OFFICE OF MANAGEMENT AND BUDGET;

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;

UNITED STATES DEPARTMENT OF ENERGY;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNITED STATES DEPARTMENT OF COMMERCE

	)	
Proposed Rule:	)	**Docket No. OMB-2026-0034**
Regulation for Federal	)	
Financial Assistance	)	*Via regulations.gov and email*
91 Fed. Reg. 32198 (May 29, 2026)	)	*July 13, 2026*
	)	
	)	

COMMENTS OF ENVIRONMENTAL DEFENSE FUND, EARTHJUSTICE, SOUTHERN ENVIRONMENTAL LAW CENTER, SIERRA CLUB, CONSERVATION LAW FOUNDATION, NATURAL RESOURCES DEFENSE COUNCIL, AND NATIONAL WILDLIFE FEDERATION

We respectfully submit these comments to the Office of Management and Budget ("OMB), the U.S. Environmental Protection Agency ("EPA"), the U.S. Department of Energy ("DOE"), and the U.S. Department of Commerce/National Oceanic and Atmospheric Administration ("NOAA"), along with other participating agencies on behalf of Environmental Defense Fund ("EDF"), Earthjustice, Southern Environmental Law Center ("SELC"), Sierra Club, Conservation Law Foundation ("CLF"), Natural Resources Defense Council ("NRDC"), and National Wildlife Federation ("NWF") (together, "Joint Environmental Commenters"). The Joint Environmental Commenters' opposition to the Proposed Rule is informed by the critical need to preserve the effectiveness, integrity, and lawful administration of the federal financial assistance and federally supported research programs that protect public health, safeguard the environment, advance scientific knowledge, and serve communities throughout the country. The Joint Environmental Commenters strongly oppose the Proposed Rule because it would transform the Uniform Guidance from a government-wide framework for grants administration into a binding, substantive regime subject to political interference. The Commenters therefore urge OMB and the participating agencies to withdraw the Proposed Rule and preserve a federal grantmaking system that is fair, objective, and consistent with the statutory mandates enacted by Congress. We appreciate the time and careful consideration of these comments by staff at OMB and the participating agencies.

ATTACHMENTS

Attachment 1.	Comments of Earthjustice *et al*. (Aug. 15, 2018), opposing EPA, Proposed Rule on "Strengthening Transparency in Regulatory Science," 83 Fed. Reg. 18788 (Apr. 30, 2018).

I. Executive Summary

Joint Environmental Commenters oppose the Proposed Rule[1] because it would transform the Uniform Guidance from government-wide grants-management guidance into a binding, substantive, politically directed regime controlling federal financial assistance. The Proposed Rule would unlawfully limit the implementation and effectiveness of existing, Congressionally mandated research programs and federal financial assistance for clean air, clean water, hazardous-waste cleanup, toxic-chemical protection, emergency response, coastal resilience, fisheries management, climate science, and clean-energy innovation. If finalized, the rule would centralize political control over individual grant decisions, increase bias and unfairness in the federal grantmaking system, and create new barriers, uncertainty, delay, and disruption for federal financial assistance that protects human health, safeguards the environment, supports scientific research, and serves communities across the country.

Federal financial assistance is a core way that Congress directs federal agencies to deliver benefits for the American people. U.S. Environmental Protection Agency ("EPA") grants support state, Tribal, local, nonprofit, and community work to reduce harmful air and water pollution, address hazardous waste and toxic chemicals such as PFAS, respond to emergencies, and clean up contaminated sites. The U.S. Department of Energy ("DOE") supports research and assistance to advance cleaner technologies, energy efficiency, grid reliability, industrial innovation, and scientific breakthroughs. Programs of the National Oceanic and Atmospheric Administration ("NOAA") within the Department of Commerce support coastal management, fisheries, ocean science, weather and climate research, public safety, and resilience. These programs are not optional instruments for shifting Administration preferences. They are statutory programs created and funded by Congress to achieve public-health, environmental, scientific, energy, coastal, and community-protection objectives.[2]

The Proposed Rule would undermine and put those statutory objectives at risk. Among other things, the proposed revisions to § 200.202 would require program design to align with Administration policies and priorities, above or on par with statutory objectives, and would restrict multilateral elements in research and development awards. The proposed revisions to § 200.205 would require a political pre-issuance review process by senior appointees or their designees, treat peer review as advisory only, and introduce "Gold Standard Science" criteria to federal grantmaking that may displace statutory scientific and merit-review standards. And proposed §§ 200.340-200.343 would expand termination and suspension authority in ways that could allow awards to be disrupted or ended based on changing political priorities rather than statutory program purposes and procedures.

The Proposed Rule is unlawful and should be withdrawn.

---

[1] Office of Management & Budget et. al., Proposed Rule: Regulation for Federal Financial Assistance, 91 Fed. Reg. 32198 (May 29, 2026) [hereinafter "Proposed Rule"].

[2] While these comments focus on the impact of the Proposed Rule on the named agencies, the issues and arguments raised here are equally applicable to the application of this Proposed Rule to grants and financial assistance by other federal agencies, and these comments apply with equal force to other agencies. All agencies have the responsibility to ensure consistency with their applicable governing statutes and to engage in reasoned decision-making.

First, the Office of Management and Budget ("OMB") lacks statutory authority to impose binding, government-wide substantive grantmaking rules through 2 C.F.R. Part 200. OMB's cited authorities concern financial management, audits, transparency, reporting, and interpretive guidance. They do not authorize OMB to control the substantive design of agency grant programs, dictate award-selection standards, override statutory merit-review requirements, limit recipient eligibility, restrict multilateral scientific collaboration, prohibit statutorily authorized activities, or create new discretionary termination authority across every federal grant program. Nor can Executive Orders supply authority that Congress has not conferred. Executive Orders may guide the exercise of discretion that agencies already possess; they cannot rewrite the statutes governing EPA, DOE, NOAA/Commerce, or other agencies' financial-assistance programs. Agencies also lack authority to cede, transfer, or delegate their statutory authority and regulatory responsibilities to OMB. OMB and each Executive Branch agency must follow appropriations duly enacted into law by Congress and have no statutory or constitutional authority to distribute financial assistance except as appropriated.

Second, the participating agencies cannot cure OMB's lack of authority simply by joining the rulemaking and adopting OMB's regulation wholesale. The Proposed Rule was "issued" by OMB and 41 other participating federal agencies, yet the role of these other agencies is unclear. EPA, DOE, and NOAA/Commerce each administer programs under statutes that prescribe program purposes, eligible recipients, funding priorities, merit-review standards, scientific standards, community-engagement requirements, multilateral-collaboration directives, public-participation obligations, and termination procedures. Each agency must identify its own statutory authority, explain in its own words why it is adopting each substantive provision for its programs, analyze how those provisions interact with the statutes it administers, and respond to comments directed to that agency. The Proposed Rule does not do that. Instead, it treats agency adoption as a formality and leaves the necessary legal analysis to OMB. That is not reasoned decision making and does not satisfy the APA's notice-and-comment requirements.

Third, specific provisions of the Proposed Rule conflict with program-specific statutes administered by EPA, DOE, and NOAA/Commerce. EPA statutes require or authorize grants and assistance for clean air, safe drinking water, hazardous-waste cleanup, disadvantaged and underserved communities, public participation, and community engagement. DOE statutes require impartial scientific and technical merit review for certain awards and authorize or require research and development programs involving clean energy, environmental research, and international collaboration. NOAA/Commerce statutes require or authorize coastal-zone assistance, Sea Grant international projects, fisheries and ocean science, climate and weather research, and statutorily prescribed notice, cure, and public-hearing procedures governing the suspension or withdrawal of coastal-zone assistance. These program-specific statutes control over any general grants-management rule. OMB and the participating agencies may not use Part 200 to add political filters, eligibility limits, multilateral-collaboration restrictions, termination standards, or substantive prohibitions that frustrate Congress's choices.

Generic savings clauses such as "to the extent permitted by law" and "to the maximum extent permitted by law" do not cure these defects. They do not identify the affected programs, specify which statutes control, explain which provisions of Part 200 are inapplicable, or provide recipients, subrecipients, pass-through entities, auditors, agency staff, and the public with clear rules. Instead, they shift legal risk onto the very parties the Uniform Guidance is supposed to benefit. A recipient should not have to guess, at audit or termination risk, whether a program-specific statute overrides a government-wide Part 200 provision. Nor should agency staff be left to resolve statutory conflicts *ad hoc* after the Proposed Rule is finalized. If OMB and the participating agencies contend that the Proposed Rule can lawfully coexist with the statutes discussed in these comments, they must say how, program by program and provision by provision, before finalizing any rule.

Fourth, the Proposed Rule is arbitrary and capricious. OMB and the participating agencies have not identified reliable evidence of a systemic problem across EPA, DOE, NOAA/Commerce, and other federal financial-assistance programs that would justify converting Part 200 into a binding substantive regulation. The Proposed Rule relies on broad assertions, selected anecdotes, Executive Orders, White House materials, advocacy reports, and generalized claims about waste, misuse, ideological grantmaking, and inadequate oversight. It does not show that existing tools – audits, monitoring, risk review, specific conditions, suspension, termination, inspector-general review, agency enforcement, and program-specific oversight – are inadequate. It does not explain why any claimed concerns require a sweeping government-wide rule rather than targeted program-specific action. And it does not analyze the public health, environmental, scientific, economic, and community-protection harms the Proposed Rule would cause.

Fifth, the agencies have failed to consider reliance interests and real-world consequences. Grantees, subrecipients, state and local governments, Tribes, research institutions, community organizations, and members of the public have structured programs, partnerships, budgets, staffing, compliance systems, research protocols, public-participation processes, and multi-year projects centered around existing statutory and regulatory frameworks. The public likewise relies on federal financial assistance to support pollution reduction, drinking-water protection, emergency response, cleanup of contaminated sites, coastal and fisheries management, weather and climate science, and clean-energy innovation. The Proposed Rule would destabilize those expectations by permitting grants and assistance to be redirected, conditioned, delayed, or terminated based on political priorities rather than statutory purposes and established program criteria. The agencies have not acknowledged those reliance interests, much less justified overriding them.

Sixth, OMB and the participating agencies have failed to acknowledge or justify the Proposed Rule's transfer of substantial authority over federal financial assistance programs from the agencies Congress charged with administering those programs to OMB. They also have not shown any good reason, much less a reasoned explanation, for making any changes to the longstanding OMB guidance on federal financial assistance or to their own implementing regulations and have failed to satisfy basic principles of good government decision-making. The failure to provide an opportunity for meaningful public engagement, with a record containing all relevant information needed to understand the full impact of the proposal on the public and particularly on human health and the environment, fatally flaws the Proposed Rule. We hereby incorporate by reference as part of the rulemaking record for purposes of judicial review all documents, records, studies, analyses, and all information in its entirety cited to and referenced in this submission.

OMB and the participating agencies should withdraw the Proposed Rule.

II. Existing Federal Grant Programs and Federally Funded Research are Critical to Protecting Human Health, Reducing Pollution, and Advancing Clean Technologies

Federal grants administered by EPA, DOE, and NOAA/Commerce are statutory programs created and funded by Congress to achieve specific public health, environmental, energy, and scientific objectives. These programs channel billions of dollars annually to the states, Tribes, local governments, scientists, and community partners that help to advance environmental protection across the country.[3] The Proposed Rule threatens the stability and effectiveness of these programs by subjecting them to newfound political reviews for ideological consistency with the current Administration's preferences, regardless of a grant application's merit or the statutory objectives Congress has prescribed. To appreciate the impact this proposed rulemaking would have, it is essential to understand the scale and significance of the federal financial assistance at stake and its role in the United States' system of public health and environmental protection.

A. Federal grants directly fund key state and Tribal programs for protecting human health, safeguarding the environment, and reducing harmful pollution.

Congress has directed EPA, DOE, and NOAA/Commerce to administer an extensive array of federal financial assistance programs through competitive and formula grants that fund the day-to-day work of public health and environmental protection at the state, Tribal, and local levels.

Historically, nearly one half of EPA's budget, or roughly $4 billion each year, has been devoted to grants, cooperative agreements, and other forms of financial assistance.[4] Together, these programs constitute a central component of the nation's system of public health and environmental protection, channeling millions of dollars directly to states, local governments, and Tribes for environmental remediation, safe drinking water, clean air protection and more. For example, EPA's Brownfields Assessment, Revolving Loan Fund, and Cleanup grants are competitive awards that, since their inception, have provided more than $3 billion in cumulative assistance to assess and clean up more than 40,000 contaminated sites, leveraging roughly $46 billion in public and private investment and supporting an estimated 230,000 jobs in the process.[5] EPA's Clean Water State Revolving Fund and Drinking Water State Revolving Fund are formula-funded programs that provide capitalization grants to states to fund below-market-rate loans and other assistance to local communities for wastewater treatment, stormwater

---

[3] *See, e.g.*, Commerce, Justice, Science; Energy and Water Development; and Interior and Environment Appropriations Act, 2026, Pub. L. No. 119-74 (Jan. 23, 2026), https://www.congress.gov/bill/119th-congress/house-bill/6938/text.

[4] *EPA Grants,* U.S. ENV'T PROT. AGENCY, https://www.epa.gov/grants (last visited July 8, 2026).

[5] *EPA Announces $500,000 for Brownfields Grant to Finance Cleanup Activities in Connecticut*, U.S. ENV'T PROT. AGENCY (June 24, 2026), https://www.epa.gov/newsreleases/epa-announces-500000-brownfields-grant-finance-cleanup-activities-connecticut (noting that "EPA's Brownfields Program began in 1995 and, once these grants are awarded, will have provided over $3 billion in grant funding to assess and clean up contaminated properties and return blighted properties to productive reuse"); *Accomplishments*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/brownfields/accomplishments (last visited July 8, 2026) (noting the cleanup of more than 40,000 contaminated sites, leveraging roughly $46 billion in public and private investment and supporting an estimated 230,000 jobs).

management, drinking-water system upgrades, and lead service line replacement. Since their inception, these revolving fund programs have collectively provided nearly $250 billion in cumulative assistance for water-infrastructure projects.[6] EPA also administers the Great Lakes Restoration Initiative, which protects and restores the Great Lakes, the largest system of fresh surface water in the world.[7] And EPA's State and Local Air Quality Management Grants typically provide more than $200 million annually to state, local, and Tribal air pollution control agencies for air quality monitoring, pollution prevention, and implementation of Clean Air Act programs.[8]

DOE and NOAA similarly advance environmental protection and pollution reduction efforts through their financial assistance programs with widespread public benefits. For example, before the One Big Beautiful Bill Act rescinded its unobligated funds, the Methane Emissions and Waste Reduction Program, a joint initiative of the DOE and EPA, provided approximately $850 million for 43 projects to reduce, monitor, measure, and quantify methane emissions from the oil and gas sector.[9] And NOAA's Marine Debris Program awards competitive grants for research, prevention, and removal of marine debris that threatens ocean ecosystems and coastal economies. Since its establishment in 2006, the Program has supported over 360 marine debris removal projects and removed more than 45,000 metric tons of debris from the nation's coasts, ocean, and Great Lakes.[10]

Each of these programs is congressionally authorized, with statutory purposes and objectives that bind the implementing agencies. By subjecting these programs to review and redesign for alignment with Presidential priorities and funding preferences, OMB's proposed rule would unlawfully and arbitrarily subordinate these statutory directives to executive policy preferences and undermine the frameworks Congress established.

B. Federal scientific research programs are critical to studying, understanding, and reducing harmful pollution that poses health risks.

Scientific research supported by EPA, DOE, and NOAA/Commerce is similarly critical to furthering public health, environmental protection, and technological innovation. The research supported by these agencies advances efforts to monitor and reduce harmful air and water

[6] *About the CWSRF*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/cwsrf/about-cwsrf (last visited July 8, 2026) ("building on a federal investment of $62.4 billion, the state CWSRFs have provided $194 billion to communities through 2025"); *Drinking Water State Revolving Fund Fact Sheet,* U.S. ENV'T PROT. AGENCY (Sep. 2021), https://www.epa.gov/system/files/documents/2021-09/fact-sheet-dwsrf-overview-final_1.pdf ("Over the DWSRF's first 25 years, states funded over 17,300 projects worth over $48 billion").
[7] *Great Lakes Funding*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/great-lakes-funding (last visited July 10, 2026)); *Action Plan IV*, Great Lakes Restoration Initiative, https://www.glri.us/action-plan-iv (last visited July 10, 2026).
[8] *FY 2027 EPA Budget in Brief*, U.S. ENV'T PROT. AGENCY (Apr. 2026), https://www.epa.gov/system /files/documents/2026-04/00_fy-2027-bib_combined_final.pdf (noting State and Local Air Quality Management categorical grants provided $244,479,000 and $236,672,000 in fiscal years 2025 and 2026, respectively).
[9] *Assistance Programs and Resources*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/natural-gas-star-program/assistance-programs-and-resources (last visited July 10, 2026).
[10] *Who We Are,* NAT'L OCEANIC & ATMOSPHERIC ADMIN. MARINE DEBRIS PROGRAM https://marinedebris.noaa.gov/who-we-are (last updated June 22, 2026).

pollution, advance new clean and affordable energy technologies, restore and remediate contaminated land and waterways, and understand our changing climate.

EPA's research grants play a vital role in building the scientific foundation for sound environmental regulation and public health protection. For example, through its Science to Achieve Results ("STAR") program, EPA has awarded over 4,100 scientific research grants nationwide since 1995 through competitive, peer-reviewed processes. These grants furthered research on the environmental and public health effects of air pollution, water quality and quantity, hazardous waste, toxic substances, pesticides and more.[11] Meanwhile, DOE's Office of Science is the largest funder of basic research in the physical sciences in the United States, supporting approximately 25,000 researchers at more than 300 institutions nationwide through grants, cooperative agreements, and support for DOE's 17 national laboratories.[12] Finally, NOAA likewise administers discretionary financial assistance programs that are indispensable to the nation's understanding of weather, climate, ocean systems, and coastal resilience. NOAA's Climate Program Office ("CPO"), for example, has traditionally awarded millions of dollars in competitive grants each year for high-priority climate research.[13] NOAA's Sea Grant program similarly awards competitive research grants through which university-based programs in every coastal and Great Lakes state conduct crucial research on coastal hazards, fisheries science, aquaculture development, and marine-ecosystem management.[14]

One of the reasons these programs have resulted in substantial public health and environmental benefits is because funding decisions have traditionally rested on scientific merit and peer review, not political or ideological criteria. The Proposed Rule threatens that foundation by imposing unlawful and arbitrary pre-issuance review of all discretionary awards by political appointees and requiring agencies to ensure federal awards further an administration's political dictates and priorities rather than statutory objectives.

III. OMB and the Participating Agencies Lack Authority to Issue the Proposed Rule as a Binding Government-Wide Substantive Grants Regulation [Proposed 2 C.F.R Parts 1-200, 2 C.F.R. Parts 901-910, 2 C.F.R. Parts 1326-1329, and 2 C.F.R. Parts 1500-1536]

The authorities cited by OMB in the Proposed Rule do not give it power to issue a rule that binds other federal agencies on matters of program design, award selection, peer review, recipient eligibility, substantive award conditions and prohibitions, or termination across all federal grant programs. Nor can the participating agencies cure that defect by adopting OMB's rule wholesale without explaining their own statutory authority. Federal grant programs exist because Congress created them, and they must be administered under the statutes Congress enacted. Because the

---

[11] *STAR,* U.S. ENV'T PROT. AGENCY, https://www.epa.gov/research-grants/star (last visited July 8, 2026).
[12] *Office of Science Funding*, U.S. DEP'T OF ENERGY, https://www.energy.gov/science/office-science-funding (last visited July 8, 2026).
[13] *See generally Climate Program Office*, NAT'L OCEANIC & ATMOSPHERIC ADMIN., https://cpo.noaa.gov/ (last visited July 8, 2026).
[14] *See generally National Sea Grant College Program*, NAT'L OCEANIC & ATMOSPHERIC ADMIN., https://seagrant.noaa.gov/ (last visited July 8, 2026); *Our Research*, NAT'L OCEANIC & ATMOSPHERIC ADMIN., https://seagrant.noaa.gov/how-we-work/our-research/ (last visited July 8, 2026); 33 U.S.C. § 1123(c)(2).

Proposed Rule identifies no statute authorizing this sweeping transfer of substantive grantmaking control to OMB and political officials, it must be withdrawn.

A. OMB's cited authorities do not authorize substantive grantmaking rules.

Federal agencies are creatures of statute and possess only the authority Congress has conferred. An agency "literally has no power to act … unless and until Congress confers power upon it." *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986); *see Nat'l Fed'n of Indep. Bus. v. OSHA*, 595 U.S. 109, 117 (2022) ("*NFIB*"). OMB therefore must identify a statute that authorizes the specific regulatory authority it claims. It has not done so.

OMB principally relies on 31 U.S.C. § 503(a)(2), which authorizes the Deputy Director for Management to provide "overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements" and monitoring federal "financial management systems." 31 U.S.C. § 503(a)(2); *see* 91 Fed. Reg. at 32200–01. That statutory text authorizes OMB to address only financial management—*e.g.*, financial systems, accounting, reporting, internal controls, cost information, budget execution, audits, payment and cash-management controls, and related requirements for managing federal funds. Nothing in Section 503(a)(2) authorizes OMB to prescribe substantive program-design criteria, political award-selection standards, peer-review rules, multilateral-collaboration restrictions, or discretionary termination standards for every federal grant program administered by any federal agency.

The other paragraphs of Section 503(a) confirm Section 503(a)(2)'s limited scope. They address financial management systems, budget execution, financial management personnel, and the Chief Financial Officers Council. *See* 31 U.S.C. § 503(a)(1)–(14). None of these provisions suggests Congress intended in Section 503(a)(2) to authorize OMB to act as a super-Congress that imposes its policy prerogatives on all federal financial assistance, untethered from the statutes that created the underlying grant programs.

Congress's intention that Section 503(a) authorize activities by OMB to improve financial management in federal grantmaking, rather than implementation of policy choices, is underscored by its original statement of purpose. The stated purposes of the Chief Financial Officers Act of 1990 are to "[b]ring more effective general and financial management practices to the Federal Government"; to "[p]rovide for improvement, in each agency of the Federal Government, of systems of accounting, financial management, and internal controls to assure the issuance of reliable financial information and to deter fraud, waste, and abuse"; and to "[p]rovide for the production of complete, reliable, timely, and consistent financial information for use by the executive branch of the Government and the Congress." Chief Financial Officers Act of 1990, P.L. 101-576, Sec. 102(b), 104 Stat. 2838, 2838–39 (1990).

Courts have understood the Uniform Guidance within OMB's limited financial management role. In *Association of American Universities v. Department of Defense*, the court construed the Uniform Guidance "primarily through a fiscal lens, essentially as an accounting manual," because it rests on 31 U.S.C. § 503 (and § 6307) and governs the fiscal administration of grants. 792 F. Supp. 3d 143, 165 (D. Mass. 2025). Other courts considering OMB's role have likewise recognized that 31 U.S.C. § 503 gives OMB an oversight and management role, not freestanding authority to control substantive agency programs. *See Nat'l Council of Nonprofits v. OMB*, 775 F. Supp. 3d 100, 126 (D.D.C. 2025), appeal pending, No. 25-5148 (D.C. Cir.). And "assertions of extravagant statutory power over the national economy," like OMB asserted here, should be treated with "skepticism." *West Virginia v. EPA*, 597 U.S. 697, 724 (2022). Agencies can rarely claim "[e]xtraordinary grants of regulatory authority" through "modest words, vague terms, or subtle devices." *Id*. at 723 (internal quotations omitted). That is precisely what OMB tries to do here, claiming agency-wide rulemaking authority through, at best, an "ancillary provision." *Whitman v. Am. Trucking Ass'ns., Inc.*, 531 U.S. 457, 468 (2001).

OMB's reliance on 31 U.S.C. § 6307 is weaker still. *See* Fed. Reg. at 32201, 32206. Section 6307 authorizes OMB to "issue supplementary interpretative guidelines to promote consistent and efficient use of" procurement contracts, grant agreements, and cooperative agreements. 31 U.S.C. § 6307(1). Congress chose the words "interpretative guidelines," *not* binding regulations, and "consistent and efficient use" of financial assistance instruments, *not* government-wide regulation for program substance. Section 6307 is part of the Federal Grant and Cooperative Agreement Act, which governs when agencies should use procurement contracts, grant agreements, or cooperative agreements. *See* 31 U.S.C. §§ 6301–6308. Consistent with that broader statutory context, Section 6307 authorizes OMB to issue non-binding guidelines promoting consistent and efficient use of financial assistance instruments. Nothing in that provision empowers OMB to impose binding government-wide rules governing the substantive design, selection, administration, and termination of all federal grant programs.

Section 6307 in fact affirmatively undermines OMB's claimed authority under 31 U.S.C. § 503(a)(2) and the other statutes it cites. If those statutes empowered OMB to superintend agency financial assistance programs, including through binding rules, the grant of authority at Section 6307 to OMB to issue "interpretative guidelines" on federal awards would be superfluous.

The other authorities listed in the Proposed Rule fare no better. *See* Proposed Rule. at 32201-02. Statutes such as the Single Audit Act, the Federal Funding Accountability and Transparency Act, the Digital Accountability and Transparency Act, the Federal Program Information Act, the Office of Federal Procurement Policy Act, the Budget and Accounting Procedures Act, and the Trafficking Victims Protection Act address discrete subjects such as audits, transparency, reporting, procurement, budgeting, financial systems, and anti-trafficking requirements. The Proposed Rule lists those statutes, but it does not explain how any of them authorizes OMB to prescribe substantive criteria for program design, merit review, political pre-issuance review, recipient eligibility, multilateral collaboration, environmental or demographic analysis, or discretionary termination across all federal grant programs. *See* Fed. Reg. at 32201-2. A bare list of statutes is not a reasoned explanation of authority.

B. EPA, DOE, NOAA/Commerce, and other participating agencies do not supply a reasoned statutory basis for the Proposed Rule.

The participating agencies' joinder in the Proposed Rule does not cure OMB's lack of authority. EPA, DOE, and NOAA/Commerce each administer financial assistance and grant programs under statutes enacted by Congress. Those statutes prescribe program purposes, eligible recipients, selection criteria, scientific standards, community priorities, multilateral-collaboration obligations, termination procedures, and other substantive requirements. If EPA, DOE, NOAA, and other participating agencies wish to prescribe or adopt regulations to govern their own statutory programs, they must undertake notice-and-comment rulemaking in which they – speaking specifically for themselves and the programs they administer – identify their statutory authority to issue the regulations, and explain *why* they are exercising that authority to issue or adopt the relevant provisions to government the agency's programs. *See La. Pub. Serv.*, 476 U.S. at 374; *NFIB*, 595 U.S. at 117.

The Proposed Rule does not do so. Instead, the agency-specific portions of the Proposed Rule simply assert that each agency "adopts" the OMB regulation and gives it "regulatory effect" for that agency's awards. As authority, the agencies primarily rely on their respective organic or program-specific statutes and 5 U.S.C. § 301, which is a housekeeping provision authorizing internal departmental regulations. *See* 91 Fed. Reg. at 32278-79 (EPA); *id.* at 32270 (DOE); *id.* at 32274–76 (NOAA/Commerce). Those authorities do not supply the necessary statutory authority for the action taken here, and the agencies provide no explanation whatsoever for their reliance on them. No statute authorizes EPA, DOE, or NOAA/Commerce to delegate, transfer, cede, or give their statutorily provided regulatory authority, responsibility, and discretion over financial assistance decisions to OMB. Nor do the agencies explain anywhere why they are adopting the new provisions, in light of that agency's unique statutory duties.

EPA cites 5 U.S.C. § 301 and a long list of environmental and public-health statutes, including the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"); the Toxic Substances Control Act ("TSCA"); the Clean Water Act; the Marine Protection, Research, and Sanctuaries Act; the Public Health Service Act; the Safe Drinking Water Act; the Clean Air Act; the Resource Conservation and Recovery Act ("RCRA"); and the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA", also known as Superfund). 91 Fed. Reg. 32278 (providing proposed "authority citations" and Part 1500 amendments). Those statutes authorize EPA to carry out particular environmental, health, research, infrastructure, pollution control, and cleanup programs; many also prescribe program-specific purposes, eligible recipients, priorities, procedures, and grant criteria. They do not give EPA free-floating power to adopt OMB's substantive, government-wide grantmaking rules wholesale. EPA's citation to these statutes, without analysis, does not explain how they authorize the Proposed Rule's new requirements or how those requirements can be reconciled with EPA's program-specific statutory obligations and objectives.

DOE cites 42 U.S.C. § 7101 *et seq.*, 31 U.S.C. §§ 6301–6308, 50 U.S.C. § 2401 *et seq.*, and 2 C.F.R. part 200. Those authorities do not authorize DOE to adopt the Proposed Rule's substantive government-wide grantmaking regime. The Department of Energy Organization Act establishes DOE and assigns departmental functions; the Federal Grant and Cooperative Agreement Act addresses when agencies use procurement contracts, grants, or cooperative agreements; the National Nuclear Security Administration Act ("NNSA Act") concerns DOE's nuclear-security functions; and 2 C.F.R. part 200 is a regulation, not an independent source of statutory authority. None of those provisions authorize DOE to impose OMB's new substantive requirements for program design, political pre-issuance review, peer review, multilateral collaboration, recipient eligibility, or discretionary termination across DOE's grant programs, and DOE offers no reasoned explanation for why they would.

Commerce cites only 5 U.S.C. § 301, 38 U.S.C. § 501, and 2 C.F.R. part 200. Those citations do not support the proposed action. Section 301 is a housekeeping statute for internal agency administration, not a delegation of substantive grantmaking authority. Section 501 concerns the Secretary of Veterans Affairs and appears inapplicable to Commerce and NOAA. And, again, 2 C.F.R. part 200 cannot supply statutory authority for Commerce to adopt that same part as a binding rule. Commerce therefore has not identified any statute authorizing it to impose the Proposed Rule's substantive requirements on NOAA/Commerce financial-assistance programs, much less explained how those requirements are consistent with the program-specific statutes Congress enacted for coastal, oceanic, fisheries, climate, and scientific work.

None of the agencies point to any authority to delegate or outsource the basic procedural requirements of notice-and-comment rulemaking to OMB. Congress has not authorized the agencies to delegate to OMB explanations for the agencies' actions in a preamble, to review comments relevant to the agency, or to respond to the comments. Each agency must undertake those responsibilities itself.

C. Executive Orders cannot supply missing statutory authority.

The Proposed Rule also cannot rest on Executive Orders. Executive Orders may direct the internal operations of the Executive Branch and may guide the exercise of discretion that Congress has actually conferred. But they cannot expand OMB's statutory jurisdiction, create substantive rulemaking authority where Congress has not provided it, or authorize agencies to override program-specific statutes. *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585–89 (1952); *Chrysler Corp. v. Brown*, 441 U.S. 281, 302–03 (1979).

That limitation is especially important here because the Proposed Rule repeatedly seeks to translate Administration policies into binding conditions on federal financial assistance. To the extent Congress gave an agency discretion to consider policy priorities within a statutory program, the agency must exercise that discretion consistently with the statute Congress enacted. But where Congress prescribed program purposes, eligible recipients, selection criteria, scientific standards, international-collaboration requirements, or termination procedures, Executive Orders cannot supply authority to replace those statutory choices with different Administration priorities. Simply put, the President may supervise the Executive Branch within the bounds of law; but cannot, through OMB, rewrite the statutes governing EPA, DOE, NOAA/Commerce, or other agencies' financial assistance programs.

IV. The Proposed Rule Violates Principles and Requirements of Reasoned Decision-Making [Proposed 2 C.F.R Parts 1-200, 2 C.F.R. Parts 901-910, 2 C.F.R. Parts 1326-1329, and 2 C.F.R. Parts 1500-1536]

The proposal is arbitrary and capricious both due to the lack of OMB and agency authority to issue it, as discussed above, and because the agencies have not provided the reasoned explanation based on the facts required by the Administrative Procedure Act ("APA") and complementary requirements for reasoned decision-making in other statutes applicable to these federal agencies. *See, e.g.*, 5 U.S.C. §§ 551–559, 706.

To satisfy these requirements, an agency must "examine the relevant data and articulate a satisfactory explanation for its action," including a rational connection between the facts found and the choice made. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983). The agency must disclose and support the actual basis for its action, not present other grounds as pretext. *Dep't of Commerce v. New York*, 588 U.S. 752 (2019). The agency must also consider important aspects of the problem, including reasonable alternatives that are apparent from the record or inherent in the agency's stated objectives. *State Farm*, 463 U.S. at 43, 51; *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 33 (2020). And when an agency changes position, it must acknowledge the change, explain the reasons for it, and consider serious reliance interests created by the prior policy. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *Regents*, 591 U.S. at 30–33; *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–24 (2016). The Proposed Rule fails each of these requirements.

A. The Proposed Rule does not adequately explain its change in policy or factual findings.

For over a decade, Part 200 has operated as non-binding guidance, implemented by agencies through their own adopting regulations and applied within the limits of program-specific statutes. *See* 2 C.F.R. § 200.104 (providing that the new uniform guidance issued in Part 200 superseded prior OMB guidance and circulars); 89 Fed. Reg. 30046 (Apr. 22, 2024) (summarizing and citing to history of guidance in Part 200). The Proposed Rule would materially change that framework. It would convert the uniform guidance into a binding OMB regulation with direct regulatory effect and add substantive requirements to govern program design, pre-issuance review, recipient eligibility, award conditions, and termination.

That is a major change in the status and function of Part 200. Where, as here, an agency is not writing on a "blank slate" but instead departing from decades of regulatory practice, it must also comply with reasoned decision-making requirements applicable to a change in position. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). In particular, an agency must (1) "display awareness that it *is* changing position," (2) "show that there are good reasons for the new policy," and (3) "provide a more detailed justification" where, as here, the "new policy rests upon factual findings that contradict those which underlay its prior policy" or where there are "serious reliance interests that must be taken into account." *Id.*

OMB first created the uniform guidance or guidelines for federal financial assistance awards in coordination with federal agencies in 2013. 78 Fed. Reg. 78590 (Dec. 26, 2013). Agencies implemented this through their own regulations in 2014. 79 Fed. Reg. 75871 (Dec. 19, 2014). Goals included advancing efficiency, transparency, and improving performance and outcomes "while ensuring the financial integrity of taxpayer dollars." 78 Fed. Reg. at 78590. In issuing the final guidance, OMB found it "will reduce administrative burden" for recipients of Federal awards "while reducing the risk of waste, fraud and abuse." *Id.* Most recently, OMB finalized changes to the Uniform Guidance, Part 200, in April 2024. 89 Fed. Reg. 30046 (Apr. 22, 2024). With those changes, OMB aimed to incorporate statutory requirements, reduce agency and recipient burden, clarify provisions to remove ambiguity, and advance consistency. *Id.*

OMB and the agencies now propose to undo some of the specific requirements established in prior years and to add other provisions not included in the 2024 guidance, without acknowledging or providing the requisite justification for the major changes from the 2024 guidance. As discussed in Parts V and VI, below, the Proposed Rule would make specific restrictions and requirements that were previously guidance become binding for the first time directly, without any further agency action needed. The Proposed Rule will allow OMB to do so going forward for all statutory programs that provide financial assistance without even including agencies given the statutory authority over those programs in the rulemaking process. *See* 91 Fed. Reg. at 32246 (proposing § 200.110 Effective date amendment).

The proposal by OMB and agencies to subjugate all agency financial assistance regulations to OMB and allow OMB to change them without future agency participation stands out as a particularly problematic and unjustified change. Rather than recognize this as a major usurpation by OMB of authority from agencies, the Proposed Rule describes this as a mere "clarification." 91 Fed. Reg. at 32206. There is no recognition of the substantial change that the proposal will implement. For example, proposed § 200.110 provides that once finalized, any future updates to regulations applicable to all federal financial assistance "will be complete" as soon as OMB issues a final rule, whether or not the statutory assistance providers and implementers – the agencies themselves – have approved the changes. 91 Fed. Reg. at 32246 (proposing § 200.110 Effective date amendment). Similarly, OMB proposes to add a new section on "regulatory conflicts" that it describes as advancing the goal of "uniformity and transparency," but does not acknowledge or justify the change that, for the first time, this will mean that when an agency rule conflicts with OMB's preferred language, the OMB rule will govern. 91 Fed. Reg. at 32210. That provision is equivalent to removing the effect of duly promulgated agency regulations without identifying or acknowledging them by name or explaining why or how OMB's extra-statutory policy can govern above statutes directing specific agencies' regulatory action.

OMB, EPA, DOE, NOAA/Commerce, and other participating agencies cannot treat the Proposed Rule as a mere clarification or technical update. They must acknowledge the significant change in position, explain why the prior framework was inadequate, and justify the new approach in light of the statutes governing the affected programs. In the Proposed Rule, OMB, EPA, DOE, and NOAA/Commerce fail to present a reasoned justification for this shift in position and fail to explain how EPA, DOE, and NOAA/Commerce could justify the major change of transferring their own regulatory authority under applicable statutes to OMB going forward, as proposed.

The preamble to the Proposed Rule also does not recognize that it includes many other major changes, much less explain them. For example, the proposal would delete the requirement currently in § 200.202 that programs must be designed to "be consistent with the Federal authorizing legislation of the program." *See* 2 C.F.R. § 200.202(a)(1). There is no recognition of the significance of deleting the requirement for programs to be consistent with duly enacted statutory language – i.e., consistent with the "legislation" itself that governs the program. *See* 91 Fed. Reg. at 32211 (not recognizing the deletion, and contending the edits to § 200.202(a) merely "clarify" as if there is no change). The proposed new language in § 200.202(a)(1)(ii), requiring program goals and objectives to be "consistent with the public purpose of the program as authorized by law," is not equivalent to ensuring consistency with the actual legislation enacted by Congress. The proposed new language is confusing and seems to suggest that OMB or an agency could interpret the "public purpose" differently from the statutory directives as enacted in applicable law (*i.e.*, "legislation"). However, there is no recognition of this change or any explanation for it in the preamble.

In that same provision, the Proposed Rule would, for the first time, add to binding regulatory text the requirement that the funding program "must . . . align with administration policies and priorities." *See* 91 Fed. Reg. at 32247 (proposed revision to § 200.202(a)(1)(iii)). This requirement would apply whether or not such policies and priorities are enacted as part of federal law. The preamble repeats those words but does not acknowledge that this would be a major change from current practice. The preamble also does not and could not provide a detailed or reasoned explanation for this change. Agency responsibilities, which OMB should recognize and not undermine, include following applicable law, and ensuring consistency with all applicable statutory requirements and agency authority. Agencies have no legal obligation to align with any given administration policy or priorities unless embodied in federal law. Designing programs to have clear goals and objectives that "must" align with the current administration policies and priorities—whether or not included in or compliant with federal law—is equivalent to advancing and prioritizing those goals that any given President favors at the time rather than adhering to the governing legislation enacted by Congress. Such an unexplained and dramatic change is unlawful and arbitrary.

The same issue arises with the unprecedented proposal to add the words "advance the President's policy priorities" into a binding regulation, which the Proposed Rule proposes to add into § 200.205(b)(1) as a requirement. 91 Fed. Reg. at 32249. Again, the preamble includes no recognition of the major change this would cause—to prioritize the sitting President's own vague and undefined "priorities" above duly enacted statutory purposes, priorities, and requirements and above the mission and priorities of an individual agency. 91 Fed. Reg. at 32211. The Proposed Rule merely lists this as if it is an appropriate and justified requirement, without acknowledging or justifying this diversion.

Similarly, the Proposed Rule would add, for the first time, other vague references like "the national interest," into other binding rules without a reasoned explanation. *See, e.g.*, proposed §§ 200.202(e)(2), 200.340(a)(2), 200.343(b)(2). The Proposed Rule proposes that senior political appointees will decide what serves those priorities and "national interest" without acknowledging that the addition of these vague terms creates significant new confusion and uncertainty regarding how legal requirements will be applied. To add to this confusion, the Proposed Rule asserts that "the 'public interest' and the 'national interest' should generally have similar and broadly overlapping meanings," but there is no further discussion of why the addition of that term is needed. 91 Fed. Reg. at 32226.

The Proposed Rule does not explain the proposed deletion of the requirement that a Notice of Funding Opportunity ("NOFO") include basic information for the public and potential applicants and recipients, including the specific statutes and regulations applicable to the program covering the NOFO. *Compare* proposed section changes to the Appendix to Part 200 (Notice of Funding Opportunity (NOFO) Description, which would provide no detail for what such a NOFO must include), *with* existing Appendix, 2 C.F.R. pt. 200 app. I (2025) (requiring the inclusion of a long list of details such as the purpose, expected achievements for the public good, the agency's funding priorities or focus areas, program goals and objectives, expected performance targets and goals, and "[c]itations for authorizing statutes and regulations for the funding opportunity"). The existing requirement to provide that information advances transparency, ensures applicants advance the statutory goals and purpose of the program, and provides them with information on how to ensure they fulfill expectations during the course of a federal award. Removing these requirements as now proposed would conflict with the Proposed Rule's alleged goals of transparency, accountability and oversight.

There is no recognition in the preamble to the Proposed Rule that it would remove the OMB guidance providing for non-English language access. Current OMB guidance makes clear that, although federal assistance information must be provided in an official controlling English version, agencies "may issue or translate a Federal award or other documents into another language," and take other similar actions to ensure understanding and accessibility for recipients and recipient employees who may be more fluent or familiar in another language. *See* 2 C.F.R. § 200.111(a)-(c) (which is omitted in the Proposed Rule's version of § 200.111). Failure to rationally explain and justify this change renders the proposal arbitrary. This failure is another example of how the Proposed Rule would reduce transparency, in contradiction to OMB's claimed objective. Similar deletions proposed but not discussed—like the removal of a requirement to "provide opportunities for a diverse group of participants," including those representing communities that have been underserved by federal agencies that is currently in § 200.205 and proposed for deletion[15] – would further reduce access to information and opportunities to engage in financial assistance programs. There is no acknowledgement of this deletion in the preamble, nor any explanation of how or why the reduction in opportunities for anyone, much less for a broad array of potential participants is needed or appropriate.

Finally, as in 2024 and in the prior guidance issuance, OMB and agencies put the existing guidance and rule requirements in place to reduce burden and prevent the risk of misuse or mismanagement of federal funds. However, the Proposed Rule proposes to change the existing guidance without showing how it would advance those goals more than the prior action. Failing to acknowledge and explain the core changes proposed is particularly arbitrary when the prior changes were put in place to achieve the same stated objectives and, as discussed above, there is no demonstration that the proposal would do so in a better way.

B. The Proposed Rule fails to provide a reasoned explanation based on facts in the record that could justify the sweeping action proposed.

The Proposed Rule provides broad conclusory statements to try to explain why OMB or the participating agencies are issuing it. The proposal fails to support that purported explanation with sufficient evidence. In contrast to statements by OMB, the facts demonstrate that the Proposed Rule rests on an unsupported premise, is trying to solve a problem not demonstrated in the

[15] As an example, the Safe Drinking Water Act aims to ensure safe drinking water reaches communities that have not been served by the federal government – a community is considered "underserved" when it does not have household drinking water or wastewater services or is served by a public water system that violates or exceeds a Maximum Contaminant Level, treatment technique or action level. *See Small, Rural, and Tribal Drinking Water Assistance Grant Program*, U.S. Env't Prot. Agency, https://www.epa.gov/dwcapacity/small-rural-and-tribal-drinking-water-assistance-grant-program#app5 (last visited July 8, 2026); Safe Drinking Water Act § 1459(a), 42 U.S.C. § 300j-19a.

record, and is using the stated objectives to cloak rationales that are not acknowledged or explained in the record.

The Proposed Rule states that "OMB proposes" to revise existing guidance for the following reasons: "to (1) improve transparency, accountability, and oversight for use of Federal taxpayer dollars; (2) clarify the status of OMB's policies and requirements set forth in the 2 CFR regulatory text as an OMB regulation; and (3) reduce recipient burden." 91 Fed. Reg. at 32199. But the preamble does not identify reliable record evidence demonstrating a systematic problem across EPA, DOE, NOAA/Commerce, or other agencies' federal financial-assistance programs that could justify the proposed changes. Instead, the Proposed Rule relies largely on generalized assertions, selected anecdotes, Executive Orders, White House "fact sheets," advocacy materials, and politically framed descriptions of prior Administration policies. *See id.* at 32199–202. That is not a reasoned evidentiary basis for converting Part 200 into a binding substantive regulation governing all federal financial assistance.

1. *Explanation 1 (Transparency, Accountability, and Oversight) fails to justify the Proposed Rule.*

OMB's primary proposed explanation (transparency, accountability, and oversight) does not justify the major changes to federal financial assistance proposed. The explanation is arbitrary, unsupported, and cannot justify the Proposed Rule's distortion of statutory requirements, purposes, and congressional intention embodied in appropriations.

Although it names transparency as a claimed objective, the Proposed Rule focuses largely on restrictions in eligibility, increased political review, and control over assistance determinations and terminations. As most of the Proposed Rule's changes – such as narrowing eligibility, increasing political control over individual recipient selections, and restricting grantees' ability to appeal terminations, based on vague and undefined terms like "national interest" – have nothing to do with increased public reporting or understanding of federal assistance management, transparency as a goal could not justify the broad changes proposed. In fact, many proposed provisions would *undermine* transparency, such as the proposal to remove requirements for Notices of Funding Opportunity ("NOFO") to contain basic information for the public's and potential applicants' and recipients' understanding, including the statutes and regulations applicable to the funding program for the NOFO. *Compare* the proposed section changes to the Appendix to Part 200 (Notice of Funding Opportunity Description, which would provide no detail for what such a NOFO must include), *with* existing Appendix, 2 C.F.R. pt. 200 app. I (2025) (requiring the inclusion of a long list of details such as the purpose, expected achievements for the public good, the agency's funding priorities or focus areas, program goals and objectives, expected performance targets and goals, and "[c]itations for authorizing statutes and regulations for the funding opportunity").

The Proposed Rule makes broad, unsupported assertions that there is a need to "prevent wasteful spending and misuse or mismanagement of Federal funds" and to ensure Federal award programs "are properly aligned with law and policy and that Federal agencies act as responsible stewards of taxpayer dollars." 91 Fed. Reg. at 32199, 32202. But the evidence shows no problem of wasteful spending and complaints about "law and policy" preferences cannot justify the proposed action. The Proposed Rule fails to demonstrate waste, misuse, or mismanagement of federal funds or a lack of alignment with any financial stewardship requirements that could warrant the sweeping changes to financial assistance requirements.

The main information cited as a basis for the change, including various op-eds written by Senator Thune and others alleging that the grant review process has been misused in the past, contains no actual evidence demonstrating the unlawful misuse of funds. 91 Fed. Reg. at 32202. None of the allegations in the proposal show the need for the far-reaching restrictions and burdens added in the Proposed Rule that, contrary to its contentions, would undermine the fair and prompt distribution of financial assistance that serves communities and the public interest.

Instead, the proposal appears to be based on ideological preferences and assumptions about disfavored ways the prior administration implemented federal laws and policies. 91 Fed. Reg. at 32202. But these ideological complaints, including about policies this administration has already revoked, do not provide evidence of waste, misuse or mismanagement of federal funds that could show a reasoned basis for the broad changes proposed in this rule. Without data, reasoned analyses of evidence, and rational factual information, broad citations to an executive order or other politically created administration documents contending that Federal awards implemented policies or an "ideology" that this administration does not like does not demonstrate waste, misuse, or mismanagement of funds that could justify major regulatory changes on financial assistance. Differences in opinions and views about policy and values do not, alone, constitute or demonstrate waste, fraud, illegality, or mismanagement of financial assistance. 91 Fed. Reg. at 32200. Proposing to use vague and undefined tests to label and sideline disfavored speech, speakers, and policies is not reasoned decision-making or data driven analysis, and is manifestly contrary to law. 91 Fed. Reg. at 32249. Use of these approaches suggest the proposal is not about accountability with principles of fiscal management or applicable law or fostering reasoned and transparent decision-making, but instead about this Administration's dictates, favored policies, and favored funding recipients.

OMB has failed to demonstrate the need or its authority to convert its own or "the President's policy" preferences into new binding federal rules labeled as legal requirements or interpretations of law. *See* 91 Fed. Reg. at 32248–49 (proposed revisions to § 200.205(b)(1)). Agencies have the statutory responsibility to implement financial assistance programs consistent with all applicable statutory and Constitutional requirements. The Proposed Rule fails to show that the existing OMB guidance and agency rules, along with all other applicable legal requirements—whether enacted by Congress, included in the Constitution, or interpreted by the courts in cases where there is any question or controversy – are insufficient to prevent or redress any potential future violations of law, if any were ever to occur.

A concrete example illustrates the problem. OMB asserts that federal grants funded "non-replicable and highly misleading studies," citing Executive Order 14303, "Restoring Gold Standard Science." 91 Fed. Reg. at 32200 & n.8. However, that Executive Order does not provide reasoned evidence of any systemic grants-management problem, much less one across EPA, DOE, NOAA/Commerce, and other scientific assistance programs. The Executive Order offers generalized statements about declining public confidence in science and a reproducibility crisis, then cites a handful of examples concerning CDC school-reopening guidance, a National Marine Fisheries Service biological opinion, and use of climate-scenario modeling. *See* Exec.

Order No. 14,303, 90 Fed. Reg. 22601, 22601–02 (May 29, 2025). It does not analyze federal financial-assistance programs, identify affected grants, quantify the asserted problem, assess existing agency peer-review or scientific-integrity safeguards, or explain why Part 200 must be converted into a binding government-wide rule governing scientific grant selection and award administration. OMB's reliance on that Order therefore underscores the Proposed Rule's evidentiary gap: the agency has not built a record showing that proposed § 200.205's political pre-issuance review, "Gold Standard Science" benchmarks, institutional-preference criteria, and advisory-only peer-review rule are necessary, lawful, or reasonably tailored for the broad variety of important scientific grant programs administered by EPA, DOE, NOAA/Commerce, and other agencies.

Similarly, contrary to its contention, the cited 2023 Inspector General report on the Federal Emergency Management Agency (FEMA) implementation of one specific program from 2021 through 2022, 91 Fed. Reg. at 32200, does not justify the proposed changes to the guidelines through the new Proposed Rule that would apply across all agencies – including EPA, DOE, and NOAA/Commerce. That report found that more oversight by that agency of *existing* applicable requirements – including more monitoring, enforcement, communication, and documentation of the already applicable requirements – would prevent and reduce "the risk of misuse of funds and fraud." OIG 2023 report.[16] The report did not recommend major regulatory changes by FEMA, much less cross-governmental rules by OMB or any other agency. Even assuming arguendo that FEMA needed to increase its oversight steps as recommended by the OIG and as FEMA agreed to do,[17] there is no evidence in the record that the report suggests deficiency in oversight or accountability by any other agency at all, much less on a grand scale that might warrant a whole-of-government regulatory overhaul. There is also no evidence in this report showing that any regulatory changes are needed or justified to address the enforcement issues discussed.

Instead of advancing the stated explanation, the Proposed Rule shows its goal is not actually financial accountability, transparency, or oversight. As discussed later, in Parts V-VII, OMB and the agencies fail to show how this Proposed Rule is consistent with or will implement the specific statutory requirements set by Congress that directly govern the agencies' financial assistance programs. Instead, the Proposed Rule is an attempt to restrict the provision and control of federal assistance in ways this administration prefers, by adding restrictions that are not provided by duly enacted statutes, as further discussed in Part VI-VII of these comments. *See* 91 Fed. Reg. at 32204, 32205 (summarizing restrictions on eligibility, selection, and requirements to align the selection and termination of awards with "Executive Branch policy" and "the Federal Government's interest"). The objective is to enshrine into the federal financial assistance regulatory framework specific extra-statutory eligibility, activity, operational, and speech restrictions consistent with the administration's preferences.

[16] FEMA OIG, FEMA Should Increase Oversight to Prevent Potential Misuse of Humanitarian Relief Funds, OIG-23-20 (Mar. 28, 2023), https://www.oig.dhs.gov/reports/2023/fema-should-increase-oversight-prevent-potential-misuse-humanitarian-relief-funds/oig-23-20-mar23.

[17] FEMA concurred in the recommendations and followed up with the OIG to take additional steps to reduce risks and demonstrate compliance. The OIG stated that its recommendations would remain open with additional action by FEMA anticipated. The current status is unknown.

OMB's stated objectives of "accountability and oversight" are, therefore, pretextual grounds for this change. OMB may not assert these objectives as a smoke screen for instead pursuing different and unfounded policy goals not provided by Congress as relevant statutory purposes for agencies to consider and implement. OMB cannot justify favoring its specific and often vague, confusing, or undefined policy preferences over those enacted into federal law through a different purported objective. OMB has provided no reasoned explanation for enshrining non-statutory policy objectives. Its failure to engage in forthcoming, reasoned decision-making is unlawful and arbitrary. Further demonstration of this problem is provided in Parts V-VII, below.

2. *Explanation 2 (OMB Rule Clarification) fails to justify the Proposed Rule.*

The Proposed Rule also seeks to elevate the status of OMB action under 2 CFR from non-binding guidelines to definitive, government-wide regulations, Part III, *supra* of these Comments demonstrates that this explanation cannot justify the proposed action. OMB has no legal – i.e., no statutory or constitutional – omnibus authority to turn its preferred policy on federal financial assistance into a binding rule of general applicability by this or any other proposed action. Similarly, none of the other agencies have the necessary authority under their own governing statutes to cede, delegate, or grant their individual rulemaking authority to OMB. *See supra* Part III.

OMB and the agencies may not lawfully or rationally contend that the Proposed Rule aims just to "clarify" the status of the text in 2 C.F.R. when it would transform a set of longstanding, non-binding guidelines to become a federal rule that all agencies and all members of the public must follow. 91 Fed. Reg. at 32205–08. OMB also may not "provide overall direction" to and control over all Federal agencies' financial assistance programs and policies, as OMB is attempting to do. 91 Fed. Reg. at 32200. Agencies may not pretend that it is a mere "clarification" to give up their statutorily provided regulatory authority to OMB in this way.

The Proposed Rule demonstrates it intends not just to "clarify" but to completely change how the federal government manages, administers, and distributes funding under most statutory requirements and programs for financial assistance. Thus, the stated "clarification" objective is not just arbitrary but attempts to hide, as pretext, a central objective of the proposal: to arrogate authority and control over substantive agency decisions to the OMB and remove authority and discretion from other federal agencies. Yet, the agencies (not OMB) are the decision-makers chosen by Congress to implement financial assistance programs and directives. Contrary to the Proposed Rule's suggestion that it is more "efficient" to have OMB, rather than the statutorily named agencies leading the implementation of federal financial assistance, Congress made a different choice. OMB and the agencies themselves cannot modify or ignore that choice by cloaking it as a "clarification."

Therefore, this explanation is an unlawful, irrational, and unsupported basis for the Proposed Rule.

3. *Explanation 3 (Burden Reduction) fails to justify the Proposed Rule.*

The Proposed Rule's stated goal of burden reduction is unexplained and unsupported and therefore provides an unlawful, insufficient, and irrational basis for the proposal. Because this stated objective lacks any factual support in the record, it is a pretextual ground for this proposed action.

The record includes no factual support for the contention that the burden on recipients needs to or should be reduced in the way the Proposed Rule describes. For example, the Proposed Rule states that "in previous years," recipients have been required to focus "extensive efforts and resources" on what the Proposed Rule calls "mandates and other unnecessary add-on requirements." 91 Fed. Reg. at 32200; *id.* at 32008–09. There is no evidence in the record of "great amounts of time, effort, and financial resources" or other burden from the prior OMB and agency rules. 91 Fed. Reg. at 32008. OMB contends that such expenditures were "often required. . . to implement unlawful DEI mandates and other unnecessary add-on requirements that increased project costs, complexity, and completion timelines, but did not serve the underlying public purpose of support of the relevant assistance program." 91 Fed. Reg. at 32208. Yet it does not provide any evidence or factual analysis showing that the prior guidance or agency rules required this at all, much less that grantees faced "extensive" burden or "great amounts" of time, effort, and cost. The suggestion that recipients previously faced substantial burden to implement "unlawful" mandates or "unnecessary" requirements has no basis in the record.

Although framed as "burden reduction," the Proposed Rule is instead a pretextual way of attempting to justify narrower eligibility, greater centralized OMB political control and restrictions on eligible recipients and their activities, and a decreased ability by grantees, recipients, and the public to rely on a grant or award.

In conflict with purported Explanation 3, the Proposed Rule would do the opposite of its stated intention. Instead of reducing the burden for grantees and recipients, the proposal would substantially *increase* the burden for grantees and other assistance recipients at every stage of the financial assistance process. From the application through reporting stages, the Proposed Rule includes a long list of additional requirements and burdens on recipients and potential recipients that belie Explanation 3. If, in fact, OMB and the agencies were seeking to reduce the burden on financial assistance recipients, they would leave the prior OMB Part 200 guidelines in place. In contrast with the Proposed Rule, those guidelines were issued to reduce unnecessary burden and to deliver federal financial assistance to States, Tribes, and other grantees to advance the public interest and statutory program purposes more efficiently. *See* 89 Fed. Reg. 30207. However, the Proposed Rule neither acknowledges that history nor explains how it would reduce burdens relative to the current framework. On the contrary, rather than reducing burden, the Proposed Rule would impose several new binding requirements on recipients that do not exist under the current Uniform Guidance. For example, the proposed new language in sections for program design and funding limitation (§ 200.202), pre-issuance review and eligibility requirements (§ 200.205), and additional operational and funding restrictions and recipient conditions, (§§ 200.208, 200.218, 200.300), all create new reporting and compliance steps. At the same time, proposed § 200.329 would take away a grantee's core protections by making it harder to appeal the termination of a grant, as would be made significantly easier for agencies to do under §§ 200.340–200.343. All told, these changes would significantly increase burden and substantially reduce the incentive for prospective grantees to pursue federal financial assistance.

C. The Proposed Rule fails to demonstrate that it is needed, rather than any reasonable alternatives.

Even assuming arguendo that OMB or the participating agencies had demonstrated any need for change to the existing OMB guidance or agency regulatory requirements, the Proposed Rule fails to present any workable or reasonably tailored solutions for each agency. The Proposed Rule also fails to connect the asserted problem to the agencies and programs being regulated. And it does not explain why the proposed provisions are tailored to the asserted concerns. It does not show that any problems are not program-specific rather than government-wide. The failure to consider or show that less burdensome or restrictive alternatives are insufficient further demonstrates the lack of reasoned decision-making by OMB and the agencies. An agency must consider important aspects of the problem before it, including reasonable alternatives that are apparent from the record or inherent in the agency's own stated objectives. *State Farm*, 463 U.S. at 43, 51; *Regents*, 591 U.S. at 33. That obligation is especially important where, as here, the agencies propose a sweeping change to a longstanding regulatory framework with substantial reliance interests and program-specific statutory consequences.

The agencies did not meaningfully consider narrower alternatives that would be less disruptive and more consistent with the statutory scheme. Without conceding that any alternative would cure the Proposed Rule's legal defects, the agencies could and should have considered retaining Part 200 as nonbinding guidance, or other reasonable alternatives. For example, OMB did not analyze whether additional agency enforcement of existing legal requirements would be a reasonable alternative to prevent any of its alleged concerns about misuse or mismanagement of federal funds. Agencies can and do choose to exercise oversight and pursue enforcement under their applicable statutory programs. Agency inspectors general and the GAO have long performed their role to audit, advise, or provide recommendations or other action where additional oversight is needed. The Proposed Rule does not show that existing tools for audits, monitoring, risk review, specific conditions, suspension, termination, agency enforcement, or inspector-general review or oversight are inadequate.

Had OMB meaningfully analyzed alternatives to its proposed action, it would have revealed the Proposed Rule's inability to achieve its stated objectives. That is, OMB's proposal to require more political appointee review and control over financial assistance within each agency, to narrow eligibility to the administration's favored recipients or to any one administration's or President's policy priorities, and to centralize OMB (White House) control across the federal government conflicts directly with its claimed objective of reducing misuse and mismanagement. *See* Proposed § 200.205(b)(1). OMB has failed to show how reducing the role of career staff, attorneys, and scientists within the agencies (who do not change with each administration and most of whom are not subject to political hiring and firing) relegating peer review, and elevating this administration's specific policy dictates and preferences to binding requirements will advance the goals of accountability or oversight. Increasing political appointees' role and ability to use vague policy preferences and "values" as tools to decide which recipients receive funding is likely only to increase the risk of abuse and unfairness in the distribution of federal assistance. As the record shows, this administration has repeatedly given no-bid contracts to favored companies,[18] and has attempted to terminate grants to organizations based on speech or activities it disfavors starting as early as January 2025.[19] The Proposed Rule will make it easier for OMB to ensure the White House's preferred organizations and recipients receive more federal financial assistance. The proposed requirements would enable the administration in power to reward entities it favors over others based on politically chosen criteria. There is no evidence the proposal would advance or enforce any applicable legal requirements.

To the extent more transparency is warranted, as the 2023 GAO report[20] the Proposed Rule cites discussed, that can be provided through audits and reports by OMB or agencies. 91 Fed. Reg. at 32204. The existing rules aimed to reduce burden and have done so. There is no indication that any of the requirements in the Proposed Rule would advance transparency in ways that cannot be accomplished through other means.

The Regulatory Impact Analysis ("RIA") recognizes some alternatives – such as maintaining the existing guidance – but fails to analyze them sufficiently to justify the proposal. The RIA does not explain why any more reasonable, less disruptive and less burdensome alternatives that would equally or better serve the stated goals are insufficient. Instead, the RIA merely presents additional conclusory statements on a few narrow alternatives. *See* RIA at 10-11.

The Proposed Rule, therefore, does not explore reasonable alternatives, explain why alternatives were rejected, or explain why the agencies chose instead to impose a single government-wide substantive rule immediately across countless statutory programs. That failure is another reason the proposed rule is arbitrary and capricious and must be withdrawn.

D. The Proposed Rule fails to consider relevant factors including reliance interests and programmatic consequences.

OMB and the agencies' proposed action is also arbitrary because it fails to weigh a myriad of other relevant considerations and consequences that OMB and the agencies cannot rationally ignore under the APA and applicable precedent.

First, the Proposed Rule does not consider or address recipients' or grantees' longstanding reliance interests on federal financial assistance. *See Fox¸* 556 U.S. at 515; *Department of Homeland Security v. Regents of the University of California.* 591 U.S. 1, 30 (2020) (internal quotations omitted). However, these reliance interests are substantial. As OMB admits, during the decade leading up to the current administration about 100,000 recipients received federal grant funding. RIA at 6-7 & tbl. 1.

---

[18] *See, e.g.*, P. Wang, Lincoln Memorial Reflecting Pool Repairs Awarded to Same Contractor, Time (July 6, 2026), https://time.com/article/2026/07/06/lincoln-memorial-reflecting-pool-repairs-Doug-Burgum-Algae-Gash/.

[19] *See, e.g.,* OMB, Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs, M-25-13 (Jan. 27, 2025), https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-13-Temporary-Pause-to- Review-Agency-Grant-Loan-and-Other-Financial-Assistance-Programs.pdf

[20] Jeff Arkin, ''Grants Management, Observations on Challenges with Access, Use, and Oversight,'' United States Government Accountability Office, GAO–23–106797, May 2, 2023.

And *second*, the Proposed Rule neglects to consider the programmatic impacts - including the increased administrative burden on grantees in order to comply with reporting requirements. Further, the Proposed Rule fails to analyze or show how the proposed applicability, exceptions, and termination provisions would operate within agency-specific statutory and regulatory schemes.

1. The Proposed Rule fails to consider reliance interests.

When promulgating a rule, agencies are required to consider reliance interests that have formed due to longstanding regulatory policies, determine whether they are significant, and weigh them against other policy interests. *Dep't of Homeland Security v. Regents of the University of California*, 591 U.S. 1, 33 (2020). Here, each agency included in the rulemaking has an independent obligation to consider the reliance interests that have formed with regard to the Uniform Guidance that has been in place for over a decade, as well as each agency's prior regulations, guidance, and practices governing the management of federal financial assistance including grants and cooperative agreements.[21]

As explained in Part VII and the Appendix, EPA, DOE, and NOAA/Commerce each oversee a significant number of grant programs to states, Tribes, local communities, nonprofits, businesses, universities, and more. These institutions have come to rely on the current guidelines from OMB and specific agencies concerning federal financial assistance, and they would be significantly impacted by this rulemaking.

For example, many public-interest organizations rely on well established procedures to know how to apply for grants, how to identify which grants may be available to them, how to coordinate with partners on the ground prior to submitting grant applications, how to construct a grant application, how to implement the grant once they have obtained it, and what to do if a grant is terminated.[22] These public-interest organizations have often built-up in-house expertise regarding how to apply for and manage grants, including hiring and training designated staff for this purpose.[23]

The same is true for States, cities and Tribes that regularly apply for grants. These entities rely on established systems, tools and networks to help determine eligibility for different grant

---

[21] EPA, DOE, NOAA/Commerce, and other participating agencies must "take[] into account" that "longstanding policies may have 'engendered serious reliance interests.'" *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 222 (2016) (quoting *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)).

[22] *See, e.g., Nonprofit Grant Management and Compliance Procedures,* WORKPROCEDURES, https://perma.cc/U5KZ-DB8V (describing how "grants are the lifeblood" that sustains most nonprofits but explaining that "this funding comes with strings attached — complex compliance requirements that, if not met, can result in grant funds being disallowed, future funding being denied, and the organization's reputation being irreparably damaged.").

[23] *See, e.g.,* U.S. GOV'T ACCOUNTABILITY OFF., GAO-10-477, TREATMENT AND REIMBURSEMENT OF INDIRECT COSTS VARY AMONG GRANTS, AND DEPEND SIGNIFICANTLY ON FEDERAL, STATE, AND LOCAL GOVERNMENT PRACTICES at 21 (2010) ("Officials from a Louisiana nonprofit told us that complying with reporting requirements for the more than 20 federal grants they manage requires a significant amount of staff resources.").

programs and to guide their management of federal assistance.[24] Many of these entities have specialized staff or even entire departments dedicated to grant management, which would need to undergo significant retraining in light of the scope of these changes.[25]

In addition, there is an entire rigorous national database of entities and information that assist grantees in applying for and managing grants.[26] These organizations provide the crucial assistance that makes federal grants accessible to the organizations best equipped to use them. The Proposed Rule undermines these organizations' crucial role in helping fulfill the statutory purposes of federal grant programs. And unlike past adjustments to OMB guidance, this Proposed Rule imposes arbitrary, political discretion to the grantmaking process, undermining the ability of these organizations to provide rational, rigorous expertise going forward.

The Proposed Rule would significantly alter, and in some areas eliminate, the very processes these entities are presently organized and funded to assist with. Accordingly, this rule frustrates significant reliance interests held by these organizations and their members.

Among the most fundamental reliance interest at stake is the long-time reliance on the principle that once a grant has been secured, grantees will maintain the grant through its term absent fraud or other malfeasance. The Proposed Rule sets up a new regime whereby grants can be cancelled by political appointees at any time based entirely on undefined political criteria. 91 Fed. Reg. at 32226. EPA, DOE, and NOAA/Commerce have a responsibility to consider how this change will impact those who have relied on a more stable grant program and on the public health, environmental, energy, scientific outcomes established by Congress in the enabling legislation.

This concern is heightened due to the Supreme Court's recent shadow docket rulings in *Department of Education v. California*, 604 U.S. 650 (2025), and *National Institutes of Health v. American Public Health Association*, 145 S. Ct. 2658 (2025), which channel challenges of individual grant terminations to the Court of Federal Claims—a slow and cumbersome process that only allows for monetary damages and does not afford grantees the possibility of their grant being reinstated even if unlawfully terminated.

---

[24] *See Overview of Grants Management*, GOV. FIN. OFFICERS ASS'N, https://perma.cc/SLR3-8BSQ (describing an intensive course to train "[l]ocal government employees involved with grants management" on the "grant lifecycle from pre-application to closeout"); *Tribal Financial Management Center,* U.S. DEP'T OF JUST., https://perma.cc/436Y-8TQP (describing "training, technical assistance, and resources to support American Indian and Alaska Native communities as they successfully manage the financial aspects of their federal awards.").

[25] *See, e.g., Grants Management Office*, WYO. STATE BUDGET DEP'T, https://perma.cc/N79L-GFCJ (describing how the office was created to assist "Wyoming's state agencies, local governments, Tribal governments and organizations, small businesses, and nonprofits in identifying, pursuing, and managing grant funding"); *Grants Management Office*, N.J. TREASURY, https://perma.cc/58VX-SLE2 ("GMO assists in reducing and removing barriers to federal grant funding through identifying grant opportunities, providing grant resources, advocacy, and coordination, among federal grant applicants across the state."); *Guide to Grant Management for Tribal Governments*, IGXSOLUTIONS (Oct. 10, 2023), https://perma.cc/R4TE-KCT4 (recommending "training a dedicated grant team" as a best grant management practice for Tribes).

[26] *See, e.g., Member Directory*, UNITED PHILANTHROPY F., https://www.unitedphilforum.org/member-directory (compiling list of nearly 100 supporting organizations); *Grant Research Tools*, NAT'L COUNCIL OF NONPROFITS, https://www.councilofnonprofits.org/running-nonprofit/fundraising-and-resource-development/grant-research-tools; *Reviews: The Top 12 Best Grant Databases for Finding Funding*, Grant Writers Collective, https://perma.cc/VHL7-8Y72.

This concern is further exacerbated by changes in the rule which significantly limit grantees due process rights. The Proposed Rule explicitly provides that agencies are "not required to allow for objections, hearings, and appeals related to any reasons for termination except termination for noncompliance." 91 Fed. Reg. at 32260. Indeed, upon terminating a grant, an agency need only provide "a brief summary of the reason or reasons why an agency decided to terminate an award or class of awards." 91 Fed. Reg. at 32230. Therefore, not only does the Proposed Rule create new, political termination authorities, but it also drastically reduces grantees' ability to challenge any arbitrary terminations – further limiting a process that has already been restricted by recent Supreme Court decisions. Grantees who have relied on the stability of their federal grants for decades will no longer be able to do so should the Proposed Rule come into effect and the will of Congress in establishing a stable and predictable legal framework for the benefit of the American people will be thwarted.

Other changes will likewise frustrate reliance interests, including changes that restrict the use of multilateral collaboration, the elimination of fixed amount awards, the imposition of costly new compliance mandates including DHS E-Verify enrollment, Treasury "Do Not Pay" pre-payment checks, and changes that require written justification for every payment. Repeat grantees have relied on general consistency with these elements over the past decade and EPA, DOE, and NOAA/Commerce have a responsibility to consider how these reliance interests will be impacted.

For many agencies and organizations, engagement with local communities, including communities that have been under-resourced or underserved, are economically disadvantaged, low-income, Tribal, or face particularly high levels of pollution or environmental threats or harm, is essential to carrying out their missions. Many grant programs would not advance their intended purposes without focusing on these communities. For instance, it makes sense for EPA to award pollution reduction grants to grantees working in the places with the most air and water pollution. Grantors, grantees, and the communities they serve have all relied on existing processes for engagement with federal grantmaking. The burdensome new requirements in the Proposed Rule risk undermining the trust built up over decades between these communities and grantees.

Reliance interests are further threatened by the Proposed Rule's conflict with the requirements of existing statutory frameworks. The proposed revisions to § 200.202 would require federal agencies to design programs to align with Administration policies and priorities, restrict eligibility among nonprofit organizations, and impose a domestic-first framework for R&D awards involving international elements. As discussed in Parts VI and VII, these requirements conflict with statutes in which Congress already specified program purposes, eligible recipients, priorities, scientific objectives, and international activities. Grantees have reasonably relied on these consistent statutory frameworks for federal grantmaking over decades.

Thus, under the Proposed Rule, grantees would face an impossible choice: comply with the new regulation or comply with existing statutory requirements. Funding recipients should not have to guess, at their own risk, whether a program statute overrides Part 200. That uncertainty undermines the Proposed Rule's stated goals of uniformity, transparency, and burden reduction.

Finally, the RIA does not acknowledge the millions of people around the country who have and continue to benefit from and rely on the research, services, and other activities that the direct funding recipients have provided. Many states, organizations, and institutions have operated for years in reliance on federal awards, and this far-reaching change will render many of their operations and programming more burdensome or altogether not feasible. Importantly, grantees and the public have long relied on an unbiased federal grantmaking infrastructure that distributes discretionary financial awards based on merit and not based on the personal or policy preferences of a specific President or administration. Grantees who seek federal funding have trusted that the processes for federal financial assistance are based on merit and need, rather than political favor or ideological tests.

2. The Proposed Rule fails to consider programmatic consequences.

The Proposed Rule neglects to consider the increased administrative burden on grantees in order to comply with reporting requirements. The Proposed Rule's requirements for monitoring and reporting on awards will demand additional staff and capacity from grantees and subrecipients. 91 Fed. Reg. at 32224–25. The Proposed Rule fails to address the fact that such new demands will strain the resources of many institutions and organizations, including the budgets of State, local, and Tribal governmental recipients.

Relatedly, the Proposed Rule is also arbitrary and capricious because OMB and the participating agencies have failed to analyze or show how the proposed applicability, exceptions, and termination provisions would operate within agency-specific statutory and regulatory schemes. Proposed §§ 200.101, 200.102, and 200.106 would alter the relationship between Part 200 and agency regulations by giving OMB's government-wide rules priority over many agency-specific requirements and by making OMB the gatekeeper for many exceptions. Proposed §§ 200.340–200.343 would likewise broaden discretionary termination and suspension authority, with limited explanation, limited appeal rights, and significant consequences for allowable costs. Yet EPA, DOE, NOAA/Commerce, and the other participating agencies do not identify which existing agency regulations would be displaced, which are required or authorized by statute, which programs require exceptions, or how the proposed termination and suspension rules interact with program-specific procedures, hearing rights, funding obligations, or reliance interests. That omission leaves recipients, subrecipients, pass-through entities, auditors, agency staff, and program beneficiaries to guess how the rule applies across hundreds of statutory programs. An agency must consider the important aspects of the problem before it, including how a new rule interacts with existing law and settled regulatory frameworks. *State Farm*, 463 U.S. at 43; *Fox*, 556 U.S. at 515–16; *Regents of the Univ. of Cal.*, 591 U.S. at 30–33. The agencies did not do so here. A rule whose lawful operation depends on unidentified exceptions, unresolved conflicts, and after-the-fact statutory guesswork is not the product of reasoned decisionmaking.

Finally and importantly, the Proposed Rule fails to acknowledge or assess the profound harm that this regulatory change is likely to inflict directly on the American people, including communities that have long relied on federal financial assistance, across administrations, to protect their air, water, and land from pollution, to provide emergency response resources and information, and to identify and develop new research, monitoring, and pollution control methods that can strengthen health protection. Countless communities, families, and individuals across the country rely on the programs and services that these federal funds enable, and rely on the agencies to implement them without political bias or unfairness. This Proposed Rule is likely to delay, undermine, and take from local communities the vital resources and services that have helped protect health, strengthen pollution control, safeguard the environment and natural resources, facilitate emergency responses, and much more. OMB, EPA, DOE, NOAA/Commerce, and other participating agencies have impermissibly failed to show the necessary consideration of these significant and widespread impacts, or to show how the proposal could be justifiable when it is likely to cause such serious harm.

The sparse rulemaking record, as discussed later, only further demonstrates the insufficient consideration of impact of the proposed rule. The only supporting documents for the proposed rule – the Regulatory Impact Analysis ("RIA") and Regulatory Flexibility Act Small Entity Analysis – show that OMB and the agencies have failed to consider all relevant factors and have inadequately weighed the costs and harm from the Proposed Rule.

The RIA in the docket does not show consideration of relevant factors or provide support for the proposed rule's conclusions and solutions, because it both ignores the costs and overstates the benefits of the proposed action.

First, the RIA fails to evaluate even qualitatively all potential effects of the proposed action, or all components of the proposed action. RIA at 1 (stating without explanation that it focuses only on "provisions expected to generate substantial regulatory or economic effects"). In particular, the RIA fails to consider the harm to the environment and human health that the proposed changes to federal financial assistance will cause. This proposed action will impact numerous programs and activities that protect the environment and health, *see* Appendix A, but OMB undertakes no consideration or qualitative analysis of these consequences – including delay in or reduced protection due to narrower eligibility restrictions, increased burden on recipients, and less stability for funding due to the new criteria for eligibility and reduced protection from termination. *Id*. at 13-15. The RIA even declines to quantify any of the expected costs of the rule, merely stating "OMB expects there to be minimal to modest costs for the Federal Government and minimal to modest to substantial short-term costs for recipients." RIA at 17.

Second, the RIA overstates the qualitative benefits of the proposed rule. The RIA makes broad, unsubstantiated claims that the proposed rule will result in a myriad of benefits, including "improved transparency, reduced risk, and enhanced program integrity." *Id*. at 11-13, 17. The RIA places undue emphasis on these expected benefits without specific evidence. Because the RIA fails to accurately weigh the proposed rule's costs and benefits, the Proposed Rule's reliance on the RIA is arbitrary and capricious. *State Farm*, 463 U.S. at 43 (an agency action is "arbitrary and capricious if the agency . . . entirely failed to consider an important aspect of the problem").

The RFA Small Entity Analysis similarly fails to provide any reasoned consideration of the full impact, including harm, to health, the environment, local communities, or small nonprofit organizations. It also fails to cure any of the other gaps in the decision making of OMB and the agencies.

Regardless, neither the RIA nor the RFA alone could fully assess or show consideration of the health and environmental impact due to the economic frame that they use to assess effects. As discussed in Part V.B, the National Environmental Policy Act (NEPA) requires an environmental impact analysis before OMB and the agencies take the proposed action, yet they have failed to satisfy its requirements. Similarly, as discussed in Parts V-VII, later, the agencies have failed to satisfy their statutory obligations to assess and demonstrate that the Proposed Rule is consistent with and would advance the statutory purposes of the dozens of statutes that govern the federal financial assistance programs that this Proposed Rule aims to control. The lack of transparency on the list of programs and appropriations that this Proposed Rule would control only further illustrates the lack of consideration of all relevant factors and impacts. Without even naming all of the agency programs and types of financial assistance to which the Proposed Rule would apply, or the types of effects and range of recipients and beneficiaries for each program, OMB and the agencies could not possibly have evaluated or considered the impact of this proposal as is required to engage in reasoned decision-making and comply with all applicable legal requirements.

E. The Proposed Rule fails to provide for meaningful public engagement.

This Proposed Rule constitutes a clear set of substantive changes to federal grant-making processes that would make new requirements binding on state, local, and Tribal governments, academic institutions, nonprofits, and the public, and is therefore subject to APA's bedrock notice-and-comment requirements. *See Texas v. US*, 787 F.3d 733, 762 (5th Cir. 2015) ("if a rule is substantive, all notice-and-comment requirements must be adhered to scrupulously") (internal quotations omitted); *Clarian Health West*, *LLC v. Burwell*, 206 F. Supp. 3d 393, 410 (D.D.C. 2016) ("a substantive rule is any rule that is *not* interpretive, procedural, or otherwise subject to an exemption, and because the statutory exemptions represent a departure from the default notice-and-comment requirement, the D.C. Circuit has instructed that the various exceptions… will be narrowly construed and only reluctantly countenanced") (internal quotations omitted). The APA requires that an agency "give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments." 5 U.S.C. § 553(c). In order to fulfill this requirement, agencies must provide the public a "meaningful opportunity to comment." *Asiana Airlines v. F.A.A.*, 134 F.3d 393, 396 (D.C. Cir. 1998). The purpose of this comment period is "to reintroduce public participation and fairness to affected parties" into the rulemaking process. *Am. Hosp. Ass'n v. Bowen*, 834 F.2d 1037, 1044 (D.C. Cir. 1987) (quoting *Batterton v. Marshall*, 648 F.2d 694, 703 (D.C. Cir.1980)).

Furthermore, the EPA has its own specific statutory mandates to facilitate public input and "ensure a reasonable period for public participation" during the rulemaking process. *See, e.g.*, 42 U.S.C. § 7607(h) (Clean Air Act); *see also* 33 U.S.C. § 1251(e) (the Clean Water Act requires "[p]ublic participation in the development, revision, and enforcement of any regulation"). This sweeping action also affects EPA's rulemaking responsibilities under 42 U.S.C. § 7607(d) and directly contravenes those delineated procedural protections carefully crafted by Congress. Among other safeguards, these statutory provisions guarantee the public the opportunity for oral presentation of views, require disclosure of data and facts that are the basis for the action, provide for NAS engagement and disclosure of its views and explanation of differences by the agency, require public docketing including docketing of interagency materials, and require a rigorous and complete response to public comments. These carefully crafted protections are a centerpiece of our nation's laws that cannot be dismissed by this unlawful and brazen assertion of omnibus authority – and the profoundly unlawful process being deployed here.

1. The 45-day comment period is too short for meaningful public participation.

The Proposed Rule provides a 45-day comment period for a rule that spans dozens of agencies, hundreds of pages, and the full lifecycle of federal financial assistance. A 45-day period may be adequate for a narrow technical amendment. It is not adequate for a proposal that would convert Part 200 into a binding OMB regulation and impose substantive requirements across countless statutory programs. Nonetheless, OMB has rejected at least one request to extend the deadline without providing any reasoned rationale.[27]

The problem is compounded by the Proposed Rule's lack of agency-specific analysis. Commenters must identify affected programs, locate program-specific statutes, evaluate statutory conflicts, assess reliance interests, analyze operational consequences, and consider potential carveouts – work the agencies themselves have not done in the proposal. The agencies should not finalize a rule of this breadth without providing a fuller record and a meaningful opportunity for public comment.

A longer comment period is necessary given the far-reaching impact of this proposed action. This proposed rule covers the entire discretionary financial assistance funds of the federal government. It will affect over forty federal agencies, their grantees, and the entire discretionary award funding annually, touching every state, every Tribe, local governments, universities, hospitals, non-profit organizations, private companies, and communities across the country. *See* RIA at 6 (recognizing over 100,000 direct assistance recipients from 2015-2024 alone, but not acknowledging the even broader impact on the communities these recipients serve). Notably, the record does not even provide the total funding or list of programs for public review in the docket.

Under the APA as well as agency-specific statutory requirements, these affected parties are entitled to a meaningful opportunity to comment on this proposed action that will transform their access to federal financial assistance and the services provided by grant recipients. A 45-day comment period prevents meaningful participation from those entities that are unable to submit informed comments in that short timeframe. Given both the lack of information provided in the docket and the breadth of this proposed rule, covering all discretionary financial assistance across the federal government, including EPA, NOAA/Commerce, DOE and more, 45 days is simply not enough time for the public, particularly all people likely to be affected, to provide informed input on the consequences of this action.

Under existing federal policy that OMB purports to continue to apply here, the comment period should be at least 60 days, following disclosure of a robust public docket for review, in order to ensure meaningful public participation. Exec. Order No. 13563, 76 Fed. Reg. 3821, 3821–22 (Jan. 18, 2011) ("To the extent feasible and permitted by law, each agency shall afford the public

[27] *See* Letter from Kym Meyer & Liz Zepeda, S. Env't L. Ctr., to Russell Vought, Dir., Off. of Mgmt. & Budget, Re: OMB-2026-0034; Request for a Comment Period Extension for Proposed Rule, Regulation for Federal Financial Assistance (June 9, 2026), https://www.regulations.gov/comment/OMB-2026-0034-15961.

a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days."); *see also* Exec. Order 12866, 58 Fed. Reg. 51735, 51740 (Oct. 4, 1993) (directs agencies to provide a "meaningful opportunity to comment, including a 60-day comment period in most cases"). The Proposed Rule acknowledges that this proposal constitutes a "significant regulatory action" triggering the EO 12866 provisions. *See* 91 Fed. Reg. at 32235.

OMB's proffered justification for the 45-day comment period is insufficient in light of the legal requirement for meaningful participation. The Proposed Rule claims that the 45-day comment period is necessary in order to achieve an October 1 effective date for the Final Rule. 91 Fed. Reg. at 32235. As stated above, however, a 45-day comment period is too short for affected parties to meaningfully comment on the profound impacts of this proposed action that would apply to nearly all federal financial assistance. Simply stated, expediency is an inadequate reason to curtail the meaningful public participation that is required by law.

2. Meaningful comment is not possible due to concerns of retaliation.

The APA requires a meaningful opportunity to comment. 5 U.S.C. § 553(c); *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 35–36 (D.C. Cir. 1977); *Conn. Light & Power Co. v. NRC*, 673 F.2d 525, 530–31 (D.C. Cir. 1982). That opportunity is not meaningful where the agency has created a reasonable fear that affected parties will be penalized for candid participation.

That is the situation here. The Proposed Rule repeatedly attacks current and former grantees and federally funded work in ideological terms – accusing grantees of advancing a "woke" agenda, "anti-American ideologies," "far-left perspectives," "neo-Marxist" science, and other supposed abuses. 91 Fed. Reg. at 32200. In that environment, many recipients, subrecipients, applicants, researchers, community partners, and pass-through entities have reasonable concerns that criticizing the Proposed Rule – or explaining how their federally funded work advances statutorily prescribed aims – could invite retaliation, scrutiny, nonselection, special conditions, reputational consequences, or termination. The First Amendment forbids the government from using threats or coercive pressure to discourage protected speech. *Nat'l Rifle Ass'n of Am. v. Vullo*, 602 U.S. 175, 197 (2024); *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963). The APA likewise does not permit an agency to rely on a public-comment process that predictably suppresses the participation of those most affected.

OMB therefore should not treat silence or limited comments from grantees as acquiescence. OMB and the participating agencies should withdraw the Proposed Rule or, at minimum, reopen the comment period after affirming that no comment, objection, or participation in this rulemaking will be used in any grant-selection, risk-review, monitoring, enforcement, termination, suspension, audit, or reputational assessment.

The proposed rule not only erodes the unbiased nature of the federal financial assistance infrastructure, it specifically targets certain programs and activities the Administration disfavors and that it considers inconsistent with this specific administration and the "President's policy priorities." 91 Fed. Reg. at 32212. These statements create a chilling effect that prevents meaningful public participation from affected entities or any members of the public who have a reasonable fear of potential retribution for offering public comments.

3. The Proposed Rule does not provide adequate agency-specific notice.

The Proposed Rule is styled as a joint rulemaking, but the participating agencies do not provide agency-specific explanations for their adoption of the proposed Part 200 revisions. That matters because EPA, DOE, and NOAA/Commerce administer different programs under different statutes, with different eligibility rules, scientific standards, community priorities, international obligations, and termination procedures. A generic government-wide preamble does not allow affected recipients, states, Tribes, local governments, research institutions, community partners, or other stakeholders to understand how the proposed rule would apply to the programs they actually administer, receive, or rely upon.

At minimum, each participating agency must identify the programs affected by the Proposed Rule; the statutory provisions governing those programs; any provisions of the Proposed Rule that would not apply because of program-specific law; and any agency-specific consequences, exceptions, or implementation issues. Without that information, the public cannot meaningfully comment on the rule's application to EPA, DOE, NOAA/Commerce, or other agency programs.

F. The agencies have failed to provide a complete administrative record.

The APA requires an agency to provide notice sufficient to allow interested parties to participate meaningfully in the rulemaking. 5 U.S.C. § 553. That obligation includes disclosure of the technical, factual, or evidentiary material on which the agency relies where those materials form the basis for the proposed rule. *See United States v. Nova Scotia Food Products Corp.*, 568 F.2d 240, 251–52 (2d Cir. 1977); *Portland Cement Ass'n v. Ruckelshaus*, 486 F.2d 375, 392–93 (D.C. Cir. 1973). In order to ensure opportunity for informed public comment, the APA requires that agencies make available the "factual material that is used to support the agency's position," including "technical studies and data that it has employed in reaching the decisions to propose particular rules." *Window Covering Mfrs. Ass'n v. Consumer Prod. Safety Comm'n*, 82 F.4th 1273, 1283 (D.C. Cir. 2023) (quotations omitted). "Notice of a proposed rule must include sufficient detail on its content and basis in law and evidence to allow for meaningful and informed comment." *Am. Med. Ass'n v. Reno*, 57 F.3d 1129, 1132 (D.C. Cir. 1995). "By requiring the most critical factual material used by the agency be subjected to informed comment, the APA . . . ensure[s] that agency regulations are tested through exposure to public comment, to afford affected parties an opportunity to present comment and evidence to support their positions, and thereby to enhance the quality of judicial review." *American Radio Relay League, Inc. v. FCC*, 524 F.3d 227, 236 (quotations omitted). Failure to provide this factual basis constitutes a "serious procedural error." *Conn. Light & Power*, 673 F.2d at 530–31 (D.C. Cir. 1982).

OMB and the agencies have not provided basic information in the record that is needed to inform and allow for meaningful public comment. For example, the preamble and record include no discussion or list of the statutory programs or the total annual appropriations that the proposed rule covers. It is not possible for the public to comment meaningfully on the Proposed Rule without understanding precisely which programs and federal awards the rule would apply to. Neither the existing applicability provision for the guidance nor the proposed exceptions language makes clear to the public what is proposed to be covered by this new action. *See* existing and proposed section 200.101, proposed 200.102 (exceptions). Because there is no meaningful evaluation of potential impact, including to health and the environment, as discussed above, OMB and the agencies have failed to provide sufficient information to allow for the required opportunity for public comment.

OMB and the agencies have failed to provide a complete record of the evidence it considered and relied on to develop this proposed rule. The omission of evidentiary material on which the agency relied prevents meaningful comment. Commenters cannot reasonably evaluate the need for, scope of, or alternatives to the Proposed Rule without knowing what problem the agencies believe exists, which programs are affected, what evidence supports the agencies' conclusions, and why existing tools—audits, monitoring, specific conditions, suspension, termination, agency enforcement, inspector-general review, and program-specific agency oversightt—are inadequate.

The Docket contains only three documents, which do not include the underlying information referenced in the Proposed Rule. For instance, the Proposed Rule contends various federal actions in prior years were not aligned with American values or applicable law, 91 Fed. Reg. at 32199–200, but the record lacks the underlying information cited or other relevant documentation that could allow the public to meaningfully review and consider the arguments in the preamble to the Proposed Rule. The few citations included in the Proposed Rule are primarily newly or recently-created administration, Senate committee, opinion articles, or Heritage Foundation documents, which do not provide the factual information on which they purport to rely. *See*, *e.g.*, 91 Fed. Reg. at 32200. These materials alone—without the underlying information on which they purportedly rely—are insufficient to allow the public to understand the proposal's evidentiary basis or provide informed comments.

Here, the Proposed Rule rests on broad assertions about waste, misuse, ideological grantmaking, inadequate oversight, and misalignment between federal awards and statutory purposes. But OMB and the participating agencies have not provided a record that would allow commenters to test those assertions across the affected agencies and programs. 91 Fed. Reg. at 32199–200. The preamble cites selected examples, Executive Orders, White House materials, advocacy reports, and generalized claims, but it does not provide an evidentiary basis, at the level of specific funding programs, showing a systemic problem in EPA, DOE, NOAA/Commerce, or other federal financial-assistance programs. Nor does it identify any data, agency analyses, audits, enforcement experience, or program evaluations that allegedly justify the proposed government-wide response.

Again, the Proposed Rule's reliance on Executive Order 14303, "Restoring Gold Standard Science," illustrates the problem. *See* 91 Fed. Reg. at 32200 & n.8. The Executive Order does not identify or analyze any EPA, DOE, NOAA/Commerce, or other federal financial-assistance program; it does not disclose grant-level data, agency analyses, audits, peer-review failures, or program evaluations; and it does not explain why existing statutory and agency-specific scientific-review safeguards are inadequate. Instead, it announces a government-wide policy preference and offers generalized examples concerning scientific practice. That is not a substitute for disclosure of the factual and evidentiary basis for a binding rule that would alter how scientific grants are designed, reviewed, awarded, monitored, and terminated across the federal government.

G. The agencies have failed to satisfy requirements for Tribal consultation.

The Proposed Rule will impact federal financial assistance for numerous programs and activities that serve Tribes and Tribal communities as well as assistance that Tribes receive directly as recipients, as admitted in the Proposed Rule.

OMB and each agency must consult with Tribes and Tribal communities when promulgating new rules with Tribal implications. Executive Order 13175: Consultation and Coordination with Tribal Governments (Nov. 9, 2000), 65 Fed. Reg. 67249; *see also, e.g.*, EPA Policy on Consultation and Coordination with Indian Tribes (Dec. 7, 2023). The Proposed Rule claims it has "considered [Tribal] concerns" in the development of this rule, but the record contains no discussion of or response to those concerns, and no concrete evidence whatsoever of Tribal consultation. 91 Fed. Reg. at 32235–36.

The Proposed Rule also purportedly promises to "initiate formal Tribal consultation before a final rule is promulgated." *Id*. In order to meet the requirements of Executive Order 13175 and the underlying legal requirements it implements, along with agency-specific policies, OMB and the agencies must provide documentation of meaningful Tribal participation and its respect for Tribal interests. Failing to do so would violate applicable legal requirements on consultation and further demonstrate that OMB and the agencies have failed to consider all relevant factors, including impacts on Tribes and Tribal communities.

V. The Proposed Rule Violates Other Statutory Requirements [Proposed 2 C.F.R Parts 1-200, 2 C.F.R. Parts 901-910, 2 C.F.R. Parts 1326-1329, and 2 C.F.R. Parts 1500-1536]

The Proposed Rule fails to comply with multiple additional statutes that establish requirements when agencies promulgate new standards.

A. OMB fails to properly treat the Proposed Rule as a "Major Rule" under the Congressional Review Act.

OMB and the participating agencies should not finalize this rule without treating it as a "major rule" under the Congressional Review Act (CRA). The CRA requires an agency, before a rule can take effect, to submit to Congress and the Comptroller General a report that includes the rule, a concise statement, whether the rule is a major rule, and the proposed effective date. 5 U.S.C. § 801(a)(1)(A). A "major rule" includes any rule that OIRA finds is likely to have an annual effect on the economy of $100 million or more, to cause a major increase in costs, or to have significant adverse effects on competition, employment, investment, productivity, innovation, or U.S.-based enterprises. 5 U.S.C. § 804(2). Major rules are subject to a delayed effective date. 5 U.S.C. § 801(a)(3).

This rule plainly warrants major-rule treatment. OMB proposes to convert 2 C.F.R. Part 200 from guidance into a binding, government-wide regulation governing grants and cooperative agreements across dozens of agencies. The Proposed Rule itself states that OIRA has determined the rule is a "significant regulatory action," that a Regulatory Impact Assessment accompanies the rule, and that the rule would apply government-wide to federal awards. 91 Fed. Reg. at

32235. OMB cannot avoid CRA treatment by labeling the rule's administrative costs "modest." *Id.* at 32209. The CRA asks whether the rule is likely to have a $100 million annual effect on the economy. Given the volume of federal financial assistance affected across the entire federal government, that threshold is easily implicated. OMB should designate any final rule as a major rule, submit it to Congress and GAO accordingly, and delay its effective date as required by 5 U.S.C. § 801(a)(3).

B. The Proposed Rule fails to comply with the National Environmental Policy Act.

OMB and the participating agencies failed to comply with the National Environmental Policy Act of 1969 (NEPA) when preparing this rule. 42 U.S.C. § 4321 *et seq*. As discussed throughout these comments, this Proposed Rule threatens countless programs with immense significance for clean air, clean water, energy technologies, disaster resilience, and many more aspects of environmental and public health. These are significant potential consequences that necessitate NEPA compliance.

Major federal actions with potentially significant impacts to the human environment, require preparation of an environmental impact statement ("EIS") under NEPA. 42 U.S.C. § 4332(2)(C). This rulemaking is a major federal action, and it therefore requires an EIS because it "has a reasonable foreseeable significant effect on the quality of the human environment," or if that were unknown, at least an environmental assessment ("EA") to determine whether an EIS is required. 42 U.S.C. § 4336(b).

There can be no dispute that this is a major federal action. The 2023 Fiscal Responsibility Act amended NEPA, including the definition of "Major Federal action." Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, § 321, 137 Stat. 10, 45 (2023) (codified at 42 U.S.C. § 4336e(10)). The definition of "major federal action" no longer specifically refers to "new or revised agency rules, regulations, . . . or procedures" as did the prior CEQ regulations. 40 C.F.R. § 1508.18(a) (1978). Instead, the new definition defines "major federal action" via reference to a list of actions that are *not* major federal actions. Notably absent from the new definition are changes to agency regulations and procedures, meaning that rulemaking actions like those proposed in this Proposed Rule are themselves major federal actions under NEPA.

OMB, EPA, NOAA, DOE, and the participating agencies cannot simply ignore NEPA's obligations, as it seems they are planning here, due to the lack of any evidence of NEPA compliance in the record or accompanying this proposed rule. *Citizens for Better Forestry v. USDA*, 481 F. Supp. 2d 1059, 1085 (N.D. Cal. 2007) ("NEPA requires *some* type of procedural due diligence—even in cases involving broad, programmatic changes.…"). An agency considering "major federal actions significantly affecting the quality of the human environment" has an obligation under NEPA to prepare an EIS that in "form, content and preparation foster[s] both informed decision-making and informed public participation." *Native Ecosystems Council v. United States*, 418 F.3d 953, 958 n.4, 960 (9th Cir. 2005) (internal quotation marks omitted); *W. Watersheds Project v. Kraayenbrink*, 632 F.3d 472, 491 (9th Cir. 2011). If the agencies do not intend to prepare an EA or EIS for this rule, they must at least attempt to justify the use of a categorical exclusion.

Notably, courts routinely require the preparation of NEPA documentation for proposed federal agency rules, including rules labeled as substantive or as "procedural." For example, the Ninth Circuit in *Citizens for Better Forestry v. U.S. Department of Agriculture* held that the Forest Service violated NEPA and the Endangered Species Act for failing to conduct any environmental analysis on nationwide procedural regulations governing the development of land management plans. 341 F.3d 961, 970–71 (9th Cir. 2003) (*Citizens I*).

In addition, this action requires complete review by the EPA Administrator in accordance with the plain and manifest terms of 42 U.S.C. § 7609.

C. The Proposed Rule must comply with the Paperwork Reduction Act.

OMB's assertion that the Paperwork Reduction Act "does not apply" because the rule "does not contain a new requirement for information collection" is incorrect. 91 Fed. Reg. at 32235. The PRA defines "burden" broadly to include the time, effort, and resources required to generate, maintain, provide, disclose, or transmit information to or for a federal agency. 44 U.S.C. § 3502(2). It also defines "collection of information" to include identical reporting, recordkeeping, or disclosure requirements imposed on ten or more non-federal persons. 44 U.S.C. § 3502(3). Before adopting or revising such a collection, an agency must conduct PRA review, publish the required Federal Register notice, estimate burden, obtain OMB approval, and display a valid control number. 44 U.S.C. §§ 3506(c), 3507(a).

The Proposed Rule would impose multiple new or revised collections. Proposed § 200.112 would require recipients and subrecipients to disclose whether employees working on an application or award were employed by the awarding agency within the prior two years. Proposed § 200.305 would require written justifications for payment requests. Proposed § 200.303(f) would require E-Verify participation and reporting of Final Nonconfirmation information. Proposed reporting and monitoring provisions would require additional performance, subaward, and significant-development information. These are information collections under the PRA. OMB and the participating agencies therefore must identify each new or revised collection, estimate its burden, seek PRA comment, obtain valid control numbers, and revise the RIA accordingly. Without PRA clearance, affected recipients cannot be penalized for failing to comply with covered collections lacking a valid control number. 44 U.S.C. § 3512.

VI. EPA, DOE, and NOAA Fail to Justify the Proposed Action, and Particularly Fail to Address Program-Specific Statutes that the Proposed Rule Cannot Override [Proposed 2 C.F.R Parts 1-200, 2 C.F.R. Parts 901-910, 2 C.F.R. Parts 1326-1329, and 2 C.F.R. Parts 1500-1536]

Even if OMB had authority to issue government-wide rules governing some aspects of federal financial assistance, any such authority would yield to the specific statutes Congress enacted for particular agencies and programs. Congress has not created a single undifferentiated federal grants program. It has, however, enacted many program-specific statutes that define program purposes, eligible recipients, funding priorities, selection criteria, scientific standards, community-participation requirements, international-collaboration obligations, and termination procedures. OMB and the participating agencies cannot use Part 200 to revise, much less replace, those statutory judgments.

This section sets out the general legal principles that govern conflicts between the Proposed Rule and program-specific statutes. Section VI then applies these principles to select provisions of the Proposed Rule and provides key examples of specific conflicts between the Proposed Rule and statutes governing EPA, DOE, and NOAA/Commerce financial assistance programs. The attached Appendix details a further array of statutes subject to those conflicts. However, the appendix is not an exhaustive list and the Proposed Rule may present conflicts with additional statutes governing EPA, DOE, and NOAA.

A. Specific program statutes control over general grants-management rules.

Agencies may issue regulations only to implement statutory programs within the bounds Congress set. They may not, through rulemaking, narrow, amend, or repeal those programs. *See Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81, 91 (2002); *Manhattan Gen. Equip. Co. v. Comm'r*, 297 U.S. 129, 134 (1936).

That principle is decisive here. Congress has enacted program-specific statutes governing EPA, DOE, NOAA/Commerce, and other agencies' financial-assistance programs. Those statutes prescribe program purposes, eligible recipients, funding priorities, selection criteria, scientific standards, community-participation requirements, international-collaboration obligations, termination procedures, and other substantive requirements. Part 200 cannot displace those statutory commands.

Therefore, where Congress has directed EPA to fund pollution-control, drinking-water, cleanup, public-health, environmental-research, disadvantaged-community, or public-participation activities, EPA may not apply Part 200 to prohibit or burden those activities in a way that conflicts with, or is not contemplated by, the statute. Where Congress has directed DOE to fund energy research, clean-energy deployment, impartial scientific and technical merit review, or international scientific collaboration, DOE may not apply Part 200 to substitute different selection criteria or collaboration rules. Where Congress has directed NOAA/Commerce to support coastal-zone management, fisheries science, Sea Grant, oceanic and atmospheric research, or international scientific work, Commerce may not apply Part 200 to override those statutory commands.

That is true regardless of whether the conflict is direct or practical. A regulation is unlawful not only when it expressly contradicts statutory text, but also when it changes the operation of the statutory scheme, adds requirements Congress did not authorize, or imposes additional prerequisites where Congress specified the governing criteria. *See Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 661–62 (2007); *Ragsdale*, 535 U.S. at 91–96; *Manhattan Gen. Equip.*, 297 U.S. at 134. Thus, Part 200 may not change statutory selection criteria, impose eligibility limits Congress did not authorize, subject congressionally directed activities to political veto, frustrate statutory purposes, or allow suspension or termination in circumstances inconsistent with program-specific procedures.

Because program-specific statutes control, the agencies must address those statutes before finalizing any substantive Part 200 requirement. The Proposed Rule does not do so. It does not identify the affected EPA, DOE, or NOAA/Commerce programs. It does not identify statutory provisions that require exceptions. It does not explain whether formula, block, capitalization, entitlement, disaster-response, research, infrastructure, coastal, fisheries, cleanup, or public-health programs are exempt from particular provisions. It does not address statutory procedures governing termination, suspension, cure, hearings, or withdrawal of funds. And it does not identify how agencies will implement the rule without disrupting congressionally mandated environmental, energy, coastal, scientific, public-health, and community-protection programs.

B. EPA, DOE, and NOAA/Commerce fail to show how they may lawfully or rationally finalize the Proposed Rule, based on each agency's own independent and unique statutory authorities and financial assistance responsibilities, in violation of principles of reasoned decision-making and public notice-and-comment.

As detailed in Section VI and in the attached appendix, EPA, DOE, and NOAA/Commerce administer programs under statutes that prescribe specific purposes, eligible recipients, scientific standards, public-participation obligations, community priorities, multilateral-collaboration requirements, and termination procedures. Yet the Proposed Rule does not conduct the statutory analysis needed to reconcile those requirements with the proposed Part 200 provisions. That failure is independently arbitrary and capricious: the agencies did not address an important aspect of the problem, did not explain how the rule can lawfully apply across affected programs, and did not justify the rule's stated objectives in light of the uncertainty and burdens described above.

The Proposed Rule also does not adequately justify its asserted objectives. OMB says the proposal will improve transparency, accountability, oversight, and burden reduction. But many provisions appear likely to increase uncertainty, delay, political review, compliance costs, and litigation risk. The Proposed Rule does not explain how imposing new political pre-issuance review, eligibility restrictions, multilateral-collaboration limits, activity-based prohibitions, and expanded termination authority will reduce burden or improve program delivery.

C. The Proposed Rule's savings clauses are inadequate and do not meet the obligations of EPA, DOE, NOAA/Commerce, and other participating agencies.

The Proposed Rule repeatedly uses qualifiers such as "to the extent permitted by law" and "to the maximum extent permitted by law." *See, e.g.,* 91 Fed. Reg. at 32211, 32213, 32215, 32217, 32219, and 32226. Those clauses are necessary concessions that program-specific statutes control. But they are not sufficient.

A savings clause does not identify which statutes limit the Proposed Rule. It does not tell agencies, recipients, subrecipients, pass-through entities, auditors, states, Tribes, local governments, research institutions, or community partners which Part 200 provisions apply to which programs. It does not explain how the new requirements can be reconciled with conflicting statutory purposes, eligibility provisions, peer-review requirements, community-benefitting mandates, public-participation obligations, multilateral-collaboration directives, or termination procedures. And it does not satisfy the agencies' obligation to engage in reasoned decisionmaking before finalizing a rule. *See State Farm*, 463 U.S. at 43.

D. The Proposed Rule fails to account for the uncertainty and burdens created by its failure to identify where and how the rule applies.

The problem identified above—that the savings clauses used in the Proposed Rule are inadequate to fulfill the obligation of individual agencies to resolve conflict with existing statutory provisions—is especially acute because the Proposed Rule would regulate the entire lifecycle of federal awards. It would affect program planning and design, notices of funding opportunity, merit review, risk review, award conditions, national policy requirements, multilateral collaborations, allowable costs, subrecipient relationships, suspension, and termination. In that setting, generic "as permitted by law" language simply shifts the burden of determining whether a preexisting statutory provision or a conflicting provision of this Proposed Rule should prevail onto entities other than OMB, EPA, DOE, NOAA, and other participating agencies. All of the stakeholders involved in the implementation and management of federal financial assistance programs – including implementing agency staff, state and Tribal entities, and non-governmental institutions or community organizations receiving funding – will have to resolve this conflict themselves. This is particularly burdensome for funding recipients, who should not have to guess – on pain of noncompliance, audit findings, repayment demands, or termination – whether a program statute supersedes a new Part 200 requirement.

The Proposed Rule also fails to consider the severe uncertainty and administrative burden created by the agencies' failure to conduct an agency-by-agency, program-by-program, or provision-by-provision analysis. The Proposed Rule would apply across dozens of agencies and countless statutory programs, but it does not identify which programs are subject to which provisions, which programs are exempt because of statutory conflicts, which provisions apply differently to formula grants, block grants, cooperative agreements, research awards, infrastructure grants, capitalization grants, disaster-response funding, or continuing multi-year awards, or how recipients are supposed to resolve conflicts between Part 200 and program-specific statutes or award terms.

That omission creates an untenable situation for award applicants and recipients. A prospective applicant cannot know whether it must design its proposal around the program statute, the NOFO, the new Part 200 requirements, an agency-specific exception that has not been identified, or a generic savings clause stating that the rule applies only "to the extent permitted by law." Recipients likewise cannot know whether existing project activities, subrecipient relationships, community-engagement plans, demographic analyses, scientific collaborations, multilateral partnerships, or public-participation work will remain permissible. Nor can pass-through entities, auditors, and agency staff know how to administer, monitor, audit, or enforce awards when the agencies themselves have not identified the controlling legal rules.

This uncertainty will increase compliance costs, chill lawful applications and award activities, delay program implementation, discourage participation by smaller and community-based entities, invite inconsistent interpretations, and increase the risk of disputes, audit findings, repayment demands, suspension, or termination. Those consequences directly undermine the Proposed Rule's stated goals of transparency, uniformity, accountability, and burden reduction.

The Proposed Rule's generic savings clauses do not solve the problem. They confirm that program-specific statutes may limit the Proposed Rule, but they do not identify the limits. By leaving those questions unresolved, the Proposed Rule effectively requires applicants and recipients to perform the legal analysis the agencies failed to do. The APA does not permit agencies to impose major new compliance obligations while leaving regulated parties to guess where the rule applies, where it yields to statute, and what conduct may expose them to enforcement or termination.

VII. Several Sections of the Proposed Rule Present Specific Problems Showing OMB and the Agencies Have Failed to Demonstrate Compliance with the Program-Specific Statutes Administered by EPA, DOE, and NOAA and the Proposed Rule Is Therefore Unlawful and Arbitrary [Proposed 2 C.F.R Parts 1-200, 2 C.F.R. Parts 901-910, 2 C.F.R. Parts 1326-1329, and 2 C.F.R. Parts 1500-1536]

The Proposed Rule cannot ignore or override the specific statutes Congress enacted for individual grant programs, including those Congress has directed EPA, DOE, and NOAA/Commerce to administer. Congress established specific requirements governing program objectives, eligibility, priorities, standards, participation, and termination for each of these agencies. Accordingly, neither OMB nor the agencies may use the proposed changes to Part 200 to revise or replace those statutory judgments. Each proposed provision is therefore unlawful and arbitrary because EPA, DOE, and NOAA have failed to demonstrate that it is consistent with the statutory requirements governing their programs or that it advances the objectives Congress assigned them to implement.

This section reviews the Proposed Rule section-by-section, identifying examples where the proposed changes to Part 200 exceed OMB's and individual agencies' authority or are otherwise unlawful and arbitrary. In certain instances, these comments highlight the potential conflicts with the statutes Congress has enacted governing individual EPA, DOE, and NOAA grant programs that neither these agencies nor OMB has addressed or reconciled. The agencies must address all of their applicable authorities and statutory requirements to demonstrate no such conflicts exist.

These examples of statutory objectives, requirements, and conflicts are merely illustrative, and do not constitute the only instances in which the Proposed Rule contravenes federal statutes. This comment incorporates by reference Appendix A, which provides additional examples of potential conflicts between the Proposed Rule and statutes administered by EPA, DOE, and NOAA, though it does not purport to be exhaustive.

A. [Proposed §§ 200.101, 200.102, 200.106, and 200.110] – Applicability, Exceptions, and Agency Implementation

The proposed changes to § 200.101(d)(2) would provide that, once an agency has adopted Part 200, all of subpart F and § 200.340 govern over conflicting agency regulations unless those regulations are required by federal statute. *See* 91 Fed. Reg. at 32245–46. Proposed § 200.102 would allow agencies, without OMB approval, to make class-wide exceptions required by federal statute, except from subpart F. Adjustments required by other federal regulations would remain subject to § 200.101(d), while agency-created exceptions generally would be permitted only on a case-by-case basis and only where not prohibited by law or subject to another approval requirement in Part 200. *See id.* at 32246. Finally, proposed § 200.106 would require agencies to implement subparts A through F in codified regulations – and to carry out specified requirements elsewhere in subtitle A – unless different provisions are required by federal statute or approved by OMB. *Id.*

These provisions exceed OMB's and the participating agencies' authority. Congress assigned EPA, DOE, NOAA/Commerce, and other agencies—not OMB—the responsibility to implement their own organic and program-specific statutes. Those many statutes authorize the agencies to establish grant criteria, eligible recipients, scientific standards, community priorities, public-participation requirements, international-collaboration rules, and termination procedures (*see infra* Appendix A). Agency regulations lawfully implementing those statutes do not become subordinate merely because Congress authorized the agency to adopt them rather than prescribing every detail itself. Yet, there is no discussion of any of the regulations on grants and other federal assistance programs the agencies administer or how the Proposed Rule is consistent with and does not conflict with those regulations.[28] Instead, the relevant question is whether the agency regulation validly implements the statutory authority Congress provided that agency. However, OMB cannot use a general grants-management guidance to displace agency regulations that carry out program-specific statutes. Nor may OMB require agencies to seek OMB approval before adopting exceptions or clarifications needed to administer programs Congress entrusted to them.

The proposal changes to these provisions are also arbitrary and capricious. The Proposed Rule repeatedly relies on savings clauses such as "to the extent permitted by law," but it does not identify which EPA, DOE, or NOAA/Commerce statutes or regulations limit Part 200, which programs require exceptions, or how agencies will resolve conflicts before implementation. That uncertainty shifts legal risk to recipients, subrecipients, pass-through entities, auditors, agency staff, and program beneficiaries. It also undermines the Proposed Rule's asserted goals of uniformity, transparency, and burden reduction. Nor is it enough to say that federal statutes control in the event of conflict. The agencies must identify the statutory provisions and objectives they are implementing and discuss the Proposed Rule's implementation of those (if any), including any conflicts now and explain how they will resolve them.

B. [Proposed § 200.202] – Program Planning and Design

In contravention of statutory mandates adopted by Congress, signed into law by prior Presidents, and carried out consistent with established law by administrations operating under Presidents of both major political parties, the proposed changes to § 200.202 would require federal agencies to design grant programs to align with the current Administration's policies and priorities, restrict the eligibility of certain nonprofit organizations, and impose a "domestic-first" framework for research and development awards involving multilateral elements. *See* 91 Fed. Reg. at 32247.

As previously explained, such provisions exceed OMB's and the participating agencies' authority as they conflict with statutes in which Congress has already specified program purposes, eligible recipients, program priorities, scientific objectives, international activities, and other elements of program planning and design. The Proposed Rule offers no explanation of how

[28] *See e.g.,* 40 C.F.R. Ch. 1 Subpart B (Grants and Other Federal Assistance) – see, e.g., Part 35 (State and Local Assistance), Part 40 (Research and Demonstration Grants), Part 45 (Training Assistance), Part 47 (National Environmental Education Act Grants), Part 49 (Indian Country: Air Quality Planning and Management).

federal agencies can comply with both the Proposed Rule and their governing statutes where administration priorities and the authorizing language governing a grant program are inconsistent or conflict. OMB and the participating agencies have failed to demonstrate how the proposed changes to § 200.202 are consistent with or advance their statutory mandates, rendering the revisions unlawful and arbitrary.

Appendix A to this comment identifies dozens of specific instances of statutory conflicts with the proposed revisions to § 200.202. To illustrate the types of statutory conflicts proposed § 200.202 presents, this section offers two examples from grant programs administered by EPA and NOAA that have clearly defined program purposes, eligible recipients, and priorities established in statute:

- <u>EPA Clean Ports Program – 42 U.S.C. § 7433</u>: When Congress created the Clean Ports Program, it established clear program purposes, grant limitations, and eligible recipients to direct EPA's implementation of the program. Congress directed EPA to support the deployment of zero-emission port equipment and infrastructure and the development of qualified climate action plans at ports. The statute directs EPA to award competitive grants and rebates to eligible entities for specified purposes, including: (1) purchasing or installing zero-emission port equipment or technology; (2) conducting planning and permitting activities related to such equipment or technology; and (3) developing qualified climate action plans. *See* 42 U.S.C. § 7433(a)(1)(A)-(C). The statute also establishes limitations on the use of the grant money and establishes specific eligible recipients such as a port authority or a state air pollution control agency. *See id.* at § 7433(b), (d)(1). By prescribing the program's objectives, eligible activities, limits, and recipients, Congress already made key policy judgments governing the use of these funds. To the extent proposed § 200.202 would require EPA to redesign the program to conform to current Administration priorities, it conflicts with those congressionally established directives and is unlawful.

- <u>NOAA Marine Debris Program – 33 U.S.C. § 1952</u>: The proposed revisions to § 200.202 also conflict with the statute creating NOAA's Marine Debris Program to the extent they would require NOAA to redesign federal financial-assistance programs around current Administration policies and priorities, restrict eligibility among nonprofit organizations, or impose a domestic-first framework on research and development awards involving multilateral elements. Congress has similarly made extensive program-design choices in the Marine Debris Program, tasking NOAA to make grants that "identify, determine sources of, assess, prevent, reduce, and remove marine debris and address the adverse impacts of marine debris on the economy of the United States, the marine environment, and navigation safety," establishing "any…nonprofit organization" as an organization eligible to submit a grant proposal, and delineating specific criteria for the agency to use when reviewing project applications. *See* 33 U.S.C. § 1952(a), (d)(4), (d)(5). Congress has also directed NOAA to promote international action to reduce marine debris, including by "providing technical assistance to expand waste management systems internationally." 33 U.S.C. § 1952(b)(7). Attempts to subordinate those statutory objectives, recipient categories, nonprofit eligibility determinations, research priorities, or international activities to extra-statutory Administration preferences would unlawfully displace the choices Congress made.

Given these foreseeable statutory conflicts and OMB's and the agencies' lack of authority to direct agency actions that are not consistent with nor advance the policy designs of Congress, OMB and the agencies should withdraw § 200.202's Administration-priority alignment requirement, its arbitrary restrictions on the eligibility of certain nonprofit organizations, and its domestic-first R&D restrictions.

C. [Proposed § 200.205] – Federal Agency Review of Merit Proposals

The proposed changes to § 200.205 would require senior political appointees or their designees to perform pre-issuance reviews of all discretionary awards for consistency with the current Administration's priorities. *See* 91 Fed. Reg. at 32212. This new layer of review reserved specifically for agencies' political appointees threatens to weaken competitive, merit-based systems of federal grant disbursement and risks eroding transparency and fairness in the grant making process. The revisions to § 200.205 would expressly require agencies to treat peer-review recommendations as advisory only and introduce new policy-based "Gold Standard Science" criteria that may effectively displace statutory merit-review standards. *Id.* By adding requirements and standards to statutory programs that Congress did not intend, the revisions at § 200.205 are unlawful and arbitrary.

Injecting the undefined concept of "Gold Standard Science" as a criterion is specifically arbitrary and unlawful. First, OMB, which serves primarily as a financial auditor, has no authority to set standards for acceptable science or to supplant the scientific methods and judgments of agencies to which Congress has delegated such decisions. Nor do any of the agencies participating in this rulemaking identify statutory authority to impose a single "Gold Standard Science" mandate across all of their policy programs and financial assistance decision-making processes, regardless of statutory purposes or statute-specific scientific criteria and procedures.[29] Second, the Proposed Rule includes no definition of what "Gold Standard Science" means, rendering the proposal arbitrary, vague, unworkable, and burdensome for agencies and recipients. The lack of a clear definition will increase the likelihood of inconsistency, confusion, and unfairness in the federal financial assistance distribution process. Third, OMB and the participating agencies do not explain why or how the "Gold Standard Science" criterion is more relevant, reliable, and accurate than methods currently used by the participating agencies, or how it better serves statutory requirements and goals of each and every agency and program, including specific scientific directives and authorities.[30]

Appendix A to this comment identifies dozens more specific instances of statutory conflicts with proposed § 200.205. To illustrate the types of statutory conflicts proposed § 200.205 presents, this section offers select examples from statutes administered by DOE that clearly establish

---

[29] *See infra* p.47.

[30] Comments filed by Earthjustice and 88 organizations on EPA's 2018 proposed rule are incorporated by reference here and provide additional argument and information about why imposing an agency or government-wide Gold Standard Science rule is unlawful and arbitrary. *See* Attachment 1, Comments of Earthjustice *et al.* (Aug. 15, 2018), opposing EPA, Proposed Rule on "Strengthening Transparency in Regulatory Science," 83 Fed. Reg. 18788 (Apr. 30, 2018), https://www.regulations.gov/comment/EPA-HQ-OA-2018-0259-6137.

competitive or merit-based review procedures for federal awards, and provisions from the Safe Drinking Water Act and Endangered Species Act that mandate the use of specific scientific criteria and procedures:

- DOE Merit Review Processes – 42 U.S.C. §§ 7256, 16071, 16213, 16237, 16292, 16298a, 16353, 16534, 17111, 17113, 17231, 18641, 18645, *etc*.: Several DOE-administered statutes expressly require competitive, merit-based, and criteria-driven review processes for discretionary awards, requirements that § 200.205's arbitrary and political pre-issuance review process threatens to undermine. For example, Congress mandated in the Energy Policy Act of 2005 that awards under the programs established by the Act may be made only "after an impartial review of the scientific and technical merit of the proposals," and expressed Congress's sense that DOE research activities should be awarded through competitive procedures "to the maximum extent practicable." 42 U.S.C. § 16353(a), (c). That same merit-review requirement applies by cross-reference to certain programs authorized by the Energy Independence and Security Act of 2007 and the CHIPS and Sciences Act of 2022. *See* 42 U.S.C. §§ 17231(m), 19351(b). Similarly, Congress has specifically required grants to be awarded "on a competitive, merit-reviewed basis" for wind energy research and battery recycling programs. 42 U.S.C. §§ 16237(b)(2)(A), 17231(k)(D)(i). Other provisions require awards based on "scientific, technical, and commercial merit" or with "an emphasis on technical merit." 42 U.S.C. §§ 17111(c)(3)(B), 16298b(d)(4). Still other statutes direct the Secretary of Energy to award competitive grants to projects that "best achieve the goals of the program," or to develop specific "criteria and a formula" for awarding competitive grants. 42 U.S.C. §§ 17113(d)(1), 18723(d)(1)(A)–(B). By rendering peer review "advisory only" and authorizing senior political appointees to withhold awards based on Administration policy priorities, proposed § 200.205 threatens to weaken the competitive, merit-based, and criteria-driven selection processes that Congress established all across these statutes.

- The Safe Drinking Water Act directs EPA to base its determination about whether to regulate any particular contaminant "on the best available public health information." 42 U.S.C. § 300g-1(b)(1)(B)(ii)(II). It further provides that, more generally, "to the degree that an Agency action is based on science, [EPA] shall use . . . the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices[] and . . . data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data)." *Id.* § 300g-1(b)(3)(A).

- The Endangered Species Act requires federal agencies to consider the "best scientific and commercial data available," *see* 16 U.S.C. § 1536(a)(2), and courts have held that this provision requires an agency to consider "all relevant data . . . even when it is imperfect, weak, and not necessarily dispositive." *League of Wilderness Defenders/Blue Mountains Biodiversity Project v. Connaughto*n, 752 F.3d 755, 763–64 (9th Cir. 2014); *see also Bldg. Indus. Ass'n of Superior Cal. v. Norton*, 247 F.3d 1241, 1246 (D.C. Cir. 2001) (statute requires use of the "'best scientific ... data *available*,' not the best scientific data *possible*") (emphasis in original).

Given the disruption § 200.205's political pre-issuance review requirement and advisory-only peer-review language poses to these and other congressionally designed competitive and merit-based grant programs, OMB must withdraw its proposed revisions to § 200.205.

D. [Proposed §§ 200.208 and 200.211] – Specific Conditions and Award Terms

The proposed changes to §§ 200.208 and 200.211 would expand agencies' ability to impose specific conditions on federal awards and require the inclusion of the termination provisions established in § 200.340(b). *See* 91 Fed. Reg. at 32250–51. As detailed previously (*see supra* Part VII.B and *infra* Appendix A), in many instances Congress has already created specific program purposes, criteria, eligibility standards, and termination procedures in statute. Agencies may not impose extra-statutory award conditions to rewrite statutory purposes, criteria, or eligibility. Nor can they impose new conditions on existing award money. OMB must withdraw its proposed revisions §§ 200.208 and 200.211.

E. [Proposed §§ 200.208, 200.332, and 200.340] – Pass-Through Entity Authority

The proposed revisions to §§ 200.208, 200.332, and 200.340 all grant new authorities to pass-through entities administering federal awards. Proposed § 200.208 would allow specific conditions to be imposed or adjusted during the period of performance based on risk factors identified by a federal agency or pass-through entity. *See* 91 Fed. Reg. at 32250. Proposed § 200.332 would require pass-through entities to monitor subrecipients for conduct that could damage the reputation of the pass-through entity, the federal agency, or the federal government. *Id*. at 32257. Last, proposed § 200.340 would allow termination or suspension in the interest of the federal agency or pass-through entity, including under broad discretionary standards. *Id*. at 32258. Together, these provisions would give pass-through entities substantial authority to restrict, condition, suspend, or terminate subrecipient work based on vague and policy-laden criteria.

That structure is unlawful and arbitrary. Federal financial-assistance programs are created by Congress and administered by federal agencies under program-specific statutes. As detailed previously (*see supra* Part VII.B and *infra* Appendix A), those statutes determine program purposes, eligible activities, eligible recipients and subrecipients, required priorities, public-participation obligations, scientific standards, and termination procedures. A pass-through entity is not a federal agency, does not possess the federal agency's statutory authority, and cannot be given authority to impose conditions or terminate subawards based on independent judgments about federal policy, agency priorities, reputational harm, or the public interest unless Congress authorized that delegation and the federal agency lawfully implemented it.

The proposed provisions also raise serious sub-delegation concerns. Agencies generally may not subdelegate governmental decision-making authority to outside parties absent affirmative congressional authorization. *See U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 565-66 (D.C. Cir. 2004); *see also Fund for Animals v. Kempthorne*, 538 F.3d 124, 132-33 (D.C. Cir. 2008). The Proposed Rule identifies no statute authorizing OMB or the participating agencies to delegate to pass-through entities the power to impose substantive conditions, reputational restrictions, discretionary suspensions, or termination standards beyond those authorized by the governing program statute and award terms.

The problem is especially acute for EPA, DOE, and NOAA/Commerce programs that depend on subrecipient partnerships with states, Tribes, local governments, universities, community-based organizations, research partners, and technical-assistance providers. Giving pass-through entities broad discretion to add conditions, police reputational effects, or terminate subawards based on shifting federal or pass-through priorities would destabilize those partnerships, chill lawful participation, and undermine Congress's program-specific objectives.

The proposed revisions to §§ 200.208, 200.332, and 200.340 are also unreasonably vague. Standards such as reputational harm, the interest of the pass-through entity, agency priorities, public interest, or national interest do not provide clear notice or meaningful limits on pass-through decision making. Rather, they invite inconsistent implementation, retaliation, viewpoint discrimination, and risk-averse overcompliance by pass-through entities seeking to protect themselves from federal scrutiny.

F. [Proposed § 200.219] – Event Services

The newly proposed § 200.219 establishes new restrictions governing the provision of event-related services by public and non-public recipients of federal financial assistance. *See* 91 Fed. Reg. at 32252. The restrictions proposed in § 200.219 are vague and could be misconstrued to restrict recipients' and subrecipients' ability to conduct program-specific outreach, meetings, trainings, workshops, consultations, and other engagement activities that federal statutes or program requirements direct toward particular communities or stakeholders, including, Tribes, coastal stakeholders, rural communities, and program beneficiaries.

The examples below illustrate the types of statutory programs for which recipients and subrecipients may need to design outreach, engagement, technical assistance, or stakeholder processes around specific statutory beneficiaries, communities, or program priorities.

- <u>Clean Water Act – 33 U.S.C. § 1251(e)</u> – Congress made public participation a central feature of the Clean Water Act. Section 101(e) provides that "[p]ublic participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States." 33 U.S.C. § 1251(e). That directive necessarily contemplates that the recipients and subrecipients of federal funding implementing the Clean Water Act will conduct public meetings, hearings, workshops, listening sessions, advisory processes, technical-assistance efforts, and other engagement activities focused on the particular water-quality programs, watersheds, dischargers, affected communities, and regulatory subjects at issue. Proposed § 200.219 is unlawful to the extent that it prohibits or burdens such public participation merely because it is organized around a specific Clean Water Act program, an affected water body, a regulated activity, or a community of concern.

- <u>Clean Air Act – 42 U.S.C. § 7438</u> – Congress expressly required community engagement in the Clean Air Act's environmental and climate justice block grant program. EPA has awarded more than $2.3 billion as part of this program.[31] Section 138 authorizes grants and technical assistance for activities that benefit disadvantaged communities, including community-led air and other pollution monitoring, prevention and remediation investments, mitigation of climate and health risks, and climate-resilience and adaptation activities. *See* 42 U.S.C. § 7438(b). The statute then identifies as an eligible activity "facilitating engagement of disadvantaged communities in State and Federal advisory groups, workshops, rulemakings, and other public processes." 42 U.S.C. § 7438(b)(2)(E). This provision directly contemplates that agencies, recipients, and subrecipients will design and carry out outreach, technical assistance, workshops, advisory processes, and other engagement activities around disadvantaged communities and their participation in specific environmental, climate, rulemaking, and public processes. Proposed § 200.219 is therefore in tension with Congress's express direction if it could be construed to treat community-specific or subject-specific engagement as prohibited "content" or "subject matter" discrimination.

- Safe Drinking Water Act – 42 U.S.C. § 300j-19a – The Safe Drinking Water Act authorizes assistance directed to small and disadvantaged communities. Section 300j-19a authorizes grants to assist eligible entities in providing drinking water services that comply with national primary drinking water regulations or otherwise further the Act's health-protection objectives, including assistance for projects that directly and primarily benefit disadvantaged communities. *See* 42 U.S.C. § 300j-19a(b)(2)(B). The provision also authorizes assistance for activities such as household water-quality testing, efforts to increase access to safe drinking water, and support from nonprofit organizations with water-system technical expertise to assist eligible communities. *See generally* 42 U.S.C. § 300j-19a. Implementing these authorities may require recipients and subrecipients to provide outreach, education, technical assistance, testing support, and community meetings targeted to small systems, disadvantaged communities, households affected by drinking-water risks, and other program beneficiaries. Section 200.219 is unlawful to the extent that it would prohibit such community-specific assistance when it is based on statutory and programmatic criteria.

OMB should withdraw § 200.219 as it is vague and does not advance any identified statutory purposes.

G. [Proposed § 200.332] – Subrecipient Oversight and Reputational Risk

The proposed revisions to § 200.332 would require pass-through entities to police subrecipient conduct, including conduct that could damage the reputation of the pass-through entity, the federal agency, or the federal government. *See* 91 Fed. Reg. at 32257. OMB must withdraw the proposed revisions to § 200.332 provision as they are vague, chill lawful participation, and may conflict with statutory programs that require work with community-based organizations, local governments, Tribes, research institutions, and other subrecipients.

---

[31] *Inflation Reduction Act Tracker, IRA Section 60201 – Environmental and Climate Justice Block Grants,* https://iratracker.org/programs/ira-section-60201-environmental-and-climate-justice-block-grants/ (last visited July 12, 2026).

H. [Proposed §§ 200.340-200.343] – Termination, Suspension, Notice, Appeals, and Costs

The proposed revisions to §§ 200.340–200.343 would create a government-wide termination-for-convenience and suspension regime for federal financial assistance without statutory authorization. *See* 91 Fed. Reg. at 32258–61. Grants and cooperative agreements are not procurement contracts; they implement statutory programs enacted by Congress. OMB cannot import Federal Acquisition Regulation-style termination concepts into financial assistance where Congress prescribed program purposes, eligible recipients, funding duties, performance periods, hearing rights, termination procedures, or continued assistance obligations.

These provisions are also unlawful and arbitrary. They use vague standards, such as "agency priorities," "national interest," "public interest," and the "interest" of a pass-through entity, without defining them or tying them to statutory program purposes. They require only a brief explanation, provide no general right to object or appeal discretionary terminations, and shift the burden of termination costs and mitigation to recipients and subrecipients. That structure invites politically motivated cancellations, chills participation, destabilizes multi-year projects, and undermines reliance interests.

Provisions in the Clean Air Act illustrate the illegality of these new termination provisions. As stated by Congress, the purposes of the Act focus on protecting air quality, including: "to protect and enhance the quality of the Nation's air resources"; "to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution"; and to "provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs." 42 U.S.C. § 7401(b). Specific provisions of the Act direct or authorize EPA to make grants in support of these purposes. For example, the Act directs EPA to "establish a national research and development program for the prevention and control of air pollution" and further authorizes EPA to "make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals," for those purposes. 42 U.S.C. § 7403(a), (b)(3). Nothing in the Act indicates that eligibility for or continuation of these grants is conditioned on satisfaction of a freestanding national interest requirement. Rather, the grants are directed at specific purposes set forth in statute, and neither EPA nor OMB has authority to impose additional vague and undefined criteria on their establishment or continuation. Because they are unlawfully vague and do not advance clear statutory purposes, OMB must withdraw the proposed revisions to §§ 200.340-200.343.

Also illustrative are provisions of the Inflation Reduction Act providing $117.5 million to EPA for grants and other activities pursuant to 42 U.S.C. § 7403(a) and (c) and § 7405 for air toxics and community air quality monitoring systems. Pub. L. No. 117-169, § 60105(a), 136 Stat. 1818 (2022). That Act also provided $50 million for grants and other activities to expand, replace, repair, operate, and maintain the national ambient air quality multipollutant monitoring network, *id*. § 60105(b), and $3 million to deploy, integrate, and operate air quality sensors in low-income and disadvantaged communities. *Id*. § 60105(c). Through the same sections of the CAA, the IRA provides $15 million for grants and other activities for testing and other Agency activities related to reducing pollution from wood heaters. *Id*. § 60105(d). In each case, the statute sets out specific purposes of the grants that do not include vague "national interest" criteria.

I. [Proposed § 200.401] – Application of Cost Principles to Nonprofit Organizations

OMB should not finalize the proposed revision to § 200.401(c) or removal of Appendix VIII without identifying affected organizations, explaining the basis for replacing the current Appendix VIII framework, and analyzing effects on existing awards, negotiated indirect-cost rates, and long-term research and technical-assistance organizations. At minimum, any final rule should grandfather existing awards and negotiated rates and require agency-specific transition analysis before applying the new standard.

The Joint Environmental Commenters oppose the Proposed Rule. It is critical to preserve the effectiveness, integrity, and lawful administration of the federal financial assistance and federally supported research programs that protect public health, safeguard the environment, advance scientific knowledge, and serve communities throughout the country.

Respectfully submitted,

Erin Murphy
Peter Zalzal
John Schnettler
Environmental Defense Fund
555 12th St. NW, Suite 400
Washington, DC 20004
emurphy@edf.org
202-572-3525

Hana Vizcarra
David Baron
Earthjustice

Liz Zepeda
Ben Grillot
Southern Environmental Law Center
500 New Jersey Ave. NW, Suite 600
Washington, DC 20001

Kym Meyer
Southern Environmental Law Center
136 E Rosemary St., Suite 500
Chapel Hill, NC 27514

Zachary M. Fabish
The Sierra Club
50 F Street, NW - 8th Floor
Washington, DC 20001

Kate Sinding Daly
Conservation Law Foundation

Thomas Zimpleman
Shampa Panda-Bryant
Ticora V. Jones
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington, D.C. 20005

Jim Murphy
National Wildlife Federation

Appendix A

A. [Proposed § 200.202] — Program Planning and Design

In contravention of statutory mandates adopted by Congress, signed into law by prior Presidents, and carried out consistent with established law by administrations operating under Presidents of both major political parties, the proposed changes to § 200.202 would require federal agencies to design grant programs to align with the current Administration's policies and priorities, restrict the eligibility of certain nonprofit organizations, and impose an abrupt shift in the long-standing framework guiding research and development awards involving bilateral and multilateral elements – a time tested framework deployed across administrations that has long been determined by Congressional representatives and prior Presidents to benefit American interests. *See* 91 Fed. Reg. at 32247.

As previously explained, such provisions exceed OMB's and the participating agencies' authority as they conflict with statutes in which Congress has already specified program purposes, eligible recipients, program priorities, scientific objectives, international activities, and other elements of program planning and design. The Proposed Rule offers no explanation of how federal agencies can comply with both the Proposed Rule and their governing statutes where administration priorities and the authorizing language governing a grant program conflict. OMB and the participating agencies have failed to demonstrate how the proposed changes to § 200.202 are consistent with or advance each of their applicable statutes, rendering the revisions unlawful and arbitrary.

The table below identifies dozens of specific instances of statutory conflicts with the proposed revisions to § 200.202 by virtue of statutorily prescribed purposes, eligibility provisions, scientific objectives, prioritization frameworks, and other elements of program planning and design. This table identifies authorized grant programs under EPA, DOE, and NOAA's purview, though not all programs are currently funded or accepting applications. None of the following programs include as a goal or requirement that grants align with any individual President's or Administration's priorities, restrict the eligibility of certain nonprofit organizations, or impose a domestic-first framework for research and development awards involving international elements. Nor do the statutes governing these programs authorize the implementing agencies to limit grants based on the foregoing criteria. Therefore, the Proposed Rule would impermissibly add financial assistance criteria not provided by Congress.

For example, statutory criteria that the Proposed Rule does not address – and which the Proposed Rule would unlawfully and arbitrarily subjugate to criteria not provided by Congress – include the following for grants related to water pollution research:

- The purpose is: "the prevention, reduction, and elimination of pollution," 33 U.S.C. § 1254(a)(1) (providing additional detail on statutory objectives – including, e.g., promoting research on "the causes, effects, extent, prevention, reduction, and elimination of pollution," 33 U.S.C. § 1254(a)(1), and "designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this chapter" 33 U.S.C. § 1254(a)(6);"

see 33 U.S.C. § 1254(b)(3) (authorizing grants only "for purposes stated in paragraph (1) of subsection (a) of this section").

- Additional specific requirements are provided – for example, under 33 U.S.C. § 1254(h), to address lake pollution: "The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, reduction, and elimination of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose."

Similarly, statutory criteria that the Proposed Rule does not address – and which the Proposed Rule would unlawfully and arbitrarily subjugate to criteria not provided by Congress – include the following for grants related to air pollution research:

- Authorizes grants "for purposes stated in subsection (a)(1) of this section," which are: to "conduct, and promote the coordination and acceleration of, research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution." 42 U.S.C. § 7403(a)(1); § 7403(b)(3).

- Authorizes grants for training "For individuals relating to the causes, effects, extent, prevention, and control of air pollution," 42 U.S.C. § 7403(a)(5); § 7403(b).

The Proposed Rule also does not address and cannot be reconciled with the specific statutory criteria for research on toxic chemicals, which authorizes grants to States for the following precise purposes:

- "for the establishment and operation of programs to prevent or eliminate unreasonable risks within the States to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable or is not likely to take action under this chapter for their prevention or elimination," 15 U.S.C. § 2627(a).

- This provision sets specific requirements for EPA approval and prioritizes, pursuant to EPA rules issued under this section: "the seriousness of the health effects in a State which are associated with chemical substances or mixtures, including cancer, birth defects, and gene mutations, the extent of the exposure in a State of human beings and the environment to chemical substances and mixtures, and the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State," 15 U.S.C. § 2627(a)(b)(2).

This appendix provides a summary of additional criteria and requirements across governing statutes administered by EPA, NOAA, and DOE that include textual requirements each agency has failed to address and reconcile in the Proposed Rule. None of the Proposed Rule's new criteria are authorized by or included in the provisions applicable to these agencies' financial assistance programs. The table below is not an exhaustive list and the proposed changes to § 200.202 may present conflicts with additional statutes governing EPA, DOE, and NOAA.

EPA Grant Programs with Statutory Conflicts with Proposed § 200.202	
Program Title Statute	**Description**
Pesticide Environmental Stewardship Program (PESP) 7 U.S.C. § 136r(a), FIFRA § 20(a)	Authorizes EPA to undertake research by grant to agencies, universities, and others to fund research into integrated pest management. Requires the EPA to prioritize interagency coordination, specifically directing the agency to develop Integrated Pest Management (IPM) alongside the USDA while actively preventing duplicative federal studies. 7 U.S.C. § 136r(a) establishes program purposes, eligible recipients, and program priorities.
State and Tribal Pesticide Programs 7 U.S.C. § 136u, FIFRA § 23	Authorizes EPA to work with state and Tribal governments to implement pesticide programs under FIFRA, including providing expertise, training, and opportunities for partnership. The establishes authority for cooperative agreements and provides funding to states Tribes for pesticide education, training, technical assistance, compliance and enforcement, and to develop and implement pesticide programs under tribal law. 7 U.S.C. § 136u establishes program purposes and eligible recipients.
TSCA State Programs 15 U.S.C. § 2627, Toxic Substances Control Act	Authorizes EPA to make grants to states for the establishment and operation of programs to prevent or eliminate unreasonable risks to health or the environment associated with chemical substances or mixtures (including asbestos and PCBs). 15 U.S.C. § 2627 establishes program purposes and application procedures and criteria.
Lead-Based Paint Grant Program (Section 404(g) Grants) 15 U.S.C. § 2684(g), Toxic Substances Control Act	Authorizes EPA to make grants to States to develop and/or carry out authorized lead-based paint activities programs, lead pre-renovation education programs; and other renovation, repair and painting programs. 15 U.S.C. § 2684(g) establishes general program purposes.

National Environmental Education Training Program 20 U.S.C. § 5504, National Environmental Education Act	Authorizes EPA to make grants on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environmental education and training program. 20 U.S.C. § 5504 establishes program purposes, eligibility criteria, and award selection criteria.
Environmental Education Grants 20 U.S.C. § 5505, National Environmental Education Act	Authorizes EPA enter into a cooperative agreement, contract, or grant, to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training. 20 U.S.C. § 5505 establishes program purposes, eligible activities, priority projects, application procedures, and limitations on grants.
Clean Water Act Research, Investigations, Training, Demonstrations, and Information Grants 33 U.S.C. § 1254, Clean Water Act	Authorization for EPA to conduct and support water-pollution research, investigations, training, demonstrations, surveillance, technical assistance, and information dissemination. Authorizes awards grants, contracts, cooperative research relationships, and fellowships. 33 U.S.C. § 1254 generally establishes program purposes and specifically authorizes grants to nonprofit organizations for technical assistance programs (*see* § 1254(b)(8)).
Clean Water Act General Grants for Research and Demonstration Projects 33 U.S.C. § 1255, Clean Water Act	Authorizes EPA grant programs for research, demonstration, and pilot projects addressing water pollution control. These grants support research and demonstration projects to prevent, reduce, or eliminate pollutant discharges from stormwater and combined sewer systems; demonstrate advanced wastewater treatment, water purification, chemical additive, and joint municipal-industrial treatment technologies; and test basin-wide pollution control and environmental enhancement techniques, including controls for nonpoint sources and instream water quality improvements. The statute also authorizes grants for industry-specific pollution prevention, agricultural pollution control, and alternative sewage treatment solutions for rural or other areas where conventional sewage collection or septic systems are impractical, uneconomical, infeasible, or unsuitable. 33 U.S.C. § 1255(a)-(e) establishes program purposes, eligible entities, and limitations.
Water Pollution Control (Section 106) Grants 33 U.S.C. § 1256, Clean Water Act	This statute provides funding for the Administrator to make grants to states for programs that prevent, reduce, or eliminate water pollution. 33 U.S.C. § 1256(a)-(f) establishes program purposes and grant conditions.

Clean Water Act Workforce Training Grants and Contracts 33 U.S.C. § 1259, Clean Water Act	Authorizes the EPA to make grants to institutions of higher education to support workforce-development and training programs for personnel who design, operate, and maintain wastewater treatment works and other water-quality-control facilities. 33 U.S.C. § 1259(a)-(b) establishes program purposes and objectives.
Chesapeake Bay Program Grants 33 U.S.C. § 1267 (enacted under the Federal Water Pollution Control Act)	Authorizes funds for state governments and nonprofits focused on reducing nitrogen and sediment pollution, restoring habitats, and supporting community-based watershed stewardship in the Chesapeake Bay region. Authorizes grant programs for technical assistance, implementation and monitoring grants, and a specific grant program for protection of small watersheds and tributaries of the Chesapeake Bay. 33 U.S.C. § 1267(a)-(g) establishes specific program purposes, eligible recipients, and program priorities.
Great Lakes Restoration Initiative 33 U.S.C. § 1268 (enacted under the Clean Water Act	Authorizes the EPA to award grants for planning, research, monitoring, outreach and implementation projects in furtherance of the Great Lakes Restoration Initiative ("GLRI") and the Great Lakes Water Quality Agreement ("GLWQA"). 33 U.S.C. § 1268(c)(7) establishes the program's purposes, prioritization, limitations, and project selection criteria.
Long Island Sound Study 33 U.S.C. § 1269 (enacted under the Federal Water Pollution Control Act)	Authorizes funding to make grants for the improvement of water quality in the Long Island Sound. 33 U.S.C. § 1269(d) establishes program purposes, areas of "special emphasis," and eligible entities.
Lake Pontchartrain Basin Program 33 U.S.C. § 1273, Clean Water Act	Authorizes grants to fund restoration projects to improve water and habitat quality within Lake Pontchartrain and associated public education projects. 33 U.S.C. § 1273(b) generally establishes program purposes and objectives.
Columbia River Basin Restoration 33 U.S.C. § 1275, Clean Water Act	Authorizes a competitive federal grant program to support ecological and cultural resiliency aimed at reducing toxic pollution, restoring native habitats, and recovering salmon populations across the Columbia River Basin and Pacific Northwest watershed. 33 U.S.C. § 1275(a)-(d) establishes program purposes and eligible entities.
Enhanced Aquifer Use and Recharge Program 33 U.S.C. § 1276, Clean Water Act	Authorizes a grant program to carry out groundwater research on enhanced aquifer use and recharge in support of sole-source aquifers. 33 U.S.C. § 1275 establishes program purposes, eligible entities, and specific grant conditions.

San Francisco Bay Restoration Grant Program 33 U.S.C. § 1276a, Clean Water Act	Authorizes EPA's San Francisco Bay Program Office to oversee a competitive grant program that supports projects to protect and restore San Francisco Bay through wetland and watershed restoration. 33 U.S.C. § 1276a(a)-(e) establishes specific program purposes and priorities.
Puget Sound Recovery National Program Office 33 U.S.C. § 1276b, Clean Water Act	Authorizes grantmaking for the restoration and protection of the Puget Sound. 33 U.S.C. § 1276b establishes program purposes.
Pilot Program for Alternative Water Source Projects 33 U.S.C. § 1300, Clean Water Act	Authorizes grants to states and other subnational entities for "alternative water source projects to meet critical water supply needs." 33 U.S.C. § 1300(a)-(f) establishes specific program purposes, eligible entities, selection criteria, and limitations.
Sewer Overflow and Stormwater Reuse Municipal Grants Program 33 U.S.C. § 1301, Clean Water Act	Authorizes funding to make grants to municipalities to plan and build water treatment works and related notification systems, as well as other projects to manage, reduce, treat, or recapture stormwater. 33 U.S.C. § 1301 (a)-(e) establishes specific program purposes, eligible recipients, prioritization framework, and other program design elements.
Wastewater Efficiency Grant Pilot Program 33 U.S.C. § 1302 (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding to establish a wastewater efficiency grant pilot program for projects that create or improve waste-to-energy systems. 33 U.S.C. § 1302(a)-(c) establishes the program's purposes, dedicated use of funds, and eligible recipients.
Clean Water Infrastructure Resiliency and Sustainability Program 33 U.S.C. § 1302a (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding to create a clean water infrastructure resilience and sustainability program to award grants that increase the resilience of publicly owned treatment works. 33 U.S.C. § 1302a(a)-(c) establishes the program's purposes, dedicated use of funds, and eligible recipients.

Small And Medium Publicly Owned Treatment Works Circuit Rider Program 33 U.S.C. § 1302b (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding to create a circuit rider program to award grants to nonprofit entities to assist owners of small and medium publicly owned treatment works. 33 U.S.C. § 1302b(a)-(c) establishes the program's purposes, prioritization, and criteria.
Small Publicly Owned Treatment Works Efficiency Grant Program 33 U.S.C. § 1302c (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding to create an efficiency grant program to award grants to eligible entities for the replacement or repair of equipment that improves water or energy efficiency of small publicly owned treatment works, as identified in an efficiency audit. 33 U.S.C. § 1302c(a)-(d) establishes the program's purposes, eligible entities, and dedicated use of funds.
Grants for Household Decentralized Wastewater System 33 U.S.C. § 1302d (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding to create a grant program to repair, replace, or install decentralized household wastewater treatment systems. 33 U.S.C. § 1302d(a)-(c) establishes the program's purposes, eligible entities, and prioritization.
Connection to Publicly Owned Treatment Works Grants 33 U.S.C. § 1302e (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding to an owner, operator of a publicly owned treatment works, or nonprofit, that assists low-income or moderate-income individuals to connect to publicly owned sewage treatment works. 33 U.S.C. § 1302e(a)-(d) establishes the program's purposes, a competitive grant process, limitations, and eligible recipients.
Stormwater Infrastructure Technology 33 U.S.C. § 1302f (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding for stormwater infrastructure technology to target research, development, and implementation of innovative stormwater management, particularly for rural communities and financially distressed communities. 33 U.S.C. § 1302f(a)-(c) establish program's purposes, a competitive grant process, eligible entities, and prioritization.

Nonpoint Source Management Grant Programs 33 U.S.C. § 1329(h) (enacted under the Water Quality Act of 1987)	Authorizes funding to states and Tribes with the goal of controlling diffuse water pollution by funding the implementation of approved management programs. 33 U.S.C. § 1329(h)-(i) establishes the programs purpose, limitations, prioritization, and eligible activities and entities.
National Estuary Program Grant 33 U.S.C. § 1330 (enacted under the Federal Water Pollution Control Act)	Authorizes funding to states, interstates, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals to protect and restore the water quality and ecological integrity of estuaries across the nation. 33 U.S.C. § 1330(g) establishes the program's purpose, eligible recipients, and criteria for grant selection.
Coastal Recreation Water Quality Monitoring and Notification Grants 33 U.S.C. § 1346 (enacted under the BEACH Act)	Authorizes funds to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public. 33 U.S.C. § 1346(b) establishes the program's purpose, authorizes the Administrator to establish specific performance criteria, and establishes program limitations.
Clean Water State Revolving Fund 33 U.S.C. § 1381, Clear Water Act	Authorizes EPA to make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund to accomplish the objectives, goals, and policies of the Clean Water Act. 33 U.S.C. § 1381(a) establishes the program's purpose.
Water Infrastructure Finance and Innovation Program 33 U.S.C. §§ 3901-3915	Authorizes the EPA and the Army Corps of Engineers to provide long-term, low-cost credit assistance, such as secured loans and loan guarantees, to creditworthy water, wastewater, and stormwater infrastructure projects. 33 U.S.C. §§ 3901-3915 establish program purpose, eligible entities (§ 3904), eligible projects and activities (§§ 3905, 3906), and specific project selection criteria (§ 3907).
Innovative Water Technology Grant Program 42 U.S.C. § 300j-1a, Safe Drinking Water Act	Authorizes a grant program for the purpose of accelerating the development and deployment of innovative water technologies that address pressing drinking water supply, quality, treatment, or security challenges of public water systems, areas served by private wells, or source waters. 42 U.S.C. § 300j-1a establishes program purposes, project selection criteria, and eligible entities.

Training and Technical Assistance to Improve Water Quality and Enable Small Public Water Systems to Provide Safe Drinking Water 42 U.S.C. § 300j-1(c), (e), Safe Drinking Water Act	Authorizes EPA to support drinking-water protection through several training and technical assistance programs. It allows grants to public agencies and private nonprofits for PCB and related contamination studies; emergency grants and technical assistance to states and publicly owned water systems facing substantial public-health threats, including cybersecurity incidents; and training grants for state, local, utility, academic, and other organizations to build safe-drinking-water workforce capacity. It also authorizes technical assistance for small public water systems, including circuit-rider, regional, training, engineering, source-water, monitoring, and security support, with funding reserved in part for Tribal systems, plus assistance to state-based nonprofits and technical assistance to promote innovative water technologies. 42 U.S.C. § 300j-1(c), (e) establish specific program purposes, eligible entities, and limitations.
Public Water System Supervision (PWSS) Grant Program 42 U.S.C § 300j-2(a), Safe Drinking Water Act	Authorizes grants to help eligible states, territories, and Tribes develop and implement a PWSS program adequate to enforce the requirements of the SDWA and ensure that water systems comply with the National Primary Drinking Water Regulations. 42 U.S.C § 300j-2(a) establishes specific program purposes.
Underground Injection Control Program Grants 42 U.S.C. § 300j-2(b), Safe Drinking Water Act	Authorizes grants to states to carry out underground water source protection programs. 42 U.S.C § 300j-2(b) establishes specific program purposes.
Drinking Water State Revolving Fund 42 U.S.C. § 300j-12, Safe Drinking Water Act	Authorizes a program for providing capitalization grants to states to establish revolving loan funds for financing public water system infrastructure projects to facilitate compliance with national primary drinking water regulations. 42 U.S.C. § 300j-12(a) establishes program purposes, priorities, and limitations.
Assistance to Colonias 42 U.S.C. § 300j-16, Safe Drinking Water Act	Authorizes grant program to assist eligible communities in border states to achieve compliance with national drinking water regulations. 42 U.S.C. § 300j-16(a)-(c) establishes specific program purposes and eligible recipients.

Assistance for Small and Disadvantaged Communities Drinking Water Grant Program 42 U.S.C. § 300j-19a, Safe Drinking Water Act	Authorizes EPA to provide grants to eligible entities for projects and activities aimed at assisting public water systems in underserved communities to meet the requirements of the Safe Drinking Water Act. It also establishes programs for drinking water infrastructure resilience and sustainability, as well as for connecting households to public water systems. 42 U.S.C. § 300j-19a(a)-(f) establishes specific program purposes, covered projects and activities, eligible entities, priority projects and activities, and procedures for local participation.
Drinking Water System Infrastructure Resilience and Sustainability Program 42 U.S.C. § 300j-19a(l), Safe Drinking Water Act	Authorizes the EPA to award grants to eligible public water systems to increase resilience to natural hazards. Specifically authorizes EPA to award grants to assist underserved, small, and disadvantaged communities for the purpose of increasing drinking water facility resilience to natural hazards. 42 U.S.C. § 300j-19a(l) establishes specific program purposes, eligible entities, and application criteria.
Assistance for Small and Disadvantaged Communities Drinking Water Grant Program - State competitive grants for underserved communities 42 U.S.C. § 300j-19a(n), Safe Drinking Water Act	Authorizes a separate competitive grant program for states to fund projects and activities aimed at assisting public water systems in underserved communities to meet the requirements of the Safe Drinking Water Act. 42 U.S.C. § 300j-19a(n) establishes program purposes, a competitive grant process, and specific project selection criteria.
Reducing Lead in Drinking Water Grant Program 42 U.S.C. § 300j-19b, Safe Drinking Water Act	Authorizes EPA to administer a grant program for lead reduction projects in drinking water systems. Eligible recipients include community water systems, Tribal-area water systems, transient noncommunity water systems, qualified nonprofits with lead-reduction experience, and municipalities or state, interstate, or intermunicipal agencies. Covered projects include full lead service line replacement, testing and planning, and other activities to identify and address causes of elevated lead levels, including corrosion control. 2 U.S.C. § 300j-19b(a)-(c) establishes specific program purposes, eligible recipients, preconditions, priority applications, and other grant limitations.
Lead Inventorying Utilization Grant Pilot Program 42 U.S.C. § 300j-19b(d), Safe Drinking Water Act	Authorizes a lead inventorying utilization grant pilot program whereby EPA provides grants to eligible municipalities to carry out lead reduction projects where lead service lines are known or suspected to exist based on available data, information, or existing lead inventories. 42 U.S.C. § 300j-19b(d) establishes specific program purposes, eligible recipients, and project prioritization criteria.

Innovative Water Infrastructure Workforce Development Program 42 U.S.C. § 300j-19e, Safe Drinking Water Act	Authorizes a competitive grant program for select nonprofit professional or service organizations, labor organizations, community colleges, institutions of higher education, or other training and educational institutions, or public works departments and agencies that work to assist the development and utilization of innovative activities relating to workforce development and career opportunities in the water utility sector. 42 U.S.C. § 300j-19e(c) establishes specific program purposes, eligible recipients, and selection criteria.
Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program 42 U.S.C. § 300j-19g, Safe Drinking Water Act	Authorizes a grant program for eligible public water systems that serve a community with a population of 10,000 or more, to increase resilience to natural hazards and extreme weather events and reduce cybersecurity vulnerabilities. 42 U.S.C. § 300j-19g establishes specific program purposes, eligible entities, and application criteria.
Advanced Drinking Water Technology Grant Program 42 U.S.C. § 300j-19h, Safe Drinking Water Act	Authorizes a competitive grant program designed to help small communities implement emerging but proven technologies. 42 U.S.C. § 300j-19h(b) establishes specific program purposes and eligible entities.
Lead Contamination in School Drinking Water 42 U.S.C. § 300j-24, Safe Drinking Water Act	Authorizes an EPA grant program to help reduce lead contamination in drinking water at schools and childcare facilities. Grants primarily go to states and Tribal consortia, which in turn assist local educational agencies, public water systems, and qualified nonprofit organizations with lead testing, compliance monitoring, and remediation efforts. While primarily a voluntary, noncompetitive formula-based program, if a state does not participate in the program, the EPA may instead provide direct grants to local educational agencies, public water systems, or qualified nonprofit organizations. 42 U.S.C. § 300j-24(d) establishes specific program purposes, eligible entities, and prioritization criteria.
Drinking Water for Schools Grant Program 42 U.S.C. § 300j-25, Safe Drinking Water Act	Authorizes grants to help schools replace drinking water fountains manufactured prior to 1988 in order to reduce lead contamination in school plumbing. 42 U.S.C. § 300j-25 establishes specific program purposes, eligible entities, and prioritization.

Discarded Tire Disposal Grants 42 U.S.C. § 6914, Resource Conservation and Recovery Act	Authorizes EPA to award grants covering 5 percent of the purchase price of tire shredders, including portable shredders attached to tire collection trucks. Eligible applicants include private purchasers, public bodies, and public-private joint ventures. EPA must establish selection criteria and award grants to applicants that best satisfy those criteria. 42 U.S.C. § 6914(a) establishes program purposes, eligible entities, and selection criteria.
Solid Waste Management Federal Assistance Grants, 42 U.S.C. § 6948, Resource Conservation and Recovery Act (RCRA) § 4008	Authorizes EPA to provide financial assistance and grants to states, municipalities, regional authorities, and other public entities for solid waste management planning, implementation, resource recovery, conservation, hazardous waste management, and related technical assistance activities. 42 U.S.C. § 6948, establishes program purposes, eligible entities, and selection criteria
Rural Communities Assistance Program 42 U.S.C. § 6949, Resource Conservation and Recovery Act (RCRA) § 4009	Authorizes a grant program through which EPA may provide funding to states to assist small rural municipalities and counties in developing solid waste management facilities necessary to comply with federal environmental requirements. 42 U.S.C. § 6949 establishes program purposes, recipient criteria, and grant limitations
State Hazardous Waste Program Grants 42 U.S.C. § 6931, Resource Conservation and Recovery Act	Authorizes EPA to provide financial assistance to states for the development and implementation of authorized state hazardous waste programs. Funds are allocated among states pursuant to EPA regulations that consider the extent of hazardous waste generation, transportation, treatment, storage, disposal, and environmental and human exposure risks within each state. Grants may support planning for hazardous waste treatment, storage, and disposal facilities, as well as programs addressing inactive hazardous waste sites. 42 U.S.C. § 6931 establishes specific program purposes and eligible activities.
General RCRA research, demonstration, training, and other activities 42 U.S.C. § 6981, Resource Conservation and Recovery Act (RCRA) § 8001	Authorizes EPA to conduct and support research, demonstrations, training, studies, pilot projects, and technology development related to solid waste management, resource recovery, resource conservation, and hazardous waste management. 42 U.S.C. § 6981(a)-(c) establishes specific program purposes and eligible entities.

Grants for Resource Recovery Systems and Improved Solid Waste Disposal Facilities 42 U.S.C § 6986, Resource Conservation and Recovery Act	Authorizes grant program supporting demonstration resource recovery projects and new or improved solid waste disposal facilities. Grant recipients must satisfy extensive statutory requirements relating to consistency with state plans, resource recovery objectives, cost allocation, technological innovation, and environmental performance. The statute requires EPA to promulgate regulations governing grant awards and directs EPA to consider public benefits, economic and commercial viability, potential for broad application, and regional planning when evaluating applications. The statute also imposes federal cost-share limits, project eligibility restrictions, and geographic distribution requirements. 42 U.S.C § 6986(a)-(e) establishes specific program purposes and limitations.
Leaking Underground Storage Tank Trust Fund 42 U.S.C. §§ 6991c(f), 6991j, Resource Conservation and Recovery Act	Authorizes the distribution of funds from the Leaking Underground Storage Tank Trust Fund to address petroleum releases from federally regulated underground storage tanks. 42 U.S.C. §§ 6991c(f), 6991j establishes the program purposes, eligibility criteria, and permitted uses of distributed funds.
Funding to Address Air Pollution at Schools* Inflation Reduction Act § 60106 of Public Law 117–169 (136 Stat. 2069)	Authorized grants and technical assistance to improve air pollution monitoring and reduce greenhouse gas emissions and other air pollutants at schools in low-income and disadvantaged communities. Section 60106 establishes specific program purposes.
Research and Development Program for Prevention and Control of Air Pollution Clean Air Act, 42 U.S.C. § 7403	Authorizes EPA to make grants and provide financial assistance to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals for research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution. U.S.C. § 7403 establishes program purposes and eligible recipients.

Fuels and Vehicles Clean Air Act, 42 U.S.C. § 7404	Requires EPA to give special emphasis to research and development into new and improved methods, having industry-wide application, for the prevention and control of air pollution resulting from the combustion of fuels. 42 U.S.C. §7404(a)(2) requires EPA to provide for Federal grants for developing new or improved methods of preventing or controlling discharges into the air of various types of pollutants and low emission alternatives to the present internal combustion engine.
State and Local Air Quality Management Grants – Air Pollution Control Agencies Clean Air Act, 42 U.S.C. § 7405	Authorizes EPA to make grants to state, local, and Tribal air pollution control agencies for an amount up to three-fifths of the cost of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. U.S.C. § 7405 establishes program purposes and eligible recipients.
Public Notification Clean Air Act, 42 U.S.C. 7427	Requires state to provide for public notice of unsafe air pollution levels, enhance public awareness of preventative measures, and educate on ways in which the public can participate in regulatory and other efforts to improve air quality. 42 U.S.C. §7427(b) authorizes EPA grants to states to provide the required public notice.
Clean Heavy Duty Vehicles Program* Clean Air Act, 42 U.S.C. § 7432 (enacted under Inflation Reduction Act)	Authorizes EPA to make grants to eligible entities to replace non-zero-emission heavy duty vehicles with zero-emission heavy duty vehicles, to deploy zero-emission vehicle infrastructure, and to support related planning and workforce development activities. 42 U.S.C. §7432(b)-(d) establishes the program's purpose, limitations, and eligible recipients
Clean Ports Program Clean Air Act, 42 U.S.C. § 7433 (enacted under Inflation Reduction Act)	Authorizes EPA to make grants to eligible entities to plan for and deploy zero-emission port equipment and infrastructure at ports, as well as funding to develop climate action plans at ports. 42 U.S.C. § 7433(b)-(d) establishes the program's purpose and eligible recipients

Low Emissions Electricity Program* 42 U.S.C. § 7435, Clean Air Act	Authorizes EPA to make grants to eligible for the establishment of low-emissions electricity programs, including dedicated funding for consumer education, education and technical assistance for low-income and disadvantaged communities, industry outreach and technical assistance, outreach and assistance to state, Tribal, and local governments, and development of an electricity sector GHG emissions report. 42 U.S.C. § 7435(a) establishes various program purposes and objectives.
Methane Emissions Reduction Program* 42 U.S.C. § 7436, Clean Air Act	Authorizes EPA to make grants for financial and technical assistance to monitor and mitigate methane emissions. 42 U.S.C. § 7436(a) establishes program purposes and objectives.
Climate Pollution Reduction Grants* Clean Air Act, 42 U.S.C. § 7437 (enacted under Inflation Reduction Act)	Authorizes two programs under the Climate Pollution Reduction Grants (CPRG) program to reduce greenhouse gas emissions: (1) noncompetitive planning grants for eligible entities to develop GHG reduction plans, and (2) competitive implementation grants to carry out those plans. 42 U.S.C. § 7437(b)-(d) establishes the program's purpose and eligible recipients.
Environmental and Climate Justice Block Grant Program* Clean Air Act, 42 U.S.C. § 7438 (enacted under Inflation Reduction Act)	Authorizes funding for financial and technical assistance grants to carry out environmental and climate justice activities (air quality monitoring, clean energy in underserved areas, and community resilience, etc.) 42 U.S.C. § 7438(b)-(d) establishes the program's purpose, eligible entities, and eligible recipients.
Superfund State, Political Subdivision, and Indian Tribe Site-Specific Cooperative Agreements, 42 U.S.C. § 9604(d), CERCLA § 104(d)	Authorizes EPA to enter into Superfund response cooperative agreements with states, political subdivisions, and Tribes. 42 U.S.C. § 9604(d) establishes program purposes.
Brownfield Revitalization Funding 42 U.S.C. § 9604(k), CERCLA	Authorizes federal financial assistance to state and local governments, Tribes, and nonprofits to assess, clean up, and sustainably redevelop contaminated, underutilized properties (brownfields) so they can be safely returned to productive community or economic use. 42 U.S.C. § 9604(k) establishes specific program purposes and objectives, eligible entities, selection criteria, and limitations.

Pollution Prevention Grants 42 U.S.C. § 13104, Pollution Prevention Act	Authorizes EPA assistance to states and Tribes to promote source reduction and pollution prevention programs. Specifically, under 42 U.S.C. § 13104, EPA will make matching grants to States for programs to promote the use of source reduction techniques by businesses. 42 U.S.C. § 13104 establishes grant program purposes and specific criteria for evaluating grant proposals.
DOE Grant Programs with Statutory Conflicts with Proposed § 200.202	
Program Title Statute	**Description**
Tribal Energy Loan Guarantee Program (TELGP) 25 U.S.C § 3502(c)	Authorizes DOE to provide loan guarantees for the unpaid principal and interest due on any loan made to a Tribe or a Tribal energy development organization for energy development. 25 U.S.C § 3502(c) establishes program purposes, a competitive award process, and eligible entities.
Weatherization Assistance Program 42 U.S.C. § 6863	Authorizes DOE to make grants to states and Tribes for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, occupied by low-income families. 42 U.S.C. § 6863 generally establishes program purposes.
Federal Energy Management Program (FEMP) Assisting Federal Facilities with Energy Conservation Technologies (AFFECT) Grants National Energy Conservation Policy Act, 42 U.S.C. § 8256	Authorizes the AFFECT program, which offers grants for developing energy and water efficiency projects and processes at U.S. Federal government-owned facilities. 42 U.S.C. § 8256(b) establishes program purposes and a competitive assessment process.

Renewable Energy Production Incentive Program Energy Policy Act of 1992, 42 U.S.C. § 13317	Authorizes DOE to provide incentive payments for electricity generated and sold by qualified renewable energy facilities upon application. 42 U.S.C. § 13317 establishes program purposes, criteria, and eligibility determinations.
Hydroelectric Production Incentives Energy Policy Act of 2005, 42 U.S.C. § 15881	Authorizes incentive payments upon application for the production of hydroelectric energy from qualified hydroelectric facilities. To be eligible, a facility must be a non-Federal entity that generates hydroelectric energy for sale, constructed in an area with inadequate electric service. The facility must begin operation within a 22-year eligibility window and can receive payments for 10 fiscal years. 42 U.S.C. § 15881 establishes program purposes and eligibility criteria.
Hydroelectric Efficiency Incentives Energy Policy Act of 2005, 42 U.S.C. § 15882	Authorizes incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent. 42 U.S.C. § 15881 establishes program purposes and eligibility criteria.
Clean School Bus Program 42 U.S.C §16091	Authorizes a program to award grants and rebates for the replacement of existing school buses with lower emitting or zero emission school buses. 42 U.S.C §16091 establishes program purposes, eligibility criteria, a prioritization framework, a competitive grant process, and other elements of program design.
Next Generation Lighting Initiative Energy Policy Act of 2005, 42 U.S.C. § 16192	Establishes the Next Generation Lighting Initiative to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes. 42 U.S.C. § 16192 establishes program objectives, competitive grant process, and eligible institutions.
High Performance Building Grant Program Energy Policy Act of 2005, 42 U.S.C. § 16194(c)	Authorizes DOE to establish a grant and technical assistance program to support the development of voluntary consensus-based standards for high performance buildings. 42 U.S.C. § 16194(c) establishes program objectives and purposes.
Micro-Cogeneration Energy Technology Grants Energy Policy Act of 2005, 42 U.S.C. § 16213	Authorizes DOE to establish a grant program to explore the use of small-scale combined heat and power in residential heating appliances, the use of excess power to operate other appliances within the residence, and the supply of excess generated power to the power grid. 42 U.S.C. § 16213 establishes a competitive grant process with defined objectives.

Production Incentives for Cellulosic Biofuels Energy Policy Act of 2005, 42 U.S.C. § 16251	Authorizes a program to provide production incentives for cellulosic biofuels, with the goal of accelerating deployment and commercialization of biofuels, achieving annual production targets, ensuring cost competitiveness with gasoline and diesel, and involving small feedstock producers and rural businesses 42 U.S.C. § 16251 establishes program purposes, project priorities, grant limitations, eligibility criteria.
Department of Energy Early Career Research Program 42 U.S.C. § 16534	Authorizes a program to award grants to scientists and engineers at an early career stage at institutions of higher education and to conduct research in fields relevant to the mission of the Department. 42 U.S.C. § 16534 establishes program purposes, creates a competitive, merit-reviewed processes, and provides specific section process criteria.
Future of Industry Program 42 U.S.C. § 17111	Authorizes DOE's Future of Industry Program to support research, development, demonstration, and deployment-related activities that improve energy efficiency and competitiveness in energy-intensive industrial and commercial sectors. 42 U.S.C. § 17111 establishes program purposes, creates a competitive, merit-reviewed processes based on certain selection factors, and defines eligible entities and activities.
Industrial Emissions Reduction Technology Development Program 42 U.S.C. § 17113	Authorizes a DOE industrial emissions reduction technology development program supporting research, development, demonstration, and commercial application of innovative technologies that achieve emissions reductions in nonpower industrial sectors. 42 U.S.C. § 17113 establishes program purposes, eligible entities, and a competitive grant program.
Energy Efficiency and Conservation Block Grant Program 42 U.S.C. §§ 17151-17155	Authorizes DOE to create a block grant program to assist eligible entities in implementing strategies to reduce fossil fuel emissions, reduce total energy use, or improve energy efficiency. 42 U.S.C. §§ 17151-17155 establishes program purposes, specific allowable uses of funds, and requirements for eligible entities.
Electric Drive Vehicle Battery Recycling and Second-Life Applications Program Energy Independence and Security Act of 2007, as amended by the Infrastructure Investment and Jobs Act, 42 U.S.C. § 17231(k)	Authorizes DOE to establish an electric drive vehicle battery recycling and second-life applications grant program. The program funds projects to improve the recycling rates and second-use adoption rates of electric drive vehicle batteries and otherwise improve the environmental impact of electric drive vehicle battery recycling. 42 U.S.C. § 17231(k) establishes program purposes, target projects, a prioritization framework, eligible entities, and a competitive grant process.

Basic Energy Sciences and Energy Frontier Research Centers Department of Energy Research and Innovation Act, 42 U.S.C. § 18641	Authorizes the Director of the Office of Science to conduct a research and development program in basic energy sciences and issue awards to establish Energy Frontier Research Centers that conduct fundamental and use-inspired energy research. 42 U.S.C. § 18641 establishes program purposes, scientific objectives, eligibility criteria, and a competitive, merit-based system for the awards.
Fusion Materials Research and Development 42 U.S.C. § 18645, Department of Energy Research and Innovation Act of 2018	Authorizes DOE to support advancement of fusion energy through competitive funding opportunities, research centers, innovation networks, alternative fusion concepts, and commercialization efforts through grants and other financial awards. The statute emphasizes scientific excellence and maintaining U.S. leadership in fusion research. 42 U.S.C. § 18645 establishes program purposes and scientific objectives.
Grid Resilience State/Tribal Formula Grants 42 U.S.C § 18711	Authorizes DOE to make formula grants to states and Tribes to increase grid resilience, reduce the risk of any power lines owned or operated by the eligible entity causing a wildfire, or increase the ability of the eligible entity to reduce the likelihood and consequences of disruptive events. 42 U.S.C § 18711 establishes program purposes, a prioritization framework, and specified allowable uses of funds.
Grid Innovation Program 42 U.S.C § 18712, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes DOE establish the grants supporting the "Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency" to provide, on a competitive basis, federal financial assistance to demonstrate innovative approaches to transmission, storage, and distribution infrastructure to harden and enhance resilience and reliability; and to demonstrate new approaches to enhance regional grid resilience. 42 U.S.C. § 18712 establishes program purposes, a competitive project selection process, and eligible entities.
Grants To Facilitate the Siting of Interstate Electricity Transmission Lines* 42 U.S.C. § 18715a.	Authorizes DOE to make grants to facilitate the siting of interstate transmission lines. 42 U.S.C. § 18715a establishes program purposes, use of funds requirements, grant conditions, and eligible entities.

Rural and municipal utility advanced cybersecurity grant and technical assistance program 42 U.S.C. § 18723	Authorizes a program to provide grants and technical assistance to, and enter into cooperative agreements with, rural electric cooperative and utilities to protect against, detect, respond to, and recover from cybersecurity threats. 42 U.S.C. § 18723 establishes program purposes, eligible entities, and priorities for project selection.
Federal Financial Assistance to States for State Energy Conservation Plans, Including State Plan Implementation Grant (State Energy Program) Energy Policy and Conservation Act; 42 U.S.C. §§ 6325, 6326	Authorizes DOE to fund the development of state energy security plans according to a statutory formula. 42 U.S.C. § 6326 establishes program purposes, eligibility requirements, and other award conditions.
Battery Material Processing Grants 42 U.S.C. § 18741(b), Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes a DOE grant program to expand domestic battery material processing capacity and reduce dependence on foreign supply chains. 42 U.S.C. § 18741(b) establishes program purposes, priorities, competitive grant process, eligible entities, and application criteria.
Battery Manufacturing and Recycling Grants 42 U.S.C. § 18741(c), Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes a DOE battery manufacturing and recycling grant program to ensure that the United States has a viable domestic manufacturing and recycling capability to support and sustain a North American battery supply chain. 42 U.S.C. § 18741(c) establishes program purposes, priorities, competitive grant process, and eligible entities.
Battery Recycling Research, Development, and Demonstration Grants 42 U.S.C. § 18741(f), Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes competitive DOE/EPA grants for research, development, and demonstration projects to create innovative and practical approaches to increase the reuse and recycling of batteries. 42 U.S.C. § 18741(f) establishes program purposes, competitive grant process, eligible entities, and application criteria.

Regional Clean Hydrogen Hubs Program 42 U.S.C. § 16161a, Infrastructure Investment and Jobs Act (IIJA),	Authorizes DOE program to establish and fund, via grant, at least four regional clean hydrogen hubs across the United States. 42 U.S.C. § 16161a establishes program purposes and specific selection criteria.
Better Energy Storage Technology 42 U.S.C. § 17232, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes a demonstrations and deployment initiative with a variety competitive grant programs focused on developing long-duration energy storage technologies, including the Energy Storage System Research, Development, and Deployment Program (2 U.S.C. § 17232(b)), an energy storage demonstration projects; pilot grant program (42 U.S.C. § 17232(c)), the Long-duration demonstration initiative and joint program (§ 17232(d)), and pumped storage hydropower wind and solar integration and system reliability initiative (§ 17232(e)). Each provision establishes specific program purposes, eligible entities, and program priorities.
Wind Energy Research and Development 42 U.S.C § 16237, Energy Act of 2020	Authorizes a DOE wind energy research, development, demonstration, commercialization, and workforce grant program. 42 U.S.C § 16237 establishes program purposes, eligible entities, a competitive grant process, and prioritization framework.
Carbon Removal Research, Development, and Demonstration Programs 42 U.S.C. § 16298d	Authorizes research, development, and demonstration programs to test and improve technologies to remove carbon dioxide from the atmosphere through various prize competitions and grant programs. 42 U.S.C. § 16298d establishes program purposes, prize competitions, eligibility criteria, project selection criteria
Carbon Capture Technology Program 42 U.S.C. § 16292, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes DOE to conduct a comprehensive carbon capture technology program covering post-combustion capture, pre-combustion capture, advanced compression, and carbon utilization. Includes explicit greenhouse-gas-reduction objectives and mandates international collaboration. Authorizes DOE to issue competitive grants, cooperative agreements, and other forms of financial assistance to facilitate program purposes 42 U.S.C. § 16292 establishes program purposes, eligibility criteria, and priority criteria.

Energy Efficiency Materials Pilot Program 42 U.S.C § 18832, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes a pilot program to award grants for the purpose of providing buildings owned by nonprofit organizations with energy-efficiency materials. Priority given based on energy savings achieved, cost effectiveness, effective plans, and financial needs of the applicant. 42 U.S.C § 18832 establishes program purposes, eligibility criteria, and specific grant and application criteria.
Grants For Energy Efficiency Improvements and Renewable Energy Improvements at Public School Facilities 42 U.S.C § 18831, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes the Secretary to issue grants to advance renewable energy and energy efficient infrastructure and improvements at public school facilities. 42 U.S.C § 18831 establishes program purposes, eligible entities, directs funding to go toward nonprofit organizations, a prioritization framework, and specific grant and application criteria.
Energy Efficiency Revolving Loan Fund Capitalization Grant Program 42 U.S.C § 18792, infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes DOE capitalization grants to states to establish revolving loan funds supporting energy audits, energy-efficiency upgrades, and building retrofits for residential and commercial buildings. 42 U.S.C § 18792 establishes program purposes, eligible recipients, and a prioritization framework for supplemental capitalization grants.
Clean Energy Demonstration Program on Current and Former Mine Land 42 U.S.C. § 18761, Infrastructure Investment and Jobs Act	Authorizes a DOE grant program for clean-energy projects located on current and former mine lands. 42 U.S.C. § 18761 establishes program purposes, eligibility requirements, priority projects, and selection criteria.

Federal Matching Fund for Smart Grid Investment Costs, 42 U.S.C. § 17386, Energy Independence and Security Act of 2007	Authorizes the Smart Grid Investment Matching Grant Program in which DOE grants of up to 50% of qualifying smart grid investments. 42 U.S.C. § 17386 establishes program purposes and detailed criteria for qualifying investments.
Advanced Technology Vehicles Manufacturing Incentive Program, 42 U.S.C. § 17013, Energy Independence and Security Act of 2007	Authorizes DOE Advanced Technology Vehicles Manufacturing Incentive Program, whereby DOE provides facility funding awards and direct loans to certain automobile manufacturers, ultra efficient vehicle manufacturers, advanced technology vehicle manufacturers, and component suppliers. 42 U.S.C. § 17013 establishes program purposes, application criteria, project selection criteria, eligibility criteria, and other programmatic details.
NOAA Grant Programs with Statutory Conflicts with Proposed § 200.202	
Program Title Statute	**Description**
NOAA Climate Resilience Regional Challenge* Inflation Reduction Act § 40001 (Pub. L. No. 117-169, 136 Stat. 2028)	Authorizes NOAA to provide funding through direct expenditure, contracts, grants, cooperative agreements, or technical assistance to coastal states, Tribal Governments, nonprofit organizations, local governments, and institutions of higher education for the conservation, restoration, and protection of coastal and marine habitats, resources, Pacific salmon and other marine fisheries, to enable coastal communities to prepare for extreme storms and other changing climate conditions, and for projects that support natural resources that sustain coastal and marine resource dependent communities, marine fishery and marine mammal stock assessments, and for related administrative expenses. Sec. 40001 establishes program purposes and eligible institutions.

National Climate Program National Climate Program Act, 15 U.S.C. § 2904	Authorizes grants and cooperative agreements for climate-related activities to meet the goals and priorities of the National Climate Program. 15 U.S.C. § 2904 provides program purposes and priorities, establishes eligible entities, and scientific objectives.
John H. Prescott Marine Mammal Rescue Assistance Grant Program Marine Mammal Protection Act, 16 U.S.C. § 1421f-1(d)	Authorizes NOAA to carry out a grant program to provide for the care of marine mammals, responses to marine mammal stranding events, scientific research or assessments regarding marine mammal health, and more. 16 U.S.C. § 1421f-1(d) establishes program purposes, a requirement for the equitable distribution of funds among regions, a prioritization framework, and specific grant criteria.
Administrative Grants Under National Coastal Zone Management Program (Section 306 Grants) Coastal Zone Management Act, 16 U.S.C. § 1455	Authorizes formula grants (often referred to as Section 306 grants) to provide federal funding for coastal states, Great Lakes states, and U.S. Territories to administer their federally approved Coastal Management Programs. 16 U.S.C. § 1455 establishes program purposes and grant requirements and conditions.
Coastal Resource Improvement Program (Section 306A) Coastal Zone Management Act, 16 U.S.C § 1455a	Authorizes NOAA's Coastal Resource Improvement Program (Section 306A) of the Coastal Zone Management Act (CZMA) provides funding to coastal states for small-scale construction, land acquisition, and waterfront revitalization projects. 16 U.S.C. § 1455a establishes program purposes and grant requirements and conditions.
Coastal and Estuarine Land Conservation Program Coastal Zone Management Act, 16 U.S.C §§ 1456-1, 1456d	Authorizes competitive enhancement grants to coastal states to encourage states to continually improve their federally approved coastal management programs in designated areas of national importance. 16 U.S.C §§ 1456-1, 1456d establishes program purposes and specific grant process details.
Coastal Nonpoint Pollution Control Program Coastal Zone Management Act, 16 U.S.C. § 1455b	Authorizes financial assistance to states and U.S. Territories with approved Coastal Management Plans for development of state coastal nonpoint pollution control programs. 16 U.S.C. § 1455b establishes program purposes and allocation procedures.

Coastal Zone Enhancement Grants (Section 309 Grants) Coastal Zone Management Act, 16 U.S.C. § 1456b	Authorizes enhancement grants to coastal states to encourage states to continually improve their federally approved coastal management programs in designated areas of national importance. 16 U.S.C. § 1456b establishes program purposes, eligibility requirements, and grant limitations.
Pacific Coastal Salmon Recovery Fund (PCSRF) Pacific Salmon Treaty Act of 1985, 16 U.S.C. § 3645	Authorizes grants for states and Tribes to support local salmon and steelhead restoration. 16 U.S.C. § 3645 establishes program purposes, eligible entities, scientific objectives, and other program elements.
Ruth D. Gates Coral Reef Conservation Grant Program Coral Reef Conservation Act of 2000, 16 U.S.C. § 6410	Authorizes NOAA to provide grants as are part of NOAA's efforts to restore resilient coral ecosystems. 16 U.S.C. § 6410 establishes program purposes, eligible entities, criteria for project proposals, criteria for project review and approval, and a requirement for merit-based peer review of project proposals.
National Sea Grant College Program Sea Grant Act, 33 U.S.C. § 1123, 1124	Authorizes financial assistance for the National Sea Grant College Program. 33 U.S.C. § 1123 establishes program purposes and merit review processes for grant proposals from sea grant colleges and sea grant institutes, § 1124 authorizes NOAA to make grants and enter into contracts to implement the sea grant program.
NOAA RESTORE Science Program RESTORE Act, § 1604 (Pub. L. No. 112-141, 126 Stat. 603)	Authorizes establish the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology program to fund research, observation, and monitoring to support, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat, and the recreational, commercial, and charter fishing industry in the Gulf of Mexico. Section 1604 establishes program purposes, authorized expenditures of funds, research priorities, dedicated funding sources, and other elements of program design.
NOAA Marine Debris Program Marine Debris Act, 33 U.S.C. § 1952	Authorizes grants to prevent, reduce, and remove marine debris. 33 U.S.C. § 1952(a), (d)(3)(4), (d)(3)(5) establish program purposes, qualified grant recipients, application criteria, and project selection criteria.

*These programs recently had their unobligated funds rescinded by the One Big Beautiful Bill Act.

B. [Proposed § 200.205] – Federal Agency Review of Merit Proposals

The proposed changes to § 200.205 would require senior political appointees or their designees to perform pre-issuance reviews of all discretionary awards for consistency with Administration priorities and the national interest. *See* 91 Fed. Reg. at 32212. This new layer of review reserved specifically for agencies' political appointees threatens to weaken competitive, merit-based systems of federal grant disbursement and risks eroding transparency and fairness in the grant making process. The revisions to § 200.205 would expressly require agencies to treat peer-review recommendations as advisory only and introduce new Administration-preferred, undefined "Gold Standard Science" criteria that could effectively displace statutory merit-review standards. *Id.* By adding requirements and standards to statutory programs that Congress did not intend, the revisions at § 200.205 are unlawful and arbitrary.

The table below identifies dozens of specific instances of statutory conflicts with proposed 200.205 by virtue of having explicit requirements for competitive or merit-based systems of federal grant disbursement. None of the following provisions includes the above-referenced criteria proposed to be added in section 200.205. Nor do the statutes governing these programs authorize the implementing agencies to limit grants based on the foregoing criteria. Therefore, the Proposed Rule would impermissibly add financial assistance criteria not provided by Congress and not within the purpose of these statutes. This table identifies currently authorized grant programs under EPA, DOE, and NOAA's purview, though not all programs are currently funded or accepting applications. This appendix is not an exhaustive list and the proposed changes to § 200.202 may present conflicts with additional statutes governing EPA, DOE, and NOAA.

EPA Grant Programs and Other Statutory Provisions Presenting Conflicts with Proposed § 200.205	
Program Title Statute	**Description**
Columbia River Basin Restoration 33 U.S.C. § 1275, Clean Water Act	Authorizes a competitive federal grant program to support ecological and cultural resiliency aimed at reducing toxic pollution, restoring native habitats, and recovering salmon populations across the Columbia River Basin and Pacific Northwest watershed. 33 U.S.C. § 1275(d) directs grants to be disbursed according to "a voluntary, competitive" program.

Connection to Publicly Owned Treatment Works Grants 33 U.S.C. § 1302e (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding to an owner or operator of a publicly owned sewage treatment works, or a comparable nonprofit organization, to assist low-income or moderate-income individuals to connect to the publicly owned treatment works. 33 U.S.C. § 1302e(b) establishes a competitive grant program with specific selection criteria established at § 1302e(d).
Stormwater Infrastructure Technology 33 U.S.C. § 1302f (enacted under the Infrastructure Investment and Jobs Act)	Authorizes funding for stormwater infrastructure technology to target research, development, and implementation of innovative stormwater management, particularly for rural communities and financially distressed communities. 33 U.S.C. § 1302f(c)(1) direct EPA to issue grants on a competitive basis with specific project priorities established at § 1302f(c)(4).
National Estuary Program Grants 33 U.S.C. § 1330 Clean Water Act	Authorizes EPA to make grants to states, interstates, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals to protect and restore the water quality and ecological integrity of estuaries across the nation. 33 U.S.C. § 1330(g) establishes a competitive grant process whereby EPA must "elect recipients that are best able to address urgent, emerging, and challenging issues that threaten the ecological and economic well-being of the estuaries." *Id.* § 1330(g)(4)(C)
Innovative Water Technology Grant Program 42 U.S.C. § 300j-1a, Safe Drinking Water Act	Authorizes a grant program for the purpose of accelerating the development and deployment of innovative water technologies that address pressing drinking water supply, quality, treatment, or security challenges of public water systems, areas served by private wells, or source waters. 42 U.S.C. § 300j-1a(d)(1) directs EPA to award grants through a competitive process based on which eligible entities "are best able to carry out the purpose of the program."
Assistance for Small and Disadvantaged Communities Drinking Water Grant Program 42 U.S.C. § 300j-19a, Safe Drinking Water Act	Authorizes EPA to provide grants to eligible entities for projects and activities aimed at assisting public water systems in underserved communities to meet the requirements of the Safe Drinking Water Act. It also establishes programs for drinking water infrastructure resilience and sustainability, as well as for connecting households to public water systems. 42 U.S.C. § 300j-19a(m) establishes a competitive process to establishes an EPA grant program to help low-income households connect to public water systems.

Assistance for Small and Disadvantaged Communities Drinking Water Grant Program - State competitive grants for underserved communities 42 U.S.C. § 300j-19a(n), Safe Drinking Water Act	Authorizes a separate competitive grant program for states to fund projects and activities aimed at assisting public water systems in underserved communities to meet the requirements of the Safe Drinking Water Act. 42 U.S.C. § 300j-19a(n) establishes a competitive grant process whereby EPA must direct funds to States "with a high proportion of underserved communities that meet the condition described in subsection (a)(2)(A).
Advanced Drinking Water Technology Grant Program 42 U.S.C. § 300j-19h, Safe Drinking Water Act	Authorizes a grant program to help small communities implement emerging but proven drinking water technologies. 42 U.S.C. § 300j-19h(b) establishes a competitive process to award grants among eligible entities.
Clean Ports Program Clean Air Act, 42 U.S.C. § 7433	Authorizes funding for entities to plan for and deploy zero-emission port equipment and infrastructure at ports, as well as funding to develop climate action plans at ports. 42 U.S.C. § 7433(a)(1) provides that EPA "award rebates and grants to eligible recipients on a competitive basis."

DOE Grant Programs and Other Statutory Provisions Presenting Conflicts with Proposed § 200.205

Program Title Statute	**Description**
DOE Other Transaction Authority for Research, Development, Demonstration, and Commercial Application Activities 42 U.S.C. § 7256(g)	Authorizes DOE to enter into transactions other than contracts, cooperative agreements, grants, and loans in carrying out research, development, demonstration, and commercial application functions. 42 U.S.C. § 7256(g)(4)(A) directs DOE to "use such competitive, merit-based selection procedures in entering into transactions under paragraph (1), as the Secretary determines in writing to be practicable."

Federal Energy Management Program. (FEMP) Assisting Federal Facilities with Energy Conservation Technologies (AFFECT) Grants National Energy Conservation Policy Act, 42 U.S.C. § 8256	Authorizes the AFFECT program, which offers grants for developing energy and water efficiency projects and processes at U.S. Federal government-owned facilities. 42 U.S.C. § 8256(b) establishes a competitive assessment process and associated selection criteria, including "[a]ny other factor which the Secretary determines will result in the greatest among of energy and cost savings to the Federal Government."
Clean School Bus Program 42 U.S.C §16091	Authorizes a program to award grants and rebates for the replacement of existing school buses with lower emitting or zero emission school buses. 42 U.S.C. §16091(b)(1)(A), (B) establishes that program award grants and rebates will be distributed on a competitive basis to eligible recipients.
Next Generation Lighting Initiative Energy Policy Act of 2005, 42 U.S.C. § 16192	Establishes the Next Generation Lighting Initiative to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes. 42 U.S.C. § 16192(e) establishes a competitive grant process for eligible institutions.
Micro-cogeneration Energy Technology Grants Energy Policy Act of 2005, 42 U.S.C. § 16213	Authorizes a program to explore the use of small-scale combined heat and power in residential heating appliances, the use of excess power to operate other appliances within the residence, and the supply of excess generated power to the power grid. 42 U.S.C. § 16213(a) establishes that DOE most make "competitive, merit-based grants" in fulfilling the grant program.
Merit Review of Proposals Energy Policy Act of 2005, 42 U.S.C. § 16353	Directs DOE to use competitive, merit-based processes to award grants under the Energy Policy Act of 2005. 42 U.S.C. § 16353(a) requires that "[a]wards of funds authorized under this Act or an amendment made by this Act . . . be made only after an impartial review of the scientific and technical merit of the proposals for the awards has been carried out by or for the Department." 42 U.S.C. § 16353(c) expresses "the sense of Congress that research, development, demonstration, and commercial application activities carried out by the Department should be awarded using competitive procedures, to the maximum extent practicable."

Carbon Storage Validation and Testing Program 42 U.S.C. § 16293	Authorizes DOE to establish a program for carbon storage validation and testing, including research, development, demonstration projects, and commercialization activities for carbon storage technologies. 42 U.S.C. § 16293(f) instructs DOE to make project selections from meritorious proposals subject to the requirements of 42 U.S.C. § 16353.
Wind Energy Research and Development 42 U.S.C § 16237, Energy Act of 2020	Authorizes a DOE wind energy research, development, demonstration, commercialization, and workforce grant program. 42 U.S.C § 16237(b)(2)(A) directs DOE to carry out the statutory purpose by "awarding grants and awards, on a competitive, merit-reviewed basis."
Carbon Capture Technology Program 42 U.S.C. § 16292, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes DOE to conduct a comprehensive carbon capture technology program covering post-combustion capture, pre-combustion capture, advanced compression, and carbon utilization. Includes explicit greenhouse-gas-reduction objectives and mandates international collaboration. Authorizes DOE to issue competitive grants, cooperative agreements, and other forms of financial assistance to facilitate program purposes 42 U.S.C. § 16292(e) establishes competitive, merit-based review process for grants to carbon capture test centers.
Carbon Removal Research, Development, and Demonstration Programs 42 U.S.C. § 16298d,	Authorizes research, development, and demonstration programs to test and improve technologies to remove carbon dioxide from the atmosphere through various prize competitions and grant programs. 42 U.S.C. § 16298d(e)-(f) authorize a prize competitions and grants to awarded on competitive bases.
Department of Energy Early Career Research Program 42 U.S.C. § 16534, America COMPETES Act / PACE–Energy Act	Authorizes a program to award grants to scientists and engineers at an early career stage at institutions of higher education and to conduct research in fields relevant to the mission of the Department. 42 U.S.C. § 16534(d) provides that "[g]rant recipients shall be selected on a competitive, merit-reviewed basis" with specific section process criteria established at § 16534(e).

Future of Industry Program 42 U.S.C. § 17111, Energy Independence and Security Act of 2007	Authorizes DOE's Future of Industry Program, which supports research, development, demonstration, and deployment-related activities that improve energy efficiency and competitiveness in energy-intensive industrial and commercial sectors. 42 U.S.C. § 17111(c)(3)(B) mandates a review of partnership proposals based on "scientific, technical, and commercial merit and § 17111(c)(3)(C) clarifying that "the provision of funding under this subsection shall be on a competitive basis." Section 17111(d) authorizes competitive grants based on "energy savings potential, commercial viability, and technical merit."
Industrial Emissions Reduction Technology Development Program Energy Independence and Security Act of 2007, as amended by the Energy Act of 2020, 42 U.S.C. § 17113	Authorizes a DOE industrial emissions reduction technology development program supporting research, development, demonstration, and commercial application of innovative technologies that achieve emissions reductions in nonpower industrial sectors. 42 U.S.C. § 17113(d)(1) requires DOE, in carrying out the program, to "award grants on a competitive basis to eligible entities for projects that the Secretary determines would best achieve the goals of the program."
Electric Drive Vehicle Battery Recycling and Second-Life Applications Program Energy Independence and Security Act of 2007, as amended by the Infrastructure Investment and Jobs Act, 42 U.S.C. § 17231(k)	Authorizes DOE to establish an electric drive vehicle battery recycling and second-life applications grant program. The program funds projects to improve the recycling rates and second-use adoption rates of electric drive vehicle batteries and otherwise improve the environmental impact of electric drive vehicle battery recycling. 42 U.S.C. § 17231(k)(3)(D) directs awards to follow "a competitive, merit-reviewed basis to eligible entities."
Better Energy Storage Technology 42 U.S.C. § 17232, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes a demonstrations and deployment initiative with a variety of competitive grant programs focused on developing long-duration energy storage technologies with, including the Energy Storage System Research, Development, and Deployment Program (2 U.S.C. § 17232(b)), a energy storage demonstration projects; pilot grant program (42 U.S.C. § 17232(c)), the Long-duration demonstration initiative and joint program (§ 17232(d)), Pumped storage hydropower wind and solar integration and system reliability initiative ((§ 17232(e)). Each provision establishes specific competitive processes, program purposes, eligible entities, and program priorities.

Basic Energy Sciences and Energy Frontier Research Centers Department of Energy Research and Innovation Act, 42 U.S.C. § 18641	Authorizes the Director of the Office of Science to conduct a research and development program in basic energy sciences and issue awards to establish Energy Frontier Research Centers that conduct fundamental and use-inspired energy research. 42 U.S.C. § 18641(c)(1) specifies that awards related to Energy Frontier Research Centers shall be carried out on a "competitive, merit-reviewed basis, to multi-institutional collaborations or other appropriate entities . . . ."
Fusion Materials Research and Development, Department of Energy Research and Innovation Act of 2018, 42 U.S.C. § 18645	Authorizes DOE to support advancement of fusion energy through competitive funding opportunities, research centers, innovation networks, alternative fusion concepts, and commercialization efforts through grants and other financial awards. The statute emphasizes scientific excellence and maintaining U.S. leadership in fusion research. 42 U.S.C. § 18645(e)(3)(B) provides that "[f]inancial assistance under the program established in subsection (a)— (i)shall be awarded on a competitive, merit-reviewed basis; and (ii)may be in the form of grants, vouchers, equipment loans, or contracts to private entities."
Grid Innovation Program 42 U.S.C. § 18712, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes DOE establish the grants supporting the "Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency" to provide, on a competitive basis, federal financial assistance to demonstrate innovative approaches to transmission, storage, and distribution infrastructure to harden and enhance resilience and reliability; and to demonstrate new approaches to enhance regional grid resilience. 42 U.S.C. § 18712(b)(5) establishes a competitive project selection process for the program.
Rural And Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Program 42 U.S.C. § 18723	Authorizes a program to provide grants and technical assistance to, and enter into cooperative agreements with, rural electric cooperative and utilities to protect against, detect, respond to, and recover from cybersecurity threats.42 U.S.C. § 18723(d)(1) provides that DOE most award grants on a competitive basis based on the priority criteria in § 18723(d)(2).
Battery Recycling Research, Development, and Demonstration Grants 42 U.S.C. § 18741(f)	Authorizes competitive DOE/EPA grants for research, development, and demonstration projects to create innovative and practical approaches to increase the reuse and recycling of batteries. 42 U.S.C. § 18741(f)(3),(4) directs DOE to award grants for battery recycling programs on a competitive basis.

Grants For Energy Efficiency Improvements and Renewable Energy Improvements at Public School Facilities 42 U.S.C § 18831, Infrastructure Investment and Jobs Act / Bipartisan Infrastructure Law	Authorizes the Secretary to issue grants to advance renewable energy and energy efficient infrastructure and improvements at public school facilities. 42 U.S.C § 18831(b) directs DOE to award competitive grants, and § 18831(e) provides specific competitive criteria to judge applications.
NOAA Grant Programs and Other Statutory Provisions Presenting Conflicts with Proposed § 200.205	
Program Title Statute	**Description**
Coastal and Estuarine Land Conservation Program Coastal Zone Management Act, 16 U.S.C §§ 1456-1, 1456d	Authorizes competitive enhancement grants to coastal states to encourage states to continually improve their federally approved coastal management programs in designated areas of national importance. 16 U.S.C. §§ 1456-1(c) specifies that funds from the National Estuarine Research Reserves will be made "through a competitive grant process in accordance with" a list of ten statutory requirements.
National Sea Grant College Program Sea Grant Act, 33 U.S.C. § 1123	Authorizes financial assistance for the National Sea Grant College Program. 33 U.S.C. § 1123(c)(2) directs NOAA to ensure that proposals for grants and contracts to be funded by the Sea Grant program are subject to merit review procedures.

Ruth D. Gates Coral Reef Conservation Grant Program Coral Reef Conservation Act of 2000, 16 U.S.C. § 6410	Authorizes NOAA to provide grants as are part of NOAA's efforts to restore resilient coral ecosystems. 16 U.S.C. § 6410(e)(3) establishes a requirement for the "merit-based peer review" of project proposals.

*These programs recently had their unobligated funds rescinded by the One Big Beautiful Bill Act.