

implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

XI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. We invite comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

XII. References

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

1. U.S. Department of Agriculture. "United States Standards for Grades of Orange Juice, January 10, 1983". https://www.ams.usda.gov/sites/default/files/media/Canned_Orange_Juice_Standard%5B1%5D.pdf.
2. Food Standards of Identity Modernization; Pasteurized Orange Juice; Proposed Rule, Docket No. FDA-2022-P-1668, Preliminary Regulatory Impact Analysis, Initial Regulatory Flexibility Analysis, Unfunded Mandates Reform Act Analysis. <https://www.fda.gov/about-fda/economics-staff/regulatory-impact-analyses-ria>.

List of Subjects in 21 CFR Part 146

Food grades and standards, Fruit juices.

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 146 be amended as follows:

PART 146—CANNED FRUIT JUICES

■ 1. The authority citation for part 146 continues to read as follows:

Authority: 21 U.S.C. 341, 371.

■ 2. In § 146.140, revise paragraph (a) by replacing "10.5 percent by weight" to read as "10 percent by weight."

* * * * *

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2025-14949 Filed 8-5-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-132805-17]

RIN 1545-BP09

Determination of Line of Business for Purposes of No-Additional-Cost Service and Qualified Employee Discount Fringe Benefits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that would provide guidance regarding an employer's line or lines of business for purposes of determining the exclusion from gross income for no-additional-cost services or qualified employee discounts provided to employees.

DATES: Written or electronic comments and requests for a public hearing must be received by November 4, 2025.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-132805-17) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the "Comments and Requests for a Public Hearing" section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG-132805-17), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Andrew Holubeck at (202) 317-4774; concerning submissions of comments and/or requests for a public hearing, Publications and Regulations Section at

(202) 317-6901 (not toll-free numbers) or by email to publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This notice of proposed rulemaking contains proposed regulations that would amend the Income Tax Regulations (26 CFR part 1) under section 132(a) of the Internal Revenue Code (Code) related to no-additional-cost services and qualified employee discounts. The proposed regulations are issued under the authority conferred by Section 132(o), which provides the Secretary or his delegate (Secretary) with an express grant of regulatory authority to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 132. The proposed regulations are also issued under the authority of section 7805(a) of the Code, which authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code.

These proposed regulations would replace a business classification system that has not been updated since 1974 with a much more current classification system that is updated every five years. Under these proposed regulations, the application of the no-additional-cost benefit and employee discount exclusions from employee income under section 132(a)(1) and (2) would be determined under a classification system that more accurately reflects current economic activity than the system used under the existing regulations, thereby reducing burden in applying the exclusions from income under section 132(a)(1) and (2).

Background

Section 132(a)(1) and (2) exclude from the gross income of an individual any fringe benefit that qualifies as a no-additional-cost service or a qualified employee discount, respectively. Section 132(b) defines the term "no-additional-cost service," in part, as any service provided by an employer to an employee for use by such employee if such service is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services. Section 132(c)(1) defines the term "qualified employee discount," in part, as any employee discount with respect to qualified property or services. Section 132(c)(4) defines the term "qualified property or services" as any property (other than real property and other than personal property of a kind held for investment) or services that are

offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services.

Section 1.132–4(a)(1) provides that, for purposes of determining whether the exclusion under section 132(a)(1) or (2) applies, an individual to whom or on behalf of whom the fringe benefit is provided must have performed substantial services in the employer's line of business that offers such services or property for sale to customers in the ordinary course of business.

Section 1.132–4(a)(2)(i) states that an employer's line of business is determined by reference to the Enterprise Standard Industrial Classification Manual (ESIC Manual) prepared by the Statistical Policy Division of the U.S. Office of Management and Budget (OMB) and further provides that an employer is considered to have more than one line of business if the employer offers for sale to customers property or services in more than one two-digit code classification referred to in the ESIC Manual. Section 1.132–4(a)(2)(ii) lists as examples of two-digit classifications under the ESIC Manual general retail merchandise stores; hotels and other lodging places; auto repair, services, and garages; and food stores.

Section 1.132–4(a)(3) provides that, if pursuant to § 1.132–4(a)(2), an employer has more than a single line of business, such lines of business will be treated as a single line of business where and to the extent that one or more of the following aggregation rules apply:

(i) If it is uncommon in the industry of the employer for any of the separate lines of business of the employer to be operated without the others, the separate lines of business are treated as one line of business.

(ii) If it is common for a substantial number of employees (other than those employees who work at the headquarters or main office of the employer) to perform substantial services for more than one line of business of the employer, so that determination of which employees perform substantial services for which line of business would be difficult, then the separate lines of business of the employer in which such employees perform substantial services are treated as one line of business.

(iii) If the retail operations of an employer that are located on the same premises are in separate lines of business but would be considered to be within one line of business under § 1.132–4(a)(2) if the merchandise offered for sale in such lines of business were offered for sale at a department

store, then the operations are treated as one line of business.

Section 132 (including section 132(a)(1) and (2)), was added to the Code as part of the Deficit Reduction Act of 1984, Public Law 98–369, 98 Stat. 494. Concerning the line of business limitation that applies to the no-additional-cost service and qualified employee discount exclusions in section 132(a), the House Report on this legislation noted that “[i]n providing guidance as to the treatment of an employer as consisting of separate lines of business for this purpose, Treasury regulations . . . may refer to the Standard Industrial Classifications used for other governmental purposes.” H. Rept. 98–432, 1594, 1984 U.S.C.C.A.N. 697, 1218.

First used in 1938, the Standard Industrial Classification (SIC) is an industry classification system developed by OMB for use in the classification of establishments by type of activity in which the establishments are primarily engaged. *See* North American Industry Classification System (NAICS), United States, 2022, published by OMB, Executive Office of the President (hereinafter referred to as the “NAICS Manual”), pg. 13.¹ For purposes of the SIC, an establishment is an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed (such as a factory, mill, store, hotel, movie theater, mine, farm, ranch, bank, railroad depot, airline terminal, sales office, warehouse, or central administrative office). *See* Standard Industrial Classification Manual, 1987, published by OMB, Executive Office of the President (hereinafter referred to as the “SIC Manual”), Introduction, pg. 12.² The SIC is a hierarchical classification system that includes a two-digit major group, a three-digit industry group, or a four-digit industry code (the most specific classification). *Id.* Examples of four-digit industry code SIC classifications include metal mining, general building contractors—non-residential buildings, and knitting mills.

The ESIC Manual was developed by the Statistical Policy Division of OMB to supplement the SIC by providing a standard for use with statistics about enterprises (rather than “establishments,” the applicable unit

for SIC) by kind of economic activity. *See* Announcement 86–6 (1986–4 IRB 52). For this purpose, the term “enterprise” consists of all establishments under common direct or indirect ownership. An enterprise, for this purpose, is generally defined to include all entities, including subsidiaries, if there is more than 50 percent common ownership. An enterprise may vary in composition ranging from a single legal entity (*e.g.*, corporation, partnership, individual proprietorship) to a complex family of legal entities under common ownership. *Id.* Just like the SIC, the ESIC Manual uses a four-digit code for detailed classification (with a decimal between the second and third digits to visually distinguish an ESIC Manual classification from a SIC classification). *Id.* “The first two digits of the code represent the Major Group, similar to that for the establishment SIC,” while “the third and fourth digits represent the enterprise subdivision.” ESIC Manual codes are similar, and sometimes identical to, SIC codes, but they aren't necessarily defined in the same way. The last update of the ESIC Manual was in 1974.

In response to the House Report suggestion that the SIC could be used as a reference for determining line of business, Treasury and the IRS elected to use the ESIC Manual, a supplement to the SIC as described above, as a basis for defining line of business for purposes of section 132(a)(1) and (2) when they issued final regulations under section 132 in the **Federal Register** in 1989 (54 FR 28576). In the early 1990s, “[r]apid changes in both the U.S. and world economies brought the SIC under increasing criticism.” *See* NAICS Manual, Introduction, pg. 13. In 1992, the OMB began work on developing a new classification system to address these criticisms and coordinated this work with Mexico and Canada. *Id.* The product of these efforts was the NAICS, which would take the place of the existing classification systems in the United States, Canada, and Mexico. *Id.* The United States implemented NAICS for the first time in 1997. Since then, the NAICS has represented a continuing cooperative effort among Statistics Canada, Mexico's Instituto Nacional de Estadística y Geografía (INEGI), and the Economic Classification Policy Committee (ECPC) of the United States, acting on behalf of OMB. *See* NAICS Manual, Preface, pg. 3. Since its inception, the countries have collaborated in revising the NAICS every five years in order to keep the classification system current with

¹ To access the 2022 NAICS Manual and other NAICS information, visit the U.S. Census website at <https://www.census.gov/NAICS>.

² To access the 1987 SIC Manual and other SIC information, visit the Library of Congress website at <https://guides.loc.gov/industry-research/classification-sic>.

changes in economic activities. *See* 2022 NAICS Manual, Preface, pg. 3.

The NAICS is primarily a classification system for establishments, defined for this purpose as the “smallest operating entity for which records provide information on the cost of resources—materials, labor, and capital—employed to produce the units of output.” *See* NAICS Manual, Introduction, pg. 18. Similar to the SIC, an establishment for purposes of NAICS is typically “a single physical location where business is conducted or where services or industrial operations are performed (for example, a factory, mill, store, hotel, movie theater, mine, farm, airline terminal, sales office, warehouse, or central administrative office).” *Id.*

The structure of the NAICS is hierarchical. It classifies establishments into similar industries using a six-digit coding system. *Id.* The first two digits of the code designate the sector of an

establishment, which represents general categories of economic activity (*e.g.*, under the 2022 classification, sector codes 44 and 45 designate “Retail Trade”). *Id.* at pg. 17. The third digit designates the subsector (*e.g.*, 449 designates the “Furniture, Home Furnishings, Electronics, and Appliance Retailers” subsector of “Retail Trade”); the fourth digit designates the industry group (*e.g.*, 4491 designates the “Furniture and Home Furnishings Retailers” industry group in the “Furniture, Home Furnishings, Electronics, and Appliance Retailers” subsector); and the fifth digit designates the NAICS industry (*e.g.*, 44912 designates the “Home Furnishings Retailers” industry of the “Furniture and Home Furnishings Retailers” industry group). *Id.* at pg. 18.

Any particular establishment is usually classified down to the NAICS

five-digit industry level classification, using the classification of the industry that best matches its primary activity. *Id.* at pg. 19. When applicable, the sixth digit is used to designate the national industry (*e.g.*, 449122 designates the “Window Treatment Retailers” industry). *Id.* at pg. 18. “Typically the level at which comparable data will be available for Canada, Mexico, and the United States is the five-digit NAICS industry,” but where additional detail or clarifying classification is needed for a specific nation (Canada, Mexico, or the United States) the national industry classification can be used. *Id.* A zero as the sixth digit generally indicates that the NAICS industry and the U.S. industry are the same. *Id.*

Table I below provides a breakdown of the NAICS classification for a window treatment retail establishment.

TABLE I—NAICS CLASSIFICATION OF WINDOW TREATMENT STORES

Hierarchical classification	Description	Code
Sector	Retail Trade	44
Subsector	Furniture, Home Furnishings, Electronics, and Appliance Retailers	449
Industry Group	Furniture and Home Furnishings Retailers	4491
NAICS Industry	Furniture and Home Furnishings Retailers	44912
National Industry	Window Treatment Retailers	449122

The NAICS is used by the IRS for various purposes under the Code. *See, e.g.*, Instructions for Form 1120, U.S. Corporation Income Tax Return (which asks that a “principal business activity code” based on the NAICS six-digit code be entered on line 2a on Schedule K of Form 1120); Instructions for Schedule C (Form 1040), Profit or Loss From Business (which requires that a six-digit Principal Business or Professional Activity Code based on the NAICS be entered on Line B); and section 15.10 of Rev. Proc. 2025–23 (2025 IRB 1476) (which uses the first three digits of NAICS codes in defining which taxpayers qualify as “specified transportation industry taxpayers” for purposes of accounting method change rules that apply specifically to specified transportation industry taxpayers).

Explanation of Provisions

These proposed regulations would replace the ESIC Manual with the NAICS as the industry classification system used to determine an employer’s line of business for purposes of excluding no-additional-cost services and qualified employee discounts from employees’ gross income pursuant to section 132(a)(1) and (2) of the Code, respectively. The ESIC Manual has not

been updated since 1974. Conversely, the NAICS was most recently updated in 2022, and is the most current classification system in the United States, making it a more accurate and detailed reflection of present economic realities.

In addition, because significant changes and advances in technology have occurred since 1974, many current industries are not accounted for in the ESIC Manual because they did not exist at the time it was last updated. Examples include internet service providers, cell phone manufacturers, cell phone service providers, and smart phone application designers. The NAICS, on the other hand, is updated regularly to take into account new and developing industries. For instance, the 2022 NAICS specifically describes broadband internet service providers as falling under the four-digit category of Wired and Wireless Telecommunications (except Satellite) (5171). Under the ESIC Manual, this line of business could be considered under the two-digit code “Communication” (48), but none of the sub-categories in the Communication category include the broadband internet service provider industry, making determination of the appropriate ESIC Manual category for

broadband internet service providers unclear. Replacing the ESIC Manual with the NAICS as the industry classification system used to determine an employer’s line of business will make determining the line of business for new and constantly evolving industries easier and more certain.

While the numeric NAICS and SIC codes are not related to each other, their organizational structures have some similarities.³ SIC codes (as well as ESIC Manual codes) are grouped into “divisions” that are labeled with a letter (*e.g.*, Division A is “Agriculture, Forestry, and Fishing”).⁴ This roughly corresponds with the NAICS two-digit “Sector” level of classification (*e.g.*, the NAICS Sector 11 is Agriculture, Forestry, Fishing and Hunting”).⁵ Continuing down the classification levels of both systems, the SIC two-digit “Major Group” level roughly corresponds to the NAICS three-digit “Subsector” level, the SIC three-digit “Industry Group” level roughly corresponds to the NAICS four-digit

³ U.S. Bureau of Labor Statistics website titled “Industrial Classification Overview” accessed at <https://www.bls.gov/ces/naics/#2> on March 20, 2024.

⁴ *Id.*

⁵ *Id.*

“Industry Group” level, and the four-digit SIC “Industry” level roughly corresponds with the NAICS five-digit “NAICS Industry” level.⁶

Because the ESIC Manual is structured very similarly to the SIC codes, the comparison between ESIC Manual codes and NAICS codes largely parallels the comparison between SIC Codes and NAICS codes. Therefore, the NAICS three-digit “Subsector” level would roughly correspond with the ESIC Manual two-digit “Major Group” level used to determine line of business under the current § 1.132–4(a)(2)(i) regulations. However, the five-digit NAICS industry classification is intended to be applied to the primary activity of a single-location establishment, making it a more appropriate level for determining the line of business of an employer for whom the employee receiving the fringe benefit is performing services, since an employee typically performs services at a single location or establishment. Nevertheless, to account for the fact that some establishments may represent more than one NAICS industry, making determination of the most accurate NAICS industry classification challenging in certain situations, these proposed regulations would use the NAICS four-digit “Industry Group” classification in determining an employer’s line of business for purposes of section 132(a)(1) and (2).

An employer is considered to have more than one line of business if the employer offers for sale to customers property or services in more than one four-digit NAICS industry group classification, according to the most recent version of the NAICS available on the first day of the taxable year in which the no-additional-cost service or qualified employee discount exclusion is being applied. Examples of four-digit NAICS industry groups are: General Merchandise Stores, including Warehouse Clubs and Supercenters; Traveler Accommodation; Automotive Repair and Maintenance; and Grocery Stores.

In situations where an employer has multiple primary activities corresponding to multiple four-digit NAICS industry group classifications causing it to have more than one line of business, the aggregation rules under § 1.132–4(a)(3) continue to apply under these proposed regulations. Minor modifications to the text of the aggregation rules under § 1.132–4(a)(3)(i) and (ii) have been proposed to accommodate the change from the ESIC Manual to the NAICS.

In addition, the proposed regulations would amend the aggregation rule under § 1.132–4(a)(3)(iii). Currently, this section provides that if the retail operations of an employer that are located on the same premises are in separate lines of business but would be considered to be within one line of business if the merchandise offered for sale in such lines of business were offered for sale at a department store, then the operations are treated as one line of business. The proposed regulations would amend this rule to replace “department store” with “general merchandise store, including warehouse clubs and super centers.” This update of the regulations reflects the pervasiveness of big-box stores, hypermarkets, super centers, and warehouse clubs in the current retail economy, especially in comparison to the traditional department store. These types of establishments sell an ever-increasing variety of merchandise but are still classified under one NAICS industry group (4552, Warehouse Clubs, Supercenters, and Other General Merchandise Retailers, under the 2022 NAICS). Therefore, under the proposed regulations, employees working for these types of employers would be considered to be working in one line of business. The proposed amendment to this section provides equal treatment for employees working for other types of employers that similarly sell a variety of kinds of merchandise on their business premises, but the variety is more narrowly tailored to cater to a specific segment of the retail market (e.g., a store that primarily sells coffee and tea, but that also sells electric coffeemakers, electric tea kettles, and similar related small home appliances). Under the proposed amendment, employees working for such employers would still be considered to be working in one line of business, even if the sale of the various merchandise sold by the employer is classified under two or more NAICS industry groups (e.g., specialty food retailers and electronics and appliance retailers), as long as the sale of the merchandise would be considered to be one line of business if the merchandise was being sold at a general merchandise store, warehouse club, or super center.

Finally, the proposed regulations provide updated examples of the application of the aggregation rules reflecting the use of NAICS classifications.

The Treasury Department and the IRS request comments on all aspects of the proposed rules, including on the use of the NAICS four-digit industry group code, whether additional changes are

necessary to the aggregation rules under § 1.132–4(a)(3), whether the proposed applicability date could pose any challenges, and whether transition or other rules are necessary to accommodate the change in the standard for determining lines of business.

Proposed Effective/Applicability Dates

These regulations are proposed to be effective on the date these rules are published in the **Federal Register** as final regulations and would apply to taxable years beginning on or after that date.

Statement of Availability of IRS Documents

IRS guidance cited in this preamble is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

The Office of Management and Budget’s Office of Information and Regulatory Analysis has determined that these regulations are not significant and not subject to review under section 6(b) of Executive Order 12866, as amended.

II. Paperwork Reduction Act

These proposed regulations do not create new collection requirements, as defined under the Paperwork Reduction Act (44 U.S.C. 35), and do not alter any previously approved OMB information collection requirements and their associated burden.

III. Regulatory Flexibility Act

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that these proposed regulations do not impose any new requirements on small entities. The proposed regulations would apply only to employers that provide no-additional-cost services and/or qualified employee discount fringe benefits to their employees and, therefore, would affect a relatively small number of taxpayers. In addition, these proposed regulations are very unlikely to affect employment tax reporting or require any additional substantiation. Rather, the proposed regulations affect the industry classification system used to determine an employer’s line of

⁶ *Id.*

business for purposes of the exclusions from gross income under section 132(a)(1) and (2) and for this reason do not add any economic burden to affected entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Notwithstanding this certification that the proposed regulations would not have a significant economic impact on a substantial number of small entities, the Treasury Department and the IRS invite comments on the impacts these proposed regulations may have on small entities.

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive order.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The

Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be available at <https://www.regulations.gov> or upon request. A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Andrew Holubeck of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by revising an entry for §§ 1.132–0 through 1.132–8T in numerical order to read in part as follows:

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

Sections 1.132–0 through 1.132–8T also issued under 26 U.S.C. 132(o).

* * * * *

■ **Par 2.** Section 1.132–4 is amended by revising paragraphs (a)(2) and (3) and adding paragraph (a)(4) to read as follows:

§ 1.132–4 Line of business limitation.

(a) * * *

(2) *Definition of line of business*—(i)

In general. An employer's line of business is determined by reference to the most recent version of the North American Industry Classification System (NAICS), as prepared by Statistics Canada, Mexico's Instituto Nacional de Estadística y Geografía, and the Economic Classification Policy Committee of the United States, acting on behalf of the Office of Management and Budget (OMB) (or successor organizations), that is available on the first day of the taxable year in which the no-additional-cost service or qualified

employee discount exclusion is being applied. An employer is considered to have more than one line of business if the employer offers for sale to customers goods or services in more than one four-digit code classification referred to in the NAICS (*i.e.*, NAICS industry group).

(ii) *Examples.* Examples of the four-digit industry group classifications are: General Merchandise Stores, including Warehouse Clubs and Supercenters; Traveler Accommodation; Automotive Repair and Maintenance; and Grocery Stores.

(3) *Aggregation of four-digit classifications.* If, pursuant to paragraph (a)(2) of this section, an employer has more than one line of business, such lines of business will be treated as a single line of business where and to the extent that one or more of the following aggregation rules apply:

(i) If it is uncommon in the industry of the employer for any of the separate lines of business of the employer to be operated without the others, the separate lines of business are treated as one line of business.

(ii) If it is common for a substantial number of employees (other than those employees who work at the headquarters or main office of the employer) to perform substantial services for more than one line of business of the employer, so that determination of which employees perform substantial services for which line of business would be difficult, then the separate lines of business of the employer in which such employees perform substantial services are treated as one line of business. For example, assume that an employer operates a delicatessen (*i.e.*, a specialty food store) with an attached service counter at which food is sold for consumption on the premises (*i.e.*, a restaurant or eating place). Assume further that most but not all employees work both at the delicatessen and at the service counter. Under the aggregation rule of this paragraph (a)(3)(ii), the delicatessen and the service counter are treated as one line of business.

(iii) If the retail operations of an employer that are located on the same premises are in separate lines of business but would be considered to be within one line of business under paragraph (a)(2) of this section if the merchandise offered for sale in such lines of business were offered for sale at a general merchandise store, including a warehouse club or super center, then the operations are treated as one line of business. For example, assume that on the same premises an employer sells both specialty foods (*i.e.*, specialty food retailers) and small kitchen appliances

(i.e., electronics and appliance retailers). Because, if sold together at a general merchandise store, the operations would be part of the same line of business, the operations are treated as one line of business.

(4) *Applicability date.* Paragraphs (a)(2) and (3) of this section apply to taxable years beginning on or after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

Edward T. Killen,

Acting Chief Tax Compliance Officer.

[FR Doc. 2025–14883 Filed 8–5–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2025–0475]

RIN 1625–AA00

Safety Zone, Ohio River, Cincinnati, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone from mile marker (MM) 469.7 to 471.0 on the Ohio River, from October 9, 2025, through October 12, 2025. This action is necessary to provide for the safety of life on these navigable waters near Cincinnati, Ohio, during the daily fireworks display from 8:30 p.m. to 11 p.m. each day. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 5, 2025.

ADDRESSES: You may submit comments identified by docket number USCG–2025–0475 using the Federal Docket Management System at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed

rulemaking, call or email Petty Officer W.E. Quinby at Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 513–921–9033, email MSDCincinnati@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On May 22, 2025, an organization notified the Coast Guard that it will be conducting a daily fireworks display from 8:30 p.m. to 11 p.m. from October 9, 2025, through October 12, 2025. The fireworks are to be launched from a barge in the Ohio River in the middle of the channel between MM 469.7 to 471.0 near Cincinnati, OH. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within MM 469.7 to 471.0 on the Ohio River.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within MM 469.7 to 471.0 on the Ohio River for the fireworks barge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from October 9, 2025, through October 12, 2025 and would cover all navigable waters within MM 469.7 to 471.0 on the Ohio River in Cincinnati, OH. The safety zone would be enforced from 8:30 p.m. to 11 p.m. each day during the period. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 8:30 p.m. to 11:00 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

This regulatory action determination is based on size, location, duration, and time-of-day of the safety zone. The safety zone would be enforced for only two and a half hours per day for four days, for a section of the river that is only 1.3 miles long, daily from 8:30 p.m. to 11 p.m. starting October 9, 2025, through October 12, 2025, on the Ohio River between MM 469.7–471.0. The Coast Guard will issue a written Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone, and this rule also allows vessels to seek permission from the COTP or a designated representative to enter the area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.