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6 **UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 Juan Carlos Contreras Lopez,  
9  
10 Petitioner,

11 v.

12 Christopher D. McGregor, (Acting) Field  
13 Office Director Of Enforcement And  
14 Removal Operations, Phoenix Field  
15 Office, Immigration And Customs  
16 Enforcement; Kristi Noem, Secretary,  
17 U.S. Department Of Homeland Security;  
18 U.S. Department Of Homeland Security;  
19 Pamela Bondi, U.S. Attorney General;  
20 Executive Office For Immigration  
21 Review, Alexis Garcia, Warden of the  
22 Florence Service Processing Center.

Respondents.

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

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**INTRODUCTION**

1. Petitioner Juan Carlos Contreras Lopez brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the physical custody of Respondents at the Florence Service Processing Center located in Florence, Arizona. He currently faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office for Immigration Review (“EOIR”) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*. On December 18, 2025, the *Maldonado Bautista* court entered final judgment against Respondents declaring that class members, including Petitioner, are detained pursuant to 8 U.S.C. § 1226(a) and are entitled to bond hearings and release under 8 U.S.C. § 1226(a).

**JURISDICTION**

2. Petitioner is in the physical custody of Respondents within the District of Arizona. Petitioner is currently detained at the Florence Service Processing Center in Florence, Arizona.

3. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).



1           9.     Respondent Kristi Noem is the Secretary of DHS. She is responsible  
2 for the implementation and enforcement of the Immigration and Nationality Act  
3 (“INA”), and oversees ICE, which is responsible for Petitioner’s detention.  
4 Respondent Noem has ultimate custodial authority over Petitioner and is sued in her  
5 official capacity.

6           10.    Respondent Department of Homeland Security is the federal agency  
7 responsible for implementing and enforcing the INA, including the detention and  
8 removal of aliens.

9           11.    Respondent Pamela Bondi is the Attorney General of the United  
10 States. She is responsible for the Department of Justice, of which EOIR and the  
11 immigration court system it operates is a component agency. She is sued in her  
12 official capacity.

13          12.    Respondent Executive Office for Immigration Review is the federal  
14 agency responsible for implementing and enforcing the INA in removal and related  
15 proceedings, including for custody redeterminations in bond hearings.

16          13.    Respondent Alexis Garcia is Warden of the Florence Service  
17 Processing Center, where Petitioner is detained. He has immediate physical custody  
18 of Petitioner. He is sued in his official capacity.

19                               **LEGAL FRAMEWORK**

20          14.    In removal proceedings, the vast majority of aliens are placed into one  
21 of three categories: (1) those who have been admitted to the United States; (2) those  
22 who are present in the United States, but have not been inspected or admitted to the

1 country; and, (3) those who are applying for admission to the United States. If entry  
2 into the United States is envisioned as a door, these aliens can be thought of as those  
3 who have come in through the door, those who went around the door, and those who  
4 are (sometimes constructively) knocking on the door.

5 15. This case deals with those who went around the door and find  
6 themselves in the United States without having been inspected. Within that group  
7 of aliens, there are two subgroups: (1) those apprehended at the time they enter, or  
8 in close proximity thereto; and, (2) those that entered without inspection and have  
9 remained in the United States for an extended period of time. Petitioner falls in the  
10 latter category. The question presented here asks specifically under which statutory  
11 ground of detention may DHS and Respondents detain those that entered without  
12 inspection but have resided in the United States for an extended period.

13 16. The Immigration and Nationality Act (“INA”) provides three primary  
14 statutory grounds for detention. 8 U.S.C. §§ 1225, 1226, and 1231.

15 17. The general statutory ground for detention resides in 8 U.S.C. §  
16 1226, which authorizes the detention of aliens in removal proceeding before an  
17 immigration judge. *See generally* 8 U.S.C. §§ 1226 and 1229a. Aliens detained  
18 under 8 U.S.C. § 1226 are generally subject to discretionary detention, 8 U.S.C. §  
19 1226(a), but may also be subject to mandatory detention, 8 U.S.C. § 1226(c).  
20 Those detained under the discretionary provisions of 8 U.S.C. § 1226(a) are  
21 generally entitled to a bond hearing before an immigration judge if DHS  
22 determines that it will detain the alien for the pendency of removal proceedings.

1 *See* 8 C.F.R. §§ 236.1(d), 1003.19(a), and 1236.1(d). DHS may also unilaterally  
2 release the alien on the posting of a bond or on their own recognizance. 8 U.S.C.  
3 § 1226(a); 8 C.F.R. § 236.1(c)(8). Certain aliens who have been arrested for,  
4 charged with, or convicted of certain offenses and/or conduct are subject to  
5 mandatory detention and are not eligible for release. 8 U.S.C. § 1226(c).

6 18. The grounds for detention under 8 U.S.C. § 1225 exist under  
7 subsections 1225(b)(1)(B)(iii)(IV) and 1225(b)(2)(A). Both grounds require  
8 mandatory detention and do not generally provide for release upon the posting of  
9 a bond. *See* 8 U.S.C. §§ 1225(b)(1)(B)(iii)(IV) and (b)(2)(A). Aliens who are  
10 subject to the expedited removal provisions under 8 U.S.C. § 1225(b)(1) are  
11 generally subject to detention under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). *See* 8  
12 U.S.C. § 1225(b)(1). Other aliens “seeking admission” to the United States are  
13 covered by 8 U.S.C. § 1225(b)(2)(A). *See* 8 U.S.C. § 1225(b)(2).

14 19. Lastly, the INA provides for detention of aliens subject to removal  
15 orders under the provisions of 8 U.S.C. § 1231. *See* 8 U.S.C. § 1231(a)-(b). This  
16 ground of removability is not at issue here.

17 20. This case presents the question of whether Petitioner’s detention  
18 arises from 8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b)(2).

19 21. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted  
20 as part of the Illegal Immigration Reform and Immigrant Responsibility Act  
21 (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546,

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1 3009–582 to 3009–583, 3009–585. Section 1226 was recently amended earlier  
2 this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

3 22. Following the enactment of the IIRIRA, EOIR drafted new  
4 regulations explaining that, in general, people who entered the country without  
5 inspection were not considered detained under § 1225 and were instead detained  
6 under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and  
7 Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62  
8 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission,  
9 aliens who are present without having been admitted or paroled (formerly referred  
10 to as aliens who entered without inspection) will be eligible for bond and bond  
11 redetermination”).

12 23. Thus, in the decades that followed, most people who entered without  
13 inspection and were thereafter arrested and placed in standard removal  
14 proceedings received consideration for release on bond and also received bond  
15 hearings before an immigration judge, unless criminal history rendered them  
16 ineligible. That practice was consistent with many more decades of prior practice,  
17 in which aliens who had entered the United States, even if without inspection,  
18 were entitled to a custody hearing before an immigration judge or other hearing  
19 officer. In contrast, those stopped at the border were only entitled to release on  
20 parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at  
21 229 (1996) (noting that § 1226(a) simply “restates” the detention authority  
22 previously found at § 1252(a)).

1           24. In recent months, however, Respondents have unprecedentedly  
2 departed from this settled understanding of the INA's grounds for detention. On  
3 July 8, 2025, ICE, in coordination with the Department of Justice announced a  
4 policy asserting that all aliens who have entered the United States without  
5 inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A),  
6 regardless of when the alien is apprehended.

7           25. On September 5, 2025, the Board of Immigration Appeals ("BIA")  
8 issued a precedential decision holding that the plain language of 8 U.S.C. §  
9 1225(b)(2)(A) mandates that immigration judges across the United States lack  
10 authority to consider requests for bond from aliens who entered the United States  
11 without inspection. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In  
12 its decision, the BIA set aside decades of legal practice and myopically focused  
13 on the language in 8 U.S.C. § 1225(b)(2)(A), where it found all aliens present in  
14 the United States without inspection to be "applicants for admission." *Id.* As a  
15 result, it determined all such aliens are subject to the mandatory detention ground  
16 in 8 U.S.C. § 1225(b)(2)(A). *See Id.* The BIA erroneously held that "the statutory  
17 text of the INA is not 'doubtful and ambiguous' but is instead clear and explicit in  
18 requiring mandatory detention of all aliens who are applicants for admission..."  
19 *Id.* at 226. In arriving at its conclusion, it further glossed over additional clauses  
20 in the text of 8 U.S.C. § 1225(b)(2)(A) that require a determination by an  
21 examining immigration officer and require the alien in question to seek admission

22

1 to the United States. *Id.* at 221. Lastly, it failed to properly consider the interplay  
2 between § 1225(b)(2)(A) and § 1226. *Id.* at 221-222.

3       26. This erroneous decision flies in the face of decades of precedent and  
4 practice. Section 1226(a) applies by default to all persons “pending a decision on  
5 whether the alien is to be removed from the United States.” These removal  
6 hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability  
7 of an alien.” 8 U.S.C. § 1229a(a)(1).

8       27. The text of § 1226 also explicitly applies to aliens charged as  
9 inadmissible, including those who entered without inspection. See 8 U.S.C. §  
10 1226(c)(1)(E). Just this year, Congress enacted subparagraph (E) in the Laken  
11 Riley Act to exclude certain aliens who entered without inspection from §  
12 1226(a)’s default bond provision. Subparagraph (E)’s reference to persons  
13 inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without  
14 inspection, makes clear that, by default, such people are afforded a bond hearing  
15 under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen  
16 Congress creates “specific exceptions” to a statute’s applicability, it “proves” that  
17 absent those exceptions, the statute generally applies. *Rodriguez Vazquez v.*  
18 *Bostock*, 779 F.Supp.3d 1239, 1256-57, 2025 WL 1193850, at \*12 (citing *Shady*  
19 *Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).  
20 Section 1226 therefore leaves no doubt that it applies to people who face charges  
21 of inadmissibility to the United States, including those who are present without  
22 admission or parole.

28. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez v. Hyde*, 792 F.Supp.3d 211, 222, 2025 WL 2084238, at \*8 (“[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

29. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to aliens like Petitioner, who have already entered and were residing in the United States at the time of apprehension.

## FACTUAL BACKGROUND

30. Petitioner is a native and citizen of Mexico. Exh. 1-3. Petitioner last entered the United States in the year 2002 without inspection and has resided in the United States for approximately twenty-four years. Exh. 4. During that time, Petitioner has worked, contributed to the society of the United States, and fathered and raised children. *Id.* Exh 4, Pag. 16-17. Petitioner has also developed significant ties to the community and those that support his release are diverse

1 members of his community. *Id.* Petitioner has provided service in his community  
2 for years and is the primary economic provider and caregiver for his U.S. citizen  
3 children. *Id.* At Exh 4, Pag 19-170, 193-209.

4 31. DHS initiated removal proceedings against Petitioner on July 15,  
5 2011, through the issuance of a Notice to Appear (“NTA”) charging Petitioner as  
6 removable from the United States for being present in the United States without  
7 admission or parole after having entered without inspection in violation of 8 U.S.C.  
8 § 1182(a)(6)(A)(i) (Section 212(a)(6)(A)(i) of the INA). Exh. 1. Petitioner’s  
9 removal proceedings remain pending before the Florence Immigration Court and  
10 Petitioner intends to pursue an application for cancellation of removal and  
11 adjustment of status for certain nonpermanent residents pursuant to 8 U.S.C. §  
12 1229b(b)(1). Exh. 4.

13 32. Petitioner requested redetermination of the conditions of his custody  
14 before an immigration judge and submitted two packets of documentation in  
15 support of that request on February 28, 2026. *See* Exhs 4-5.

16 33. On March 4, 2026, Immigration Judge Natalie Huddleston  
17 conducted a hearing to consider Petitioner’s request for custody redetermination.  
18 Exh 5. Judge Levin denied Petitioner’s request for custody redetermination after  
19 determining that she was bound to follow *Matter of Yajure Hurtado*, 29 I&N Dec.  
20 216 (BIA 2025) notwithstanding the decision of the district court in *Maldonado*  
21 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D.  
22 Cal. Dec. 18, 2025). *Id.*

1                                   **REQUIREMENTS OF 28 U.S.C. § 2243**

2           34.    The Court should grant the petition for writ of habeas corpus  
3 “forthwith,” as the legal issues have already been resolved for class members in  
4 *Maldonado Bautista*.

5           35.    Habeas corpus is “perhaps the most important writ known to the  
6 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases  
7 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)  
8 (emphasis added). “The application for the writ usurps the attention and displaces  
9 the calendar of the judge or justice who entertains it and receives prompt action from  
10 him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120  
11 (9th Cir. 2000) (citation omitted).

12                                   **CLAIM FOR RELIEF**

13                                   **COUNT I**

14                   **Request for Relief Pursuant to *Maldonado Bautista***

15           36.    Petitioner repeats, re-alleges, and incorporates by reference each and  
16 every allegation in the preceding paragraphs as if fully set forth herein.

17           37.    In the *Maldonado Bautista* class action, the district court granted  
18 partial summary judgment on behalf of individual plaintiffs on November 20, 2025,  
19 and on November 25, 2025, certified a nationwide class and extended declaratory  
20 judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-  
21 01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20,  
22 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners);

1 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -  
2 ---, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-  
3 Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending  
4 declaratory judgment from Order Granting Petitioners' Motion for Partial Summary  
5 Judgment).

6 38. The declaratory judgment held that the Bond Denial Class members  
7 are detained under 8 U.S.C. § 1226(a), and thus, may not be denied consideration  
8 for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861,  
9 at \*11.

10 39. On December 18, 2025, the *Maldonado Bautista* court took further  
11 action, issuing final judgement for members of the Bond Eligible Class, declaring  
12 that class members are detained under 8 U.S.C. § 1226(a), declaring that class  
13 members are not subject to 8 U.S.C. § 1225(b)(2), and declaring that class members  
14 are entitled to custody redetermination before an immigration judge. *Maldonado*  
15 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, at \*1  
16 (C.D. Cal. Dec. 18, 2025).

17 40. Nonetheless, EOIR and DHS have refused to abide by the declaratory  
18 relief and have unlawfully ordered that Petitioner be denied the opportunity to be  
19 released on bond.

20 41. Petitioner is a member of the Bond Eligible Class, as he:

- 21 a. does not have lawful status in the United States and entered the United  
22 States without inspection over twenty years ago;

1 b. was not apprehended upon arrival; and,

2 c. was not subject to detention under the provisions of 8 U.S.C. §  
3 1226(c), § 1225(b)(1), or § 1231 when DHS made its initial custody  
4 determination.

5 42. After apprehending Petitioner, DHS placed him in removal  
6 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being  
7 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United  
8 States without inspection and is present without admission or parole.

9 43. Respondents are bound by the judgment in *Maldonado Bautista*, as it  
10 has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless,  
11 Respondents continue to flagrantly defy the judgment in that case and continue to  
12 subject Petitioner to unlawful detention despite his eligibility for release on bond as  
13 a Bond Eligible Class member.

14 44. As a member of the Bond Eligible Class, Petitioner is entitled to  
15 consideration for release on bond under 8 U.S.C. § 1226(a).

16 45. The order granting partial summary judgment in *Maldonado Bautista*  
17 holds that Respondents violate the INA in applying the mandatory detention statute  
18 at § 1225(b)(2) to class members.

19 46. The order granting class certification in *Maldonado Bautista* further  
20 orders that “[w]hen considering this determination with the MSJ Order, *the Court*  
21 *extends the same declaratory relief granted to Petitioners to the Bond Eligible Class*  
22 *as a whole.*” (emphasis added).

47. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

48. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the court's judgment in *Maldonado Bautista*.

**COUNT II**

**Violation of 8 U.S.C. § 1226(a)**

49. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

50. The provisions of 8 U.S.C. § 1225(b)(2) requiring mandatory detention do not apply to all aliens residing in the United States who are subject to the grounds of inadmissibility. As relevant to Petitioner, it does not apply to those who previously entered the United States and have spent a significant period of time residing in the country prior to apprehension and the initiation of removal proceedings. Aliens in this situation, like Petitioner, are detained under 8 U.S.C. § 1226(a) and are eligible for release on bond unless they are subject to alternative mandatory grounds of detention pursuant to 8 U.S.C. §§ 1225(b)(1), 1226(c), or 1231.

51. Notwithstanding the above, Respondents have refused to release Petitioner on the posting of bond finding his continued detention is justified and mandatory under 8 U.S.C. § 1225(b)(2).

52. The unlawful application of 8 U.S.C. § 1225(b)(2) to Petitioner violates the INA and Petitioner's continued detention violates his right under 8 U.S.C. § 1226(a) for consideration of release on bond or conditional parole.

### COUNT III

### **Violation of Bond Regulations – 8 C.F.R. §§ 236.1, 1236.1, and 1003.19**

53. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

54. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of Aliens,” the agencies explained that “[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

55. Nevertheless, Respondents have refused to permit Petitioner the opportunity for release on bond.

56. The application of 8 U.S.C. § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates DHS and Department of Justice regulations 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

**COUNT IV**

## Violation of the Administrative Procedure Act

### **Contrary to Law and Arbitrary and Capricious Agency Policy**

7            57. Petitioner repeats, re-alleges, and incorporates by reference each and  
8 every allegation in the preceding paragraphs as if fully set forth herein.

9           58. The APA provides that a "reviewing court shall . . . hold unlawful and  
10 set aside agency action, findings, and conclusions found to be . . . arbitrary and  
11 capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C.  
12 § 706(2)(A).

13           59. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not  
14 apply to all aliens residing in the United States who are subject to the grounds of  
15 inadmissibility. As relevant here, it does not apply to those who previously entered  
16 the country and have been residing in the United States prior to being apprehended  
17 and placed in removal proceedings by Respondents. Such aliens are detained under  
18 § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1),  
19 § 1226(c), or § 1231.

60. Nevertheless, Respondents have refused to permit Petitioner the opportunity for release on bond finding that he is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2).

61. Additionally, Respondents have failed to properly articulate reasoned explanations for their decisions, which represent changes in the positions of their respective agencies' longstanding policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and, have offered explanations for their decisions that run counter to the evidence before the agencies and contrary to established legal precedent.

8           62. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner is  
9 arbitrary, capricious, and not in accordance with law, and as such, it violates the  
10 APA. *See* 5 U.S.C. § 706(2).

**COUNT V**

## Violation of the Administrative Procedure Act

### Failure to Observe Required Procedures

63. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

64. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D). Specifically, the APA requires agencies to follow public notice-and-comment rulemaking procedures before promulgating new regulations or amending existing regulations. See 5 U.S.C. § 553(b), (c).

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1 DATED this 10<sup>th</sup> day of March, 2026.

2  
3 /s/ Delia Salvatierra, Esq.

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