, the mine operator shall sample after corrective actions are taken pursuant to § 60.13 until the sampling indicates that miner exposures are at or below the PEL. Once sampling indicates that miner exposures are at or below the PEL, the mine operator shall contact the MSHA District Manager or any other MSHA office designated by the MSHA District Manager.

(c) *Sampling requirements.*

(1) Sampling shall be performed for the duration of a miner's regular full shift and during typical mining activities, including shaft and slope sinking, construction, and removal of overburden.

(2) The full-shift, 8-hour TWA exposure for such miners shall be measured based on:

(i) Personal breathing-zone air samples for metal and nonmetal operations; or

(ii) Occupational environmental samples collected in accordance with § 70.201(c), § 71.201(b), or § 90.201(b) of this chapter for coal operations.

(3) Where several miners perform the same tasks on the same shift and in the same work area, the mine operator may sample a representative fraction (at least two) of these miners to meet the requirements in paragraphs (a) through

(c) of this section. In sampling a representative fraction of miners, the mine operator shall select the miners who are expected to have the highest exposure to respirable crystalline silica.

(4) The mine operator shall use respirable-particle-size-selective samplers that conform to ISO 7708:1995(E) to determine compliance with the PEL. ISO 7708:1995(E), Air quality—Particle size fraction definitions for health-related sampling, First Edition, 1995–04–01, is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. This incorporation by reference (IBR) material is available for inspection at the Mine Safety and Health Administration (MSHA) and at the National Archives and Records Administration (NARA). Contact MSHA at: MSHA's Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Washington, DC 20210; (202) 693–9440; or any Mine Safety and Health Enforcement District Office. 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 International Organization for Standardization (ISO), CP 56, CH–1211 Geneva 20, Switzerland; phone: + 41 22 749 01 11; fax: + 41 22 733 34 30; website: *www.iso.org.*

(d) *Methods of sample analysis.*

(1) The mine operator shall use a laboratory that is accredited to ISO/IEC 17025 ''General requirements for the competence of testing and calibration laboratories'' with respect to respirable crystalline silica analyses, where the accreditation has been issued by a body that is compliant with ISO/IEC 17011 ''Conformity assessment—Requirements for accreditation bodies accrediting conformity assessment bodies.''

(2) The mine operator shall ensure that the laboratory evaluates all samples using respirable crystalline silica analytical methods specified by MSHA, the National Institute for Occupational Safety and Health (NIOSH), or the Occupational Safety and Health Administration (OSHA).

(3) Noncompliance with the PEL or exposure at or above the action level is demonstrated when a full-shift, 8-hour TWA exposure of respirable crystalline silica is above the PEL or at or above the action level, including in each case, an error factor of 21 percent.

(4) A citation for noncompliance with the PEL will be based on a single, full-shift sample of respirable crystalline silica taken by MSHA and calculated as a full-shift, 8-hour TWA.

(e) *Sampling records.* For each sample taken pursuant to paragraphs (a) through (c) of this section, the mine operator shall make a record of the sample date, the occupations sampled, and the concentrations of respirable crystalline silica and respirable dust and post the record and the laboratory report on the mine bulletin board and, if applicable, by electronic means, for the next 31 days, upon receipt.

■ 8. Amend § 60.14 by revising paragraphs (a) and (c) to read as follows:

§ 60.14 Respiratory protection

(a) *Use of respirators at metal and nonmetal mines.* Metal and nonmetal miners may work for reasonable periods of time using respiratory protection in accordance with paragraph (c) of this section when miners must work in concentrations of respirable crystalline silica above the PEL while:

* * * * *

(c) * * *

(2) When approved respirators are used, the mine operator must have a written respiratory protection program that meets the requirements of the Department of Labor's Occupational Safety and Health Administration in § 1910.134 of title 29 of the Code of Federal Regulations (29 CFR 1910.134). MSHA adopts by reference the requirements of 29 CFR 1910.134, Respiratory protection, into this section.

(3) Comply with 29 CFR 1910.134 with the following exclusions:

(i) Do not comply with the exception for oxygen-deficient atmospheres in paragraph (d)(2)(iii) of 29 CFR 1910.134.

(ii) Do not comply with the recordkeeping requirements for medical evaluations in paragraph (m)(1) of 29 CFR 1910.134.

(d) *Medical evaluation records.* The mine operator shall make a record of medical evaluations required under paragraph (c)(2) of this section.

■ 9. Amend § 60.15 by revising paragraphs (a), (b), (c), (d), and (e) to read as follows:

§ 60.15 Medical surveillance.

(a) *Medical surveillance.* Each mine operator shall provide to each miner periodic medical examinations performed by a physician or other licensed health care professional (PLHCP) or specialist, as defined in § 60.2, at no cost to the miner.

* * * * *

(b) *Voluntary metal and nonmetal medical examinations.* Each metal and nonmetal mine operator shall provide the opportunity to all miners employed at the mine to have the medical examinations specified in paragraph (a) of this section as follows:

(1) During an initial 5-year period.

(2) * * *

(3) For each metal and nonmetal miner who begins work in the mining industry for the first time, the mine operator shall provide the opportunity for medical examinations specified in paragraph (a) of this section as follows:

(i) An initial medical examination no later than 60 days after beginning employment;

(ii) A follow-up medical examination no later than 3 years after the initial examination in paragraph (b)(3)(i) of this section; and

(iii) A follow-up medical examination conducted by a specialist no later than 2 years after the examinations in paragraph (b)(3)(ii) of this section if the chest X-ray shows evidence of pneumoconiosis or the spirometry examination indicates evidence of decreased lung function.

(c) *Mandatory Medical examinations for all miners exposed above the PEL.* Each metal and nonmetal mine operator and each coal mine operator shall provide the medical examinations specified in paragraph (a) of this section to all miners who are exposed above the PEL based upon an MSHA sample within 60 days of the operator's receipt of the sample results, except for miners who have, within the last 2 years, received a medical examination pursuant to this section or in accordance with 30 CFR 72.100.

(d) *Medical examinations results.* The mine operator shall ensure that the results of medical examinations or tests made pursuant to this section shall be provided from the PLHCP or specialist within 30 days of the medical examination to the miner, and at the request of the miner, to the miner's designated physician or another designee identified by the miner.

(e) *Written confirmation of medical examination.* The mine operator shall obtain written confirmation of a miner's medical examination from the PLHCP or specialist within 30 days of the medical examination. The written confirmation shall contain only the following:

(1) The date of the medical examination; and

(2) A statement that the examination has met the requirements of this section.

(f) *Written confirmation of medical examination records.* The mine operator shall maintain a record of the written confirmations of medical examination received from the PLHCP or specialist under paragraph (e) of this section.

■ 10. Revise § 60.16 to read as follows:

§ 60.16 Recordkeeping requirements.

(a) Table 1 to this paragraph (a) lists the records the mine operator shall retain and their retention period.

(1) Sampling records made under § 60.12(e) shall be retained for at least 5 years from the sample date.

(2) Corrective actions records made under § 60.13(c) shall be retained for at least 5 years from the date of each corrective action. These records must be stored with the records of related sampling under § 60.12(e).

(3) Written determination records received from a PLHCP under § 60.14(b) shall be retained for the duration of the miner's employment plus 6 months.

(4) Medical evaluation records under § 60.14(d) shall be retained for the duration of the miner's employment plus 6 months.

(5) Written confirmation of medical examination records received from a PLHCP or specialist under § 60.15(f) shall be retained for the duration of the miner's employment plus 6 months.

TABLE 1 TO PARAGRAPH (a)—RECORDKEEPING REQUIREMENTS

Record	Section references	Retention period
1. Sampling records	§ 60.12(e)	At least 5 years from sample date.
2. Corrective actions records	§ 60.13(c)	At least 5 years from date of each corrective action.
3. Written determination records received from a PLHCP	§ 60.14(b)	Duration of miner's employment plus 6 months.
4. Medical evaluation records from a respiratory protection program.	§ 60.14(d)	Duration of miner's employment plus 6 months.
5. Written confirmation of medical examination records received from a PLHCP or specialist.	§ 60.15(f)	Duration of miner's employment plus 6 months.

* * * * *

■ 11. Revise § 60.17 to read as follows:

§ 60.17 Severability.

Each section and provision of this part, as well as sections in 30 CFR parts 56, 57, 70, 71, 72, 75, and 90 that address respirable crystalline silica or respiratory protection, is separate and severable from the other sections and provisions. If any provision of this subpart is held to be invalid or unenforceable by its terms, or as applied to any person, entity, or circumstance, or is stayed or enjoined, that provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from these sections and shall not affect the remainder of sections or provisions thereof.

PART 71—MANDATORY HEALTH STANDARDS—SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

■ 12. The authority citation for part 71 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), 957.

Subpart H—Airborne Contaminants

■ 13. Revise § 71.700 to read as follows:

§ 71.700 Inhalation hazards; threshold limit values for gases, dust, fumes, mists, and vapors.

(a) No operator of an underground coal mine and no operator of a surface coal mine may permit any person working at a surface installation or surface worksite to be exposed to airborne contaminants (other than respirable coal mine dust, respirable crystalline silica, and asbestos dust) in excess of, on the basis of a time-weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists, as set forth and explained in the 1973 edition of the Conference's publication, entitled TLV's Threshold Limit Values for Chemical Substances in Workroom Air Adopted by ACGIH for 1973, pages 1 through 54. This publication is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. This incorporation by reference (IBR) material is available for inspection at the Mine Safety and Health Administration (MSHA) and at the National Archives and Records Administration (NARA). Contact MSHA at: MSHA's Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, VA 22202–5450; (202) 693–9440; or at any Mine Safety and Health Enforcement District Office. 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 American Conference of Governmental Industrial Hygienists, 1330 Kemper Meadow Drive, Attn: Customer Service, Cincinnati, OH 45240; *www.acgih.org.*

* * * * *

PART 72—HEALTH STANDARDS FOR COAL MINES

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

Authority: 30 U.S.C. 811, 813(h), 957.

Subpart E—Miscellaneous

■ 15. Revise § 72.710 to read as follows:

§ 72.710 Selection, fit, use, and maintenance of approved respirators.

(a) When approved respirators are used, the mine operator must have a written respiratory protection program that meets the following requirements of the Department of Labor's Occupational Safety and Health Administration in § 1910.134 of title 29 of the Code of Federal Regulations (29 CFR 1910.134). MSHA adopts by reference the requirements of 29 CFR 1910.134, Respiratory protection, into this section.

(b) Comply with 29 CFR 1910.134 with the following exclusions:

(1) Do not comply with the exception for oxygen-deficient atmospheres in paragraph (d)(2)(iii) of 29 CFR 1910.134.

(2) Do not comply with the recordkeeping requirements for medical evaluations in paragraph (m)(1) of 29 CFR 1910.134.

(c) Medical evaluation records required under this section shall be retained for the duration of the miner's employment plus 6 months.

[FR Doc. 2026–23048 Filed 11–10–26; 8:45 am]

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FEDERAL REGISTER

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Part V

The President

Proclamation 11080—Establishment of the Oval Office National Monument

Federal Register
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Thursday, November 12, 2026

Presidential Documents

Title 3—

The President

Proclamation 11080 of November 5, 2026

Establishment of the Oval Office National Monument

By the President of the United States of America

A Proclamation

The Oval Office stands as one of the most recognizable and historically significant spaces in the United States. Since its establishment in its present location and form during the administration of President Franklin D. Roosevelt, it has served as the principal working office of the President of the United States. Decisions of profound national and international consequence have been made within its walls. It has hosted heads of state, shaped the daily conduct of the executive branch, and become a symbol of the American Presidency itself.

The room's distinctive oval design, first introduced in the West Wing under President William Howard Taft and refined in the early 1930s, reflects both practical and ceremonial purposes. Its architecture, finishes of lasting character, and continuous association with the Presidency give the Oval Office exceptional and unique value in illustrating the history of the United States. The Oval Office possesses an unmatched and unique combination of location, design, setting, materials, workmanship, and an association with historical events that are embedded in our national consciousness.

The White House and its grounds are Federal property administered as part of the President's Park by the National Park Service and are already recognized as a National Historic Landmark. Nonetheless, the Oval Office merits specific recognition and protective management as a discrete historic structure of national significance.

WHEREAS, section 320301 of title 54, United States Code (the ''Antiquities Act''), authorizes the President, in the President's discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS, it is in the public interest to preserve the Oval Office as a national monument; and

WHEREAS, I find that the boundaries of the Oval Office represent the smallest area compatible with the proper care and management of the objects of historic and scientific interest identified above;

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the Oval Office as the Oval Office National Monument (monument).

The monument shall consist of the Oval Office itself (Room 110) together with the Outer Oval Office (Rooms 106 and 108) and the Cabinet Room (Room 105). The boundaries of the monument are the smallest area compatible with the proper care and management of the objects of historic interest to be protected.

The Secretary of the Interior (Secretary), through the National Park Service, shall manage the monument in a manner that protects its historic character, architectural integrity, and association with the Presidency. The Secretary shall:

(1) develop and implement a management plan, in consultation with the White House Office of Administration and other relevant executive departments, agencies, and offices, that prioritizes the preservation of the monument's structural and significant architectural features;

(2) require documentation, review, and consideration of alternatives before any action that would substantially alter or demolish the monument or its essential architectural elements;

(3) ensure that any proposed changes affecting the monument's historic character are evaluated for consistency with its national significance; and

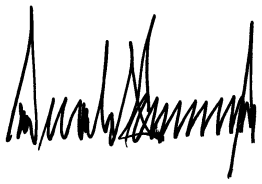
(4) coordinate with the Committee for the Preservation of the White House and other appropriate advisory bodies.

The Secretary is directed to take all necessary steps to implement this proclamation.

Nothing in this proclamation shall be construed to restrict the President's authority to redecorate the monument, select furnishings, or make ordinary operational and security modifications that do not substantially impair the monument's historic structure or architectural character.

Nothing in this proclamation alters existing statutory exemptions applicable to the White House under the National Historic Preservation Act or diminishes the Congress's authority over Federal property.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fifty-first.



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