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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–SC–22–0052]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Amendments to the Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking amends Marketing Order No. 930, which regulates the handling of tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. The amendments modify the basis for calculating district representation on the Cherry Industry Administrative Board (Board), change the starting date for the term of office for Board members, simplify the way a Board member's sales constituency is determined, clarify how the sales constituency applies to alternate Board members, change the timeframe for submitting nominations, and clarify when districts are subject to volume regulation.

DATES: This rule is effective November 3, 2025.

FOR FURTHER INFORMATION CONTACT: Christy Pankey, Marketing Specialist, or Matthew Pavone, Chief, Rulemaking Services Branch, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: Christy.Pankey@usda.gov or Matthew.Pavone@usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP

0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: Antoinette.Carter@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Order No. 930, as amended (7 CFR part 930), regulating the handling of tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. Part 930 referred to as the “Order” is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Board locally administers the Order and is comprised of growers and handlers of tart cherries operating within the area of production and a public member.

The Agricultural Marketing Service (AMS) is issuing this final rule in conformance with Executive Order 12866, as amended by Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This final rule has been reviewed under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined this final rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule shall

not be deemed to preclude, preempt, or supersede any State program covering tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 8c(17) of the Act (7 U.S.C. 608c(17)) and § 900.43 of the supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders depending upon the nature and complexity of the proposed amendment, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that the amendments in this final rule are not unduly complex and the nature of the amendments is appropriate for utilizing the informal rulemaking process to amend the Order. This final rule encompasses a number of changes that are primarily administrative and modernizing in nature. These changes clarify regulatory text or align it with current industry practices. The changes also simplify the administration of seating the Board. During the referendum, eligible producers and processors favored all the amendments. At least two-thirds of the eligible producers who voted, or those representing at least two-thirds of the eligible volume, supported each amendment. Additionally, participating

processors representing more than fifty percent of the frozen or canned tart cherry volume within the production area voted in favor of each amendment. A discussion of the potential regulatory and economic impacts on affected entities is discussed later in the “Final Regulatory Flexibility Analysis” section of this final rule. Each amendment applies equally to all producers and handlers, regardless of size. Each amendment also has no additional impact on the reporting, record-keeping, or compliance costs of small businesses.

All eighteen Board members voted unanimously in favor of all the proposed amendments to the Order following deliberations at a public meeting held on February 15, 2022, except that the amendment related to the method for establishing a member's sales constituency received one dissenting vote. The Board formally submitted its recommendation to amend the Order through the informal rulemaking process on April 8, 2022. At USDA's request, the Board conducted an additional meeting on December 15, 2022, to publicly clarify its original intent that the sales constituency provisions of the proposal would apply to both growers and handlers, and that sales constituency would be established at the time of nomination. Specifically, the Board revised the language of its initial recommendation to clarify that a member's sales constituency is established at the time of nomination. The Board then unanimously affirmed, with sixteen voting members present, to clarify that the established sales constituency applies to both handlers and growers for the duration of the term of office. A separate vote to remove the words “and appointment” from the language received fifteen votes in favor and one dissenting vote from a member who believed sales constituency should be calculated at the time of appointment.

A proposed rule soliciting public comments on the proposed amendments was published in the **Federal Register** on December 4, 2023 (88 FR 84075). AMS received two comments: one comment from the Wisconsin Department of Agriculture in support of all proposed amendments, noting the proposed changes would have a favorable impact on the Wisconsin cherry industry, and another from a Michigan handler opposing Proposal 1 of the proposed rulemaking. After reviewing the comments, AMS published a proposed rule and referendum order in the **Federal Register** on July 19, 2024 (89 FR 58636). The proposed rule and referendum order addressed the comments received

and also directed that a referendum among tart cherry producers and handlers (processors) be conducted from August 26, 2024, through September 16, 2024, to determine whether they favored the proposals. To become effective, each amendment had to be approved by at least two-thirds of the eligible producers voting in the referendum or by producers representing at least two-thirds of the eligible volume. In addition, each amendment had to be favored by processors representing more than fifty percent of the frozen or canned tart cherry volume within the production area. All the amendments met these requirements. A detailed summary of the referendum results is available online at <https://www.ams.usda.gov/content/tart-cherry-producers-vote-amend-federal-marketing-order>.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 330 tart cherry growers in the production area and approximately 29 handlers subject to regulation under the Order. At the time of this analysis, the Small Business Administration (SBA) defined small agricultural producers of tart cherries as those having annual receipts equal to or less than \$3,500,000 (Other Noncitrus Fruit Farming, North American Industry Classification System Code 111339). Small agricultural service firms were defined as those having annual receipts equal to or less than \$34,000,000 (Postharvest Crop Activities, North American Industry Classification System Code 115114) (13 CFR 121.201).

The National Agricultural Statistics Service (NASS) reported that the 2023–24 value of the tart cherry crop for processed utilization was approximately \$41.4 million. The tart cherry production was 207.1 million pounds and the season average grower price for processed tart cherries was \$0.20 per pound. Dividing the crop value by the estimated number of producers (330) yields an estimated average annual

receipts per producer of \$125,318 (\$41.4 million divided by 330 producers). This is well below the SBA threshold for small producers.

To calculate handler value, AMS uses data from USDA purchases of dried tart cherries for feeding programs as a proxy for prices received by handlers. In 2024, the average price paid by USDA for dried tart cherry products was \$4.984 per pound. The dried cherry price was converted to a raw product equivalent price of \$0.997 per pound at an industry recognized ratio of five to one (\$4.984 divided by 5 equals \$0.997). Multiplying this price by 2023 total processed utilization of 207.1 million pounds results in an estimated handler-level tart cherry value of \$206.4 million (\$0.997 per pound multiplied by 207.1 million pounds). Dividing this figure by the number of handlers (29) yields estimated average annual receipts per handler of approximately \$7.1 million (\$206.4 million divided by 29 handlers), which is well below the SBA threshold of \$34 million for small agricultural service firms. Assuming a normal distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

AMS has determined that the amendments as effectuated by this final rule will not have a significant impact on a substantial number of small businesses. Rather, these changes will help further standardize and stabilize Board membership and improve Board efficiency and decision making throughout the year. No small businesses are unduly or disproportionately burdened by the amendments.

This final rule modifies the basis for calculating district representation on the Cherry Industry Administrative Board (Board), changes the starting date for the term of office for Board members, simplifies the way a Board member's sales constituency is determined, clarifies how the sales constituency applies to alternate Board members, changes the timeframe for submitting nominations, and clarifies when districts are subject to volume regulation. The revised voting requirements will result in less confusion for some Board members, which can disrupt Board operations.

The Board considered the benefits and costs of maintaining the status quo as an alternative to this action. However, the Board believes the amendments are necessary to ensure the efficient execution of the Order.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C.

Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581-0177, Tart Cherries Grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. No changes in those requirements are necessary because of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule does not impose additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public-sector agencies.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

The Board's meetings are widely publicized throughout the tart cherry production area. All interested persons were invited to attend the meetings and encouraged to participate in Board deliberations on all issues. Like all Board meetings, the meetings held on February 15, 2022, and December 15, 2022, were open to the public, and all entities, both large and small, were encouraged to express their views on the proposed amendments.

AMS published a proposed rule concerning this action in the **Federal Register** on December 4, 2023 (88 FR 84075). A copy of the rule was sent via email to Board staff for distribution to all Board members and Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin tart cherry growers and handlers. The proposed rule was also made available by USDA through the internet and the Office of the Federal Register. A 60-day comment period ending February 2, 2024, was provided to allow interested persons an opportunity to respond to the proposals. AMS received one comment in support of all the proposed amendments and one comment opposing one of the proposals. Based on all the information available to AMS, including both comments received in response to the proposed rule, no substantive changes were made to the amendments as proposed.

AMS then published a proposed rule and referendum order on July 19, 2024

(89 FR 58636). That document directed that a referendum among Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin tart cherry producers and handlers (processors) be conducted from August 26, 2024, through September 16, 2024, to determine whether they favored the proposals. To become effective, each amendment had to be approved by at least two-thirds of the eligible producers voting in the referendum or by producers representing at least two-thirds of the eligible volume. In addition, each amendment had to be favored by processors representing more than fifty percent of the frozen or canned tart cherry volume within the production area. The referendum results show each of the amendments met the requirements to become effective.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Order Amending the Order Regulating the Handling of Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin¹

Findings and Determinations

(a) Findings and Determinations Upon the Basis of the Rulemaking Record

The findings and determinations hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of Marketing Order 930; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. Marketing Order 930 as amended, and as hereby amended and all the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

2. Marketing Order 930 as amended, and as hereby amended regulates the handling of tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin and is applicable only to

persons in the respective classes of commercial and industrial activity specified in the Order;

3. Marketing Order 930 as amended, and as hereby amended is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several marketing orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. Marketing Order 930 as amended, and as hereby amended prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of tart cherries produced or packed in the production area; and

5. All handling of tart cherries grown or handled in the production area, as defined in Marketing Order 930 is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) Determinations

It is hereby determined that:

1. The issuance of this amendatory Order, amending the aforesaid Order, is favored or approved by at least two-thirds of the eligible producers or by producers representing at least two-thirds of the eligible volume that voted in the referendum on the question of approval and who, during the period of July 1, 2023, through June 30, 2024, were engaged within the production area in the production of such tart cherries; and is favored by handlers (processors) representing more than fifty percent of the frozen or canned tart cherry volume within the production area during the representative period.

2. The issuance of this amendatory Order advances the interests of producers of tart cherries in the production area pursuant to the declared policy of the Act.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the Order contained in the proposed rule issued by the Administrator and published in the **Federal Register** (88 FR 84075) on December 4, 2023, will be and are the

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

terms and provisions of this order amending the Order and are set forth in full herein.

List of Subjects in 7 CFR Part 930

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 930 as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN.

- 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

- 2. Amend § 930.20 by:

- a. Revising paragraph (b) introductory text and paragraph (f);
- b. Redesignating paragraphs (g), (h), and (i), as paragraphs (i), (j), and (k); and
- c. Adding new paragraphs (g) and (h).

The revisions and the additions read as follows:

§ 930.20 Establishment and membership.

* * * * *

(b) District representation on the Board shall be based upon the maximum volume of production in the most recent five harvests in the district and shall be established as follows:

* * * * *

(f) If the maximum production for the most recent five harvests in a district changes so that a different number of seats should be allocated to the district, then the Board will be reestablished by the Secretary and such seats will be filled according to the applicable provisions of this part. Each district's maximum production for the five most recent harvests shall be determined every five years and as soon as possible after the most recent year's production is known.

(g) In the event of substantial changes within a district that require reconsideration of the number of seats allocated to the district, the Board may recommend, and pursuant thereto, the Secretary may approve, allocation of a different number of seats to the district. In making any such recommendation, the Board shall consider:

(1) Shifts in tart cherry acreage and/or the number of bearing trees within districts and within the production area during recent years;

(2) The volume of tart cherries produced in the district;

(3) The importance of either increased or decreased production in its relation to existing districts;

(4) The equitable relationship of Board membership and districts;

(5) Economies to result for producers in promoting efficient administration of the Board due to reapportionments;

(6) Other relevant factors.

(h) No change in the allocated number of seats for district(s) may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendation for a change in allocated seats may be made less than six months prior to such date.

* * * * *

- 3. Revise § 930.22 to read as follows:

§ 930.22 Term of office.

The term of office of each member and alternate member of the Board shall be for three years beginning on June 1 of the year when appointed and ending on May 31 three years later: Provided that, of the nine initial members and alternates from the combination of Districts 1, 2 and 3, one-third of such initial members and alternates shall serve only one year, one-third of such members and alternates shall serve only two years, and one-third of such members and alternates shall serve three years; and one-half of the initial members and alternates from Districts 4 and 7 shall serve only one year, and one-half of such initial members and alternates shall serve two years (determination of which of the initial members and their alternates shall serve for one, two, or three years shall be by lot). Members and alternate members shall serve in such capacity for the portion of the term of office for which they are selected and have qualified until their respective successors are selected, have qualified, and are appointed. The consecutive terms of office of grower, handler and public members and alternate members shall be limited to two 3-year terms, excluding any initial term lasting less than three years. The term of office of a member and alternate member for the same seat shall be the same. The term of office specified in this section will become effective for all members, including members whose terms are not expiring, upon the first nomination cycle following the effectiveness of the final rule establishing this new term of office.

The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

- 4. Amend § 930.23 by revising paragraphs (b)(2), (3), (4), (7) and paragraph (c)(3)(ii) to read as follows:

§ 930.23 Nomination and election.

* * * * *

(b) * * *
(2) In order for the name of a handler nominee to appear on an election ballot, the nominee's name must be submitted with a petition form, to be supplied by the Secretary or the Board, which contains the signature of one or more handler(s), other than the nominee, from the nominee's district who is or are eligible to vote in the election and that handle(s) a combined total of no less than five percent (5%) of the previous three-year average production handled in the district. Provided, that this requirement shall not apply if its application would result in a sales constituency conflict as provided in § 930.20(i). The requirement that the petition form be signed by a handler other than the nominee shall not apply in any district where fewer than two handlers are eligible to vote.

(3) Only growers, including duly authorized officers or employees of growers, who are eligible to serve as grower members of the Board shall participate in the nomination of grower members and alternate grower members of the Board. No grower shall participate in the submission of nominees in more than one district during any nomination cycle. If a grower produces cherries in more than one district, that grower may select in which district he or she wishes to participate in the nominations and election process and shall notify the Secretary or the Board of such selection. A grower may not participate in the nomination process in one district and the election process in a second district in the same election cycle. A grower's sales constituency is determined by the common marketing organization or brokerage firm or individual representing a group of handlers and growers that purchased the majority of pounds of the grower's fruit in a given year. For the duration of a grower's term on the Board, the sales constituency affiliation for said grower will be the affiliation at the time of their nomination and will be based on the most recently harvested crop at that time.

(4) Only handlers, including duly authorized officers or employees of handlers, who are eligible to serve as handler members of the Board shall participate in the nomination of handler members and alternate handler members of the Board. No handler shall participate in the selection of nominees in more than one district during any

nomination cycle. If a handler handles cherries in more than one district, that handler may select in which district he or she wishes to participate in the nominations and election process and shall notify the Secretary or the Board of such selection. A handler may not participate in the nominations process in one district and the elections process in a second district in the same election cycle. If a person is a grower and a grower-handler only because some or all of his or her cherries were custom packed, but he or she does not own or lease and operate a processing facility, such person may vote only as a grower. For the duration of a handler's term on the Board, the sales constituency affiliation for said handler will be the affiliation at the time of nomination.

* * * * *

(7) After the appointment of the initial Board, the Secretary or the Board shall announce at least 180 days in advance when a Board member's term is expiring and shall solicit nominations for that position in the manner described in this section. Nominations for such position should be submitted to the Secretary or the Board not less than 60 days prior to the expiration of such term.

(c) * * *

(3) * * *

(ii) To be seated as a handler representative in any district, the successful candidate must receive the support of handler(s) that handled a combined total of no less than five percent (5%) of the previous three-year average production handled in the district; Provided, that this paragraph shall not apply if its application would result in a sales constituency conflict as provided in § 930.20(i).

* * * * *

■ 5. Revise § 930.28 to read as follows:

§ 930.28 Alternate members.

(a) An alternate member of the Board, during the absence of the member for whom that member serves as an alternate, shall act in the place and stead of such member and perform such other duties as assigned. However, if a member is in attendance at a meeting of the Board, an alternate member may not act in the place and stead of such member. In the event a member and his or her alternate are absent from a meeting of the Board, such member may designate, in writing and prior to the meeting, another alternate to act in his or her place: *Provided*, that such alternate represents the same group (grower or handler) as the member and is not from the same sales constituency as another acting member or acting alternate member in that district. In the

event of the death, removal, resignation or disqualification of a member, the alternate shall act for the member until a successor is appointed and has qualified.

(b) Alternate members may be from the same sales constituency as the member for whom they serve as an alternate. In the event a member and his or her alternate are absent from a meeting of the Board, another alternate may act for the member following the requirements of § 930.28(a), provided this does not create a sales constituency conflict with the other members of that district.

(c) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

■ 6. Amend § 930.52 by revising paragraphs (a) and (d) to read as follows:

§ 930.52 Establishment of districts subject to volume regulations.

(a) The districts in which handlers shall be subject to any volume regulations implemented in accordance with this part shall be those districts in which the average annual production of cherries over the prior 5 years has exceeded 6 million pounds. Handlers shall become subject to volume regulation implemented in accordance with this part in the crop year that follows any 5-year period in which the 6-million-pound average production requirement is exceeded in that district.

* * * * *

(d) Any district producing a crop which is less than 50 percent of the average annual production in that district in the previous 5 years would be exempt from any volume regulation if, in that year, a restricted percentage is established.

* * * * *

§ 930.62 [Amended]

■ 7. Amend § 930.62 by removing in the introductory text of paragraph (a) the text “§ 940.51” and adding in its place the text “§ 930.51”.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2025–19274 Filed 10–1–25; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2832–25; DHS Docket No. USCIS–2025–0238]

RIN 1615–AD04

Facilitating Earlier Filing of Certain Electronically Submitted H–2A Petitions

AGENCY: U.S. Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”).

ACTION: Final rule.

SUMMARY: This final rule amends DHS regulations to modify the timing of when USCIS must receive a valid temporary labor certification when an H–2A petitioner electronically files a Petition for a Nonimmigrant Worker requesting unnamed beneficiaries.

DATES: This final rule is effective on October 2, 2025.

FOR FURTHER INFORMATION CONTACT: Business and Foreign Workers Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone 240–721–3000 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background

The Immigration and Nationality Act (INA), as amended, establishes the H–2A nonimmigrant classification for a temporary worker “having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services . . . of a temporary or seasonal nature.” INA section 101(a)(15)(H)(ii)(a), 8 U.S.C. 1101(a)(15)(H)(ii)(a). Employers must petition the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), for classification of prospective temporary workers as H–2A nonimmigrants. INA section 214(c)(1), 8 U.S.C. 1184(c)(1). DHS must approve this petition before the beneficiary can be considered eligible for an H–2A visa. Finally, the INA requires that “[t]he question of importing any alien as [an H–2A] nonimmigrant . . . in any specific case or specific cases shall be determined by [DHS],¹ after consultation with

¹ As of March 1, 2003, in accordance with section 1517 of Title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision

appropriate agencies of the Government . . . mean[ing] the U.S. Department of Labor and includ[ing] the U.S. Department of Agriculture.” INA section 214(c)(1), 8 U.S.C. 1184(c)(1).

Existing DHS regulations provide that an H–2A petition for temporary employment in the United States must be accompanied by a single valid temporary labor certification (TLC) from the U.S. Department of Labor (DOL) issued in accordance with INA section 218, 8 U.S.C. 1188, and DOL regulations established at 20 CFR part 655, subpart B. 8 CFR 214.2(h)(5)(i)(A), (D), (h)(5)(iv); *see also* INA sections 214(c)(1) and 218, 8 U.S.C. 1184(c)(1) and 1188.² The TLC serves as DHS’s consultation with DOL regarding whether: (i) An able, willing, and qualified U.S. worker is available to fill the petitioning H–2A employer’s job opportunity, and (ii) whether a foreign worker’s employment in the job opportunity will adversely affect the wages or working conditions of similarly employed workers in the U.S. *See* INA sections 214(c)(1) and 218, 8 U.S.C. 1184(c)(1) and 1188; *see also* 8 CFR 214.2(h)(5)(ii); 20 CFR 655.100.

DHS regulations refer to a valid TLC by various terms including “Department of Labor determination” at 8 CFR 214.2(h)(2)(i)(E), “approved labor certification” at 8 CFR 214.2(h)(5)(x), and “temporary agricultural labor certification” at 8 CFR 214.2(h)(5)(i)(A), (h)(5)(iv)(B). The Form I–129, H–2A instructions also indicate that petitioners must submit a single valid temporary labor certification from DOL.³

In 2019, DOL’s Office of Foreign Labor Certification (OFLC) announced that it was transitioning electronic filing of H–2A applications to the new Foreign Labor Application Gateway (FLAG)

of the Immigration and Nationality Act (INA) describing functions which were transferred from the Attorney General or other Department of Justice official to the Department of Homeland Security by the HSA “shall be deemed to refer to the Secretary” of Homeland Security. *See* 6 U.S.C. 557 (2003) (codifying HSA, Title XV, sec. 1517); 6 U.S.C. 542 note; 8 U.S.C. 1551 note. The Secretary of Homeland Security has authority to enforce and administer the immigration laws, including those relating to nonimmigrants, and to “establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and perform such other acts as [s]he deems necessary for carrying out h[er] authority” under the INA. 8 U.S.C. 1103(a)(1), (a)(3); *see also, e.g.,* 6 U.S.C. 202(3)–(4), 236(b), 271(a)(3), (b); 8 U.S.C. 1184.

² Under certain emergent circumstances, petitions requesting a continuation of employment with the same employer for 2 weeks or less are exempt from the TLC requirement. *See* 8 CFR 214.2(h)(5)(x).

³ *See* <https://www.uscis.gov/i-129>. Under certain emergent circumstances, petitions requesting a continuation of employment with the same employer for 2 weeks or less are exempt from the TLC requirement. *See* 8 CFR 214.2(h)(5)(x).

system beginning October 1, 2019.⁴ The transition to the FLAG system meant that employers whose TLCs were approved would receive the Form ETA–9142A, Final Determination: H–2A Temporary Labor Certification Approval, and Final Determination letter electronically, rather than receiving a paper TLC and Final Determination by mail. DOL provided a paper delivery exception for employers, including their authorized attorneys or agents who were not able to receive this documentation electronically. To effectuate this change, on March 6, 2020, USCIS published a notice in the **Federal Register** announcing that employers who received TLCs through DOL’s FLAG system would need to provide a printed copy of the DOL Final Determination with the H–2A petition as required initial evidence and that a printed copy of the Final Determination completed and electronically signed by DOL satisfies the requirement that petitioners provide evidence of a valid TLC pursuant to 8 CFR 214.2(h)(5)(i)(A).⁵

In 2022, DOL made electronic filing and issuance of temporary agricultural labor certifications in the H–2A program mandatory, except in limited circumstances.⁶ A printed copy of the signed DOL Final Determination is still required to be submitted to USCIS with the paper-filed H–2A petition on Form I–129 as initial evidence of a valid TLC.

II. Purpose of Final Rule

This rule modifies the timing of when USCIS must receive a valid TLC for certain H–2A petitions, as part of a larger effort by DOL and DHS (collectively, “the Departments”) to modernize and streamline the H–2A process. In light of an urgent demand for an authorized agricultural labor force⁷

and requests from the regulated community and members of Congress to make the H–2A program easier to use and more efficient for U.S. agricultural producers,⁸ the Departments are collaborating to create a more streamlined application and petition filing process for U.S. agricultural producers to help meet an urgent need for H–2A temporary agricultural workers while simultaneously ensuring that petitioners are complying with all statutory and regulatory requirements of the H–2A program. While both OFLC and USCIS have separately been meeting applicable processing timeframes,⁹ this effort is nonetheless aimed at improving customer service by reducing the overall time across Federal departments it takes to complete the temporary agricultural labor certification and nonimmigrant petition processes for petitioners seeking to employ H–2A workers, and also make the process more modernized and streamlined for H–2A petitioners.

In furtherance of that overarching objective, DHS has received OMB approval on August 13, 2025 of a newly developed, streamlined PDF version of the Form I–129 petition, called Form I–129H2A, Petition for Nonimmigrant Worker: H–2A Classification, that H–2A petitioners may use to electronically file with USCIS. With the new Form I–129H2A, the petitioner is able to

2025); USDA, Economic Research Service, *Farm Labor* (July 7, 2025) (noting that “[o]ne of the clearest indicators of the scarcity of farm labor is the fact that the number of H–2A positions requested and approved has increased more than sevenfold in the past 18 years”), <https://www.ers.usda.gov/topics/farm-economy/farm-labor> (last visited July 29, 2025); Fran Howard, Dairy Herd Management, *Labor Shortage Continues to Plague Farms* (Mar. 11, 2025) (based on recent trends, anticipating that “U.S. farm employment will drop to the lowest annual average since USDA began keeping track in 1996” and that “the steep decline in jobs this year is primarily driven by worker shortages”), <https://www.dairyherd.com/news/labor/labor-shortage-continues-plague-farms> (last visited July 29, 2025).

⁸ *See* the docket for this rulemaking for access to these letters.

⁹ DOL OFLC issues 98 percent of complete temporary agricultural labor certifications no later than 30 days before the first date of need and within approximately 21–34 calendar days of receipt. *See* DOL Flag Processing Times, <https://flag.dol.gov/processingtimes> (last visited Aug. 7, 2025); DOL, H–2A Selected Statistics, <https://www.dol.gov/agencies/eta/foreign-labor/performance> (last visited Aug. 7, 2025). USCIS provides expedited processing of Form I–129 for H–2A petitions and aims to process most H–2A petitions within 15 days. *See* GAO, GAO–25–106389, “H–2A Program, Agencies Should Take Additional Steps to Improve Oversight and Enforcement” 21 (Nov. 2024), https://files.gao.gov/reports/GAO-25-106389/index.html#_ftnref48. Currently, USCIS’s average processing time for H–2A petitions is 11 days. *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, queried 08/2025, TRK 18511.

⁴ *See* <https://www.dol.gov/agencies/eta/foreign-labor/news>.

⁵ *Notice of DHS’s Requirement of the Temporary Labor Certification Final Determination Under the H–2A Temporary Worker Program*, 85 FR 13176 (Mar. 6, 2020).

⁶ *Temporary Agricultural Employment of H–2A Nonimmigrants in the United States*, 87 FR 61660, 61783 (Oct. 12, 2022) (“ . . . [T]his final rule requires an employer to submit the *Application for Temporary Employment Certification* and all required supporting documentation using an electronic method(s) designated by the OFLC Administrator, unless the employer cannot file electronically due to disability or lack of internet access.”); 20 CFR 655.130(c).

⁷ *See, e.g.,* American Enterprise Institute, *Immigration Enforcement and the US Agricultural Sector in 2025* (Apr. 15, 2025) (“Anticipation of a reduced unauthorized immigrant worker supply will likely incentivize the agricultural sector to renew efforts to pass legislation that streamlines the H–2A program.”), <https://www.aei.org/research-products/report/immigration-enforcement-and-the-us-agricultural-sector-in-2025/> (last visited July 30,

electronically submit evidence of the approved TLC to USCIS, rather than having to submit a printed copy of the approved TLC to USCIS as with the current paper-filed Form I-129. Because the streamlined Form I-129H2A is currently available for petitioners to submit electronically, this rule has no effect on the availability of electronic submission.

Under this rule, petitioners seeking unnamed beneficiaries will be able to electronically submit the H-2A petition after DOL issues a Notice of Acceptance (NOA) on the H-2A TLC application, pursuant to 20 CFR 655.143, and before the TLC is certified. New 8 CFR 214.2(h)(5)(i)(A). This change alters the earliest permissible submission date and enables USCIS to commence concurrent processing¹⁰ of the H-2A petition while DOL processes the TLC, thereby allowing electronic filers to file earlier than currently permitted. Petitioners seeking concurrent processing under this rule must provide on the H-2A petition the ETA case number for the underlying TLC application but are not required to electronically submit a copy of the NOA or TLC as initial evidence, as USCIS will generally be able to access the relevant DOL information and verify both issuance of the NOA and subsequent approval of the TLC from the ETA case number. USCIS will continue to ensure that no H-2A petition is approved until DOL approves the TLC. New 8 CFR 214.2(h)(5)(i)(A)(2). If applicable, USCIS will make necessary modifications to the concurrently processed H-2A petition to reflect any modifications made by DOL to the TLC after issuance of the NOA and before certification, such as when DOL amends the first date of need or reduces the number of workers requested through partial certification. *Id.* H-2A TLC applications that are ultimately denied will lead to a denial of the H-2A petition. *Id.* Note that concurrent processing will be optional; petitioners seeking unnamed beneficiaries may choose to wait until the underlying TLC has been approved before electronically filing their H-2A petition.

Petitioners seeking named beneficiaries will not be affected by this rule. Thus, petitioners seeking named beneficiaries will continue to be able to submit a petition to USCIS only after DOL certifies the H-2A TLC application. Named beneficiary

petitions trigger additional legal and operational considerations, such as the 25-beneficiary limit requiring multiple petition filings supported by the same TLC, a more complicated fee structure, and the associated extension of stay or change of employer requests. H-2A portability, which allows a named H-2A worker to start working upon a petitioner's proper filing of an H-2A petition filed on the worker's behalf and in accordance with DHS regulations, also assumes a valid TLC, at the time the H-2A petition is filed, that accurately covers terms and conditions of employment that are applicable while the H-2A petition is pending.¹¹ Finally, modifications to the TLC by DOL could have significant ramifications on H-2A portability or for any named beneficiaries that USCIS cannot simply account for with corresponding modification of the petition.¹²

In addition, the procedural change in this rule will not apply to paper-filed H-2A petitions; petitioners submitting paper H-2A petitions must continue to file only after DOL approves the H-2A TLC application. As electronic filing is a more efficient process than paper filing and offers greater potential for future development of further processing efficiencies, DHS believes that it is appropriate to limit the concurrent processing facilitated by this rule to electronically filed petitions as an incentive for H-2A petitioners to choose to electronically file their petitions. Since USCIS has recently made electronic filing available to H-2A petitioners, DHS anticipates fast and widespread adoption of electronic filing by H-2A petitioners covered by this rule given that H-2A petitioners already must electronically file their H-2A TLC applications with DOL.¹³

In summary, this final rule amends 8 CFR 214.2(h)(5)(i)(A) and (D) to add an exception to the existing requirement that a valid temporary agricultural labor certification must be provided at the time of filing, for H-2A petitions requesting unnamed beneficiaries that are being filed electronically, and to make other conforming edits. *See new 8*

CFR 214.2(h)(5)(i)(A)(1) and (2) and revised (h)(5)(i)(D). This change enables USCIS to commence processing of the H-2A petition while DOL is also processing the TLC in these cases. However, USCIS will continue to ensure that DOL approved the TLC before approving the H-2A petition.¹⁴

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

The Administrative Procedure Act, 5 U.S.C. 553(b)–(c) requires agencies to publish a notice of proposed rulemaking and provide an opportunity for public comment when issuing rules, unless such rules are rules of agency organization, procedure, or practice. DHS has issued this final rule without prior notice and opportunity for comment because this is a rule of agency organization, procedure, or practice (“procedural rule”). 5 U.S.C. 553(b)(A). The procedural rule exception “covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency.” *JEM Broad. Co., Inc. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994) (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980)); *see also Mendoza v. Perez*, 754 F.3d 1002, 1023–24 (D.C. Cir. 2014); *Am. Hosp. Ass’n v. Bowen*, 834 F.2d 1037, 1047 (D.C. Cir. 1987) (holding that procedural rules are those that do not “encode a substantive value judgment or put a stamp of approval or disapproval on a given type of behavior”).

This final rule merely changes the timing of when a valid TLC may be provided to USCIS when a petitioner is voluntarily filing an H-2A petition requesting unnamed beneficiaries electronically with USCIS. It does not alter the rights or interests of any party or encode a substantive value judgment on a given type of private behavior. An approved TLC still must be provided to USCIS before USCIS can complete the adjudication of the H-2A petition. Accordingly, DHS may forgo advance notice and opportunity for comment.

Section 553(d) of the APA requires that agencies publish substantive rules at least 30 days before their effective date, unless one of the enumerated exceptions applies. Because this rule governs agency procedure and does not alter the substantive rights or obligations of regulated parties, it is not a substantive rule within the meaning of

¹¹ *See* 8 CFR 214.2(h)(2)(i)(I).

¹² For instance, if DOL were to approve a TLC for fewer workers than those named on the corresponding H-2A petition, USCIS would need to make additional determinations as to which of the named alien beneficiaries (who may already be in the United States) would be omitted from the petition.

¹³ *See* 20 CFR 655.130(c) (stating that an H-2A employer “must file” the TLC application “using the electronic method(s) designated by the OFLC Administrator,” while providing a limited exception to allow employers to file by mail if they are granted a reasonable accommodation request by DOL).

¹⁴ In issuing this final rule, the Department consulted with the U.S. Department of Labor and the U.S. Department of Agriculture.

¹⁰ Not to be confused with “concurrent filing,” concurrent processing will permit USCIS to electronically intake the H-2A petition and commence processing after DOL issues a notice of acceptance and continues processing the H-2A TLC application.

section 553(d). Some courts have recognized that the 30-day delayed effective date requirement applies only to substantive rules, and therefore does not extend to rules of agency procedure. *See, e.g., Rowell v. Andrus*, 631 F.2d 699, 702 (10th Cir. 1980) (recognizing that 5 U.S.C. 553(d) applies to substantive rules and by implication exempts procedural rules). The D.C. Circuit has, however, suggested that section 553(d) may apply more broadly, stating that the 30-day requirement “applies even to rules of agency organization, procedure, or practice, but is not required for ‘interpretive rules and statements of policy.’” *Batterton v. Marshall*, 648 F.2d 694, 701 (D.C. Cir. 1980). To the extent section 553(d) is construed to apply to this rule, we find good cause under section 553(d)(3) to make this rule effective upon publication. Courts have recognized that section 553(d) serves a distinct purpose and have applied a test weighing whether the need for immediate implementation outweighs affected parties’ need to prepare for implementation of the new rule. *See Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1485 (9th Cir. 1992); *Am. Fed’n of Gov’t Emps., AFL-CIO v. Block*, 655 F.2d 1153, 1156 (D.C. Cir. 1981). In the case of this procedural rule, we find immediate implementation appropriate. The rule simply permits concurrent processing of electronically filed petitions with unnamed beneficiaries, allowing petitioners the flexibility to file a petition with USCIS sooner than previously permitted. As such, petitioners do not need to take any preparatory steps and delaying implementation would only postpone the intended efficiency. For these reasons, DHS may forgo a 30-day delayed effective date in implementing this procedural rule.

B. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and Executive Order 14192 (Unleashing Prosperity Through Deregulation)

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review), direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Management and Budget (OMB) has not designated this rule a

“significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule’s primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA § 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M–25–20, “Guidance Implementing Section 3 of Executive Order 14192, titled ‘Unleashing Prosperity Through Deregulation’” (Mar. 26, 2025).

The costs to the public of this rule include the potential cost to petitioners pursuing concurrent processing whose TLC is denied by the DOL after having paid the non-refundable filing fees to USCIS.¹⁵ We estimate that 73.0 percent of H–2A petitions are filed annually for unnamed beneficiaries, and that 94.8 percent of petitioners file unnamed beneficiary petitions.¹⁶ Given that DOL has mandated electronic filing of H–2A TLC applications, by regulation, since November 14, 2022, we anticipate that many of those petitioners, and particularly those familiar with DOL programmatic requirements, will choose concurrent processing for electronically filed unnamed beneficiary petitions as their risk of having their TLCs denied after DOL issues a Notice of Acceptance is likely low. However, DHS cannot definitively estimate the number of petitioners who will ultimately opt for concurrent processing. The filing fees for Form I–129 for unnamed beneficiaries range from \$460 for small

employers and non-profits to \$530 for other filers.¹⁷ Employers that file a Form I–129 also pay the Asylum Program Fee; the standard fee is \$600, but is \$300 for small employer petitioners with 25 or fewer full-time equivalent employees. Nonprofit employers are exempt from the Asylum Program Fee.¹⁸

The benefits to the employers using H–2A concurrent processing for certain electronically filed H–2A petitions, and to the resulting employees, is that productivity is shifted forward by approximately two weeks. This is not an extension of the time an H–2A employee is permitted to work in the United States; it only expedites the process. However, DHS expects that employers using this process will receive some expected benefit; otherwise, they are not expected to incur the risk associated with a denied TLC and lost filing fee. However, we are not able to monetize this expected benefit.

Given these factors, DHS has determined that this rule is not likely to have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; and is therefore not economically significant under section 3(f)(1) of Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The RFA’s regulatory flexibility analysis requirements apply only to those rules for which an agency is required to publish a general notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other law. *See* 5 U.S.C. 604(a). DHS did not issue a notice of proposed rulemaking for this action. Therefore, a regulatory flexibility analysis is not required for this rule.

¹⁵ DOL’s denial rates for H–2A Applications are low. In fiscal year 2024, DOL denied 158 applications out of 22,623 received—a denial rate of less than 1 percent. Calculation: 158 denials/22,623 applications = 0.00698 (rounded) approximately 0.7 percent. *See* DOL, Office of Foreign Labor Certification “H–2A Temporary Agricultural Program—Selected Statistics, Fiscal Year (FY) 2024” available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2024_Q4.pdf (accessed August 5, 2025).

¹⁶ Source: DHS, USCIS, Office of Performance and Quality, CLAIMS3 & ELIS, queried 08/2025, PAER0018649.

¹⁷ *See* DHS, USCIS, Form G–1055 Fee Schedule available at <https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf> (accessed August 1, 2025).

¹⁸ *See* DHS, USCIS, “USCIS Reminds Certain Employment-Based Petitioners to Submit the Correct Required Fees” available at <https://www.uscis.gov/newsroom/alerts/uscis-reminds-certain-employment-based-petitioners-to-submit-the-correct-required-fees> (accessed August 4, 2025).

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule, which includes any Federal mandate that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.¹⁹ The inflation adjusted value of \$100 million in 1995 is approximately \$206 million in 2024 based on the Consumer Price Index for All Urban Consumers (CPI-U).²⁰ This final rule is exempt from the written statement requirement, because DHS did not publish a notice of proposed rulemaking for this rule. In addition, this final rule does not contain a Federal mandate as the term is defined under UMRA.²¹ The requirements of title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA.

E. Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act)

This final rule is not a “rule” as defined by the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. See 5 U.S.C. 804(3)(C) (defining the term “rule” to exclude “any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties”).

¹⁹ See 2 U.S.C. 1532(a).

²⁰ See DOL, BLS, “Historical Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, all items, by month,” <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202412.pdf> (last visited Apr. 30, 2025). Calculation of inflation: (1) Calculate the average monthly CPI-U for the reference year (1995) and the current year (2024); (2) Subtract reference year CPI-U from current year CPI-U; (3) Divide the difference of the reference year CPI-U and current year CPI-U by the reference year CPI-U; (4) Multiply by 100 = [(Average monthly CPI-U for 2024 – Average monthly CPI-U for 1995) ÷ (Average monthly CPI-U for 1995)] × 100 = [(313.689 – 152.383) ÷ 152.383] = (161.306 ÷ 152.383) = 1.059 × 100 = 105.86 percent = 106 percent (rounded). Calculation of inflation-adjusted value: \$100 million in 1995 dollars × 2.06 = \$206 million in 2024 dollars.

²¹ The term “Federal mandate” means a Federal intergovernmental mandate or a Federal private sector mandate. See 2 U.S.C. 1502(1), 658(6).

F. Executive Order 13132 (Federalism)

This final rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, Federalism, 64 FR 43255 (Aug. 4, 1999), this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This final rule was drafted and reviewed in accordance with E.O. 12988, Civil Justice Reform. This final rule was written to provide a clear legal standard for affected conduct and was reviewed carefully to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. DHS has determined that this rule meets the applicable standards provided in section 3 of E.O. 12988.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

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

I. National Environmental Policy Act

DHS and its components analyze proposed regulatory actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 “Implementing the National Environmental Policy Act” (Dir. 023–01 Rev. 01) and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual)²² establish the policies and procedures that DHS and its components use to comply with NEPA.

NEPA allows Federal agencies to establish, in their NEPA implementing procedures, categories of actions

²² The Instruction Manual, which contains DHS’s procedures for implementing NEPA, was issued on November 6, 2014, and is available at <https://www.dhs.gov/ocrso/eed/epb/nepa> (last updated Apr. 14, 2025).

(“categorical exclusions”) that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment or environmental impact statement. See 42 U.S.C. 4336(a)(2), 4336e(1). The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.²³

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) the entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.²⁴

This procedural final rule is limited to amending DHS’s existing regulations at 8 CFR 214.2(h)(5)(i)(A) and (D) to facilitate earlier filing and concurrent processing by DOL and USCIS of H–2A petitions filed on behalf of unnamed beneficiaries. DHS has reviewed this final rule and finds that no significant impact on the environment, or any change in environmental effect, will result from the amendments being promulgated in this rule.

Accordingly, DHS finds that the promulgation of this rule’s amendments to current regulations clearly fits within categorical exclusion A3 established in DHS’s NEPA implementing procedures as an administrative change with no change in environmental effect, is not part of a larger Federal action, and does not present extraordinary circumstances that create the potential for a significant environmental effect.

J. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3512, and implementing regulations, 5 CFR part 1320, DHS must submit to the Office of Management and Budget (OMB) for review and approval, any reporting requirements inherent in a rule, unless they are exempt. This rule does not impose any new reporting or recordkeeping requirements under the PRA.

However, this rule requires the use of USCIS Form I–129H2A, Petition for Nonimmigrant Worker: H–2A Classification. OMB previously approved this form under the PRA. The OMB control number for this information collection is 1615–0009.

²³ See Appendix A, Table 1.

²⁴ Instruction Manual 023–01 at V.B(2)(a)–(c).

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professionals, Reporting and recordkeeping requirements, Students.

Accordingly, for the reasons set forth in the preamble, DHS amends 8 CFR part 214 as follows:

PART 214—NONIMMIGRANT CLASSES

- 1. Revise the authority citation for part 214 to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1188, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

- 2. Section 214.2 is amended by revising paragraphs (h)(5)(i)(A) and (D) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

- (h) * * *
- (5) * * *
- (i) * * *

(A) *General.* (1) An H–2A petition must be filed on the form prescribed by USCIS and, except for an H–2A petition seeking unnamed beneficiaries filed electronically pursuant to paragraph (h)(5)(i)(A)(2) of this section, must be filed with a single valid temporary agricultural labor certification issued by the Department of Labor (DOL). The petition may be filed by either the employer listed on the application for temporary labor certification, the employer’s agent, or the association of United States agricultural producers named as a joint employer on the application for temporary labor certification.

(2) An H–2A petition requesting unnamed beneficiaries may be filed electronically after DOL issues a notice of acceptance and before DOL approves the underlying application for temporary agricultural labor certification. If applicable, USCIS will make necessary modifications to the concurrently processed H–2A petition to reflect any modifications made by DOL to the application for temporary agricultural labor certification after issuance of the notice of acceptance and before certification. The temporary

agricultural labor certification must be approved by DOL before USCIS may approve the H–2A petition, provided that all other statutory and regulatory requirements are met. If the H–2A petition is filed before DOL issues a notice of acceptance, or if DOL denies the application for temporary agricultural labor certification, USCIS will deny the H–2A petition.

* * * * *

(D) *Evidence.* An H–2A petitioner must show that the proposed employment qualifies as a basis for H–2A status, and that any named beneficiary qualifies for that employment. Except for an H–2A petition filed electronically pursuant to paragraph (h)(5)(i)(A)(2) of this section, an H–2A petition will be automatically denied if filed without the certification evidence required in paragraph (h)(5)(i)(A)(1) of this section and, for each named beneficiary, the initial evidence required in paragraph (h)(5)(v) of this section.

* * * * *

Kristi Noem,
Secretary, U.S. Department of Homeland Security.

[FR Doc. 2025–19235 Filed 9–30–25; 4:15 pm]

BILLING CODE 9111–97–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1872]

RIN 7100–AG98

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (“Board”) has adopted final amendments to its Regulation A to reflect the Board’s approval of a decrease in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically decreased by formula as a result of the Board’s primary credit rate action.

DATES:

Effective date: This rule (amendments to part 201 (Regulation A)) is effective October 2, 2025.

Applicability date: The rate changes for primary and secondary credit were applicable on September 18, 2025.

FOR FURTHER INFORMATION CONTACT: M. Benjamin Snodgrass, Special Counsel (202–263–4877), Legal Division, or

Nicole Trachman, Financial Institution & Policy Analyst (202–973–5055), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services, please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to review and determination of the Board.

On September 17, 2025, the Board voted to approve a 0.25 percentage point decrease in the primary credit rate, thereby decreasing the primary credit rate from 4.50 percent to 4.25 percent. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate decreased by 0.25 percentage points as a result of the Board’s primary credit rate action, thereby decreasing the secondary credit rate from 5.00 percent to 4.75 percent. The amendments to Regulation A reflect these rate changes.

The 0.25 percentage point decrease in the primary credit rate was associated with a 0.25 percentage point decrease in the target range for the federal funds rate (from a target range of 4¼ percent to 4½ percent to a target range of 4 percent to 4¼ percent) announced by the Federal Open Market Committee on September 17, 2025, as described in the Board’s amendment of its Regulation D published elsewhere in today’s **Federal Register**.

Administrative Procedure Act

In general, the Administrative Procedure Act (“APA”) ¹ imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally delegated authority): (1) publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule’s content; and (3) publication of the final rule not less

¹ 5 U.S.C. 551 *et seq.*

than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be “unnecessary, impracticable, or contrary to the public interest.”² Section 553(d) of the APA also provides that publication at least 30 days prior to a rule’s effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.³ The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply “to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.”⁴

Regulation A establishes the interest rates that the twelve Reserve Banks charge for extensions of primary credit and secondary credit. The Board has determined that the notice, public comment, and delayed effective date requirements of the APA do not apply to these final amendments to Regulation A. The amendments involve a matter relating to loans and are therefore exempt under the terms of the APA. Furthermore, because delay would undermine the Board’s action in responding to economic data and conditions, the Board has determined that “good cause” exists within the meaning of the APA to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation A.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (“RFA”) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.⁵ As noted previously, a general notice of proposed rulemaking is not required if the final rule involves a matter relating to loans. Furthermore, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA’s requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (“PRA”) of 1995,⁶ the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 201

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

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR chapter II as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

■ 2. In § 201.51, revise paragraphs (a) and (b) to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.³

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 4.25 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under § 201.4(b) is 4.75 percent.

* * * * *

³ The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

By order of the Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025–19303 Filed 10–1–25; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1871]

RIN 7100–AG97

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (“Board”) has adopted final amendments to its Regulation D to revise the rate of interest paid on balances (“IORB”) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORB is 4.15 percent, a 0.25 percentage point decrease from its prior level. The amendment is intended to enhance the role of IORB in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (“FOMC” or “Committee”).

DATES:

Effective date: This rule (amendments to part 204 (Regulation D)) is effective October 2, 2025.

Applicability date: The IORB rate change was applicable on September 18, 2025.

FOR FURTHER INFORMATION CONTACT: M. Benjamin Snodgrass, Special Counsel (202–263–4877), Legal Division, or Nicole Trachman, Financial Institution & Policy Analyst (202–973–5055), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services, please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

For monetary policy purposes, section 19 of the Federal Reserve Act (“Act”) imposes reserve requirements on certain types of deposits and other liabilities of depository institutions.¹ Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank

² 5 U.S.C. 553(b)(3)(A).

³ 5 U.S.C. 553(d).

⁴ 5 U.S.C. 553(a)(2).

⁵ 5 U.S.C. 603, 604.

⁶ 44 U.S.C. 3506; see 5 CFR part 1320, appendix A.1.

¹ 12 U.S.C. 461(b). In March 2020, the Board set all reserve requirement ratios to zero percent. See Interim Final Rule, 85 FR 16525 (Mar. 24, 2020); Final Rule, 86 FR 8853 (Feb. 10, 2021).

(“Reserve Bank”).² Section 19 also provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.³ Institutions that are eligible to receive earnings on their balances held at Reserve Banks (“eligible institutions”) include depository institutions and certain other institutions.⁴ Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.⁵ Prior to these amendments, Regulation D established IORB at 4.4 percent.⁶

II. Amendment to IORB

The Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 4.15 percent. The amendment represents a 0.25 percentage point decrease in IORB. This decision was announced on September 17, 2025, with an effective date of September 18, 2025, in the Federal Reserve Implementation Note that accompanied the FOMC’s statement on September 17, 2025. The FOMC statement stated that the Committee decided to lower the target range for the federal funds rate to 4 to 4¼ percent.

The Federal Reserve Implementation Note stated:

The Board of Governors of the Federal Reserve System voted to lower the interest rate paid on reserve balances to 4.15 percent, effective September 18, 2025.

As a result, the Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 4.15 percent.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (“APA”) ⁷ imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule’s content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be “unnecessary, impracticable, or contrary

to the public interest.”⁸ Section 553(d) of the APA also provides that publication at least 30 days prior to a rule’s effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.⁹

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate change for IORB that is reflected in the final amendment to Regulation D was made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board’s action from being effective as promptly as necessary in the public interest and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board’s action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to this final amendment to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (“RFA”) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.¹⁰ As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA’s requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (“PRA”) of 1995,¹¹ the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.10 is amended by revising paragraph (b)(1) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(1) For balances maintained in an eligible institution’s master account, interest is the amount equal to the interest on reserve balances rate (“IORB rate”) on a day multiplied by the total balances maintained on that day. The IORB rate is 4.15 percent.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025–19304 Filed 10–1–25; 8:45 am]

BILLING CODE 6210–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1002

[Docket No. CFPB–2025–0017]

RIN 3170–AB40

Small Business Lending Under the Equal Credit Opportunity Act (Regulation B); Extension of Compliance Dates

AGENCY: Consumer Financial Protection Bureau.

ACTION: Final rule.

SUMMARY: The Consumer Financial Protection Bureau (CFPB or Bureau) is finalizing its June 18, 2025 interim final rule amending Regulation B to extend the compliance dates set forth in its 2023 small business lending rule, as amended by a 2024 interim final rule, and to make other date-related conforming adjustments.

DATES: This final rule is effective December 1, 2025.

² 12 CFR 204.5(a)(1).

³ 12 U.S.C. 461(b)(1)(A) and (b)(12)(A).

⁴ See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

⁵ See 12 U.S.C. 461(b)(12)(B).

⁶ See 12 CFR 204.10(b)(1).

⁷ 5 U.S.C. 551 *et seq.*

⁸ 5 U.S.C. 553(b)(3)(A).

⁹ 5 U.S.C. 553(d).

¹⁰ 5 U.S.C. 603, 604.

¹¹ 44 U.S.C. 3506; see 5 CFR part 1320 Appendix A.1.

FOR FURTHER INFORMATION CONTACT: Dave Gettler, Paralegal Specialist, Office of Regulations, at 202–435–7700 or <https://reginquiries.consumerfinance.gov/>. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 1071 of that Act¹ amended the Equal Credit Opportunity Act (ECOA)² to require that financial institutions collect and report to the CFPB certain data regarding applications for credit for women-owned, minority-owned, and small businesses. Section 1071's statutory purposes are to (1) facilitate enforcement of fair lending laws, and (2) enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.

Section 1071 directs the CFPB to prescribe such rules and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to section 1071. On March 30, 2023, the CFPB issued a final rule to implement section 1071 by adding subpart B to Regulation B (2023 final rule). The 2023 final rule was published in the **Federal Register** on May 31, 2023.³ Further

details about rulemaking pursuant to section 1071 can be found in the preamble to the 2023 final rule. On June 25, 2024, the CFPB issued an interim final rule (2024 interim final rule) to extend the rule's compliance dates in accordance with orders issued by the United States District Court for the Southern District of Texas.⁴ The 2024 interim final rule was published in the **Federal Register** on July 3, 2024.⁵

Challenges to the 2023 final rule filed remain ongoing in three jurisdictions; each of those courts have stayed the rule's compliance deadlines for some market participants. Specifically, the United States Court of Appeals for the Fifth Circuit has stayed the 2023 final rule and tolled the compliance deadlines for plaintiffs and intervenors in that case, until further order of the court.⁶ The United States District Court for the Eastern District of Kentucky has stayed the deadlines for plaintiffs in that case to comply with the 2023 final rule until further order of the court.⁷ And the United States District Court for the Southern District of Florida has stayed the 2023 final rule and tolled the rule's compliance deadlines with respect to that case's plaintiff and its members for the length of time that the Fifth Circuit stay order is in effect, subject to modification at any time by the court.⁸ As the CFPB has noted in that litigation, it intends to initiate a new Section 1071 rulemaking and anticipates issuing a

notice of proposed rulemaking as expeditiously as reasonably possible.⁹

In its second interim final rule published June 18, 2025 (2025 interim final rule), the CFPB extended the compliance dates set forth in the 2023 final rule, as amended by the 2024 interim final rule, by approximately one year, and made conforming adjustments.

Although the CFPB determined that the Administrative Procedure Act's good cause exception for not requiring public comment applied to the 2025 interim final rule, the CFPB nevertheless solicited comments.

II. Summary of the Final Rule

In this final rule, the CFPB confirms its findings in the 2025 interim final rule and has determined upon a review of comments received that no further changes are necessary, other than the correction of two typographical errors in official commentary identified by commenters.

The CFPB received 20 comments in response to the 2025 interim final rule. Most commenters addressed the 2025 interim final rule itself; these comments are summarized and discussed below in part IV. Other comments addressed provisions of the 2023 final rule not taken up by the 2025 interim final rule.

The CFPB finalizes the compliance dates in the 2025 interim final rule, under which covered financial institutions will begin collecting data as follows:

TABLE 1—COMPLIANCE DATES AND FILING DEADLINES

Compliance tier	Original compliance date in the 2023 final rule	Revised compliance date in the 2024 interim final rule	New compliance date	New first filing deadline
Highest volume lenders (Tier 1)	October 1, 2024	July 18, 2025	July 1, 2026	June 1, 2027.
Moderate volume lenders (Tier 2)	April 1, 2025	January 16, 2026	January 1, 2027	June 1, 2028.
Smallest volume lenders (Tier 3)	January 1, 2026	October 18, 2026	October 1, 2027	June 1, 2028.

Further, the CFPB determines it is appropriate to maintain the other conforming changes to the compliance date provisions promulgated by the 2025 interim final rule. Covered financial institutions are permitted to continue using their small business originations from 2022 and 2023 to determine their compliance tier, or they

may instead use their originations from 2023 and 2024, or from 2024 and 2025. Covered financial institutions are permitted to begin collecting protected demographic data required under the 2023 final rule 12 months before their new compliance date, in order to test their procedures and systems. As illustrated above, the deadline for

submitting small business lending data will remain June 1 following the calendar year for which data are collected. Finally, the CFPB updated its grace period policy statement to reflect the revised compliance dates.

¹ Public Law 111–203, tit. X, section 1071, 124 Stat. 1376, 2056 (2010), codified at ECOA section 704B, 15 U.S.C. 1691c–2.

² 15 U.S.C. 1691 *et seq.*

³ 88 FR 35150 (May 31, 2023).

⁴ *Texas Bankers Ass'n v. CFPB*, No. 7:23–cv–00144 (S.D. Tex.).

⁵ 89 FR 55024 (July 3, 2024). *See also* Order Granting-in-Part and Denying-in-Part Pls.' Mot. for Prelim. Inj., *Texas Bankers Ass'n v. CFPB*, No. 7:23–

cv–00144 (S.D. Tex. July 31, 2023), ECF No. 25, https://files.consumerfinance.gov/f/documents/cfpb_pi_order_texas_bankers.pdf; Order Granting Intervenor's Mot. For Prelim. Inj., *Texas Bankers Ass'n v. CFPB*, No. 7:23–cv–00144 (S.D. Tex. Oct. 26, 2023), ECF No. 69, https://files.consumerfinance.gov/f/documents/cfpb_pi_second_order_texas_bankers.pdf.

⁶ Unpublished Order, *Texas Bankers Ass'n v. CFPB*, No. 24–40705 (5th Cir. Feb. 7, 2025).

⁷ Opinion & Order, *Monticello Banking Co. et al. v. CFPB et al.*, No. 6:23–cv–00148–KKC (E.D. Ky. Mar. 11, 2025).

⁸ Opinion & Order, *Revenue Based Finance Coalition v. CFPB et al.*, No. 1:23–cv–24882–DSL (S.D. Fla. May 6, 2025).

⁹ *See* Defendants' Response to Plaintiff's Unopposed Motion to Stay, ECF No. 75, *Revenue Based Finance Coalition v. CFPB et al.*, No. 1:23–cv–24882–DSL (S.D. Fla. Apr. 3, 2025).

III. Legal Authority

The CFPB adopted the 2023 final rule pursuant to its authority under section 1071, which directs the CFPB to adopt rules governing the collection and reporting of small business lending data. Some aspects of the 2023 final rule were also adopted under the CFPB's more general rulemaking authorities in ECOA. The CFPB's legal authorities are discussed in detail in the 2023 final rule.¹⁰

The CFPB is finalizing the 2025 interim final rule's extension of the 2023 final rule's compliance dates, as previously amended by the 2024 interim final rule. ECOA section 704B(g)(1) grants the CFPB general rulemaking authority for section 1071.

IV. Discussion of the Final Rule

Upon consideration of the comments received, the CFPB is finalizing the interim final rule. As discussed above, three courts had stayed the compliance dates set forth in the 2024 interim final rule for the plaintiffs and intervenors in those cases. However, compliance dates had not been stayed for those who were not plaintiffs, intervenors, or their members in those cases. To facilitate consistent compliance across all covered financial institutions, in the 2025 interim final rule, the CFPB extended the compliance dates set forth in the 2024 interim final rule by approximately one year. The CFPB now confirms its belief that this extension of the compliance date should be sufficient to ensure uniformity of compliance dates with the court-ordered stays and for the CFPB to issue a new proposal to reconsider certain aspects of the 2023 final rule. The CFPB is thus making no change to the 2025 interim final rule's adoption of new initial compliance dates of July 1, 2026, January 1, 2027, and October 1, 2027.

A. Changes to Compliance Date Provisions

The 2023 final rule's compliance dates, as amended by the 2024 interim final rule, looked to a financial institution's volume of covered credit transactions for small businesses in each of calendar years 2022 and 2023, or 2023 and 2024, to determine the applicable compliance date. Under the 2024 interim final rule, covered financial institutions that originated at least 2,500 covered transactions in both years were required to comply with the requirements of the 2023 final rule beginning July 18, 2025 (sometimes referred to as Tier 1 institutions).

Covered financial institutions not in Tier 1 that originated at least 500 covered transactions in both years had a compliance date of January 16, 2026 (Tier 2), and covered financial institutions not in Tier 1 or Tier 2 that originated at least 100 covered transactions in both years had a compliance date of October 18, 2027 (Tier 3).

In the 2025 interim final rule, the CFPB extended each of the compliance dates set forth in § 1002.114(b) by approximately one year. Thus, Tier 1 institutions now have a compliance date of July 1, 2026, Tier 2 institutions now have a compliance date of January 1, 2027, and Tier 3 institutions now have a compliance date of October 1, 2027. Likewise, institutions that did not originate at least 100 covered transactions in 2022 and 2023 but subsequently do in two consecutive calendar years are not required to comply with the rule until October 1, 2027 at the earliest. The CFPB made corresponding updates throughout the commentary accompanying § 1002.114(b) and (c), which provide additional guidance and examples regarding compliance dates.

Community group commenters opposed the compliance date extension, stating that an extension is unnecessary, creates confusion, hinders research and policy advocacy work, and imposes costs on borrowers, lenders, and policymakers. In addition, they argued that lenders and vendors have already invested in section 1071 compliance and now face regulatory limbo. Community group commenters also stated that the interim final rule will further delay the collection of critical small business lending data that is integral to improving access to capital for underserved small businesses across the country.

Industry groups and an independent office of a Federal agency supported the compliance date extension. Industry groups stated that an extension directly benefits covered entities, permitting them to ready their systems and processes without undue pressure. In addition, industry groups stated that given the various legal challenges to the section 1071 rule, it is prudent to extend the compliance dates for all covered lenders and eliminate the different timelines applicable to those lenders who challenged the rule and those who did not. Moreover, industry commenters stated that they support the delay to allow the CFPB the opportunity to reexamine the rule.

One industry group commenter suggested that the initial compliance dates begin on the first day of a calendar

month because a beginning-of-the-month start date would make the transition to collecting data less burdensome, from an operational and systems perspective. Other stakeholders had similarly requested that data collection commence at the beginning of a calendar quarter.

The independent office of a Federal agency stated that it supports the delay to provide small financial institutions additional time to understand, prepare for, and comply with the rule. In addition, an extension provides more time for outreach, education, and technical guidance from the CFPB, trade associations, and government partners. A trade association supported the compliance start date on the first day of the calendar quarter, asserting this should make the transition to collecting data smoother and improve data analysis. A State banking association stated that compliance dates should be set on the first day of a calendar month. One commenter asserted that partial year data is not useful for data analysis and thus all data reported in 2027 and 2028 will be useless. The commenter stated that the compliance dates should be universal for all covered lenders, beginning on January 1, 2028. A coalition of community groups stated that lenders have had ample time to prepare for compliance and that staggered start dates and partial year reporting are not necessary. They also requested that compliance begin for all lenders on the calendar year following resolution of the lawsuits.

One commenter identified two typographical errors in the official commentary to § 1002.114 (in comments 114(b)(2)–4.vii and 114(c)(2)–6.vi).

The CFPB agrees with commenters asserting that it would be prudent to eliminate the different timelines applicable to those lenders who challenged the rule and those who did not. The CFPB continues to believe that its decision to delay the rule's compliance dates is critical to facilitate consistent compliance across all covered financial institutions. Such a consistent approach will help address any questions of regulatory limbo and confusion that commenters raised. Moreover, the revised compliance dates are necessary to give the CFPB time to consider the feedback it has received from stakeholders since the publication of the 2023 final rule and time to reconsider certain of its provisions.

The CFPB has extended the compliance dates by approximately one year (roughly 350 days), rather than a full year because it agrees with the comments that these compliance dates would be sensible; first-of-the-month

¹⁰ See, e.g., 88 FR 35150, 35173–74 (May 31, 2023).

start dates do facilitate the transition to collecting data.

The CFPB has corrected the typographical errors in the official commentary identified by a commenter in comments 114(b)(2)–4.vii and 114(c)(2)–6.vi.

The CFPB does not agree that extending the compliance dates is unnecessary or would create confusion, but rather the opposite; the 2025 interim final rule changes eliminate confusion by providing consistent dates for all financial institutions, whether or not they are plaintiffs or intervenors in litigation. The CFPB is not persuaded that these compliance date changes would hinder research and policy advocacy work; rather, uniform compliance dates would help ensure more consistent data and better analysis. Further, the CFPB does not agree that the compliance date changes impose costs on borrowers, lenders, and policymakers. The compliance dates set forth in the 2025 interim final rule, as reaffirmed in this final rule, delay the impositions of identified costs on borrowers and lenders alike. The CFPB is not persuaded that the compliance date changes impose costs on policymakers. Policymakers themselves did not comment that the 2025 interim rule would impose costs on them. Finally, while this final rule reaffirms delays in the collection of small business lending data, the delays for certain data would have occurred anyway as to some institutions because of the still outstanding litigation. The CFPB believes that the resolution of this uncertainty and addressing the underlying concerns raised by stakeholders about the 2023 final rule will, in the longer term, result in better data collection.

B. Voluntary Early Collection of Protected Demographic Data

Section 1002.114(c) addresses several transitional issues. Section 1002.114(c)(1) permits a covered financial institution to collect protected demographic information required under the 2023 final rule from small business applicants beginning 12 months prior to its compliance date. As this provision does not list any compliance dates specifically, no revisions were needed when the 2025 interim final rule was published.

The CFPB received two comments on this provision. One trade association stated that the CFPB should not allow voluntary early compliance with the current rule. The commenter asserted that the rule is potentially headed towards dramatic changes before future implementation and permitting

voluntary early compliance would open the door to significant privacy and data security risks for institutions that collect information the CFPB is not prepared to accept and may never be prepared to accept under the revised rule. Another trade association supported permitting voluntary early compliance.

After considering the comments, the CFPB determines that no changes to this provision are necessary. The CFPB continues to believe, as it has stated in the 2023 final rule, that voluntary collection is appropriate to help financial institutions prepare to comply with the rule and ensure that its systems are working properly. The CFPB observes that § 1002.114(c)(1) is optional. No financial institution is obligated to collect data under this provision, and any institution concerned that doing so would give rise to additional privacy and data security risks could simply choose not to do so.

Thus, a Tier 1 institution is permitted to begin collecting protected demographic information on or after July 1, 2025; a Tier 2 institution may begin on or after January 1, 2026; and a Tier 3 institution may begin on or after October 1, 2026, in order to test their procedures and systems for compiling and maintaining this information in advance of actually being required to collect and subsequently report it to the CFPB.¹¹

C. Alternative Period for Counting Covered Originations To Determine Compliance Tier

In the 2025 interim final rule, the CFPB revised § 1002.114(c)(3) (adopted in the 2024 interim final rule), which as revised permits (but does not require) a financial institution to use its originations of covered credit transactions in each of calendar years 2023 and 2024, or 2024 and 2025, rather than those in 2022 and 2023, to determine its compliance date. Financial institutions may use whichever set of dates they prefer (*i.e.*, 2022 and 2023, or 2023 and 2024, or 2024 and 2025). Existing comment 114(b)–4 provides examples illustrating how a financial institution uses its

originations in 2022 and 2023, or in 2023 and 2024, to determine its compliance tier.

A trade association commenter expressed appreciation for the clarification that lenders can use 2022 and 2023, 2023 and 2024, or 2024 and 2025 to determine compliance tier.

The CFPB received no additional comments on these portions of § 1002.114(c)(3), or comment 114(b)–4, and determines that no changes to the provision are necessary.

D. Determining Compliance Dates for Financial Institutions That Do Not Collect Information Sufficient To Determine Small Business Status

Section 1002.114(c)(2) provides that a financial institution that is unable to determine the number of covered credit transactions it originated in 2022 and 2023 for purposes of determining its compliance tier is permitted to use any reasonable method to estimate its originations to small businesses for either or both of 2022 and 2023. Existing comment 114(c)–5 lists several reasonable methods a financial institution may use to estimate its originations.

Pursuant to revised § 1002.114(c)(3), which permits a financial institution to use its originations of covered credit transactions in each of calendar years 2023 and 2024, or 2024 and 2025, to determine its compliance date, financial institutions are likewise permitted to use any reasonable method to estimate their originations for either or both of 2023 and 2024, or 2024 and 2025. Existing comment 114(c)–6 provides examples of ways financial institutions may estimate their originations.

A trade association commenter expressed support for permitting lenders to use any reasonable method to estimate origination volume, stating that many lenders do not track gross annual revenue for small business customers.

The CFPB received no additional comments on § 1002.114(c)(2) or (3), or on comments 114(c)–5 or –6, and determines that no changes to these provisions are necessary.

E. Deadline for Annual Data Submissions

Section 1002.109(a)(1) provides that covered financial institutions must submit their small business lending application registers to the CFPB on or before June 1 following the calendar year for which the data are compiled and maintained. As this provision does not list any compliance dates specifically, no revisions were needed.

The CFPB received no comments on this provision. Thus, Tier 1 institutions

¹¹ Under this provision, financial institutions will have time—beginning 12 months prior to their compliance date—to adjust any procedures or systems that may result in the inaccurate compilation or maintenance of applicants' protected demographic information, the collection of which is required by section 1071 but otherwise generally prohibited under ECOA and Regulation B. (Financial institutions could of course collect the other information required by the 2023 final rule at any time, without needing express permission in Regulation B to do so, as is needed for collecting protected demographic information.) See 88 FR 35150, 35449–50 (May 31, 2023).

will make their first data submission by June 1, 2027; Tier 2 and Tier 3 by June 1, 2028.

V. Effective Date

The CFPB is adopting an effective date of 60 days after publication of this final rule in the **Federal Register**.

VI. Grace Period Policy Statement

In the 2025 interim final rule, the CFPB updated its Grace Period Policy Statement to reflect the new compliance dates to avoid any doubt as to its intentions regarding a grace period when the rule goes into effect.¹²

The CFPB received two supportive comments on the decision to maintain the 12-month grace period, adjusted for the new compliance dates. One individual commenter stated that the grace period fosters a cooperative regulatory environment, enabling financial institutions to refine their reporting while allowing CFPB to identify common issues and best practices. A trade association commented that while it supports the policy statement, the CFPB should consider a complete grace period such that banks are not subject to “matters requiring attention” or similar exam findings for the first year of collection. In addition, the trade association stated that the CFPB should issue a joint grace period policy statement with the banking agencies, so banks under \$10 billion have the same grace period as larger banks.

The CFPB will take these recommendations under advisement. The CFPB observes that the Grace Period Policy Statement as written already states that examinations will be diagnostic and will help to identify compliance weaknesses, and that the CFPB does not intend to assess penalties with respect to errors in the initial data submissions.¹³ Further, the CFPB expects to work with other regulators to encourage them to adopt similar grace period policy statement.

The Grace Period Policy Statement described in the 2025 interim final rule remains in effect, for the reasons set out in that statement.

¹² This is a general statement of policy under the Administrative Procedure Act. 5 U.S.C. 553(b). It articulates considerations relevant to the CFPB's exercise of its authorities. It does not impose any legal requirements, nor does it confer rights of any kind. It also does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act. 44 U.S.C. 3501 through 3521.

¹³ 90 FR 25874, 25876 (June 18, 2025).

VII. CFPB Section 1022(b) Analysis

A. Overview

In developing this final rule, the CFPB has considered the potential benefits, costs, and impacts as required by section 1022(b)(2) of the Consumer Financial Protection Act of 2010 (CFPA).¹⁴ Section 1022(b)(2) calls for the CFPB to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of consumer access to consumer financial products or services, the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the CFPA, and the impact on consumers in rural areas. In addition, section 1022(b)(2)(B) directs the CFPB to consult with appropriate prudential regulators or other Federal agencies, regarding consistency with the objectives those agencies administer. The CFPB has accordingly consulted with the appropriate prudential regulators and other Federal agencies regarding consistency with any prudential, market, or systemic objectives administered by these agencies.

This final rule confirms the determinations the CFPB made in the 2025 interim final rule, which are discussed in more detail in part VII.D below. This final rule does not make any additional substantive changes to the compliance dates or accompanying provisions.

B. Statement of Need

The CFPB solicited comment on the 2025 interim final rule. This final rule confirms the determinations the CFPB made in the 2025 interim final rule. This final rule does not make any additional substantive changes to the compliance dates or accompanying provisions.

C. Baseline for Analysis

In evaluating the potential benefits, costs, and impacts of this final rule, the CFPB takes as a baseline Regulation B as amended by the 2023 final rule, the 2024 interim final rule, and the 2025 interim final rule. Part IV above summarizes the relevant provisions of the 2023 final rule, as amended by the 2024 and 2025 interim final rules. The rule being finalized does not substantively revise Regulation B beyond the 2023 final rule, as amended by the 2024 and 2025 interim final rules, and thus does not confer any costs or benefits relative to the baseline.

¹⁴ 12 U.S.C. 5512(b)(2).

D. General Comments on the Impact Analyses in the 2025 Interim Final Rule

The CFPB received 20 comments on the 2025 impact analysis in the interim final rule. A few comments were specific to the impact analyses of the 2025 interim final rule. We discuss these comments below. Overall, the CFPB did not receive any comments that would lead it to change its assessment of the costs or benefits of the 2025 interim final rule.

The CFPB provides an overview here of the impacts of the 2025 interim final rule to provide context for the comments it received. The CFPB determined that financial institutions would benefit from the 2025 interim final rule because of the delay in the expected costs of compliance with the 2023 final rule, caused by the extension of the compliance dates by approximately one year for all covered institutions. The CFPB expected covered financial institutions to experience an annual ongoing cost of compliance with the 2023 final rule. Therefore, extending the compliance dates potentially saves financial institutions approximately one year's worth of expected annual compliance costs. The CFPB estimated that the expected cost savings from the 2025 interim final rule will be about \$92 million in 2025, about \$190 million in 2026, and about \$75 million in 2027, not accounting for discounting for future years. The present discounted value of the total cost savings, discounting back to 2024, is about \$313 million using a 3 percent discount rate or about \$337 million using a 7 percent discount rate.¹⁵ Further amortizing these savings over three years implies an annualized cost savings of about \$119 million using either a 3 percent or a 7 percent discount rate.

The CFPB determined that the 2025 interim final rule will not change the nominal value of the one-time costs that will be incurred by covered institutions but does potentially delay the realization of those costs approximately one year into the future for institutions in each compliance tier. Thus, the new one-time costs of implementing the 2023 final rule and the 2024 and 2025 interim final rules are the baseline one-time costs discounted by approximately one year to the extent they have not already been incurred. The CFPB additionally expected that the

¹⁵ We calculate these numbers primarily for the purpose of accounting for savings under Executive Order 14192. To make rules issued in different years readily comparable, accounting under Executive Order 14192 uses discounting relative to a common year, 2024.

compliance date extension by the 2025 interim final rule and the associated flexibility in years of origination data that can be used to determine coverage would confer a benefit to covered institutions with the additional time to prepare for compliance relative to the baseline. Finally, with the extension of the compliance dates by approximately one year, the 2025 interim final rule delays the realization of the potential benefits to covered financial institutions, thus conferring costs.

In part IX.F of the 2023 final rule, the CFPB described how small businesses would benefit from the rule through the enforcement of fair lending laws and on community development. In an environment with limited data sources on small business credit, the CFPB expected data collected under the rule to enable communities, governmental entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses. The CFPB also expected data collected under the 2023 final rule to facilitate fair lending enforcement by Federal, State, and local enforcement agencies. To the extent small businesses benefit in the above ways from the 2023 final rule, the CFPB determined that the extension of the compliance dates by the 2025 interim final rule reduces the benefits accruing to small businesses by delaying the realization of these benefits, thus conferring costs. The CFPB expected that the benefits of the 2023 final rule will primarily begin with the publication of the data. Thus, small businesses' and financial institutions' realizations of the benefits arising from the 2023 final rule will likewise be delayed by at least one year by the 2025 interim final rule, reducing the real net present value of these expected future benefits. The 2023 final rule also described that the CFPB expected financial institutions to pass on a portion of their annual ongoing costs to small business borrowers in the form of higher rates or fees. While, in general, the CFPB expected the magnitude of any pass-through to be a small portion of the total cost of the average loan to a small business applicant, extended compliance dates from the 2025 interim final rule could benefit small business borrowers by delaying these increased costs.

A coalition of community groups asserted that the 2025 impact analysis in the interim final rule overestimates the costs of the 2023 final rule, and that, accordingly, the cost savings of the 2025 interim final rule were overestimated. The CFPB relied on the same cost estimates from the 2023 final rule to

quantify the cost savings of the 2025 interim final rule and continues to believe that they are appropriate for estimating the impacts of the rule. The group did not provide additional estimates of the 2025 interim final rule.

The group further asserted that the 2025 interim final rule dismissed critical benefits of the 2023 final rule, thus underestimating the costs of delaying implementation. In particular, the group claims that the 2025 interim final rule does not fully account for the benefit of market transparency for lenders because of the 2023 final rule, which would offset compliance costs. The group also points out that the annualized cost savings of the rule represent only a fraction of the income of insured depository institutions in 2024. Finally, the group asserted that suggesting that these benefits are merely qualitative diminishes the costs of discriminatory treatment. The group did not provide additional substantive information on the costs of delaying benefits of the 2023 final rule but commented that these costs would be significant.

The CFPB acknowledges the difficulty of precisely estimating the benefits of the 2023 final rule, and thus the costs of delaying data collection associated with the 2025 interim final rule. However, comments raising concerns about the lack of precise estimates did not provide sufficient new sources of data or alternative methods that could be used to quantify the costs of delaying data collection. Given the available information, the CFPB continues to believe the costs of delayed benefits of the 2025 interim final rule have been well considered, even if the CFPB is unable to estimate the magnitude of the costs.

An independent office of a Federal agency commented on the 2025 interim final rule that the 2023 final rule did not fully consider costs to small entities, though the commenter relied on those estimates to describe the cost savings of the 2025 interim final rule. For example, the commenter asserted that the CFPB did not properly account for comments from the agency on the 2023 final rule regarding the costs of staff time, training, and implementing new processes. However, the commenter did not provide sufficient information upon which to update these estimates in their comments on the 2023 final rule or the 2025 interim final rule. The CFPB continues to believe that the impacts of the 2023 final rule were well considered and responsive to comments, as discussed in the 2023 final rule.

E. Potential Benefits and Costs to Covered Persons and Small Businesses

As discussed in part VII.C, the rule being finalized does not substantively revise Regulation B beyond the baseline. Further, the CFPB did not receive comments that would suggest it is necessary to reconsider the impacts of the 2025 interim final rule. Thus, the CFPB does not anticipate that this final rule will confer any additional costs or benefits to covered persons or small businesses beyond those already accounted for in the 2025 interim final rule.

F. Potential Impacts on Depository Institutions and Credit Unions With \$10 Billion or Less in Total Assets, as Described in CFPB Section 1026

The CFPB does not anticipate that this final rule will confer any additional costs or benefits to depository institutions and credit unions with \$10 billion or less in total assets beyond those already accounted for in the 2025 interim final rule.

G. Potential Impacts on Small Businesses' Access to Credit and on Small Businesses in Rural Areas

The CFPB does not anticipate that this final rule will confer any additional costs or benefits to depository institutions and credit unions with \$10 billion or less in total assets beyond those already accounted for in the 2025 interim final rule.

VIII. Regulatory Flexibility Act Analysis

The CFPB's Acting Director certifies that this final rule will not have any impacts on small entities and so a final regulatory flexibility analysis is not required.¹⁶ The rule will not impose any costs on creditors, including small entities.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are generally required to seek approval from the Office of Management and Budget (OMB) for information collection requirements prior to implementation. Under the PRA, the CFPB may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB. The final rule amends 12 CFR part 1002 (Regulation B), which implements the small business lending rule. The CFPB's OMB control number for Regulation B is

¹⁶ 5 U.S.C. 605(b).

3170–0013; its current expiration date is August 31, 2026.

The 2025 interim final rule did not add to or change the data collection requirements of the 2023 final rule; rather, it only changed the rule's compliance dates and makes other date-related conforming adjustments. The CFPB therefore determined that this 2025 interim final rule was "economically significant." This action was considered an Executive Order 14192 deregulatory action. However, the CFPB does not anticipate that this final rule will generate any costs or benefits relative to the baseline of the 2025 interim final rule.

X. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the CFPB will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States at least 60 days prior to the rule's published effective date. The Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) has designated this final rule as a "major rule" as defined by 5 U.S.C. 804(2).

XI. Regulatory Review

OIRA has determined that this action is a "economically significant regulatory action" under Executive Order 12866. Accordingly, OMB has reviewed this action.

List of Subjects in 12 CFR Part 1002

Banks, Banking, Civil rights, Consumer protection, Credit, Credit unions, Marital status discrimination, National banks, Penalties.

For the reasons set forth in the preamble, the CFPB amends Regulation B, 12 CFR part 1002, as follows:

PART 1002—EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1691b. Subpart B is also issued under 15 U.S.C. 1691c–2.

■ 2. Revise and republish § 1002.114 to read as follows:

§ 1002.114 Effective date, compliance date, and special transitional rules.

(a) *Effective date.* The effective date for this subpart is August 29, 2023.

(b) *Compliance date.* The dates by which covered financial institutions are initially required to comply with the

requirements of this subpart are as follows:

(1) A covered financial institution that originated at least 2,500 covered credit transactions for small businesses in each of calendar years 2022 and 2023 shall comply with the requirements of this subpart beginning July 1, 2026.

(2) A covered financial institution that is not subject to paragraph (b)(1) of this section and that originated at least 500 covered credit transactions for small businesses in each of calendar years 2022 and 2023 shall comply with the requirements of this subpart beginning January 1, 2027.

(3) A covered financial institution that is not subject to paragraphs (b)(1) or (2) of this section and that originated at least 100 covered credit transactions for small businesses in each of calendar years 2022 and 2023 shall comply with the requirements of this subpart beginning October 1, 2027.

(4) A financial institution that did not originate at least 100 covered credit transactions for small businesses in each of calendar years 2022 and 2023 but subsequently originates at least 100 such transactions in two consecutive calendar years shall comply with the requirements of this subpart in accordance with § 1002.105(b), but in any case no earlier than October 1, 2027.

(c) *Special transitional rules*—(1) *Collection of certain information prior to a financial institution's compliance date.* A financial institution as described in paragraphs (b)(1), (2), or (3) of this section is permitted, but not required, to collect information regarding whether an applicant for a covered credit transaction is a minority-owned business, a women-owned business, and/or an LGBTQI+-owned business under § 1002.107(a)(18), and the ethnicity, race, and sex of the applicant's principal owners under § 1002.107(a)(19) beginning 12 months prior to its applicable compliance date as set forth in paragraphs (b)(1), (2), or (3) of this section. A financial institution collecting such information pursuant to this paragraph (c)(1) must do so in accordance with the requirements set out in §§ 1002.107(a)(18) and (19), 1002.108, and 1002.111(b) and (c).

(2) *Determining which compliance date applies to a financial institution that does not collect information sufficient to determine small business status.* A financial institution that is unable to determine the number of covered credit transactions it originated for small businesses in each of calendar years 2022 and 2023 for purposes of determining its compliance date pursuant to paragraph (b) of this section,

because for some or all of this period it does not have readily accessible the information needed to determine whether its covered credit transactions were originated for small businesses as defined in § 1002.106(b), is permitted to use any reasonable method to estimate its originations to small businesses for either or both of the calendar years 2022 and 2023.

(3) *Alternative time period for determining compliance dates.* A financial institution is permitted to use its originations of covered credit transactions in each of calendar years 2023 and 2024, or 2024 and 2025, in lieu of calendar years 2022 and 2023 as specified in paragraphs (b) and (c)(2) of this section.

■ 3. In Supplement I to part 1002, under "Section 1002.114—Effective Date, Compliance Date, and Special Transition Rules", revise "114(b) Compliance Date" and "114(c) Special Transition Rules" to read as follows:

Supplement I to Part 1002—Official Interpretations

* * * * *

Section 1002.114—Effective Date, Compliance Date, and Special Transition Rules

114(b) Compliance Date 1. *Application of compliance date.* The applicable compliance date in § 1002.114(b) is the date by which the covered financial institution must begin to compile data as specified in § 1002.107, comply with the firewall requirements of § 1002.108, and begin to maintain records as specified in § 1002.111. In addition, the covered financial institution must comply with § 1002.110(c) and (d) no later than June 1 of the year after the applicable compliance date. For instance, if § 1002.114(b)(2) applies to a financial institution, it must comply with §§ 1002.107 and 1002.108, and portions of § 1002.111, beginning January 1, 2027, and it must comply with § 1002.110(c) and (d), and portions of § 1002.111, no later than June 1, 2028.

2. *Initial collections pursuant to § 1002.114(b).* i. When the compliance date of July 1, 2026 specified in § 1002.114(b)(1) applies to a covered financial institution, the financial institution is required to collect data for covered applications during the period from July 1, 2026 to December 31, 2026. The financial institution must compile data for this period pursuant to § 1002.107, comply with the firewall requirements of § 1002.108, and maintain records as specified in § 1002.111. In addition, for data collected during this period, the covered financial institution must comply with §§ 1002.109 and 1002.110(c) and (d) by June 1, 2027.

ii. When the compliance date of January 1, 2027 specified in § 1002.114(b)(2) applies to a covered financial institution, the financial institution is required to collect data for covered applications during the period from January 1, 2027 to December 31, 2027. The financial institution must compile data for

this period pursuant to § 1002.107, comply with the firewall requirements of § 1002.108, and maintain records as specified in § 1002.111. In addition, for data collected during this period, the covered financial institution must comply with §§ 1002.109 and 1002.110(c) and (d) by June 1, 2028.

iii. When the compliance date of October 1, 2027 specified in § 1002.114(b)(3) or (4) applies to a covered financial institution, the financial institution is required to collect data for covered applications during the period from October 1, 2027 to December 31, 2027. The financial institution must compile data for this period pursuant to § 1002.107, comply with the firewall requirements of § 1002.108, and maintain records as specified in § 1002.111. In addition, for data collected during this period, the covered financial institution must comply with §§ 1002.109 and 1002.110(c) and (d) by June 1, 2028.

3. *Informal names for compliance date provisions.* To facilitate discussion of the compliance dates specified in § 1002.114(b)(1), (2), and (3), in the official commentary and any other documents referring to these compliance dates, the Bureau adopts the following informal simplified names. Tier 1 refers to the cohort of covered financial institutions that have a compliance date of July 1, 2026 pursuant to § 1002.114(b)(1). Tier 2 refers to the cohort of covered financial institutions that have a compliance date of January 1, 2027 pursuant to § 1002.114(b)(2). Tier 3 refers to the cohort of covered financial institutions that have a compliance date of October 1, 2027 pursuant to § 1002.114(b)(3).

4. *Examples.* The following scenarios illustrate how to determine whether a financial institution is a covered financial institution and which compliance date specified in § 1002.114(b) applies. Unless otherwise indicated, in each example the financial institution has chosen to use its originations in 2022 and 2023 (rather than 2023 and 2024, or 2024 and 2025, as permitted by § 1002.114(c)(3)) to determine its initial compliance tier.

i. Financial Institution A originated 3,000 covered credit transactions for small businesses in calendar year 2022, and 3,000 in calendar year 2023. Financial Institution A is in Tier 1 and has a compliance date of July 1, 2026.

ii. Financial Institution B originated 2,000 covered credit transactions for small businesses in calendar year 2022, and 3,000 in calendar year 2023. Because Financial Institution B did not originate at least 2,500 covered credit transactions for small businesses in each of 2022 and 2023, it is not in Tier 1. Because Financial Institution B did originate at least 500 covered credit transactions for small businesses in each of 2022 and 2023, it is in Tier 2 and has a compliance date of January 1, 2027.

iii. Financial Institution C originated 400 covered credit transactions for small businesses in calendar year 2022, and 1,000 in calendar year 2023. Because Financial Institution C did not originate at least 2,500 covered credit transactions for small businesses in each of 2022 and 2023, it is not in Tier 1, and because it did not originate at least 500 covered credit transactions for

small businesses in each of 2022 and 2023, it is not in Tier 2. Because Financial Institution C did originate at least 100 covered credit transactions for small businesses in each of 2022 and 2023, it is in Tier 3 and has a compliance date of October 1, 2027.

iv. Financial Institution D originated 90 covered credit transactions for small businesses in calendar year 2022, 120 in calendar year 2023, and 90 in calendar years 2024, 2025, 2026, and 2027. Because Financial Institution D did not originate at least 100 covered credit transactions for small businesses in each of 2022 and 2023, it is not in Tier 1, Tier 2, or Tier 3. Because Financial Institution D did not originate at least 100 covered credit transactions for small businesses in subsequent consecutive calendar years, it is not a covered financial institution under § 1002.105(b) and is not required to comply with the rule in 2026, 2027, or 2028.

v. Financial Institution E originated 120 covered credit transactions for small businesses in each of calendar years 2022, 2023, 2024, 2025, and 90 in 2026. Because Financial Institution E did not originate at least 2,500 or 500 covered credit transactions for small businesses in each of 2022 and 2023, it is not in Tier 1 or Tier 2. Because Financial Institution E originated at least 100 covered credit transactions for small businesses in each of 2022 and 2023, it is in Tier 3 and has a compliance date of October 1, 2027. However, because Financial Institution E did not originate at least 100 covered credit transactions for small businesses in both 2025 and 2026, it no longer satisfies the definition of a covered financial institution in § 1002.105(b) at the time of the compliance date for Tier 3 institutions and thus is not required to comply with the rule in 2027.

vi. Financial Institution F originated 90 covered credit transactions for small businesses in calendar year 2022, and 120 in 2023, 2024, 2025, and 2026. Because Financial Institution F did not originate at least 100 covered credit transactions for small businesses in each of 2022 and 2023, it is not in Tier 1, Tier 2, or Tier 3. Because Financial Institution F originated at least 100 covered credit transactions for small businesses in subsequent calendar years, § 1002.114(b)(4), which cross-references § 1002.105(b), applies to Financial Institution F. Because Financial Institution F originated at least 100 covered credit transactions for small businesses in each of 2025 and 2026, it is a covered financial institution under § 1002.105(b) and is required to comply with the rule beginning October 1, 2027. Alternatively, if Financial Institution F chooses to use its originations in calendar years 2023 and 2024 (or 2024 and 2025) to determine its compliance tier pursuant to § 1002.114(c)(3), it would be in Tier 3 and likewise required to comply with the rule beginning October 1, 2027.

vii. Financial Institution G originated 90 covered credit transactions for small businesses in each of calendar years 2022, 2023, 2024, 2025, 2026, and 2027, and 120 in each of 2028 and 2029. Because Financial Institution G did not originate at least 100

covered credit transactions for small businesses in each of 2022 and 2023, it is not in Tier 1, Tier 2, or Tier 3. Because Financial Institution G originated at least 100 covered credit transactions for small businesses in subsequent calendar years, § 1002.114(b)(4), which cross-references § 1002.105(b), applies to Financial Institution G. Because Financial Institution G originated at least 100 covered credit transactions for small businesses in each of 2028 and 2029, it is a covered financial institution under § 1002.105(b) and is required to comply with the rule beginning January 1, 2030.

viii. Financial Institution H originated 550 covered credit transactions for small businesses in each of calendar years 2022 and 2023, 450 in 2024, and 550 in 2025 and 2026. Because Financial Institution H originated at least 500 covered credit transactions for small businesses in each of 2022 and 2023, it would be in Tier 2 and have a compliance date of January 1, 2027. However, § 1002.114(c)(3) permits financial institutions to use their originations in 2023 and 2024 (or 2024 and 2025), rather than in 2022 and 2023, to determine compliance tier. If Financial Institution H elects to use its originations in 2023 and 2024, it would be in Tier 3 and required to comply with the rule beginning October 1, 2027.

114(c) Special Transition Rules

1. *Collection of certain information prior to a financial institution's compliance date.* Notwithstanding § 1002.5(a)(4)(ix), a financial institution that chooses to collect information on covered applications as permitted by § 1002.114(c)(1) in the 12 months prior to its initial compliance date as specified in § 1002.114(b)(1), (2) or (3) need comply only with the requirements set out in §§ 1002.107(a)(18) and (19), 1002.108, and 1002.111(b) and (c) with respect to the information collected. During this 12-month period, a covered financial institution need not comply with the provisions of § 1002.107 (other than §§ 1002.107(a)(18) and (19)), 1002.109, 1002.110, 1002.111(a), or 1002.114.

2. *Transition rule for applications received prior to a compliance date but final action is taken after a compliance date.* If a covered financial institution receives a covered application from a small business prior to its initial compliance date specified in § 1002.114(b), but takes final action on or after that date, the financial institution is not required to collect data regarding that application pursuant to § 1002.107 nor to report the application pursuant to § 1002.109. For example, if a financial institution is subject to a compliance date of July 1, 2026, and it receives an application on June 27, 2026 but does not take final action on the application until July 25, 2026, the financial institution is not required to collect data pursuant to § 1002.107 nor to report data to the Bureau pursuant to § 1002.109 regarding that application.

3. *Has readily accessible the information needed to determine small business status.* A financial institution has readily accessible the information needed to determine whether its originations of covered credit transactions were for small businesses as defined in § 1002.106 if, for instance, it in the ordinary

course of business collects data on the precise gross annual revenue of the businesses for which it originates loans, it obtains information sufficient to determine whether an applicant for business credit had gross annual revenues of \$5 million or less, or if it collects and reports similar data to Federal or State government agencies pursuant to other laws or regulations.

4. *Does not have readily accessible the information needed to determine small business status.* A financial institution does not have readily accessible the information needed to determine whether its originations of covered credit transactions were for small businesses as defined in § 1002.106 if it did not in the ordinary course of business collect either precise or approximate information on whether the businesses to which it originated covered credit transactions had gross annual revenue of \$5 million or less. In addition, even if precise or approximate information on gross annual revenue was initially collected, a financial institution does not have readily accessible this information if, to retrieve this information, for example, it must review paper loan files, recall such information from either archived paper records or scanned records in digital archives, or obtain such information from third parties that initially obtained this information but did not transmit such information to the financial institution.

5. *Reasonable method to estimate the number of originations.* The reasonable methods that financial institutions may use to estimate originations for 2022 and 2023 (or for 2023 and 2024, or 2024 and 2025, pursuant to § 1002.114(c)(3)) include, but are not limited to, the following:

i. A financial institution may comply with § 1002.114(c)(2) by determining the small business status of covered credit transactions by asking every applicant, prior to the closing of approved transactions, to self-report whether it had gross annual revenue for its preceding fiscal year of \$5 million or less, during the period October 1 through December 31, 2023. The financial institution may annualize the number of covered credit transactions it originates to small businesses from October 1 through December 31, 2023 by quadrupling the originations for this period, and apply the annualized number of originations to both calendar years 2022 and 2023. Pursuant to § 1002.114(c)(3), a financial institution is permitted to use its originations in 2023 and 2024 (or 2024 and 2025), rather than 2022 and 2023, to determine its compliance tier. Thus, for example, a financial institution may ask applicants to self-report revenue information during the period of October 1 through December 31, 2024, and then may annualize the number of covered credit transactions it originated to small businesses during that period and apply the annualized number of originations to both calendar years 2023 and 2024.

ii. A financial institution may comply with § 1002.114(c)(2) by assuming that every covered credit transaction it originates for business customers in calendar years 2022 and 2023 (or in 2023 and 2024, or 2024 and 2025) is to a small business.

iii. A financial institution may comply with § 1002.114(c)(2) by using another

methodology provided that such methodology is reasonable and documented in writing.

6. *Examples.* The following scenarios illustrate the potential application of § 1002.114(c)(2) to a financial institution's compliance date under § 1002.114(b). Unless otherwise indicated, in each example the financial institution has chosen to estimate its originations for 2022 and 2023 (rather than 2023 and 2024 or 2024 or 2025 as permitted by § 1002.114(c)(3)) to determine its initial compliance tier.

i. Prior to October 1, 2023, Financial Institution A did not collect gross annual revenue or other information that would allow it to determine the small business status of the businesses for whom it originated covered credit transactions in calendar years 2022 and 2023. Financial Institution A chose to use the methodology set out in comment 114(c)–5.i and as of October 1, 2023 began to collect information on gross annual revenue as defined in § 1002.107(a)(14) for its covered credit transactions originated for businesses. Using this information, Financial Institution A determined that it had originated 750 covered credit transactions for businesses that were small as defined in § 1002.106. On an annualized basis, Financial Institution A originated 3,000 covered credit transactions for small businesses ($750 \text{ originations} \times 4 = 3,000 \text{ originations per year}$). Applying this annualized figure of 3,000 originations to both calendar years 2022 and 2023, Financial Institution A is in Tier 1 and has a compliance date of July 1, 2026.

ii. Prior to July 1, 2023, Financial Institution B collected gross annual revenue information for some applicants for business credit, but such information was only noted in its paper loan files. Financial Institution B thus does not have reasonable access to information that would allow it to determine the small business status of the businesses for whom it originated covered credit transactions for calendar years 2022 and 2023. Financial Institution B chose to use the methodology set out in comment 114(c)–5.i, and as of October 1, 2023, Financial Institution B began to ask all businesses for whom it was closing covered credit transactions if they had gross annual revenues in the preceding fiscal year of \$5 million or less. Using this information, Financial Institution B determined that it had originated 350 covered credit transactions for businesses that were small as defined in § 1002.106. On an annualized basis, Financial Institution B originated 1,400 covered credit transactions for small businesses ($350 \text{ originations} \times 4 = 1,400 \text{ originations per year}$). Applying this estimated figure of 1,400 originations to both calendar years 2022 and 2023, Financial Institution B is in Tier 2 and has a compliance date of January 1, 2027.

iii. Prior to April 1, 2023, Financial Institution C did not collect gross annual revenue or other information that would allow it to determine the small business status of the businesses for whom it originated covered credit transactions in calendar years 2022 and 2023. Financial Institution C chose its own methodology

pursuant to comment 114(c)–5.iii, basing it in part on the methodology specified in comment 114(c)–5.i. Starting on April 1, 2023, Financial Institution C began to ask all business applicants for covered credit transactions if they had gross annual revenue in their preceding fiscal year of \$5 million or less. Using this information, Financial Institution C determined that it had originated 100 covered credit transactions for businesses that were small as defined in § 1002.106. On an annualized basis, Financial Institution C originated approximately 133 covered credit transactions for small businesses ($(100 \text{ originations} \times 365 \text{ days}) / 275 \text{ days} = 132.73 \text{ originations per year}$). Applying this estimate of 133 originations to both calendar years 2022 and 2023, Financial Institution C is in Tier 3 and has a compliance date of October 1, 2027.

iv. Financial Institution D did not collect gross annual revenue or other information that would allow it to determine the small business status of the businesses for whom it originated covered credit transactions in calendar years 2022 and 2023. Financial Institution D determined that it had originated 3,000 total covered credit transactions for businesses in each of 2022 and 2023. Applying the methodology specified in comment 114(c)–5.ii, Financial Institution D assumed that all 3,000 covered credit transactions originated in each of 2022 and 2023 were to small businesses. On that basis, Financial Institution D is in Tier 1 and has a compliance date of July 1, 2026.

v. Financial Institution E did not collect gross annual revenue or other information that would allow it to determine the small business status of the businesses for whom it originated covered credit transactions in calendar years 2022 and 2023. Financial Institution E determined that it had originated 700 total covered credit transactions for businesses in each of 2022 and 2023. Applying the methodology specified in comment 114(c)–5.ii, Financial Institution E assumed that all such transactions in each of 2022 and 2023 were originated for small businesses. On that basis, Financial Institution E is in Tier 2 and has a compliance date of January 1, 2027.

vi. Financial Institution F does not have readily accessible gross annual revenue or other information that would allow it to determine the small business status of the businesses for whom it originated covered credit transactions in calendar years 2022 and 2023. Financial Institution F determined that it had originated 80 total covered credit transactions for businesses in 2022 and 150 total covered credit transactions for businesses in 2023. Applying the methodology set out in comment 114(c)–5.ii, Financial Institution F assumed that all such transactions originated in 2022 and 2023 were originated for small businesses. On that basis, Financial Institution F is not in Tier 1, Tier 2 or Tier 3, and is subject to the compliance date provision specified in § 1002.114(b)(4).

vii. Financial Institution G does not have readily accessible gross annual revenue or other information that would allow it to determine the small business status of the

businesses for whom it originated covered credit transactions in calendar years 2022, 2023, 2024, or 2025. Financial Institution G chose to use the methodology set out in comment 114(c)–5.i, and as of October 1, 2025, Financial Institution G began to ask all businesses for whom it was closing covered credit transactions if they had gross annual revenue in the preceding fiscal year of \$5 million or less. Using this information, Financial Institution G determined that it had originated 700 covered credit transactions during that period for businesses that were small as defined in § 1002.106. On an annualized basis, Financial Institution G originated 2,800 covered credit transactions for small businesses (700 originations * 4 = 2,800 originations per year). Applying this estimated figure of 2,800 originations to both calendar years 2024 and 2025, Financial Institution G is in Tier 1 and has a compliance date of July 1, 2026.

* * * * *

Russell Vought,

Acting Director, Consumer Financial Protection Bureau.

[FR Doc. 2025–19370 Filed 10–1–25; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–3427; Project Identifier MCAI–2025–01344–T; Amendment 39–23166; AD 2025–20–13]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A330–200, A330–200 Freighter, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. This AD was prompted by the determination that, during flight with landing gear down, the brake system accumulators and shut-off valve (SOV) protecting the brake accumulators might be exposed to a temperature lower than the one for which the accumulator and SOV are qualified. This AD is also prompted by the determination that, if an airplane is dispatched under existing conditions associated with the “L/G Retraction Fault” alert, operations for Constant Speed Motor/Generator (CSM/G) will be prevented. This AD requires revising the existing airplane flight manual (AFM) to incorporate new procedures for flight

with landing gear down and the existing minimum equipment list (MEL) to prevent dispatch with an “L/G Retraction Fault” alert. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 17, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 17, 2025.

The FAA must receive comments on this AD by November 17, 2025.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- **Federal eRulemaking Portal:** Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- **Fax:** 202–493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–3427; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–3427.

FOR FURTHER INFORMATION CONTACT: Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: Frank.Carreras@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2025–3427; Project Identifier MCAI–2025–01344–T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: Frank.Carreras@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0175, dated August 8, 2025 (EASA AD 2025–0175) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A330–200, A330–200 Freighter, A330–300, A340–200, and A340–300 series airplanes; and

Model A340–541, A340–542, A340–642, and A340–643 airplanes. Model A340–542 and A340–643 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability. The MCAI states that during certification activity of revenue flight landing gear down (RFLGD) operations for the Beluga XL (*i.e.*, Model A330–743L) airplanes, it was determined that the brake system accumulators might be exposed to a temperature lower than the one for which the accumulator is qualified. The landing gear system for the Model A330–743L airplane is similar in design to that on the Model A330–200, A330–200 Freighter, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. It was also determined, in the case of loss of the blue hydraulic system, that the SOV protecting the brake accumulators from internal hydraulic pressure loss could be identically affected while performing RFLGD operations. Each of these conditions, if not corrected, could lead to damage to the brake accumulator bladder and loss of SOV function, possibly resulting in the loss of emergency braking and consequent damage to the airplane. The MCAI also states that it was determined that, if an airplane is dispatched under master minimum equipment list (M MEL) conditions associated with the Electronic Centralized Aircraft Monitor (ECAM) “L/G RETRACTION FAULT” alert message, operations for Constant Speed Motor/Generator (CSM/G) (*i.e.*, emergency power supply) will be prevented. This condition, if not corrected, would, after a total engine flame out, lead to total loss of electrical power and consequent loss of control of the airplane.

The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–3427.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0175, which specifies procedures for revising the existing AFM to incorporate new procedures for flight with landing gear down and the existing M MEL to prevent dispatch with a “L/G Retraction Fault” alert. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2025–0175 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Compliance With AFM and MEL Revisions

EASA AD 2025–0175 requires operators to “inform all flight crews” of revisions to the AFM and MEL, and thereafter to “operate the aeroplane accordingly.” However, this AD does not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137) and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot’s training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. Section 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. FAA regulations (§ 121.628(a)(2)) require operators to provide pilots with access to all the information contained in the operator’s MEL. Furthermore, § 121.628(a)(5) requires airplanes to be operated under all applicable conditions and limitations contained in the operator’s MEL. Therefore, including a requirement in this AD to operate the airplane according to the revised AFM and MEL would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with

requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2025–0175 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2025–0175 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0175 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0175. Material required by EASA AD 2025–0175 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–3427 after this AD is published.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because, if an airplane is dispatched with the landing gear retraction system inoperative and “L/G Retraction Fault” alert under existing MEL conditions, and a total engine flame out occurs, this could lead to total loss of electrical power and consequent loss of control of the airplane. Further, if an airplane is operating with landing gear down, the brake system accumulators, and the SOV protecting the brake accumulators from internal hydraulic pressure loss, could be exposed to a temperature lower than one for which the accumulator and SOV are qualified, which could lead to damage to the brake accumulator bladder and loss of SOV function and result in the loss of emergency braking

and consequent damage to the airplane. Additionally, the compliance time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule.

Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d)

for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment.

Because the FAA has determined that it

has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 153 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × \$85 per hour = \$170	\$0	\$170	\$26,010

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–20–13 Airbus SAS: Amendment 39–23166; Docket No. FAA–2025–3427; Project Identifier MCAI–2025–01344–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 17, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes specified in paragraphs (c)(1) through (7), certificated in any category.

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–223F and –243F airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A340–211, –212, and –213 airplanes.

(5) Model A340–311, –312, and –313 airplanes.

(6) Model A340–541 airplanes.

(7) Model A340–642 airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by the determination that, during flight with landing gear down, the brake system accumulators, and the shut-off valve (SOV)

protecting the brake accumulators from internal hydraulic pressure loss, might be exposed to a temperature lower than the one for which the accumulator and SOV are qualified. The FAA is issuing this AD to address damage to the brake accumulator bladder and loss of SOV function, possibly resulting in the loss of emergency braking and consequent damage to the airplane. This AD is also prompted by the determination that, if an airplane is dispatched under existing conditions associated with the "L/G Retraction Fault" alert, operations for Constant Speed Motor/Generator (CSM/G) will be prevented. This condition, if not corrected, would, after a total engine flame out, lead to total loss of electrical power and consequent loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0175, dated August 8, 2025 (EASA AD 2025–0175).

(h) Exceptions to EASA AD 2025–0175

(1) Where EASA AD 2025–0175 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2025–0175 specifies to "implement the instructions of the MMEL update", this AD requires replacing that text with "revise the operator's existing FAA-approved minimum equipment list (MEL) by incorporating the information identified in "the MMEL update"".

(3) Where paragraph (1) of EASA AD 2025–0175 specifies to "inform all flight crews, and thereafter, operate the aeroplane accordingly," and where paragraph (3) of EASA AD 2025–0175 specifies to "inform all flight crews and, thereafter, operate the aeroplane accordingly," this AD does not require those actions as those actions are already required by existing FAA operating regulations (see 14 CFR 91.9, 91.505, 121.137, and 121.628(a)(2) and (5)).

(4) Where paragraph (3) of EASA AD 2025–0175 specifies to “implement the AFM update”, this AD requires replacing that text with “revise the existing AFM by incorporating the applicable information identified in “the AFM update””.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0175.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(j) Additional Information

For more information about this AD, contact Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: Frank.Carreras@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0175, dated August 8, 2025.

(ii) [Reserved]

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

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

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

Issued on September 29, 2025.

Lona C. Saccomando,

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

[FR Doc. 2025–19417 Filed 9–30–25; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–0206; Project Identifier MCAI–2024–00525–T; Amendment 39–23147; AD 2025–19–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by an investigation that showed a change in the feed-through connector O-ring material at a certain frame increased the electrical bonding resistance due to the current torque specification being inadequate. This AD requires electrical bonding tests between the feed-through connectors and the forward side of the bulkhead at a certain frame, and the installation of two electrical bonding plates, as applicable. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 6, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 6, 2025.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2025–0206; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

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

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at regulations.gov under Docket No. FAA–2025–0206–T.

FOR FURTHER INFORMATION CONTACT:

Steven Dzierzynski, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7300; email 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM was published in the **Federal Register** on February 19, 2025 (90 FR 9876). The NPRM was prompted by AD CF–2024–32, dated September 11, 2024 (Transport Canada AD CF–2024–32) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states an Airbus Canada Limited Partnership investigation revealed a change in the feed-through connector O-ring material at frame (FR) 51 increased the electrical bonding resistance due to the current torque specification being inadequate, which may lead to electrical bonding levels which exceed allowable design limits, leaving the aircraft more susceptible to electromagnetic interference (EMI), high-intensity radiated fields (HIRF) and lightning strikes.

In the NPRM, the FAA proposed to require electrical bonding tests to determine the resistance between the feed-through connectors and the forward side of the bulkhead at FR 51, and the installation of two electrical bonding plates if any connectors have more than the specified resistance, as specified in Transport Canada AD CF–2024–32. The FAA is issuing this AD to

address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–0206.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

The FAA received additional comments from two commenters, including Delta Air Lines (Delta) and one anonymous commenter. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Adding an Exception

Delta requested the FAA add an exception to the proposed AD to allow all electrical bonding tests to be completed in accordance with paragraph A. of Transport Canada AD CF–2024–32, followed, before further flight, by installation of electrical bonding plates in accordance with paragraph B. of Transport Canada AD CF–2024–32. Delta stated that, in the service information referenced in Transport Canada AD CF–2024–32, the electrical bonding test at one feed-through connector, followed immediately by the applicable corrective action, is repeated 21 more times for a total of 22 feed-through connectors. Delta stated the workflow in the proposed AD would be cumbersome, requiring multiple handoffs between skills and that multiple handoffs increase the possibility of turnover error through miscommunication. Delta stated Transport Canada AD CF–2024–32 allows the completion of all tests, the identification of all discrepant connectors, and turnover of all required corrective actions to technicians for completion of that corrective action. Delta stated this reduces turnover error by only turning over test results one time and the end result of reviewing all connectors and the correction of any with unsatisfactory bonding resistance, as applicable, before further flight remains the same.

The FAA agrees to clarify. The FAA notes that compliance times in ADs take precedence over any compliance time specified in referenced service information. The FAA notes that the time of “followed immediately by the applicable corrective action” is not specifically stated in the service information referenced in Transport

Canada AD CF–2024–32 but is inferred. Regardless of if the service information contains a compliance time or not, operators must accomplish the required actions within the compliance time specified in Transport Canada AD CF–2024–32, except as specified in paragraphs (h)(1) and (2) of this AD.

No exception is needed to this AD because, as noted by Delta, Transport Canada AD CF–2024–32 allows for all connectors to be inspected first and then the replacement of the discrepant connectors must be done before further flight as specified in paragraph B. of Transport Canada AD CF–2024–32. Since this AD mandates the compliance times in Transport Canada AD CF–2024–32, this AD also allows for all connectors to be inspected first. The FAA has not revised this AD in this regard.

Request for Revising Reporting Requirement

Delta requested that the FAA add an exception to specify that where Airbus Canada Service Bulletin BD500–534011 states to record the electrical bonding test result in Appendix A of the service bulletin, the AD would permit the use of either Appendix A or an equivalent form developed by the operator and recording the same information. Delta commented that paragraph (i) of the proposed AD removes the reporting requirement, but it does not remove the requirement referenced in the service information referenced in Transport Canada AD CF–2024–32 to record the test results in Appendix A. Delta stated that they do not object to the requirement to record test results but prefer to use internally developed documentation. Delta stated that operators, as a matter of practice, frequently develop their own documentation to accomplish work instructions in a manner which complies with mandated work instruction documents including the recording of test results. Delta stated the mitigation of the unsafe condition is not affected by the use of alternative forms, provided the required information is reported.

The FAA agrees to clarify. In excluding a reporting requirement, the FAA is also excluding the requirement to record test results and send them to Airbus Canada, as specified in the Airbus Canada Service Bulletin BD500–534011. Therefore, recording the test results is not required by this AD and no change to this AD is necessary.

Request for Additional Reporting Requirements

An anonymous commenter stated the proposed AD should require operators to document and report the results of electrical bonding tests to the FAA. The commenter stated this data can support compliance verification and provide insight into broader trends in bonding degradation. The commenter noted that FAA Advisory Circular 43–210A, dated May 31, 2018, encourages structured data collection and reporting to support continued airworthiness actions.

The FAA disagrees with this request. In general, the FAA only requires reporting if the results are needed to determinate the scope of the identified unsafe condition or to develop corrective actions. For this AD, reporting is not necessary as the installation of the bonding plates addresses the unsafe condition. The FAA also notes that Transport Canada did not include reporting requirements in Transport Canada AD CF–2024–32. The FAA has not revised this AD in this regard.

Request for Information About Diagnostic Thresholds or Engineering Criteria for Determining Bonding Plate Installation

An anonymous commenter stated they had questions about the specific diagnostic thresholds or engineering criteria used to determine the need for bonding plate installation, and how it will be communicated in the instructions for continued airworthiness. The commenter stated that clearly defined technical criteria reduce ambiguity and ensure consistent implementation across operators.

The FAA agrees to clarify. As specified in Transport Canada AD CF–2024–32, the electrical bonding tests are done to determine if the bonding plate installation is necessary and those tests are done as specified in the procedure of the service information identified in Transport Canada AD CF–2024–32. That procedure specifies that if the test results show that the value is more than the specified maximum resistance, then the installation must be done.

Request for Evaluation of Proposed Timeframe

An anonymous commenter stated the proposed timeframe of 12,000 flight hours or 48 months should be evaluated for flexibility based on operator type and fleet utilization, particularly for lower-utilization carriers such as regional airlines. The commenter stated that flexible compliance windows that still prioritize safety can reduce

maintenance burdens and support efficient fleet management.

The FAA disagrees with this request. In developing an appropriate compliance time for this action, the FAA considered the compliance times specified in Transport Canada AD CF–2024–32, the urgency associated with the subject unsafe condition, and the availability of required parts. In consideration of these items, the FAA has determined that the actions required by this AD must be done within the compliance time specified in this AD to ensure an acceptable level of safety. However, under the provisions of paragraph (j)(1) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request for Information About Training

An anonymous commenter stated they had questions about the FAA providing or endorsing any specific training materials or procedural guidance to ensure maintenance technicians are equipped to perform bonding tests and install bonding plates correctly. The commenter stated the FAA’s Aviation Maintenance Technician Handbook outlines the importance of tailored training for novel procedures.

The FAA notes that training requirements are outside the scope of this AD. The FAA has determined that accomplishing the electrical bonding tests and the installation of two

electrical bonding plates, as required by this AD, addresses the identified unsafe condition. The service information referenced in Transport Canada AD CF–2024–32 provides appropriate procedures for accomplishing those actions. The FAA has not changed this AD in this regard.

Request for Coordination

An anonymous commenter stated the FAA should coordinate with the European Union Aviation Safety Agency (EASA) and Transport Canada to harmonize compliance expectations for affected aircraft types to avoid duplicative testing or installations for multinational operators and to support global safety consistency. The commenter noted that International Civil Aviation Organization (ICAO) Annex 19 supports international alignment of airworthiness directives to improve safety and efficiency.

The FAA acknowledges the request. The FAA has coordinated with Transport Canada. As specified in the NPRM, pursuant to the FAA’s bilateral agreement with the State of Design Authority for the affected aircraft, Transport Canada notified the FAA of the unsafe condition described in the Transport Canada AD referenced above. However, the FAA will not communicate directly with EASA regarding this AD, or the Transport Canada AD, because Transport Canada, as the State of Design Authority, has communicated with EASA regarding the Transport Canada AD. The FAA has not changed this AD in this regard.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

Transport Canada AD CF–2024–32 specifies procedures for electrical bonding tests to determine the resistance between the feed-through connectors and the forward side of the bulkhead at FR 51, and the installation of two electrical bonding plates if any connectors have more than the specified resistance. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 36 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
23 work-hours × \$85 per hour = \$1,955	\$0	\$1,955	\$70,380

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 20 work-hours × \$85 per hour = \$1,700 per connector	Up to \$10,936 per connector	Up to \$12,636 per connector.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a

substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025-19-07 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39-23147; Docket No. FAA-2025-0206; Project Identifier MCAI-2024-00525-T.

(a) Effective Date

This airworthiness directive (AD) is effective November 6, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD-500-1A10 and BD-500-1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF-2024-32, dated September 11, 2024 (Transport Canada AD CF-2024-32).

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical system installation.

(e) Unsafe Condition

This AD was prompted by an investigation that showed a change in the feed-through connector O-ring material at frame (FR) 51 increased the electrical bonding resistance due to the current torque specification being inadequate. The FAA is issuing this AD to address the unsafe condition, which if not addressed, could result in airplane susceptibility to electromagnetic interference (EMI), high-intensity radiated fields (HIRF) and lightning strikes.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with Transport Canada AD CF-2024-32.

(h) Exception to Transport Canada AD CF-2024-32

(1) Where Transport Canada AD CF-2024-32 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF-2024-32 refers to hours air time, this AD requires using flight hours.

(i) No Reporting Requirement

Although the material referenced in Transport Canada AD CF-2024-32 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any material contains procedures or tests that

are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Additional Information

For more information about this AD, contact Steven Dzierzynski, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 516-228-7300; email 9-avs-nyaco-cos@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF-2024-32, dated September 11, 2024.

(ii) [Reserved]

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca; website tc.canada.ca/en/aviation.

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

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

Issued on September 16, 2025.

Peter A. White,

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

[FR Doc. 2025-19388 Filed 10-1-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–1357; Project Identifier AD–2025–00618–T; Amendment 39–23151; AD 2025–19–11]
RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 757–200, –200PF, and –200CB series airplanes. This AD was prompted by a report of improper grinding of the inner diameter of the main landing gear (MLG) outer cylinders, resulting in possible heat damage to the outer cylinders. This AD requires a records check or inspection to determine if an affected outer cylinder is installed and replacing all affected outer cylinders. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 6, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 6, 2025.

ADDRESSES:
AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–1357; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Boeing material identified in this AD, contact Boeing Commercial

Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–1357.

FOR FURTHER INFORMATION CONTACT:
Stefanie Roesli, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3964; email: stefanie.n.roesli@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 757–200, –200PF, and –200CB series airplanes. The NPRM was published in the **Federal Register** on July 8, 2025 (90 FR 30030). The NPRM was prompted by a report of improper grinding of the inner diameter of the MLG outer cylinders, resulting in possible heat damage to the outer cylinders. In the NPRM, the FAA proposed to require a records check or inspection to determine if an affected outer cylinder is installed and replacing all affected outer cylinders. The FAA is issuing this AD to address heat damage to the MLG outer cylinders. The unsafe condition, if not addressed, could cause failure of a principal structural element to sustain its limit load or collapse of the MLG, which could result in loss of control of the airplane or runway departure.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) and Boeing who supported the NPRM without change.

The FAA received an additional comment from Aviation Partners Boeing (APB). The following presents the comment received on the NPRM and the FAA’s response to the comment.

Effect of Winglets on Accomplishment of the Proposed Actions

APB stated that the installation of winglets per Supplemental Type Certificate (STC) ST01518SE does not affect accomplishment of the actions specified in the proposed AD.

The FAA agrees that STC ST01518SE does not affect the ability to accomplish the actions required by this AD. The FAA has not changed the AD in this regard.

Conclusion

The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 757–32A0216 RB, dated January 26, 2024. This material specifies procedures for performing a maintenance records check or an inspection of the left and right MLG outer cylinders to determine if any affected part numbers and serial numbers are installed and replacing any affected outer cylinder. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 399 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection or maintenance records check for affected parts.	3 work-hours × \$85 per hour = \$255	\$0	\$255	\$101,745

The FAA estimates the following costs to do any replacement that would be required based on the results of the

inspection or maintenance records check. The agency has no way of

determining the number of airplanes that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of MLG outer cylinder (20 affected parts).	137 work-hours × \$85 per hour = \$11,645.	\$325,000	\$336,645 per MLG outer cylinder.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–19–11 The Boeing Company:

Amendment 39–23151; Docket No. FAA–2025–1357; Project Identifier AD–2025–00618–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 6, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200, –200PF, and –200CB series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of improper grinding of the inner diameter of the main landing gear (MLG) outer cylinders, resulting in possible heat damage to the outer cylinders. The FAA is issuing this AD to address heat damage to the MLG outer cylinders. The unsafe condition, if not addressed, could cause failure of a principal structural element to sustain its limit load or collapse of the MLG, which could result in loss of control of the airplane or runway departure.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the "Compliance" paragraph of Boeing Alert Requirements Bulletin 757–32A0216 RB, dated January 26, 2024, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–32A0216 RB, dated January 26, 2024.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–32A0216, dated January 26, 2024, which is referred to in Boeing Alert

Requirements Bulletin 757–32A0216 RB, dated January 26, 2024.

(h) Exceptions to Requirements Bulletin Specifications

Where the "Boeing Recommended Compliance Time" column in the table under the "Compliance" paragraph of Boeing Alert Requirements Bulletin 757–32A0216 RB, dated January 26, 2024, refers to the original issue date of Boeing Alert Requirements Bulletin 757–32A0216 RB, this AD requires using the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact Stefanie Roesli, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3964; email: stefanie.n.roesli@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (k)(3) this AD.

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 757–32A0216 RB, dated January 26, 2024.

(ii) [Reserved]

(3) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; website myboeingfleet.com.

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

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

Issued on September 19, 2025.

Peter A. White,

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

[FR Doc. 2025-19391 Filed 10-1-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-0347; Project Identifier AD-2024-00441-T; Amendment 39-23156; AD 2025-20-03]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787-8, 787-9, and 787-10 airplanes. This AD was prompted by reports of corrosion on one or more of the eight lower fitting assemblies and adjacent lavatory components on certain lavatories. This AD requires a detailed inspection of the lower fitting assemblies and the centerline partition threshold of the lavatories for corrosion, recording on the modification record placard, and applicable on-condition actions. This AD also requires revising the existing maintenance program to incorporate a detailed inspection of the lavatory vertical side forward fittings for corrosion or damage. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 6, 2025.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in this AD as of November 6, 2025.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2025-0347; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For the Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; website myboeingfleet.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2025-0347.

FOR FURTHER INFORMATION CONTACT:

Nicole S. Tsang, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3959; email: Nicole.S.Tsang@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787-8, 787-9, and 787-10 airplanes. The NPRM was published in the **Federal Register** on April 7, 2025 (90 FR 14927). The NPRM was prompted by reports of corrosion on one or more of the eight lower fitting assemblies and adjacent lavatory components on certain lavatories. In the NPRM, the FAA proposed to require a detailed inspection of the lower fitting assemblies and the centerline partition threshold of the lavatories for corrosion, recording on the modification record placard, and applicable on-condition actions. The FAA also proposed to require revising the existing maintenance program to incorporate a detailed inspection of the lavatory vertical side forward fittings for corrosion or damage. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from ProTech Aero Services Limited who supported the NPRM without change.

The FAA received additional comments from five commenters, including All Nippon Airways (All Nippon), American Airlines (American), Boeing, and an anonymous commenter. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Exclude Certain Airplanes From the Applicability

American requested that the FAA revise the applicability of the proposed AD to exclude Model 787-8, 787-9, and 787-10 airplanes that have never been equipped with Jamco family 95/96 lavatories. American noted Boeing Special Attention Requirements Bulletin B787-81205-SB250302-00 RB, Issue 001, dated August 21, 2024, identifies airplanes that were delivered with and without the Jamco family 95/96 lavatories and airplanes known to have been modified to be equipped with the affected lavatories. American also noted the requirements bulletin includes conditions to account for airplanes that may have been modified to either remove or install the affected lavatories. Based on this, American concluded the proposed AD is only applicable to airplanes that have, or have had, Jamco family 95/96 lavatories installed, and airplanes that have never had the affected lavatories installed are exempted from the inspections specified in the proposed AD.

The FAA agrees to exclude airplanes that were neither delivered with the affected lavatories, nor equipped with the affected lavatories after delivery. These airplanes are identified as Group 3, Configuration 1, and Group 4, Configuration 3 airplanes in table 1 of the requirements bulletin, and no actions are required for those airplanes. The FAA has revised paragraph (c) of this AD accordingly.

Request To Extend the Inspection Compliance Time

United requested that the FAA extend the compliance time for the inspection by 3 months. United stated that the proposed compliance time does not allow it to schedule the inspection for all of its affected airplanes during base maintenance visits, which would force some of its airplanes out of service.

The FAA disagrees with commenter's request. The FAA assessed the risk and determined that the inspection

compliance times specified in the “Compliance” paragraph of Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024, are appropriate to mitigate the risk. The FAA considered the safety implications and normal maintenance schedules when establishing compliance times that adequately address the unsafe condition of this AD. However, under the provisions of paragraph (k) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The FAA has not changed the AD in this regard.

Request To Coordinate Inspection Intervals With Operators

A commenter requested that the FAA closely coordinate with operators to carefully define the inspection intervals to ensure operators can achieve compliance with minimal possible operational disruption.

The FAA acknowledges the commenter’s request but has not revised the AD in this regard for the same reasons noted in the FAA’s response to the previous comment.

Request To Revise Compliance Time for Placard Recording and Maintenance Plan Revision

Boeing requested the FAA add a note to paragraph (g) of the proposed AD to allow accomplishing the placard recording (condition 1, action 1 and condition 2, action 2) and maintenance plan revision (condition 1, action 2 and condition 2, action 3) within 38 months after completing the initial inspection. Boeing noted that Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024, specifies those actions should be completed before further flight after the inspection. Boeing, however, asserted those actions are not critical to flight safety and should not be required to be done before further flight for an airplane to return to service. Boeing stated it has no plans to revise the requirements bulletin to account for this.

The FAA partially agrees with the commenter’s request. The FAA agrees that the placard recording and maintenance plan revision are administrative changes that are not critical to flight safety. However, the FAA disagrees with extending the compliance time to 38 months after accomplishing the inspection. The FAA has determined that extending the compliance time to 90 days after

accomplishing the inspection or repair instructions, as applicable, is an appropriate time for accomplishing the administrative actions. Accordingly, the FAA has added a new exception to paragraph (h)(2) of this AD.

Request To Reference Interim Actions

All Nippon requested that the FAA revise the proposed AD to reference any interim action, such as a service bulletin or other relevant measure, if one is issued before the proposed AD is finalized.

The FAA acknowledges the commenter’s request, but no change is necessary to the AD in this regard. The FAA has determined no later service information or any other measure that would affect AD compliance has been issued in the interim. The FAA has not changed the AD in this regard.

Request for an Alternative Method of Compliance (AMOC)

Boeing requested that the FAA revise the proposed AD to allow accomplishment of the inspection in accordance with maintenance review board report (MRBR) Item Number 25–185–00 for lavatories with no previous repairs as an AMOC to accomplishing the inspection in accordance with paragraph 3.A., step (3) of the Accomplishment Instructions of Jamco Service Bulletin B80–25–4112, Revision 2, dated April 24, 2024. Boeing stated that the inspections in the Jamco service bulletin and MRBR item are identical, and that some operators accomplished the inspections in accordance with the MRBR item prior to the service bulletin release, and those operators would like to receive credit.

The FAA partially agrees. The FAA disagrees with adding an AMOC to this AD but agrees that an inspection accomplished before the effective date of this AD using MRBR Item Number 25–185–00 for lavatories with no previous repairs is acceptable for compliance with the inspection required by paragraph (g) of this AD. Accordingly, the FAA has added a new paragraph (j) to this AD allowing credit. The FAA notes that operators may apply for an AMOC in accordance with the provisions in paragraph (k) of this AD to use MRBR Item Number 25–185–00 as a method of compliance after the effective date of this AD.

Request To Revise an Exception to the Requirements Bulletin

Boeing requested that the FAA revise paragraph (h)(2) of the proposed AD to state, where Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated

August 21, 2024, specifies contacting Boeing for repair instructions, and if those instructions include a modification to the maintenance actions or intervals specified in section (g) of the proposed AD, then the proposed AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (j) of the proposed AD. Boeing stated repairs that do not change the inspection method or interval specified in the requirements bulletin comply with the proposed AD.

The FAA disagrees with Boeing’s request. The exception in paragraph (h)(3) of this AD (corresponding to paragraph (h)(2) of the proposed AD) is intended to require an AMOC anytime a manufacturer needs to be contacted for repair instructions. Adopting the requested wording would allow operators to circumvent the procedures in 14 CFR 39.19, as specified in paragraph (k) of this AD. Since the requirements bulletin does not provide repair instructions or point to another source for repair instructions, such as an aircraft maintenance manual (AMM), an operator will need to contact Boeing if corrosion is found, and that should be done according to the procedures in paragraph (k) of this AD to ensure the FAA has awareness of all repair instructions. If certain corrosion findings can be corrected using existing procedures like an AMM task, then this can be addressed with a revision to the service information. If alternative repair instructions that go beyond what is specified in the current service information are needed to address the unsafe condition, and those repairs involve changing the inspection method or interval, then the service information can be revised to specify contacting Boeing for repair instructions for that situation. The FAA has not revised the AD in this regard.

Request To Clarify Inspection Procedures for Previously Repaired Fittings

Boeing requested the FAA add a new exception to paragraph (h) of the proposed AD to clarify that the detailed inspection in paragraph 3.A, step (4) of Jamco Service Bulletin B80–25–4112, Revision 2, dated April 24, 2024, is required for Jamco lavatories with basic part number (P/N) B80095() or B80096() on which a previous repair has been completed on a lavatory fitting. Boeing stated that Boeing Service bulletin B787–81205–SB250302–00 only points to paragraph 3.A, step (3) of the Jamco service bulletin as a method of compliance for the detailed inspection, but that step is only

applicable to lavatories with no previous repairs of lavatory fittings. Boeing also stated it has no plans to revise the corresponding service bulletin to account for this.

The FAA partially agrees. The FAA agrees that paragraph 3.A., step (4) of the Jamco service bulletin is applicable to lavatories with a previous repair of a lavatory fitting with a doubler that covers the bottom of the fitting and extends below the access hole. These lavatory fittings have an additional step (4) for accessing the bottom of the fitting to do the detailed inspection because the doubler may hide corrosion. However, the FAA disagrees that paragraph 3.A., step (3) of the Jamco service bulletin is only applicable to lavatories with no previous repairs of lavatory fittings. Step (3) of the Jamco service bulletin is applicable to all lavatories with P/N B80095() or B80096() because step (3) provides details on how to inspect the visible surfaces for corrosion. The FAA has

added a new exception in paragraph (h)(4) of this AD to clarify that the detailed inspection must be accomplished using step (3) and step (4), as applicable.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024. This material

specifies procedures for a detailed inspection of the eight lower fitting assemblies and the centerline partition threshold of the Jamco family 95/96 lavatories for corrosion, recording on the modification record placard, and applicable on-condition actions. On condition actions include repairing any corrosion found. This material also specifies revising the existing maintenance program to incorporate MRBR item number 25–185–00 (detailed inspection of the lavatory vertical side forward fittings for corrosion or damage).

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

Costs of Compliance

The FAA estimates that this AD affects 159 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and placard re- cording.	15 work-hours × \$85 per hour = \$1,275 per lavi- tory.	\$3,700 per lavatory	\$4,975 per lavatory	Up to \$4,746,150 (up to 6 lavatories per airplane).

The FAA has determined that revising the existing maintenance program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this AD.

The FAA has included all known costs in its cost estimate. According to the parts manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII:

Aviation Programs, describes in more detail the scope of the Agency’s authority.

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–20–03 The Boeing Company:
Amendment 39–23156; Docket No.
FAA–2025–0347; Project Identifier AD–
2024–00441–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 6, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, as identified in Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024, except for airplanes identified as Group 3, Configuration 1; and Group 4, Configuration 3 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by reports of corrosion on one or more of the eight lower fitting assemblies and adjacent lavatory components on the Jamco family 95/96 lavatories. The FAA is issuing this AD to address corrosion that could cause the lavatories to break free from the lower mounts during an event with high g-forces. The unsafe condition, if not addressed, could result in potential serious injury to passengers and crew or a displaced lavatory blockage that prevents egress through the aisle and exits.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin B787–81205–SB250302–00, Issue 001, dated August 21, 2024, which is referred to in Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024.

(h) Exceptions to Requirements Bulletin Specifications

(1) Where the “Effectivity” paragraph and the Boeing Recommended Compliance Time columns of the tables in the “Compliance” paragraph of Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August

21, 2024, refer to the Issue 001 date of Requirements Bulletin B787–81205–SB250302–00 RB, this AD requires using the effective date of this AD.

(2) Where the Boeing Recommended Compliance Time columns of the tables in the “Compliance” paragraph of Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024, for Condition 1, Action 1 and Action 2; and Condition 2, Action 2 and Action 3, specify modifying the record placard and incorporating Maintenance Review Board Report (MRBR) Item Number 25–185–00 “Before further flight”, this AD requires replacing that text with “Within 90 days”.

(3) Where Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024, specifies contacting Boeing for repair instructions, this AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(4) Where the Method of Compliance columns in the “Accomplishment Instructions” paragraph of Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024, specifies doing a detailed inspection using “Paragraph 3.A. step (3)”, this AD requires replacing that text with “Paragraph 3.A. step (3) and step (4), as applicable”.

(i) No Alternative Actions and Intervals

After the existing maintenance program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) of this AD.

(j) Credit for Previous Inspections

For airplane lavatories with no previous repairs on which MRBR Item Number 25–185–00 was accomplished before the effective date of this AD, the inspection required by paragraph (g) of this AD is not required.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company

Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact Nicole S. Tsang, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3959; email: Nicole.S.Tsang@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (m)(3) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Requirements Bulletin B787–81205–SB250302–00 RB, Issue 001, dated August 21, 2024.

(ii) [Reserved]

(3) For the Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

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

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

Issued on September 23, 2025.

Peter A. White,

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

[FR Doc. 2025–19390 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2025–3424; Project Identifier AD–2025–01362–A; Amendment 39–23164; AD 2025–20–11]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Textron Aviation Inc. (Textron) Model B200GT, B200CGT, B300, and B300C airplanes. This AD was prompted by a report of rudder control pushrod failure during a production ground run, caused by sheared rivets off of a rudder control pushrod. This AD requires a visual inspection of the attaching rivets of the pilot and copilot rudder control pushrods for incorrect rivets and replacement if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 17, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 17, 2025.

The FAA must receive comments on this AD by November 17, 2025.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–3424; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Beechcraft material identified in this AD, contact Textron, One Cessna Boulevard, Wichita, KS 67215; phone: (316) 517–6061; email: *customercare@txtav.com*; website: *www.txtav.com*.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2025–3424.

FOR FURTHER INFORMATION CONTACT:

David Enns, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (316) 946–4147; email: *david.enns@faa.gov*.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2025–3424; Project Identifier AD–2025–01362–A” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket

of this AD. Submissions containing CBI should be sent to David Enns, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received a report that, during a production ground run for a Textron Model B200GT airplane, two rivets sheared off of a rudder control pushrod, causing the rudder control pushrod to fail. It was discovered that an incorrect type of rivet may have been installed during installation of the rudder control pushrod end that does not meet the strength requirements of the type design. Failure of a rudder control pushrod may result in a rudder jam or loss of rudder control. This condition, if not addressed, could result in loss of control of the airplane during flight or ground operations. The FAA is issuing this AD to address the unsafe condition on these products.

FAA’s Determination

The FAA is issuing this AD because the agency determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Beechcraft Mandatory Service Letter MTL–27–07, dated July 25, 2025 (Beechcraft Mandatory SL MTL–27–07), which specifies procedures for a visual inspection of the attaching rivets of the pilot and copilot rudder control pushrods for incorrect rivets and replacement if necessary. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

AD Requirements

This AD requires accomplishing the actions specified in Beechcraft Mandatory SL MTL–27–07 described previously.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this

section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has determined that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because incorrect rivets used during installation of the rudder control pushrod do not meet the strength requirements of the type design. Failure of a rudder control pushrod may result in a rudder jam or loss of rudder

control. Rudders are critical components to maintaining controlled flight and a rudder jam could lead to a loss of rudder control, and loss of control of the airplane. This condition could result at any time and without warning. Thus, the FAA has determined that the airplanes must be inspected within 20 hours time-in-service or 30 days, whichever occurs first. This compliance time is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in

less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 89 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect rudder control pushrod rivets	8 work-hours × \$85 per hour = \$680	\$0	\$680	\$60,520

The FAA estimates the following costs to do any necessary replacements that would be required based on the

results of the inspection. The agency has no way of determining the number of

airplanes that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace rudder control pushrod rivets.	16 work-hours × \$85 per hour = \$1,360	\$65	\$1,425

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–20–11 Textron Aviation Inc.:
Amendment 39–23164; Docket No. FAA–2025–3424; Project Identifier AD–2025–01362–A.

(a) Effective Date

This airworthiness directive (AD) is effective October 17, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Textron Aviation Inc. Model airplanes, certificated in any category, identified in paragraphs (c)(1) through (4) of this AD.

(1) Model B200GT, serial numbers (S/Ns) BY-335, BY-356, BY-443, BY-453, BY-454.

(2) Model B200CGT, S/Ns BZ-4 through BZ-9.

(3) Model B300, S/Ns FL-1173 through FL-1175 inclusive, FL-1177, FL-1181, FL-1184 through FL-1186 inclusive, FL-1189, FL-1193, FL-1197 through FL-1202 inclusive, FL-1210, FL-1211, FL-1213, FL-1218, FL-1220 through FL-1222 inclusive, FL-1225, FL-1228 through FL-1230 inclusive, FL-1232, FL-1233, FL-1240 through FL-1242 inclusive, FL-1244, FL-1245, FL-1249 through FL-1251 inclusive, FL-1253, FL-1257 through FL-1259 inclusive, FL-1262, FL-1265, FL-1266, FL-1269, FL-1271, FL-1275, FL-1276, FL-1277, FL-1280, FL-1284, FL-1286, FL-1287, FL-1290, FL-1291, FL-1293, FL-1296, FL-1305, FL-1310, FL-1315 through FL-1317 inclusive, FL-1319, and FL-1320.

(4) Model B300C, S/Ns FM-78 through FM-86, FM-88, FM-90 through FM-92 inclusive, FM-94, FM-96 through FM-107 inclusive, and FM-110.

(d) Subject

Joint Aircraft System Component (JASC) Code 2720, Rudder Control System.

(e) Unsafe Condition

This AD was prompted by a report of rudder control pushrod failure during a production ground run caused by sheared rivets off of a rudder control pushrod. The FAA is issuing this AD to detect and address incorrect rivets. The unsafe condition, if not addressed, could result in rudder jam or loss of rudder control, which could lead to loss of control of the airplane during flight or ground operations.

(f) Compliance

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

(g) Required Actions

(1) Within 20 hours time-in-service or 30 days, whichever occurs first after the effective date of this AD, do a visual inspection of the attaching rivets of the pilot and copilot rudder control pushrods for incorrect rivets in accordance with the Accomplishment Instructions, paragraphs 4. and 5., of Beechcraft Mandatory Service Letter (SL) MTL-27-07, dated July 25, 2025 (Beechcraft Mandatory SL MTL-27-07).

(2) Depending on the results of the visual inspection required by paragraph (g)(1) of this AD, do the following, as applicable:

(i) If two soft rivets are found adjacent to each other on the same rod end for one rudder control pushrod, before further flight, replace with rivet part number MS20470AD4-12 in accordance with the Accomplishment Instructions, paragraph 7., of Beechcraft Mandatory SL MTL-27-07.

(ii) If one soft rivet and one hard rivet are installed on any of the four rod ends, within 200 flight hours or 12 months of the visual

inspection required by paragraph (g)(1) of this AD, whichever occurs first after the effective date of this AD, replace the soft rivet with rivet part number MS20470AD4-12 in accordance with the Accomplishment Instructions, paragraph 7., of Beechcraft Mandatory SL MTL-27-07.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Additional Information

For more information about this AD, contact David Enns, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (316) 946-4147; email: david.enns@faa.gov.

(j) Material Incorporated by Reference

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

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

(i) Beechcraft Mandatory Service Letter MTL-27-07, dated July 25, 2025.

(ii) [Reserved]

(3) For Beechcraft material identified in this AD, contact Textron Aviation Inc., One Cessna Boulevard, Wichita, KS 67215; phone: (316) 517-6061; email: customer care@txtav.com; website: www.txtav.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued on September 30, 2025.

Steven W. Thompson,

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

[FR Doc. 2025-19354 Filed 9-30-25; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2025-1358; Project Identifier AD-2025-00620-T; Amendment 39-23152; AD 2025-19-12]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes. This AD was prompted by a report of improper grinding of the inner diameter of the main landing gear (MLG) outer cylinders, resulting in possible heat damage to the outer cylinders. This AD requires a records check or inspection to determine if an affected outer cylinder is installed and replacing all affected outer cylinders. The FAA is issuing this AD to address the unsafe condition on these products. **DATES:** This AD is effective November 6, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 6, 2025.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2025-1358; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; website myboeingfleet.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2025-1358.

FOR FURTHER INFORMATION CONTACT:

Stefanie Roesli, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3964; email: stefanie.n.roesli@faa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM was published in the *Federal Register* on July 8, 2025 (90 FR 30027). The NPRM was prompted by a report of improper grinding of the inner diameter of the MLG outer cylinders, resulting in possible heat damage to the outer cylinders. In the NPRM, the FAA proposed to require a records check or inspection to determine if an affected outer cylinder is installed and replacing all affected outer cylinders. The FAA is issuing this AD to address heat damage to the MLG outer cylinders. The unsafe condition, if not addressed, could cause failure of a principal structural element to sustain its limit load or collapse of the MLG, which could result in loss of

control of the airplane or runway departure.

Discussion of Final Airworthiness Directive**Comments**

The FAA received comments from the Air Line Pilots Association, International (ALPA) and Boeing who supported the NPRM without change.

The FAA received an additional comment from Aviation Partners Boeing (APB). The following presents the comment received on the NPRM and the FAA's response to the comment.

Effect of Winglets on Accomplishment of the Proposed Actions

APB stated that the installation of winglets per Supplemental Type Certificate (STC) ST00830SE does not affect accomplishment of the actions specified in the proposed AD.

The FAA agrees that STC ST00830SE does not affect the ability to accomplish the actions required by this AD. The FAA has not changed the AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires

adopting this AD as proposed.

Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–32A1585 RB, dated January 15, 2024. This material specifies procedures for performing a maintenance records check or an inspection of the left and right MLG outer cylinders to determine if any affected part numbers and serial numbers are installed and replacing affected outer cylinders. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 1,833 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection or maintenance records check for affected parts.	2 work-hours × \$85 per hour = \$170	\$0	\$170	\$311,610

The FAA estimates the following costs to do any replacement that would be required based on the results of the

inspection or maintenance records check. The agency has no way of

determining the number of airplanes that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of MLG outer cylinder (166 affected parts).	62 work-hours × \$85 per hour = \$5,270	\$265,000	\$270,270 per MLG outer cylinder.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA

with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a

substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–19–12 The Boeing Company:
Amendment 39–23152; Docket No. FAA–2025–1358; Project Identifier AD–2025–00620–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 6, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of improper grinding of the inner diameter of the main landing gear (MLG) outer cylinders, resulting in possible heat damage to the outer cylinder. The FAA is issuing this AD to address heat damage to the MLG outer cylinders. The unsafe condition, if not addressed, could cause failure of a principal structural element to sustain its limit load or collapse of the MLG, which could result in loss of control of the airplane or runway departure.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 737–32A1585 RB, dated January 15, 2024, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing

Alert Requirements Bulletin 737–32A1585 RB, dated January 15, 2024.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–32A1585, dated January 15, 2024, which is referred to in Boeing Alert Requirements Bulletin 737–32A1585 RB, dated January 15, 2024.

(h) Exception to Requirements Bulletin Specifications

Where the “Boeing Recommended Compliance Time” column in the table under the “Compliance” paragraph of Boeing Alert Requirements Bulletin 737–32A1585 RB, dated January 15, 2024, refers to the original issue date of Boeing Alert Requirements Bulletin 737–32A1585 RB, this AD requires using the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact Stefanie Roesli, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3964; email: stefanie.n.roesli@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (k)(3) this AD.

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737–32A1585 RB, dated January 15, 2024.

(ii) [Reserved]

(3) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services

(C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

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

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

Issued on September 19, 2025.

Peter A. White,

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

[FR Doc. 2025–19392 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–3421; Project Identifier MCAI–2025–01202–G; Amendment 39–23160; AD 2025–20–07]

RIN 2120–AA64

Airworthiness Directives; Fiberglass-Technik Rudolf Lindner GmbH & Co. KG (Type Certificate Previously Held by GROB Aircraft AG, Grob Aerospace GmbH i.L., Grob Aerospace GmbH, Burkhart Grob Luft- und Raumfahrt GmbH & Co. KG) Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Fiberglass-Technik Rudolf Lindner GmbH & Co. KG Model G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G 103 C TWIN III SL gliders. This AD was prompted by a report of corrosion on the inner sides of the welded steel rudder drive plate. This AD requires repetitive inspections and a one-time detailed inspection of the rudder drive plate for corrosion and water entry and a modification of the rudder drive plate to improve corrosion protection, as applicable. This AD also requires replacement of the rudder if corrosion is found during the inspections that exceed light surface rust. This AD also requires applying additional sealing to the rudder drive plate, which constitutes terminating action for the repetitive inspections. The

FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 17, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 17, 2025.

The FAA must receive comments on this AD by November 17, 2025.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–3421; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Fiberglass-Technik Rudolf Lindner material identified in this AD, contact Fiberglass-Technik Rudolf Lindner GmbH & Co. KG, Steige 3 Walpertshofen, Germany; phone: +49 (0) 7353 22 43; email: *info@LTB-Lindner.com*; website: *ltb-lindner.com*.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2025–3421.

FOR FURTHER INFORMATION CONTACT: Adam Hein, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4116; email: *adam.hein@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2025–3421; Project Identifier

MCAI–2025–01202–G” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

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

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0140, dated July 7, 2025 (referred to as “the MCAI”), to correct an unsafe condition on all Fiberglass-Technik Rudolf Lindner GmbH & Co. KG Model G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III, G103C TWIN III ACRO, and G 103 C TWIN III SL sailplanes (gliders).

The MCAI states that corrosion was found on the inner sides of the welded drive plate during a teardown inspection of a rudder. This condition, if not detected and corrected, could affect the structural integrity of the rudder drive plate, which could lead to

reduced control or loss of control of the glider. The MCAI requires repetitive inspections of the rudder drive plate for corrosion and possible water entry and a one-time detailed inspection and modification of the rudder drive plate either immediately or at the next service life extension inspection, depending on the results of the inspection. The MCAI also requires replacement of the rudder assembly if corrosion is found during the inspections that exceed light surface rust. The MCAI also requires applying additional sealing to the rudder drive plate, which constitutes terminating action for the repetitive inspections.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–3421.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Fiberglass-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025. This material specifies procedures for inspecting the rudder drive plate for corrosion and water entry, modifying the rudder drive plate to improve corrosion protection, applying additional sealing, and replacing the rudder. This material contains German to English translation.

The European Union Aviation Safety Agency (EASA) used the English translation in referencing the document. For enforceability purposes, the FAA will refer to the Fiberglass-Technik Rudolf Lindner service material in English as it appears on the document.

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

FAA’s Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in the material already described, except as discussed under “Differences Between this AD and the Service Material and MCAI.”

Differences Between This AD and the Service Material and MCAI

While the MCAI applies to Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Model G103C TWIN III gliders, this AD does not because this model does not have an FAA type certificate. Fiberglas-Technik Rudolf Lindner Service Bulletin SB-G10, Revision 1, dated February 27, 2025, requires replacing the rudder or contacting the manufacturer for approved instructions if corrosion exceeding light surface rust is detected. This AD requires replacing the rudder or contacting either the Manager, International Validation Branch, FAA; or EASA; or Fiberglas-Technik Rudolf Lindner GmbH & Co. KG's EASA Design Organization Approval (DOA) for approved instructions if corrosion exceeding light surface rust is detected. If approved by the DOA, the approval must include the DOA-authorized signature.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good

cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because corrosion on the inner sides of the welded steel rudder drive plate could affect the structural integrity of the rudder drive plate and lead to reduced control or loss of control of the glider. Additionally, the glider fleet has an average age of 5,400 flight hours, and due to limitations in general aviation reporting, the exact age of each glider is unknown. Based on the fleet's age distribution and an average of 10 hours time-in-service (TIS) per month, it is estimated that certain gliders will require the one-time inspection and modification within 50 hours TIS or 3

months, whichever occurs first, which is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 68 gliders of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect rudder drive plate	1 work-hour × \$85 per hour = \$85 per inspection cycle.	\$0	\$85 per inspection cycle	\$5,780 per inspection cycle.
Detailed inspection of rudder drive plate.	4 work-hours × \$85 per hour = \$340.	0	\$340	\$23,120.
Apply sealing	1 work-hour × \$85 per hour = \$85	0	\$85	\$5,780.
Re-install rudder	1 work-hour × \$85 per hour = \$85	0	\$85	\$5,780.

The FAA estimates the following costs to do any necessary modification or replacement of the rudder that would

be required based on the results of the inspection. The agency has no way of determining the number of gliders that

might need the modification or replacement.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace rudder	2 work-hours × \$85 per hour = \$170	\$6,582	\$6,752

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in

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

develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–20–07 Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificate previously held by GROB Aircraft AG, Grob Aerospace GmbH i.l., Grob Aerospace GmbH, Burkhart Grob Luft- und Raumfahrt GmbH & Co. KG): Amendment 39–23160; Docket No. FAA–2025–3421; Project Identifier MCAI–2025–01202–G.

(a) Effective Date

This airworthiness directive (AD) is effective October 17, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificate previously held by GROB Aircraft AG, Grob Aerospace GmbH i.l., Grob Aerospace GmbH, Burkhart Grob Luft- und Raumfahrt GmbH & Co. KG) Model G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G 103 C TWIN III SL gliders, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2720, Rudder Control System.

(e) Unsafe Condition

This AD was prompted by a report of corrosion on the inner sides of the welded steel rudder drive plate. The FAA is issuing this AD to detect and address corrosion and water entry in the rudder drive plate. The unsafe condition, if not detected and corrected, could affect the structural integrity of the rudder drive plate, which could lead

to reduced control or loss of control of the glider.

(f) Compliance

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

(g) Definition

For the purpose of this AD, a “serviceable rudder” is a rudder which has accumulated zero hours time-in-service (TIS), or a rudder that has been inspected and modified, as necessary, in accordance with paragraphs (h)(1) and (2) of this AD and is found to be crack and corrosion free.

(h) Required Actions

(1) Within 50 hours TIS or 3 months, whichever occurs first after the effective date of this AD, and, thereafter, at intervals not to exceed every 12 months, inspect the rudder drive plate for evidence of corrosion or water entry in accordance with the Actions and Instructions, section A, of Fiberglas-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025.

(2) Perform a one-time detailed inspection of the rudder drive plate in accordance with the Actions and Instructions, section B, steps 1 and 2 of Fiberglas-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025, at whichever compliance time in paragraphs (h)(2)(i) or (ii) of this AD occurs first.

(i) Before further flight if during any inspection as required by paragraph (h)(1) of this AD, evidence of corrosion or water ingress is found; or

(ii) At the next service life extension inspection that occurs after the effective date of this AD.

(3) If, as a result of the inspection required by paragraph (h)(2) of this AD, corrosion of the rudder drive plate is detected that exceeds light surface rust and cannot be removed using steel wool, before further flight, replace the rudder with a serviceable rudder, or contact the Manager, International Validation Branch, FAA; or EASA; or Fiberglas-Technik Rudolf Lindner GmbH & Co. KG EASA Design Organization Approval (DOA) for approved instructions. If approved by the DOA, the approval must include the DOA-authorized signature.

(4) If the rudder is replaced with a serviceable rudder, before further flight, apply additional sealing to the rudder drive plate in accordance with the Actions and Instructions, Section C, of Fiberglas-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025.

(5) If, as a result of the inspection required by paragraph (h)(2) of this AD, light surface rust is detected, before further flight, modify the rudder drive plate in accordance with the Actions and Instructions, section B, steps 4 through 7 of Fiberglas-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025.

(6) If, as a result of the inspection required by paragraph (h)(2) of this AD, no evidence of corrosion or water ingress is detected, before further flight, modify the rudder drive plate in accordance with the Actions and Instructions, section B, steps 5 through 7 of Fiberglas-Technik Rudolf Lindner Service

Bulletin SB–G10, Revision 1, dated February 27, 2025.

(7) Following completion of the modification of the rudder drive plate required by paragraph (h)(5) or (h)(6) of this AD, before further flight, apply additional sealing to the rudder drive plate in accordance with the Actions and Instructions, Section C, of Fiberglas-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025.

(8) Following completion of the sealing application required by paragraph (h)(7) of this AD, re-install the rudder in accordance with the Actions and Instructions, Section D, of Fiberglas-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025.

(9) Application of additional sealing to the rudder drive plate, as required by paragraphs (h)(4) and (h)(7) of this AD, constitutes terminating action for the repetitive inspections required by paragraph (h)(1) of this AD for that glider.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

For more information about this AD, contact Adam Hein, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4116; email: adam.hein@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) Fiberglas-Technik Rudolf Lindner Service Bulletin SB–G10, Revision 1, dated February 27, 2025.

Note 1 to paragraph (k)(2)(i): This material contains German to English translation. The European Union Aviation Safety Agency (EASA) used the English translation in referencing the document. For enforceability purposes, the FAA will refer to the Fiberglas-Technik Rudolf Lindner service material in English as it appears on the document.

(ii) [Reserved]

(3) For Fiberglas-Technik Rudolf Lindner material identified in this AD, contact Fiberglas-Technik Rudolf Lindner GmbH & Co. KG, Steige 3 Walpertshofen, Germany;

phone: +49 (0) 7353 22 43; email: info@LTB-Lindner.com; website: ltb-lindner.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued on September 30, 2025.

Steven W. Thompson,

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

[FR Doc. 2025-19355 Filed 9-30-25; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-1354; Project Identifier MCAI-2025-00012-T; Amendment 39-23154; AD 2025-20-01]

RIN 2120-AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR42-500 and ATR72 airplanes. This AD was prompted by an investigation indicating that an erroneous monitoring of the travel limitation unit (TLU) could occur when the airplane is flying above a certain speed as a result of the logic input from either air data computer (ADC) 1 or ADC2 input. This AD requires modifying airplanes by installing one or two relays and associated wiring and testing of the TLU monitoring logic. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 6, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 6, 2025.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2025-1354; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2025-1354.

FOR FURTHER INFORMATION CONTACT:

Jonathan Duong, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7362; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain ATR—GIE Avions de Transport Régional Model ATR42-500 and ATR72 airplanes. The NPRM was published in the **Federal Register** on July 7, 2025 (90 FR 29802). The NPRM was prompted by AD 2025-0004, dated January 7, 2025 (EASA AD 2025-0004) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that an ATR internal review of the TLU new avionics suite design identified an erroneous behavior of core processing module (CPM) 2, hosting the data concentration application (DCA) 2, that might affect the TLU command, monitoring, and indication. Further investigation results indicated that an erroneous monitoring of the TLU could occur when the airplane is flying above a certain speed due to the logic input from either ADC1 or ADC2 input.

In the NPRM, the FAA proposed to require modification of airplanes by installing one or two relays and associated wiring and testing of the TLU monitoring logic, as specified in EASA AD 2025-0004. The FAA is issuing this

AD to address erroneous behavior of CPM 2, hosting the DCA 2, that could affect the TLU command, monitoring, and indication. This condition, if not corrected, could result in the rudder deflection not being limited at high airplane speed, which, if combined with a large rudder pedal input, could lead to the loss of control of the airplane.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2025-1354.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025-0004, which specifies procedures for modifying airplanes by installing one or two relays and associated wiring. EASA AD 2025-0004 also specifies procedures for an operational test of the TLU monitoring logic after the modification, a functional test of the rudder travel limiter unit, and obtaining and following instructions to correct any failed test. For airplanes on which a previous revision of the applicable service information has been accomplished, EASA AD 2025-0004 specifies accomplishing "Additional Work," which consists of a functional test of the rudder travel limiter unit. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 43 airplanes of U.S. registry. The

FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 15 work-hours × \$85 per hour = \$1,275	Up to \$2,889	Up to \$4,164	Up to \$179,052.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–20–01 ATR—GIE Avions de Transport Régional: Amendment 39–23154; Docket No. FAA–2025–1354; Project Identifier MCAI–2025–00012–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 6, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the ATR—GIE Avions de Transport Régional airplanes identified in paragraphs (c)(1) and (2) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0004, dated January 7, 2025 (EASA AD 2025–0004).

- (1) ATR42–500 airplanes.
- (2) ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by an investigation indicating that an erroneous monitoring of the travel limitation unit (TLU) could occur when the airplane is flying above a certain speed as a result of the logic input from either air data computer (ADC) 1 or ADC2 input. The FAA is issuing this AD to address this condition, which if not detected and corrected, could result in the rudder deflection not being limited at high airplane

speed, which, if combined with a large rudder pedal input, could lead to the loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0004.

(h) Exceptions to EASA AD 2025–0004

(1) Where EASA AD 2025–0004 refers to its effective date, this AD requires using the effective date of this AD.

(2) Paragraph (1) of EASA AD 2025–0004 applies to all airplanes except for airplanes identified in paragraph (4) of EASA AD 2025–0004.

(3) Where paragraph (3) of EASA AD 2025–0004 specifies "as required by paragraph (2) of this AD", this AD requires replacing that text with "as required by paragraphs (2) and (4) of this AD".

(4) Where paragraph (4) of EASA AD 2025–0004 specifies "the additional work", this AD requires replacing that text with "the functional test of the rudder Travel Limiter Unit".

(5) This AD does not adopt the "Remarks" section of EASA AD 2025–0004.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by

the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

For more information about this AD, contact Jonathan Duong, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7362; email: 9-AVS-AIR-BACO-COS@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025-0004, dated January 7, 2025.

(ii) [Reserved]

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

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

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

Issued on September 26, 2025.

Steven W. Thompson,

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

[FR Doc. 2025-19393 Filed 10-1-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-0196; Project Identifier AD-2024-00250-T; Amendment 39-23157; AD 2025-20-04]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019-12-13, which applied to all The Boeing Company Model 757 airplanes. AD 2019-12-13 required repetitive checks of the aileron trim actuator bearing for

free rotation, repetitive detailed inspections of the aileron trim actuator attachment lug for damage and cracking, and applicable on-condition actions.

This AD was prompted by the determination that a modification must be done to address the unsafe condition. This AD retains the actions in AD 2019-12-13. This AD also requires for certain airplanes changing the lateral control box support assembly and installing an aileron trim actuator bracket, and for certain other airplanes replacing the existing actuator lateral control fitting with an aileron trim actuator bracket, which terminates the repetitive checks and inspections. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 6, 2025.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 6, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of July 12, 2019 (84 FR 30577, June 27, 2019).

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2025-0196; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For the Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; website myboeingfleet.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2025-0196.

FOR FURTHER INFORMATION CONTACT:

Katherine Venegas, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562-627-5353; email: katherine.venegas@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019-12-13, Amendment 39-19668 (84 FR 30577, June 27, 2019) (AD 2019-12-13). AD 2019-12-13 applied to all The Boeing Company Model 757 airplanes. The NPRM was published in the **Federal Register** on February 12, 2025 (90 FR 9403). The NPRM was prompted by the determination that a modification must be done to address the unsafe condition. In the NPRM, the FAA proposed to continue to require the actions in AD 2019-12-13. The NPRM also proposed to require for certain airplanes a change to the lateral control box support assembly and installation of an aileron trim actuator bracket, and for certain other airplanes replacement of the existing actuator lateral control fitting with an aileron trim actuator bracket, which terminates the repetitive checks and inspections. The FAA is issuing this AD to address failure of the aileron trim actuator attachment lug and subsequent loss of feel force, wheel centering, and lateral trim. The unsafe condition, if not corrected, could cause over-control of the airplane and subsequent lateral pilot-induced oscillations that could adversely affect continued safe flight and landing.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA), Aviation Partners Boeing, Boeing, United Airlines, and one individual who supported the NPRM without change.

The FAA received additional comments from two commenters, including Delta Air Lines (Delta) and two individuals. One of the comments was outside the scope of this AD. The following presents the relevant comments received on the NPRM and the FAA's response to each comment.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST01518SE does not affect compliance with the proposed AD.

The FAA agrees with the commenter that STC ST01518SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST01518SE does not affect the ability to accomplish the actions required by this AD. The FAA has not changed this AD in this regard.

Request To Change Compliance Time

An individual requested that the FAA change the compliance time for the modification to a phased approach, such as a 24- to 36-month compliance window, to allow operators to accomplish fleet modifications efficiently without disrupting flight operations. The commenter stated that, given the scale of this modification across the Boeing Model 757 fleet, implementing the modifications during scheduled heavy maintenance checks would minimize airplane downtime and supply chain constraints. The commenter also stated that rushing to implement the modifications could lead to parts shortages, maintenance upholds, and operational disruptions. The commenter concluded that a risk-based prioritization approach could ensure higher-risk airplanes are addressed first while maintaining operational stability, and that a flexible timeline will help achieve the intended safety improvements effectively.

The FAA disagrees with changing the compliance time. In developing an appropriate compliance time for this AD, the FAA considered the recommendations of the manufacturer, the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. In consideration of these items, the FAA has determined that compliance time of within 10,000 flight hours or 30 months from the effective date of the AD, whichever occurs first, will ensure an acceptable level of safety. However, under the provisions of paragraph (k) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The FAA also clarifies that operators are allowed to implement the modification at any time within the compliance period during their normal scheduled maintenance. The FAA has not changed the AD in this regard.

Request To Add Note to Paragraph (i) of Proposed AD

Delta requested that the FAA add a note to paragraph (i) of the proposed AD that refers operators to Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024, as a global acceptable method of compliance (AMOC) to the requirement in

paragraph (h) of the proposed AD. Paragraph (h) proposed to require doing the repair using a method approved in accordance with the procedures specified in the AMOC paragraph of the proposed AD instead of contacting Boeing for repair instructions, as specified in Boeing Alert Requirements Bulletin 757–27A0159 RB, dated March 29, 2019, and Revision 1, dated April 29, 2020. The commenter stated that every operator that has not requested Boeing Alert Requirements Bulletin 757–27A0160 RB as an AMOC to paragraph (h) of the proposed AD would each have to submit an AMOC request to use that service bulletin in lieu of repair instructions. Delta stated that identifying Boeing Alert Requirements Bulletin 757–27A0160 RB as an AMOC in the proposed AD would reduce strain on operators and the FAA in processing AMOC requests.

The FAA disagrees with the request. An AMOC to the inspections required by paragraph (g) of this AD, along with the exception in paragraph (h) of this AD, is not necessary if the operator performs the modification in paragraph (i) of this AD. As stated in paragraph (i) of this AD, doing the modification required by this paragraph terminates the inspections required by paragraph (g) of this AD. The FAA has not changed the AD in this regard.

Request To Fix Typographical Errors in Service Information

Delta requested that the FAA address typographical errors in Boeing Service Bulletin 757–27A0160, dated April 1, 2024. Delta stated that under step 2 of “Part 2: Feel and Trim Mechanism Assembly and Aileron Trim Actuator Installation,” the second substep should be renumbered from “a.” to “b.” and the text of that substep should be changed from “Install kept the . . .” to “Install the kept . . .” Delta also stated that substep 3.a. of “Part 3: Restoration,” should be changed from “Restore electrical power from the airplane,” to “Restore electrical power to the airplane.” Delta recognized that these errors are in steps that are not required for compliance but asserted that the information is relevant to completing the modification and the errors do not properly convey the intent of the sentence.

The FAA agrees with the corrections that Delta has identified but no change to this AD is necessary. The FAA reviewed the service information and confirmed the typographical errors occur in steps that are not required for compliance.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 757–27A0159 RB, Revision 1, dated April 29, 2020. This material specifies procedures for repetitive checks of the aileron trim actuator bearing for free rotation, repetitive detailed inspections of the aileron trim actuator attachment lug for damage or cracking, and applicable on-condition actions. On-condition actions include high frequency eddy current (HFEC) inspections of the aileron trim actuator attachment lug for cracking, repair, and replacement. This revision only adds references to AD 2019–12–13 and does not add any new actions.

The FAA also reviewed Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024. This material specifies procedures for modifying the affected airplanes, which includes for certain airplanes changing the lateral control box support assembly (which includes doing a portable method C penetrant inspection of the machined surface of the lug for any crack and repair as applicable) and installing an aileron trim actuator bracket, and for certain other airplanes replacing the existing actuator lateral control fitting with an aileron trim actuator bracket. Accomplishment of the modification terminates the repetitive checks and inspections specified in Boeing Alert Requirements Bulletin 757–27A0159 RB.

This AD also requires Boeing Alert Requirements Bulletin 757–27A0159 RB, dated March 29, 2019, which the Director of the Federal Register approved for incorporation by reference as of July 12, 2019 (84 FR 30577, June 27, 2019).

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

Costs of Compliance

The FAA estimates that this AD affects 460 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive inspections (retained actions from AD 2019-12-13).	3 work-hours × \$85 per hour = \$255 per inspection cycle.	\$0	\$255 per inspection cycle	\$117,300 per inspection cycle.
Install aileron trim actuator bracket (new required action).	6 work-hours × \$85 per hour = \$510.	3,820	\$4,330	\$1,991,800.
Change the lateral control box assembly for Groups 1, 4, and 5 (new required action).	2 work-hours × \$85 per hour = \$170.	0	\$170	\$69,020.*

* The number of airplanes in Groups 1, 4, and 5, as identified in Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024, is estimated to be 406.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on

the results of the inspection. The agency has no way of determining the number

of aircraft that might need these on-condition actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement (retained actions from AD 2019-12-13)	4 work-hours × \$85 per hour = \$340	\$17,693	\$18,033
HFEC inspection (retained actions from AD 2019-12-13)	1 work-hour × \$85 per hour = \$85	0	85

The FAA has received no definitive data on which to base the cost estimates for the on-condition repair specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive (AD) 2019–12–13, Amendment 39–19668 (84 FR 30577, June 27, 2019); and
- b. Adding the following new AD:

2025–20–04 The Boeing Company: Amendment 39–23157; Docket No. FAA–2025–0196; Project Identifier AD–2024–00250–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 6, 2025.

(b) Affected ADs

This AD replaces AD 2019–12–13, Amendment 39–19668 (84 FR 30577, June 27, 2019) (AD 2019–12–13).

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200CB, –200PF, and –300 series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by a report of the failure of the aileron trim actuator attachment lug. The FAA is issuing this AD to address failure of the aileron trim actuator attachment lug and subsequent loss of feel force, wheel centering, and lateral trim. The unsafe condition, if not corrected, could cause over-control of the airplane and subsequent lateral pilot-induced oscillations, which could adversely affect continued safe flight and landing.

(f) Compliance

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

(g) Retained Required Actions, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2019–12–13, with revised service information. Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 757–27A0159 RB,

Revision 1, dated April 29, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–27A0159 RB, dated March 29, 2019, or Boeing Alert Requirements Bulletin 757–27A0159 RB, Revision 1, dated April 29, 2020. As of the effective date of this AD, only use Boeing Alert Requirements Bulletin 757–27A0159 RB, Revision 1, dated April 29, 2020, for the actions required by this paragraph.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–27A0159, dated March 29, 2019, which is referred to in Boeing Alert Requirements Bulletin 757–27A0159 RB, dated March 29, 2019.

Note 2 to paragraph (g): Guidance for accomplishing the actions required by this AD can also be found in Boeing Alert Service Bulletin 757–27A0159, Revision 1, dated April 29, 2020, which is referred to in Boeing Alert Requirements Bulletin 757–27A0159 RB, Revision 1, dated April 29, 2020.

(h) Retained Exception, With Revised Service Information

This paragraph restates the requirements of paragraph (h)(2) of AD 2019–12–13, with revised service information. Where Boeing Alert Requirements Bulletin 757–27A0159 RB, dated March 29, 2019, and Boeing Alert Requirements Bulletin 757–27A0159 RB, Revision 1, dated April 29, 2020, specify contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) New Required Actions

Except as specified by paragraph (j) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024. Doing the modification required in this paragraph terminates the inspections required by paragraph (g) of this AD.

Note 3 to paragraph (i): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–27A0160, dated April 1, 2024, which is referred to in Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024.

(j) Exceptions to Requirements Bulletin Specifications

(1) Where the Compliance Time columns of the tables in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024, refer to the original issue date of Requirements Bulletin 757–27A0160 RB, this AD requires using the effective date of this AD.

(2) Where Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in

accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(3) AMOCs approved for AD 2019–12–13 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(l) Related Information

(1) For more information about this AD, contact Katherine Venegas, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5353; email: katherine.venegas@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (m)(5) of this AD.

(m) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on November 6, 2025.

(i) Boeing Alert Requirements Bulletin 757–27A0159 RB, Revision 1, dated April 29, 2020.

(ii) Boeing Alert Requirements Bulletin 757–27A0160 RB, dated April 1, 2024.

(4) The following material was approved for IBR on July 12, 2019 (84 FR 30577, June 27, 2019).

(i) Boeing Alert Requirements Bulletin 757–27A0159 RB, dated March 29, 2019.

(ii) [Reserved]

(5) For the Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600;

telephone 562–797–1717; website myboeingfleet.com.

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

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

Issued on September 26, 2025.

Peter A. White,

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

[FR Doc. 2025–19394 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31628; Amdt. No. 4186]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective October 2, 2025. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 2, 2025.

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

For Examination

- 1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590-0001;
- 2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
- 3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
- 4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Availability

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

FOR FURTHER INFORMATION CONTACT: Gary W. Petty, Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954-1139.

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

publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on September 26, 2025.

Gary W. Petty,

Aviation Safety, Flight Standards Service Manager (Acting), Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

***Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
30-Oct-25	TX	Abilene	Abilene Rgnl	5/1006	5/15/2025	LOC RWY 17R, Orig-B.

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
30-Oct-25	TX	Abilene	Abilene Rgnl	5/1007	5/15/2025	ILS OR LOC RWY 35R, Amdt 7B.

[FR Doc. 2025-19399 Filed 10-1-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31627; Amdt. No. 4185]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective October 2, 2025. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 2, 2025.

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

For Examination

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

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

3. The office of Aeronautical Information Services, 6500 South

MacArthur Blvd., Oklahoma City, OK 73169 or,

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

Availability

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

FOR FURTHER INFORMATION CONTACT: Gary W. Petty, Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954-1139.

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

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and

ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which

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

Lists of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on September 26, 2025.

Gary W. Petty,

Aviation Safety, Flight Standards Service Manager (Acting), Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 30 October 2025

Rochester, IN, RCR, RNAV (GPS) RWY 11, Amdt 1B
 South Bend, IN, SBN, ILS OR LOC RWY 27L, ILS RWY 27L (SA CAT I), ILS RWY 27L (SA CAT II), Amdt 38
 New Orleans, LA, MSY, ILS OR LOC RWY 2, Amdt 20B
 New Orleans, LA, MSY, ILS OR LOC RWY 11, ILS RWY 11 (SA CAT I), ILS RWY 11 (CAT II), ILS RWY 11 (CAT III), Amdt 5C
 New Orleans, LA, MSY, ILS OR LOC RWY 29, Amdt 10B
 New Orleans, LA, MSY, LOC RWY 20, Amdt 3B
 New Orleans, LA, MSY, RNAV (GPS) RWY 2, Amdt 3A
 New Orleans, LA, MSY, RNAV (GPS) Y RWY 11, Amdt 2D

New Orleans, LA, MSY, RNAV (GPS) Y RWY 20, Amdt 3B
 New Orleans, LA, MSY, RNAV (GPS) Y RWY 29, Amdt 4B
 New Orleans, LA, MSY, VOR/DME RWY 11, Amdt 1B
 Devils Lake, ND, DVL, RNAV (GPS) RWY 21, Amdt 1C
 Auburn, NE, K01, RNAV (GPS) RWY 16, Amdt 1
 Auburn, NE, K01, RNAV (GPS) RWY 34, Orig-B
 Neligh, NE, 4V9, RNAV (GPS) RWY 1, Amdt 1
 Neligh, NE, 4V9, RNAV (GPS) RWY 19, Amdt 1
 White Plains, NY, HPN, ILS OR LOC RWY 34, Amdt 6
 White Plains, NY, HPN, RNAV (GPS) Y RWY 34, Amdt 4
 Sioux Falls, SD, KFSD, RADAR–1, Amdt 11
 Sioux Falls, SD, FSD, RNAV (GPS) RWY 21, Amdt 2A
 Fort Atkinson, WI, 61C, RNAV (GPS) RWY 3, Amdt 1B
 Fort Atkinson, WI, 61C, RNAV (GPS) RWY 21, Amdt 1B

Effective 27 November 2025

Deadhorse, AK, SCC/PASC, VOR RWY 6, Amdt 4
 Deadhorse, AK, SCC/PASC, VOR Z RWY 24, Amdt 6
 Togiak Village, AK, TOG/PATG, RNAV (GPS) RWY 21, Amdt 2
 Tok, AK, 6K8/PFTO, EGAXE (RNAV) ONE, Graphic DP
 Tok, AK, PFTO, GULKANA ONE, Graphic DP, CANCELED
 Tok, AK, 6K8/PFTO, Takeoff Minimums and Obstacle DP, Amdt 3
 Atmore, AL, 0R1, RNAV (GPS) RWY 18, Amdt 2A
 Atmore, AL, 0R1, RNAV (GPS) RWY 36, Amdt 2A
 Little Rock, AR, LIT, ILS OR LOC RWY 4L, Amdt 27
 Little Rock, AR, LIT, ILS OR LOC RWY 4R, Amdt 3
 Little Rock, AR, LIT, ILS OR LOC RWY 22L, Amdt 1
 Little Rock, AR, LIT, ILS OR LOC RWY 22R, ILS RWY 22R (SA CAT I), ILS RWY 22R (CAT II), ILS RWY 22R (CAT III), Amdt 4
 Little Rock, AR, LIT, VOR–A, Orig-E, CANCELED
 Santa Ana, CA, SNA, RNAV (GPS) Y RWY 2L, Amdt 4
 Algonia, IA, AXA, RNAV (GPS) RWY 13, Amdt 1
 Algonia, IA, AXA, RNAV (GPS) RWY 31, Amdt 2
 Algonia, IA, KAXA, Takeoff Minimums and Obstacle DP, Amdt 5
 Chicago/Prospect Heights/Wheeling, IL, PWK, RNAV (GPS) RWY 30, Amdt 1
 Chicago/West Chicago, IL, DPA, ILS OR LOC RWY 10, Amdt 9
 Bloomington, IN, BMG, RNAV (GPS) RWY 6, Orig-E
 Bloomington, IN, BMG, RNAV (GPS) RWY 17, Amdt 1D
 Bloomington, IN, BMG, RNAV (GPS) RWY 24, Orig-D
 Bloomington, IN, BMG, RNAV (GPS) RWY 35, Amdt 1C

Chanute, KS, CNU, RNAV (GPS) RWY 36, Amdt 1
 Chanute, KS, CNU, Takeoff Minimums and Obstacle DP, Amdt 1
 Bedford, MA, BED, RNAV (GPS) RWY 29, Orig
 Salisbury, MD, SBY, ILS OR LOC RWY 32, Amdt 9
 Salisbury, MD, SBY, RNAV (GPS) RWY 32, Amdt 3
 Benton Harbor, MI, BEH, RNAV (GPS) RWY 10, Amdt 2
 Dowagiac, MI, C91, RNAV (GPS) RWY 9, Amdt 1
 Dowagiac, MI, C91, RNAV (GPS) RWY 27, Amdt 1
 Kalamazoo, MI, AZO, RNAV (GPS) RWY 5, Amdt 1B
 Lansing, MI, LAN, ILS OR LOC RWY 10R, Amdt 11C
 Lansing, MI, LAN, RNAV (GPS) RWY 10R, Amdt 1A
 South Haven, MI, LWA, RNAV (GPS) RWY 5, Amdt 1G
 South Haven, MI, LWA, RNAV (GPS) RWY 23, Amdt 1H
 St Paul, MN, STP, ILS OR LOC RWY 14, Amdt 3
 St Paul, MN, STP, ILS OR LOC RWY 32, Amdt 7
 St Paul, MN, STP, RNAV (GPS) RWY 32, Amdt 2
 Marshall, MO, MHL, RNAV (GPS) RWY 36, Amdt 3D
 Jamestown, NY, JHW, ILS OR LOC RWY 25, Amdt 8B
 Reading, PA, RDG, RNAV (GPS) RWY 31, Amdt 1
 Morristown, TN, KMOR, Takeoff Minimums and Obstacle DP, Amdt 7
 Norfolk, VA, CPK, ILS OR LOC RWY 5, Amdt 2
 Norfolk, VA, CPK, RNAV (GPS) RWY 5, Amdt 1D
 Suffolk, VA, SFQ, LOC RWY 4, Amdt 7
 Suffolk, VA, SFQ, RNAV (GPS) RWY 4, Amdt 5
 Wallops Island, VA, WAL, TACAN RWY 10, Orig
 Wallops Island, VA, WAL, VOR/DME OR TACAN RWY 10, Amdt 6B, CANCELED
 Appleton, WI, ATW, RNAV (GPS) RWY 12, Amdt 1C
 Cody, WY, COD, RNAV (GPS) RWY 4, Amdt 2

[FR Doc. 2025–19398 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 242

[Release No. 34–104147; File No. S7–29–22]

RIN 3235–AN22

Extension of Compliance Date for Disclosure of Order Execution Information

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; extension of compliance date.

SUMMARY: The Securities and Exchange Commission (“Commission”) is extending the compliance date for the amendments to the rules requiring the disclosure of order executions in national market system (“NMS”) stocks from December 14, 2025, to August 1, 2026.

DATES: *Effective Date:* The effective date for this release is October 2, 2025.

Compliance Date: The compliance date for the amendments to Rules 600 and 605 of Regulation NMS, published on April 15, 2024, at 89 FR 26428, is extended from December 14, 2025, to August 1, 2026.

FOR FURTHER INFORMATION CONTACT: Kathleen Gross, Senior Special Counsel; Lauren Yates, Senior Special Counsel; Susie Cho, Special Counsel; or David Michehl, Special Counsel at (202) 551–5500, Division of Trading and Markets, Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Discussion

On March 6, 2024, the Commission adopted amendments to 17 CFR 242.600 and 17 CFR 242.605 (“Rule 605”), which, among other things, expand the scope of entities subject to Rule 605 (including larger broker-dealers, in addition to market centers), modify the categorization and content of information required to be disclosed in the detailed execution quality reports published under Rule 605 (including by modifying the scope of covered orders subject to disclosures), and require reporting entities to produce a summary report of execution quality in addition to the existing detailed disclosures regarding execution quality for covered orders in NMS stocks (“Rule 605 Amendments”).¹

The Commission addressed the compliance date for the Rule 605 Amendments in the Adopting Release.² The effective date of the Rule 605 Amendments was June 14, 2024 (“Effective Date”). In the Adopting Release, the Commission stated that the compliance date for the Rule 605 Amendments will be 18 months after the Effective Date (“Compliance Date”).³

Accordingly, the Compliance Date is December 14, 2025. The Commission stated that the Compliance Date was designed to allow time for participants to amend the National Market System Plan Establishing Procedures Under Rule 605 of Regulation NMS (the “Rule 605 NMS Plan”), which addresses procedures for making Rule 605 reports available in a uniform, readily accessible, and usable electronic format, and time for brokers, dealers, and market centers to comply with Rule 605 as amended.⁴ The Commission recognized that preexisting market centers and vendors will need time to update their systems and processes to ensure that data responsive to the amended Rule 605 requirements are correctly collected and formatted, and that larger broker-dealers and market centers newly subject to Rule 605 will need time to create such systems and processes.⁵

Since the Rule 605 Amendments were adopted, Commission staff has been working with market participants to address certain technical and interpretative issues relating to the implementation of the amended rule. In connection with these efforts, market participants have requested additional time to implement the Rule 605 Amendments. For instance, in March 2025, the Financial Information Forum (“FIF”) raised concerns about whether the Compliance Date was feasible. FIF stated that it had requested that the Commission provide written clarification or guidance on numerous issues and scenarios given the “complexity of the Rule 605 reporting requirements and the complexity of order types and order handling processes in the market”⁶ and that its members were unclear about the timing

Compliance Date, “Rule 605’s price improvement statistics that are relative to the best available displayed price will not be required to be reported until six months after odd-lot order information needed to calculate the best available displayed price is made available pursuant to an effective national market system plan.” See Adopting Release, 89 FR at 26482. The Commission is not altering this aspect of the rule and compliance with this aspect of Rule 605 is therefore required beginning November 2026. See also *infra* note 20.

⁴ See Adopting Release, 89 FR at 26497.

⁵ See Adopting Release, 89 FR at 26496.

⁶ See Letter from Howard Meyerson, Managing Director, FIF, dated Mar. 17, 2025 (“FIF II”), at 1–2, available at <https://fif.com/index.php/working-groups/category/271-comment-letters?download=3215:fif-letter-to-the-sec-relating-to-the-implementation-of-the-2024-amendments-to-rule-605&start=20&view=category> (citing Letter from Howard Meyerson, Managing Director, FIF, dated June 24, 2024 (“FIF I”), at 1, available at <https://fif.com/index.php/working-groups/category/271-comment-letters?download=2954:fif-letter-to-the-sec-relating-to-the-implementation-of-the-sec-amendments-to-rule-605&start=60&view=category>).

and content of a Rule 605 NMS Plan amendment.⁷ FIF also stated that “FIF members are unable to determine the timeline that would be required for reporting firms to implement the Rule 605 amendments.”⁸ In August 2025, FIF submitted an additional comment letter asking for an extension of the Compliance Date “as soon as possible.”⁹ In addition, FIF requested that the Commission set the compliance date for the Rule 605 amendments as the first day of a calendar month because “implementing the Rule 605 amendments mid-month would be very costly for market participants” and would be “throwaway work that would only apply for one specific month.”¹⁰

After consideration of these requests, and for the reasons described below, the Commission is extending the compliance date for the Rule 605 Amendments to August 1, 2026. Beginning on August 1, 2026, market centers, brokers, and dealers subject to Rule 605 must begin to collect the information needed to prepare the execution quality reports required under the Rule 605 Amendments.¹¹ This extension will provide market centers, brokers, and dealers with additional time to develop or modify the systems and processes necessary to collect and make publicly available the data required by the Rule 605 Amendments, while complying with required formats and procedures.¹² The extension will also provide market participants with

⁷ See FIF II, at 2. See also FIF I, at 2 (stating that the Rule 605 Amendments “can only be implemented as designed” if the participants to the Rule 605 NMS Plan update the procedures for Rule 605 reporting).

⁸ FIF II, at 2. See also FIF I, at 25 (requesting a minimum implementation period of one year from the date that the Commission provides written guidance in response to the issues and questions set forth in their letter).

⁹ Letter from Howard Meyerson, Managing Director, FIF, dated Aug. 20, 2025 (“FIF III”), at 2, available at <https://fif.com/index.php/working-groups/category/271-comment-letters?download=3359:fif-letter-to-the-sec-relating-to-the-implementation-of-rule-605&view=category> Implementation of Rule 605.

¹⁰ FIF III, at 3. See also FIF I, at 25.

¹¹ 17 CFR 242.605(a)(6) requires market centers, brokers, and dealers to make the Rule 605 detailed and summary reports publicly available within one month after the end of the month addressed in the report. Thus, reporting entities will have until the end of September 2026 to make their August 2026 reports publicly available.

¹² The Commission recently approved an amendment to the Rule 605 NMS Plan to reflect the Rule 605 Amendments and has issued schemas, PDF renderers, sample reports, and technical specifications for the new Rule 605 summary reports (collectively, “Rule 605 Formats and Fields Documents”). See Securities Exchange Act Release No. 103939 (Sept. 10, 2025), 90 FR 44438 (Sept. 15, 2025) and <https://www.sec.gov/data-research/taxonomies-schemas/technical-specifications-schemas>.

¹ See Securities Exchange Act Release No. 99679 (Mar. 6, 2024), 89 FR 26428 (Apr. 15, 2024) (“Adopting Release”).

² See Adopting Release, 89 FR at 26495–97.

³ See Adopting Release, 89 FR at 26496. Paragraphs (a)(1)(ii)(M) through (Q) of Rule 605 require reporting entities to calculate price improvement statistics relative to the best available displayed price. In the Adopting Release, the Commission stated that, notwithstanding the

time to continue to work with Commission staff to address outstanding interpretative and compliance questions. An extension of the compliance date until August 1, 2026, strikes an appropriate balance between the goal of the Rule 605 Amendments to update and improve the disclosure of execution quality information and market participants' request for additional time for implementation of the Rule 605 Amendments.¹³ In addition, to address concerns about unnecessary costs associated with implementing the requirements mid-month, the extension will align the monthly disclosure obligation with the beginning of a month.

II. Economic Analysis

The Commission is mindful of the economic effects, including the benefits and costs, of the compliance date extension. Section 3(f) of the Securities Exchange Act of 1934 ("Exchange Act") requires the Commission, when it is engaged in rulemaking pursuant to the Exchange Act and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.¹⁴ In addition, Exchange Act section 23(a)(2) requires the Commission, when making rules pursuant to the Exchange Act, to consider among other matters the impact that any such rule would have on competition and not to adopt any rule that would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.¹⁵

The baseline against which the benefits, costs, and the effects on efficiency, competition, and capital formation of the compliance date extension are measured consists of the current state of the market for NMS stocks, current practices related to reporting under preexisting Rule 605, and changes in reporting requirements brought by the Rule 605 Amendments.¹⁶ As discussed above,¹⁷ pursuant to the Adopting Release, the Compliance Date for the Rule 605 Amendments is December 14, 2025, but market participants have stated that additional time is needed to implement the Rule

605 Amendments, and that a mid-month compliance date will impose an unnecessary burden.

The Commission is extending the compliance date for the Rule 605 Amendments to August 1, 2026.¹⁸ This extension will affect market centers that currently prepare reports under preexisting Rule 605; larger brokers and dealers and new market centers¹⁹ that will need to begin preparing reports under the Rule 605 Amendments; vendors that currently prepare or will prepare Rule 605 reports for reporting entities; smaller brokers and dealers that will not be required to prepare reports under the Rule 605 Amendments; market participants that currently utilize Rule 605 reports or those that will utilize the detailed or summary reports under the Rule 605 Amendments; and investors that trade NMS stocks.

The extension of the compliance date will delay the realization of economic benefits associated with the Rule 605 Amendments.²⁰ The Rule 605

¹⁸ On August 1, 2026, market centers, brokers, and dealers subject to Rule 605 will need to begin collecting the information needed to prepare the execution quality reports required under the Rule 605 Amendments. Reporting entities will then need to make their detailed and summary reports covering data from August 2026 publicly available by the end of September 2026. See 17 CFR 242.605(a)(6).

¹⁹ These include single-dealer platforms and market centers that exclusively execute fractional shares.

²⁰ See Adopting Release, sections IX.A and IX.D.1. Market centers, brokers, and dealers will have six months after odd-lot order information sufficient to calculate the best available displayed price is made available pursuant to an effective national market system plan to start including price improvement statistics relative to the best available displayed price in their Rule 605 reports. See Adopting Release, 89 FR at 26497. A subsequent release set the compliance date for every national securities exchange on which an NMS stock is traded and national securities association to make available to the exclusive securities information processors ("SIPs") all data necessary to generate odd-lot information, and for the SIPs to collect, consolidate, and disseminate odd-lot information, including the best odd-lot order to buy and the best odd-lot order to sell ("BOLO"), to the first business day of May 2026. See Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620, 81680 (Oct. 8, 2024) ("Tick Size and Access Fees Adopting Release"). The Commission is not extending the six-month implementation period for market centers, brokers, and dealers to include price improvement statistics relative to the best available displayed price in their Rule 605 reports. Therefore, the compliance date for including price improvement statistics relative to the best available displayed price in Rule 605 reports is still six months after the first business day in May 2026 (*i.e.*, in November 2026) and the benefits and costs associated with these Rule 605 Amendments will not be delayed. See Adopting Release, sections IX.D.1.b)(2)(b)(vii) and IX.D.2. See *infra* note 25 and accompanying text for a discussion of the effects of the extension of the compliance date on the costs associated with incorporating odd-lot information into the Rule 605 Amendment price improvement

Amendments, which expand the scope of reporting entities, modernize the content of Rule 605 reports, and broaden the reports' accessibility, are expected to increase the relevance and use of the information contained in the reports, and promote competition among market centers and broker-dealers. This increase in competition is expected to ultimately lead to improved execution quality for investors. The extension of the compliance date will delay the improvement in transparency of order execution quality information, which will also delay the increased competition and improvements in execution quality resulting from this additional transparency.

The extension of the compliance date will also delay the ongoing costs of complying with the Rule 605 Amendments. We estimate these compliance cost savings from the delay to be about \$7.1 million in aggregate.²¹ Additional time to work with Commission staff to address outstanding interpretative and compliance questions may also reduce the likelihood that reporting entities incur additional implementation costs associated with re-programming systems to comply with the requirements of the Rule 605 Amendments.²² Further, extending the compliance date could reduce the likelihood that reporting entities report the Rule 605 Amendments in an inconsistent manner and help ensure that amended Rule 605 reports are comparable across reporting entities.²³ Extending the compliance date and aligning it with the beginning of a calendar month will also avoid any additional costs to reporting entities to develop processes for generating partial-month reports.

In addition to delaying compliance costs, the extension of the compliance date will also delay the realization of other economic costs that may result from market participants adjusting their behavior in response to increased transparency and competition on the basis of execution quality caused by the Rule 605 Amendments.²⁴ Extending the

statistics relative to the best available displayed price.

²¹ The Rule 605 Amendments are estimated to have aggregate annual ongoing compliance costs of \$11.3 million dollars for all reporting entities. See Adopting Release, section IX.D.2.(a). This extension will extend the compliance date for the Rule 605 Amendments by approximately 7.5 months. Therefore, the compliance date extension will result in a savings of approximately \$11.3 million * 7.5 / 12 months = \$7.1 million in ongoing compliance costs.

²² See FIF III, at 3.

²³ See *id.*

²⁴ See Adopting Release, section IX.D.2.(b). For example, the extension would delay costs that

¹³ See *supra* notes 6–9 and accompanying text.

¹⁴ See 15 U.S.C. 78c(f).

¹⁵ See 15 U.S.C. 78w(a)(2).

¹⁶ The changes in reporting requirements brought by the Rule 605 Amendments also include the approved amendment to the Rule 605 NMS Plan and other Rule 605 Formats and Fields Documents discussed above. See *supra* section I.

¹⁷ See *id.*

compliance date will reduce the implementation costs of the Rule 605 Amendment metrics that are affected by other adopted Commission Rules with earlier compliance dates and also mitigate the potential costs associated with overlapping compliance dates. This includes the separate implementation periods for the round lot definition and odd-lot information definition,²⁵ as well as other provisions of the Market Data Infrastructure Rules (“MDI Rules”)²⁶ and other adopted Commission Rules.²⁷

reporting entities may need to incur to update or improve their routing or execution systems due to increased competition on the basis of execution quality caused by the Rule 605 amendments. *See* Adopting Release, section IX.D.2.(b).(1).

²⁵ The compliance date for implementing the round lot definition and round lot indicator is the first business day of November 2025. *See* Tick Size and Access Fee Adopting Release, 89 FR at 81681. Extending the Compliance Date for the Rule 605 Amendments from December 14, 2025 to August 1, 2026 will allow more time for reporting entities to incorporate the round lot definition changes into their implementation of the Rule 605 Amendments, which may reduce compliance costs. The compliance date for the SIPs to collect, consolidate, and disseminate odd-lot information is the first business day of May 2026, with an implementation period for reporting entities to include this information in their Rule 605 reports ending the first business day of November 2026. *See supra* note 20. Extending the compliance date for the Rule 605 Amendments until after odd-lot information becomes available may reduce compliance costs by allowing reporting entities, if they so choose, to incorporate this information into their initial Rule 605 Amendment metrics calculating price improvement statistics relative to the best available displayed price, rather than having to make initial reports without these metrics and then updating their reporting systems after the information becomes available.

²⁶ Securities Exchange Act Release No. 90610 (Dec. 9, 2020), 86 FR 18596 (Apr. 9, 2021).

²⁷ The Adopting Release discussed potential costs arising from the overlap in compliance dates between the Rule 605 Amendments and the additional MDI Rule amendments besides the round lot definition and odd-lot information definition. The Adopting Release estimated that the full implementation of the MDI Rules would be at least two years after the Commission’s approval of amendments to the effective national market system plan(s) as required by Rule 614(e). *See* Adopting Release, 89 FR at 26506. The Commission believes that the extension of the compliance date for the Rule 605 Amendments and the expected two-year implementation period for the additional MDI Rules will mitigate the cost of any overlapping compliance period between these two rules. The Adopting Release also discussed potential costs arising from the overlap in compliance dates between the Rule 605 Amendments and Securities Exchange Act Release No. 96930 (Feb. 15, 2023), 88 FR 13872 (Mar. 6, 2023) (“Settlement Cycle Adopting Release”). *See* Adopting Release, 89 FR at 26508 & n.1050. But the compliance period of the Settlement Cycle Adopting Release concluded on May 28, 2024, so the overlap in compliance periods ended over a year ago. Additionally, the Financial Industry Regulatory Authority has stated that its Trade Reporting Facilities and the exclusive SIPs will begin reporting and disseminating fractional share transaction quantities on February 23, 2026. *See Technical Notice, Update—Fractional Shares Reporting Effective Date Set for February 23, 2026*

The extension of the compliance date will delay the effects on efficiency, competition, and capital formation of the Rule 605 Amendments.²⁸ The extension of the compliance date will delay the increase in transparency of order execution quality information, which will delay the expected increase in competition among reporting entities on the basis of execution quality resulting from this increased transparency.²⁹ Finally, the extension of the compliance date will delay the increase in price efficiency, and the associated improvement in capital allocation and promotion of capital formation, that may result from improved order execution quality caused by the Rule 605 Amendments.³⁰

The Commission considered reasonable alternatives to the new compliance date, namely a shorter or longer extension. A shorter extension would realize some of the benefits arising from the Rule 605 Amendments sooner. However, to the degree that a shorter extension would result in inconsistent readiness and inconsistent reporting outcomes across broker-dealers and market centers, a key benefit of the Rule 605 Amendments—the ability to compare order execution quality across reporting entities—would not fully be realized.³¹ A shorter extension might not allow reporting entities sufficient time to implement additional clarification and guidance on implementing the Rule 605 Amendments, which could increase their implementation costs as well as

and UAT Schedule Beginning in November 2025 (Mar. 28, 2025), FINRA, <https://www.finra.org/filing-reporting/technical-notices/update-fractional-shares-reporting-20250328>. *See also* SIP Fractional Share Reporting Enhancements—Update 2, CTA (Mar. 28, 2025, at 12:58 ET), <https://www.ctaplan.com/announcements#110000948153>. Delaying the compliance date for the Rule 605 Amendments may reduce compliance costs by allowing reporting entities to incorporate this information into their initial Rule 605 Amendment updates, rather than having to make additional updates later to include this information if it became available after they implemented the Rule 605 Amendments.

²⁸ *See* Adopting Release, section IX.D.3.

²⁹ *See* Adopting Release, section IX.D.1. The extension of the compliance date will also delay additional affects the Rule 605 Amendments may have on competition, such as increasing the extent to which Rule 605 reporting entities compete within other quality areas (such as rebates and transaction fees) and increasing competition in related markets (such as the market for Transaction Cost Analysis services). *See* Adopting Release, section IX.D.3.b).

³⁰ *See* Adopting Release, sections IX.D.3.a), IX.D.3.c).

³¹ *See* FIF III, at 3 (“broker-dealers reporting in an inconsistent manner . . . would defeat a primary objective of the Rule 605 amendments, which is to allow for a quantitative comparison of order handling performance across broker-dealers and execution venues”).

contribute to inconsistent reporting outcomes.

While a longer extension would further delay both the benefits and costs arising from the Rule 605 Amendments, reporting entities might not need additional time beyond the extended compliance date to update their systems and reporting methods. Therefore, a longer extension might not result in significant reductions to reporting entity implementation costs compared to the current extension.

III. Procedural and Other Matters

The Administrative Procedure Act (“APA”) generally requires an agency to publish notice of a rulemaking in the **Federal Register** and provide an opportunity for public comment. This requirement does not apply, however, if the agency “for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.”³²

The Commission, for good cause, finds that notice and solicitation of comment regarding the extension of the compliance date set forth herein is impracticable, unnecessary, or contrary to the public interest.³³ This rule does not impose any new substantive regulatory requirements on any person and merely reflects the extension of the compliance date for the Rule 605 Amendments. As discussed above, the Commission has been engaging with market participants regarding the implementation of the Rule 605 Amendments and has become aware of various logistical, operational, and interpretive challenges that raise questions about the ability of firms to come into compliance by the initial December 14, 2025, compliance date. Accordingly, the Commission has determined that an extension of the compliance date is needed in order to ensure an orderly implementation of the Rule 605 Amendments. Given the time constraints, a notice and comment period could not reasonably be completed before the December 14, 2025, compliance date. Further, given the operational challenges and associated costs firms would face in to meet the December compliance date, providing immediate certainty that the compliance date is extended will enable firms to adjust their implementation plans accordingly and facilitates an orderly implementation of the Rule 605

³² 5 U.S.C. 553(b)(B).

³³ *See id.* (stating that an agency may dispense with prior notice and comment when it finds, for good cause, that notice and comment are “impracticable, unnecessary, or contrary to the public interest”).

Amendments, consistent with the intended purpose of the extension.³⁴

For similar reasons, although the publication of a rule is generally required at least 30 days before its effective date, the requirements of 5 U.S.C. 553(d)(3) and 808(2) are satisfied (notwithstanding the requirement of 5 U.S.C. 801)³⁵ and therefore the good cause exception applies to this action.

The Office of Management and Budget has determined that this action is not a significant regulatory action as defined in Executive Order 12866, as amended, and therefore it was not subject to Executive Order 12866 review. Pursuant to the Congressional Review Act, the Office of Information and Regulatory Affairs has designated the extension of the compliance date not a “major rule,” as defined by 5 U.S.C. 804(2).

IV. Conclusion

The Commission extends until August 1, 2026, the compliance date for the Rule 605 Amendments.

By the Commission.

Dated: September 30, 2025.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2025–19316 Filed 10–1–25; 8:45 am]

BILLING CODE 8011–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Chapter I

Order of the Commodity Futures Trading Commission Relating to the Continuation, Shutdown, and Resumption of Certain Commission Operations in the Event of a Lapse in Appropriations

AGENCY: Commodity Futures Trading Commission.

³⁴ The compliance date extension set forth in this release is effective upon publication in the **Federal Register**. Section 553(d)(1) of the APA allows effective dates that are less than 30 days after publication for a “substantive rule which grants or recognizes an exemption or relieves a restriction.” 5 U.S.C. 553(d)(1).

³⁵ See 5 U.S.C. 553(d)(3) (the publication of a substantive rule may be less than 30 days before its effective date for good cause found and published with the rule); 5 U.S.C. 808(2) (if a Federal agency finds that notice and public comment are impracticable, unnecessary or contrary to the public interest, a rule shall take effect at such time as the Federal agency promulgating the rule determines). This rule also does not require analysis under the Regulatory Flexibility Act. See 5 U.S.C. 604(a) (requiring a final regulatory flexibility analysis only for rules required by the APA or other law to undergo notice and comment). Finally, this rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995 (“PRA”). 44 U.S.C. 3501 *et seq.* Accordingly, the PRA is not applicable.

ACTION: Notification of order; final order.

SUMMARY: This order is being issued to provide for the continuation, shutdown, and resumption of certain operations of the Commodity Futures Trading Commission (the “Commission”) in the event of a lapse in appropriations, and to alert all persons regulated by or engaged in proceedings at the Commission of these provisions.

DATES: This notification and order is applicable on September 30, 2025.

FOR FURTHER INFORMATION CONTACT: For market oversight matters contact Rahul Varma, Acting Director, Division of Market Oversight (DMO), at 202–418–5353 or rvarma@cftc.gov. For clearing matters, contact Richard Haynes, Acting Director, Division of Clearing and Risk (DCR), at 202–418–5063 or rhaynes@cftc.gov. For matters involving intermediaries, contact Thomas Smith, Acting Director, Market Participants Division (MPD), at 202–418–5495 or tsmith@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

As of 12:01 a.m. on October 1, 2025, the funding of many federal government activities is set to expire. Unless appropriations are enacted for Fiscal Year 2026, federal departments and agencies whose continued operations are dependent upon such funding—including the Commission—will be required to execute contingency plans for this lapse in appropriations (commonly referred to as a “shutdown”). Under 31 U.S.C. 1341 (the “Antideficiency Act”), the Commission is prohibited from expending or obligating any funds in the absence of appropriations, subject to a narrow set of exceptions.¹ The Commission may use one of the exceptions to the Antideficiency Act set forth in 31 U.S.C. 1342, which permits agencies to obligate funds before an appropriations measure has been enacted and to accept voluntary services during a lapse when certain employees are needed to

perform emergency or “excepted” functions.²

The Department of Justice’s Office of Legal Counsel has determined that government work performed so that the commodities and futures markets can continue to operate and so that trading may continue qualifies as an “excepted” function as set forth in 31 U.S.C. 1342.³ Consequently, in the event of a lapse in appropriations, the Commission may incur obligations to allow certain employees who perform “excepted” functions to continue to perform those functions. This authority, however, does not permit the Commission to fund ongoing, regular functions, the suspension of which would not imminently threaten the safety of human life or the protection of property during a lapse in appropriations.⁴ Thus, the Commission has designated certain essential personnel to fulfill its obligation to protect property.

In addition, certain employees of the Commission’s Whistleblower Office (WBO) will continue to work because they have an alternative funding source.

The Commission’s regulations, found in title 17 of the Code of Federal Regulations, place a number of filing obligations on registered entities, intermediaries, market participants and the public within specified time frames, establish Commission authority to stay certain actions by designated and registered entities, and also include provisions relating to requests for Commission approval and issuance of exemption and interpretative relief and guidance with specific time frames for Commission action. The Commission

² Section 1342 of Title 31 of the U.S. code provides that an officer or employee of the United States Government may not accept voluntary services for the government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. As used in this section, the term “emergencies involving the safety of human life or the protection of property” does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.

³ OLC Memorandum for the Director of the Office of Management and Budget, *Government Operations in the Event of a Lapse in Appropriations*, OLC Opinion, at 2–3 (Aug. 16, 1995). Specifically, the Department of Justice’s Office of Legal Counsel has opined that: “In the absence of government supervision, the stock markets, commodities and futures exchanges would be unable to operate . . . these actions and the others required as part of a true shut down of the federal government would impose significant health and safety risks on millions of Americans, some of which would undoubtedly result in the loss of human life, and they would immediately result in massive dislocations of and losses to the private economy, as well as disruptions of many aspects of society and of private activity generally, producing incalculable amounts of suffering and loss.” *Id.*

⁴ *Id.* at 1 (citing 31 U.S.C. 1342).

¹ The Antideficiency Act provides that an officer or employee of the United States may not make or authorize an expenditure or obligation exceeding an amount in an appropriation or fund for the expenditure or obligation; involve the government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law; make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or involve the government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

has reviewed its statute and regulations in light of its obligation to protect the safety of human life or the protection of property to determine which Commission operations will continue during a lapse in appropriations.

A. Tolling and Extension of Certain Procedural Time Limits Applicable to the Commission

In the event of a lapse in appropriations, the Commission will not be processing or reviewing filings for Commission discretionary or mandatory approval or any other actions that are not directly related to the safety of human life or the protection of property. Matters not directly related to the protection of property include rule, rule amendment, and contract certifications filed with the Commission, rule amendments and contracts voluntarily submitted for Commission approval or review; requests for contract market designation, swap execution facility, swap data repository, derivatives clearing organization, and foreign board of trade registration; and other requests for Commission approval or other action.

The above-mentioned matters do not include any emergency notifications that may be required by Commission regulations of designated or registered entities and intermediaries, or that are required by any rule of a registered entity that has been approved by or self-certified to the Commission. This includes emergency rules certified pursuant to regulation 40.6(a)(6) and (7) and emergency changes certified by a systemically important derivatives clearing organization pursuant to regulation 40.10(h).

More specifically, matters not directly related to the protection of property include filings under judicially reinstated regulations 1.47 and 1.48 (bona fide hedge requests), part 30 (regulation 30.10 petitions for exemption and regulation 30.13 requests for certification), part 37 (swap execution facilities applications, demonstrations of compliance with core principles), part 38 (designated contract market applications, certifications of continued compliance in situations of merger or sale, and demonstrations of compliance with the core principles), part 39 (derivatives clearing organization applications, Commission review of swaps for determinations on clearing requirement, requests for orders regarding competition, and demonstrations of compliance with the core principles), part 40 (rule and contract filings-certifications and approvals and requests for confidential treatment of submissions, stays of

certifications pursuant to regulation 40.12, determinations related to making swaps available to trade), part 41 (filing of notice-designated contract markets trading security futures products), part 48 (foreign board of trade registrations, adjudication of additional contracts for trading), and part 49 (swap data repository applications, registration of successor entities).

Matters not directly related to the protection of property additionally include requests pursuant to regulations 145.7 and 145.9 (requests for Commission records, petitions for confidential treatment of information submitted to the Commission, and appeals of FOIA decisions), regulation 140.99 filings (requests for exemptive, no-action and interpretive letters), and certain matters pursuant to part 165 (payments related to whistleblower awards).

For the foregoing matters that are currently pending before the Commission pursuant to any of these provisions, all applicable time deadlines for Commission action will be tolled until the Commission is able to resume full operations. For such matters, the time remaining for Commission action will begin to run on the first business day following the resumption of Commission operations. For the foregoing matters arising during a lapse in appropriations, any time limit for Commission action shall begin to run on the first business day following the resumption of Commission operations.

Matters not directly related to the protection of property also include certain procedural regulations associated with Commission adjudicatory actions, in particular certain rules under part 3 (procedure to deny, condition, or suspend, revoke, or place restrictions on registration), part 9 (related to review of exchange disciplinary, access denial or other adverse actions), part 10 (the Commission's rules of practice for adjudicatory proceedings before the Commission), part 12 (rules related to reparations proceedings), and part 171 (review of National Futures Association decisions). For these matters that are currently pending before the Commission pursuant to any of these provisions, or that arise during a lapse in appropriations, all applicable time deadlines for Commission action will be tolled until the Commission is able to resume full operations. Moreover, all applicable filing deadlines for parties to an adjudicative proceeding that arise during a lapse in appropriations will be extended until one business day after the Commission resumes its operations.

B. Continued Processing, Review, and Action Related to Certain Agency Regulations

The Commission's regulations also impose filing obligations on registered entities, intermediaries, market participants and the public. The Commission has determined that certain filing requirements relate to the Commission's obligation to protect the safety of human life or property even during a lapse of appropriations. Accordingly, the Commission will continue to review, process, and take any necessary or appropriate action with respect to such filings during a lapse in appropriations for the purpose of protecting the safety of human life or the property in accordance with the Commodity Exchange Act (CEA) and its implementing regulations.

This category includes regulation 1.10, 1.32, 5.12, 22.2, 22.17, and 30.7 filings (financial reports and financial schedules of futures commission merchants (FCMs), introducing brokers (IBs), and retail foreign exchange dealers), regulation 1.12 and 5.6 filings (notice provisions required of FCMs, IBs, and RFEDs), regulation 1.15 filings (risk assessment reporting requirements), regulation 1.16 filings (reports of accountants), regulation 1.17 filings (capital requirements (business days would include those days the Commission is shut down for purposes of requirements relating to margin calls and the computation of margin) and any notice provision requirements),⁵ regulation 1.18 filings (current books and records), regulation 1.65 and 5.23 filings (notice of bulk transfers (a business day would include those days the Commission is shutdown)), regulation 39.19 (derivatives clearing organization reporting requirements), regulation 40.6(a)(6) and (7) (emergency rule certifications), and regulation 40.10(h) (emergency changes certified by systemically important derivatives clearing organizations).

This category also includes part 15 filings (general reporting requirements), part 16 filings (clearing member reports), part 17 filings (FCM reports), part 18 filings (reports by traders), part 19 filings (bona fide hedge position reports), part 20 filings (large trader reporting for physical commodity swaps), part 21 filings (special call provisions), and part 190 filings (bankruptcy rules). In addition, the

⁵ Generally, the Commission's regulations define business day to exclude only Saturday, Sunday, and federal holidays. Thus, a shutdown would not affect the timely processing, review, and action that may be necessary and appropriate related to the operation of these rules.

Commission shall process, review, and take any necessary or appropriate action related to, chief compliance officer, swap valuation dispute, and risk exposure reports, pursuant to regulations 3.3(e), 23.502(c), and 23.600(c), respectively, from swap dealers, major swap participants, and futures commission merchants, as applicable.⁶ Swap execution facilities, designated contract markets, derivatives clearing organizations, and swap data repositories financial resources reports required by regulations 37.1306, 38.1101, 39.11, and 49.25, respectively, also will continue to be processed, reviewed, and subject to necessary and appropriate action.

The Commission's regulations require, and industry practice provides for, notification to the Commission and its staff of certain emergency situations. Thus, the Commission will continue to process, review, and take any necessary or appropriate action related to notifications by registered entities and intermediaries of emergency situations such as system malfunctions, cyber security incidents, or financial emergencies throughout a lapse in appropriations.

C. Extension of Open Comment Periods on Proposed Regulation and Other Matters That May Be Subject to a Request for Comment by the Commission

Finally, the Commission has proposed rules for which the comment period may expire while the Commission is shutdown. The Commission will be unable to process comment submissions until it resumes full operations, as such processing is unrelated to the protection of property. Therefore, the Commission is extending the comment periods for any such rules, and for any other matters that may be subject to a request for comment by the Commission, until one business day after the Commission is able to resume full operations. Notice of the resumption of Commission operations at the conclusion of a shutdown will be provided on the Commission's website.

II. Administrative Compliance

A. Administrative Procedure Act

To the extent that some of the provisions of this order may be subject to notice and comment under the Administrative Procedure Act (APA),⁷ and may be subject to the provisions of

the APA that require publication or service of a substantive rule be made not less than 30 days before its effective date,⁸ the Commission for good cause finds that notice and comment and a delayed effective date are impracticable and contrary to the public interest. The Commission may be obligated to commence orderly shutdown of its operations at the commencement of business on October 1 and has determined that it is in the interest of the public and the markets it regulates to have established and publicized its procedures for limiting its operations to only those that are essential to the protection of property before that time.

Moreover, though the tolling of certain procedural time limits will delay the Commission's review and approval of certain industry filings, the review and approval provisions in the Commission's regulations implement review and approval provisions of the CEA in order to protect the public interest. It would be contrary to the CEA, and to the public interest, if these review and approval time limits continued to run while the Commission is unable to conduct routine business.

Finally, in order to protect the property interests of the public related to the orderly operation of the futures markets, the Commission will be supported by essential personnel in the surveillance of the markets in order to identify any emergency market situations that may require action to protect the safety of human life or property during a lapse in appropriations. It therefore is essential that reporting regulations associated with market surveillance and emergency notices continue to be processed and reviewed.

B. Paperwork Reduction Act

The Paperwork Reduction Act provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it has been approved by the Office of Management and Budget (OMB) and displays a currently valid control number.⁹ The collections of information referenced in this notice and order have valid control numbers that are currently in effect. Therefore, the Commission is not obligated to seek a control number in connection with this order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires the Commission to consider whether a rule it proposes will have a

significant economic impact on a substantial number of small entities and either provide a regulatory flexibility analysis respecting the significant impact or certify that the rule will not have such an impact.¹⁰ The RFA is applicable only to a rule for which the Commission publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).¹¹

The Commission is not publishing this order as a general notice of proposed rulemaking. Therefore, neither a regulatory flexibility analysis nor a certification is required for this rulemaking action. Nonetheless, this order will impose no new regulatory obligations on any party. Rather, it simply establishes the limited regulatory framework under which the Commission will operate during a shutdown in order to ensure the protection of property.

D. Cost Benefit Analysis

Section 15(a) of the CEA¹² requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA. Section 15(a) specifies that the costs and benefits shall be considered against five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may give greater weight to one or more of the five enumerated considerations to determine, in its discretion, that a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or accomplish any of the purposes of the CEA.

This order imposes the cost of delay on parties with petitions for approval, self-certification filings, rights of review, and adjudicative matters before the Commission. As the Commission would be limited by law during a lapse in appropriations to function only with respect to the protection of property, these costs are unavoidable.

In terms of benefits, this order provides for the limited continuation of Commission business. The order also confirms the ongoing regulatory obligations of registered entities and intermediaries notwithstanding a shutdown, in order to ensure that the Commission has available to it all information necessary to identify

⁶ Futures commission merchants are not required to submit swap valuation dispute or risk exposure reports to the Commission under regulations 23.502(c) and 23.600(c), respectively.

⁷ See 5 U.S.C. 553(b).

⁸ See 5 U.S.C. 553(d).

⁹ 44 U.S.C. 3501 *et seq.*

¹⁰ 5 U.S.C. 601 *et seq.*

¹¹ 5 U.S.C. 601(2).

¹² 7 U.S.C. 19(a).

emergency situations and take action to protect property and, hence, to protect market participants and the public, the efficiency and financial integrity of the futures markets, and price discovery.

The order also notifies market participants and the public of the matters in which the Commission will be engaged, as well as of the tolling and extensions of time put in place with respect to filings under Commission regulations. Tolling ensures that the Commission will have an opportunity to review routine industry filings once a lapse in appropriations is resolved and take steps if necessary to protect the interests of the market and the public before those filings are finalized. The extensions of time ensure that all persons with filing obligations in certain adjudicative proceedings that arise during a shutdown or who wish to submit comments during a comment period that will close during a shutdown will not be prejudiced by the inability of the Commission to accept those filings or comments.

III. Order

In light of the foregoing, the Commission has determined to issue the following Order, pursuant to its authority under the provisions of the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, and in compliance with the Anti-Deficiency Act, 31 U.S.C. 1341 and 1342.

It is hereby ordered that, in the event of a lapse in appropriations (also referred to as “shutdown”) commencing at 12:01 a.m. on October 1, 2025, the Commission will commence operating according to the procedures set forth in this Order, with respect to its regulations found in title 17 of the Code of Federal Regulations:

1. *Tolling and Extension of Certain Procedural Time Limits.* The Commission shall not process any filings, or review any matters for Commission approval or action to the extent that the matters are not directly related to the protection of property for the duration of a shutdown. This applies to rule, rule amendment and contract certifications, except for emergency rules certified pursuant to regulation 40.6(a)(6) and (7), and emergency changes certified pursuant to regulation 40.10(h); rules, rule amendments and contracts voluntarily submitted for Commission approval or review; requests for contract market designation, and swap execution facility, swap data repository, derivatives clearing organization, and foreign board of trade registration; and other requests for Commission approval or other action.

Specifically, except as otherwise provided in this order, applications under judicially reinstated sections 1.47 and 1.48, sections 30.10 and 30.13, and parts 36, 37, 38, 39, 40, 41, 48, and 49 of the Commission’s regulations officially shall not be processed or reviewed during a lapse in appropriations, and the time limits for Commission action shall be tolled until the resumption of Commission operations at the conclusion of a shutdown. Requests and appeals submitted under sections 145.7 and 145.9 of the Commission’s regulations, requests submitted under section 140.99, and filings and payments under part 165 additionally shall not be processed until the resumption of Commission operations.

The Commission shall process and commence review of any new matters under these provisions of the Commission’s regulations beginning on the first full business day after the Commission is able to resume full operations at the conclusion of a shutdown. For matters that are pending under these provisions at the time a shutdown may commence, all applicable time deadlines for Commission action shall be tolled. The time remaining for Commission action will begin to run on the first full business day after the Commission is able to resume full operations.

This tolling and extension of time limits also shall apply to certain procedural regulations associated with Commission adjudicative actions, in particular the time-limited procedural regulations in parts 3, 9, 10, 12, and 171. For matters that are currently pending before the Commission under any of these parts, all applicable time deadlines for Commission action shall toll, and the time remaining for Commission action shall begin to run on the first full business day after the Commission is able to resume full operations. Moreover, all time deadlines for filings by a party in an adjudicative proceeding that arise during a shutdown shall be extended until one business day after the Commission resumes its full operations. When a filing in an adjudicative action is delayed by a shutdown, the time to reply to any delayed filing shall commence on the day the delayed filing is effected under this order.

2. *Procedures and Time Limits Not Extended or Tolled.* In order to fulfill its obligations to protect property during a lapse in appropriations, which includes market surveillance and intermediary oversight, the Commission shall continue to process and review filings required of a registered entity or

intermediary under certain Commission regulations, and take any action necessary and appropriate to preserve property with respect to these filings. These filings are contained in sections 1.10, 1.12, 1.15, 1.16, 1.17, 1.18, 1.32, 1.65, 5.6, 5.12, 5.23, 22.2, 22.17, 30.7, 39.19, 40.6(a)(6) and (7), and 40.10(h) of the Commission’s regulations, and also apply to any emergency notification to the Commission that may be required by any rule of a registered entity that has been approved by or self-certified to the Commission. In addition, the Commission shall continue to process and review reports to the extent they are required by regulations 3.3(e), 23.502(c), and 23.600(c)(2). Filings under parts 15, 16, 17, 18, 19, 21, and 190 of the Commission’s regulations also shall continue to be processed and reviewed.

Review and processing of any notice of emergency actions designated or registered entities are required to report related to situations such as system malfunctions, cyber-security incidents, and financial emergencies shall continue during a shutdown. The Commission additionally shall receive and process reports related to the financial resources of a swap execution facility, designated contract market, derivatives clearing organization, and swap data repository pursuant to regulations 37.1306, 38.1101, 39.11, and 49.23, respectively.

3. *Extension of Open Comment Periods on Proposed Regulation and Other Matters That May Be Subject to a Request for Comment by the Commission.* Any comment period for a proposed rulemaking or other matter that may be subject to a request for comment by the Commission that terminates during a shutdown shall be extended until one business day after the Commission resumes full operations after a shutdown.

4. *Resumption of Commission Operations.* The Commission shall provide notice of the resumption of its operations at the conclusion of a shutdown on its website at www.cftc.gov.

Issued in Washington, DC, on September 30, 2025, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

NOTE: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Order of the Commodity Futures Trading Commission Relating to the Continuation, Shutdown, and Resumption of Certain Commission Operations in the Event of a Lapse in Appropriations—Commission Voting Summary

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

[FR Doc. 2025–19319 Filed 10–1–25; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 12

[CBP Dec. 25–14]

RIN 1685–AA35

Extension of Import Restrictions on Archaeological Material of Chile

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to extend import restrictions on certain archaeological material from the Republic of Chile. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determinations for extending the import restrictions, which were originally imposed by CBP Decision 20–16. These import restrictions are being extended pursuant to an exchange of diplomatic notes. The CBP regulations are being amended to reflect this further extension through September 30, 2030.

DATES: Effective September 30, 2025.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, or *ot-trrculturalproperty@cbp.dhs.gov*. For operational aspects, Julie L. Stoeber, Chief, 1USG Branch, Trade Policy and Programs, Office of Trade, (202) 945–7064, or *1USGBranch@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (CPIA), which implements the 1970 United Nations

Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)) (the Convention), allows for the conclusion of an agreement between the United States and another party to the Convention to impose import restrictions on eligible archaeological and ethnological material. Under the CPIA and the applicable U.S. Customs and Border Protection (CBP) regulations, found in § 12.104 of title 19 of the Code of Federal Regulations (19 CFR 12.104), the restrictions are effective for no more than five years, beginning on the date on which an agreement enters into force with respect to the United States (19 U.S.C. 2602(b)). This period may be extended for additional periods, each extension not to exceed five years, if it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

On May 7, 2020, the United States entered into a bilateral agreement (2020 Agreement) with the Republic of Chile (Chile) that entered into force on September 30, 2020, to impose import restrictions on archaeological material representing Chile's cultural heritage that is at least 250 years old, dating from the Paleoindian period (approximately 31,000–8000 B.C.) to the Huri Moai phase in Chile (A.D. 1680–1868). On October 9, 2020, CBP published a final rule (CBP Dec. 20–16) in the **Federal Register** (85 FR 64020), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, including a list designating the types of archaeological material covered by the restrictions.

On December 30, 2024, the United States Department of State proposed in the **Federal Register** (89 FR 106721) to extend the 2020 Agreement. On August 7, 2025, after considering the views and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, made the necessary determinations to extend the import restrictions for an additional five years. Following an exchange of diplomatic notes, the United States and Chile have agreed to extend the restrictions for an additional five-year period, through September 30, 2030.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of these import restrictions. The restrictions on the importation of archaeological material from Chile will

continue in effect through September 30, 2030. Importation of such material from Chile continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List of restricted material and additional information may also be found at the following website address: <https://www.state.gov/current-agreements-and-import-restrictions> by selecting the material for “Chile.”

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Executive Order 12866

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

Signing Authority

In accordance with Treasury Order 100–20, the Secretary of the Treasury has delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set

forth in 6 U.S.C. 212 and 215, subject to certain exceptions. This regulation is being issued in accordance with Department of Homeland Security Directive 07010.3, Revision 03.2, which delegates to the Commissioner of CBP the authority to prescribe and approve regulations related to cultural property import restrictions.

Rodney S. Scott, the Commissioner of CBP, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the **Federal Register**.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, and Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

- 1. The general authority citation for part 12 and the specific authority

citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, amend the table in paragraph (a) by revising the entry for Chile to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	Decision No.
Chile	Archaeological material representing Chile's cultural heritage from the Paleoindian period (c. 31,000 B.C.) to the Huri Moai phase in Chile (A.D. 1680–1868).	CBP Dec. 20–16, extended by CBP Dec. 25–14.

* * * * *

Robert F. Altneu,

Director, Regulations and Disclosure Law Division, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2025–19244 Filed 9–30–25; 11:15 am]

BILLING CODE 9111–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–1111]

Requiring Online Submission of Applications for and Renewals of DEA Registration: Technical Correction

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule; technical correction.

SUMMARY: This final rule updates an existing Drug Enforcement Administration (DEA) regulation by removing the reference to paper payments by check or money order for all applications for DEA registrations and renewal of those registrations. This action makes no substantive changes to this regulation.

DATES: This final rule is effective October 2, 2025.

FOR FURTHER INFORMATION CONTACT: Heather E. Achbach, Regulatory Drafting and Policy Support Section, Division

Control Division, Drug Enforcement Administration; Telephone: (571) 776–3882.

SUPPLEMENTARY INFORMATION:

A. Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA), and the Controlled Substances Import and Export Act, as amended.¹ DEA publishes the implementing regulations for these statutes in 21 CFR part 1300 to end. These regulations are designed to ensure a sufficient supply of controlled substances for medical, scientific, and other legitimate purposes, and to deter the diversion of controlled substances for illicit purposes.

As mandated by the CSA, DEA establishes and maintains a closed system of control for the manufacturing, distribution, and dispensing of controlled substances, and requires any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances to register with DEA, unless they meet an exemption, pursuant to 21 U.S.C. 822. The CSA authorizes the Administrator of DEA (by delegation of authority from the Attorney General) to register an

¹ 21 U.S.C. 801–971.

applicant to manufacture, distribute or dispense controlled substances if the Administrator determines such registration is consistent with the public interest.² The CSA further authorizes the Administrator to promulgate regulations necessary and appropriate to execute the functions of subchapter I (Control and Enforcement) and subchapter II (Import and Export) of the CSA.³

B. Background and Summary of Changes

DEA published a Notice of Proposed Rulemaking (NPRM) on January 7, 2021 that proposed requiring that all applications for DEA registrations, and renewal of those registrations, be submitted online.⁴ The NPRM also proposed removing the paper payment option by requiring that all payments be made online using credit card at the time of submission of the application or renewal for DEA registration.⁵ On April 11, 2022, DEA published a final rule adopting the regulatory changes as stated in the NPRM but expanded online payment options to include Automated Clearing House (ACH) funds transfer, credit card, and any other means available at the time of

² 21 U.S.C. 823.

³ 21 U.S.C. 871(b) and 958(f).

⁴ Amending Regulations To Require Online Submission of Applications for and Renewals of DEA Registration, 86 FR 1030.

⁵ *Id.*

submission of the application or renewal for DEA registration.⁶

As such, Section 1309.12 of Title 21 of the Code of Federal Regulations (CFR) requires all applicants shall pay the fee at the time of submission of the application for registration or reregistration using the secure application portal.⁷ The online payment may be made via ACH funds transfer, credit card, or any other means available at the time of submission using the secure application portal.⁸

C. Technical Correction

DEA is amending 21 CFR 1301.13(e) by removing the sentence that states that fee payments may be made by personal, certified, or cashier's check or money order. As payments may only be submitted online by the means mentioned above, the reference to paper payment options found in 21 CFR 1301.13(e) is obsolete. This was an unintentional oversight and DEA is now correcting this technical error. The deletion of this sentence will eliminate any remaining confusion as to the acceptable means of payment when submitting an application for registration or reregistration.

Regulatory Analyses

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (APA), including those requiring the publication of a prior notice of proposed rulemaking and the pre-promulgation opportunity for public comment, if such actions are determined to be unnecessary, impracticable, or contrary to the public interest.⁹ This rule contains only a technical correction; it imposes no new substantive requirement on the public or DEA registrants. Public notice and comment for this action is unnecessary because the underlying NPRM was already subject to a 60-day comment period, and this action is consistent with the purpose and rationale of the final rule, merely making technical changes and updating the regulatory text accordingly. Because this action does not change DEA's analyses or overall actions, no purpose would be served by an additional public notice and comment period. Consequently, DEA has determined that notice and the

opportunity for public comment on this rule are unnecessary.¹⁰

Additionally, DEA finds that there is good cause under APA section 553(d)(3) for this final rule to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule."¹¹ As stated, this final rule does not create any new regulatory requirements. It is merely a technical correction that removes a sentence and aligns the affected regulation with the previously published final rule. Because this is not a substantive rule, and as DEA finds good cause under 5 U.S.C. 553(d)(3) for the above reason, this final rule takes effect upon the date of publication in the **Federal Register**.

Executive Orders 12866, 13563, and 14192 (Regulatory Review)

DEA has determined that this rulemaking is not a "significant regulatory action" under section 3(f) of Executive Order (E.O.) 12866, Regulatory Planning and Review. Accordingly, this proposed rule has not been submitted to the Office of Management and Budget (OMB) for review. This proposed rule has been drafted and reviewed in accordance with E.O. 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation; E.O. 13563, "Improving Regulation and Regulatory Review," section 1(b), General Principles of Regulation; and E.O. 14192, "Unleashing Prosperity Through Deregulation." This rule is not subject to E.O. 14192 because it is not a significant regulatory action under section 3(f) of E.O. 12866. Because it is removing a reference to paper payments for applications to DEA registrations, it is a deregulatory action. This final rule updates an existing DEA regulation by removing the reference to paper payments by check or money order for all applications for DEA registrations and renewal of those registrations. This action makes no substantive changes to this regulation.

The paper payment option became obsolete when the final rule was promulgated requiring that all applications for DEA registrations, and renewal of those registrations, be submitted online. The removal of the obsolete sentence will add clarity to DEA's regulations.

Additionally, DEA continues to accept ACH fund transfer and card

payment, and registrants are still able to pay with their checking accounts or debit cards associated with their checking accounts. All current and prospective registrants are expected to have a checking account with an online means of payment; therefore, this rulemaking would not impose any economic burdens on the registrants and is not a significant regulatory action under section 3(f)(1) of E.O. 12866.

Executive Order 12988, Civil Justice Reform

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13132, Federalism

This final rule does not have federalism implications warranting the application of E.O. 13132. The final rule does not have substantial direct effects on the States, on the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule does not have substantial direct effects on the tribes, on the relationship between the national government and the tribes, or the distribution of power and responsibilities between the Federal government and Indian tribes.

Executive Order 14267, Reducing Anti-Competitive Regulatory Barriers

This final rule does not reduce competition, entrepreneurship, and innovation.

Executive Order 14294, Overcriminalization of Federal Regulations

E.O. 14294 specifies that all notices of proposed rulemaking (NPRMs) and final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule or proposed rule is a criminal regulatory offense, the authorizing statute, and the mens rea requirement for each element of the offense. This final rule does not involve a criminal regulatory offense and thus E.O. 14294 does not apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that

⁶ Requiring Online Submission of Applications for and Renewals of DEA Registration, 87 FR 21019.

⁷ 21 CFR 1309.12(a).

⁸ 21 CFR 1309.12(b).

⁹ 5 U.S.C. 553(b)(B).

¹⁰ *Id.*

¹¹ 5 U.S.C. 553(d)(3).

are subject to notice and comment under section 553(b) of the APA. As explained above, DEA was not required to publish a general notice of proposed rulemaking prior to this final rule. Consequently, the RFA does not apply to this final rule.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, DEA has determined that this action will not result in any Federal mandate that may result in the expenditure by State, local, and tribal Governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This final rule does not impose a new collection or modify an existing collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). Also, this final rule does not impose a recordkeeping or reporting requirement on State or local governments, individuals, businesses, or other organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

Congressional Review Act

This final rule is not a major rule as defined by Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act or CRA).¹² Because this is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties, the reporting requirement under 5 U.S.C. 801 does not apply.

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

For the reasons stated in the preamble, DEA amends 21 CFR part 1301 as follows:

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 831, 871(b), 875, 877, 886a, 951, 952, 956, 957, 958, 965 unless otherwise noted.

§ 1301.13 [Amended]

■ 2. Amend § 1301.13 in paragraph (e) introductory text by removing the third sentence.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 30, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025–19292 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–1394]

Specific Listing for 1-boc-4-piperidone, a Currently Controlled List I Chemical

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) is establishing a specific listing and DEA Chemical Code Number for *tert*-butyl 4-oxopiperidine-1-carboxylate (also known as 1-boc-4-piperidone; and CAS Number: 79099–07–3) and its salts as a list I chemical under the Controlled Substances Act (CSA). Although 1-boc-4-piperidone is not specifically listed as a list I chemical of the CSA with its own unique Chemical Code Number, it has been regulated as a list I chemical in the United States as a carbamate of 4-piperidone, a list I chemical, since May 12, 2023. Therefore, DEA is simply amending the list of list I chemicals in its regulations to separately include 1-boc-4-piperidone.

DATES: Effective date October 2, 2025.

FOR FURTHER INFORMATION CONTACT:

Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

A summary of this rule may be found in the docket for this rulemaking at www.regulations.gov.

SUPPLEMENTARY INFORMATION: *tert*-Butyl 4-oxopiperidine-1-carboxylate (also known as 1-boc-4-piperidone) is a chemical that is structurally related to 4-piperidone (also known as piperidin-4-one). 4-Piperidone, including its acetals, its amides, its carbamates, its salts, and salts of its acetals, its amides, and its carbamates, and any combination thereof, whenever the existence of such is possible, is a list I chemical at 21 CFR 1310.02(a)(38). The chemical structure of 1-boc-4-piperidone defines it as a carbamate of 4-piperidone. Accordingly, under 21 CFR 1310.02(a), 1-boc-4-piperidone, as a carbamate of 4-piperidone, is, and continues to be, a regulated list I chemical.¹

Legal Authority

The Controlled Substances Act (CSA) gives the Attorney General the authority to specify, by regulation, chemicals as list I chemicals.² A “list I chemical” is defined as “a chemical that is used in manufacturing a controlled substance in violation of [the CSA] and is important to the manufacture of the controlled substances.”³ The current list of all list I chemicals is available in 21 CFR 1310.02(a). Pursuant to 28 CFR 0.100(b), the Attorney General has delegated her authority to designate list I chemicals to the Administrator of DEA (Administrator).

In addition, the United States is a party to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Convention), Dec. 20, 1988, 1582 U.N.T.S. 95. Under Article 12 of the 1988 Convention, when the United States receives notification that a chemical has been added to Table I or Table II of the 1988 Convention, the United States is required to take measures it deems appropriate to monitor the manufacture and distribution of that chemical within the United States and to prevent its diversion, including measures related to international trade.

¹ See Designation of 4-Piperidone as a List I Chemical, 88 FR 21902, 21904 (Apr. 12, 2023) (“As a carbamate of 4-piperidone, 1-boc-4-piperidone is subject to this rulemaking.”).

² 21 U.S.C. 802(34); 21 U.S.C. 871(b); 21 CFR 1310.02(c).

³ *Id.*; see also 21 CFR 1300.02(b).

¹² 5 U.S.C. 804(2).

Background

In a letter dated June 6, 2024, in accordance with Article 12, paragraph 6, of the 1988 Convention, the Secretariat of the United Nations informed the Permanent Mission of the United States of America to the United Nations (Vienna) that the Commission on Narcotic Drugs (CND) added the chemical 1-boc-4-piperidone to Table I of the 1988 Convention during its 67th Session on March 19, 2024 (CND Dec/67/7). As discussed above, the United States is a party to the 1988 Convention and has certain obligations pursuant to Article 12. Because 1-boc-4-piperidone is a carbamate of 4-piperidone, it has been regulated as a list I chemical of the CSA since May 12, 2023.⁴ Therefore, all regulations and criminal sanctions applicable to list I chemicals have been, and remain, applicable to 1-boc-4-piperidone, and the United States has fulfilled its obligations under the 1988 Convention.

Effect of Action

As discussed above, this rule does not affect the continuing status of 1-boc-4-piperidone as a list I chemical in any way. This action, as an administrative matter, establishes a separate, specific listing for 1-boc-4-piperidone in list I of the CSA and assigns a DEA chemical code number for the substance. This action will allow DEA to effectively monitor regulated transactions of 1-boc-4-piperidone, including the manufacture, distribution, importation, or exportation of 1-boc-4-piperidone, and to provide accurate reporting to the International Narcotics Control Board.

Chemical Mixtures of 1-boc-4-piperidone

Pursuant to the final rule published on April 12, 2023,⁵ chemical mixtures containing 1-boc-4-piperidone are not exempt from regulatory requirements at any concentration, unless a manufacturer of 1-boc-4-piperidone submits to DEA an application for exemption of a chemical mixture, DEA accepts the application for filing, and DEA exempts the chemical mixture in accordance with 21 CFR 1310.13.

Because even a small amount of 1-boc-4-piperidone can potentially yield a significant amount of finished controlled substances, DEA believes that the continued regulation of chemical mixtures containing any concentration of 1-boc-4-piperidone as a list I chemical is necessary to prevent its

illicit extraction, isolation, and use. 1-Boc-4-piperidone is already subject to domestic control under list I as a carbamate of 4-piperidone, and DEA's current regulations provide that a chemical mixture containing any concentration of 4-piperidone is a list I chemical. As a technical conforming change in connection with the separate listing of 1-boc-4-piperidone, this rule modifies the "Table of Concentration Limits" in 21 CFR 1310.12(c) to reflect that a chemical mixture containing any concentration of 1-boc-4-piperidone is subject to CSA chemical control provisions, including 21 CFR parts 1309, 1310, 1313, and 1316. No additional requirements are being imposed.

Application Process for Exemption of Chemical Mixtures

DEA has implemented an application process to exempt certain chemical mixtures from the requirements of the CSA and its implementing regulations.⁶ Manufacturers may apply for an automatic exemption for those mixtures that do not meet the criteria set forth in 21 CFR 1310.12(d). Pursuant to 21 CFR 1310.13(a), DEA may grant an exemption of a chemical mixture, by publishing a final rule in the **Federal Register**, if DEA determines that: (1) the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance, and (2) the listed chemical or chemicals cannot be readily recovered.

Requirements for Handling List I Chemicals

The listing of 1-boc-4-piperidone as a list I chemical continues to subject handlers (manufacturers, distributors, importers, and exporters) and proposed handlers to all the regulatory controls and administrative, civil, and criminal actions applicable to the manufacture, distribution, importation, and exportation of a list I chemical. Since May 12, 2023, persons handling 1-boc-4-piperidone, including regulated chemical mixtures containing 1-boc-4-piperidone, have been required to comply with list I chemical regulations, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, imports, or exports), or proposes to engage in such handling, of 1-boc-4-piperidone or a chemical mixture containing 1-boc-4-piperidone, must obtain a registration pursuant to 21

U.S.C. 822, 823, 957, and 958.

Regulations describing registration for list I chemical handlers are set forth in 21 CFR part 1309. DEA regulations require separate registrations for manufacturing, distributing, importing, and exporting of 1-boc-4-piperidone.⁷ Further, a separate registration is required for each principal place of business at one general physical location where list I chemicals are manufactured, distributed, imported, or exported by a person.⁸

DEA notes that under the CSA, "warehousemen" are not required to register and may lawfully possess list I chemicals, if the possession of those chemicals is in the usual course of business or employment.⁹ Under DEA implementing regulations, the warehouse in question must receive the list I chemical from a DEA registrant, and shall only distribute the list I chemical back to the DEA registrant at the registered location from which it was received.¹⁰ A warehouse that distributes list I chemicals to persons other than the registrant, at the registered location from which they were obtained, is conducting distribution activities and is required to register as such.

2. *Records and Reports.* Every DEA registrant must maintain records and submit reports to DEA with respect to 1-boc-4-piperidone pursuant to 21 U.S.C. 830 and in accordance with 21 CFR 1310. Pursuant to 21 CFR 1310.04, a record must be made and maintained for two years after the date of a transaction involving a listed chemical, provided the transaction is a regulated transaction.

Each regulated bulk manufacturer of a listed chemical would be required to submit manufacturing, inventory, and use data on an annual basis.¹¹ Existing standard industry reports containing the required information would be acceptable, provided the information is separate or readily retrievable from the report.

The CSA and its implementing regulations require that each regulated person report to DEA any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of subchapter I of the

⁷ 21 CFR 1309.21.

⁸ 21 CFR 1309.23(a); *see also* 21 U.S.C. 822(e)(1) (separate registration requirements pertaining to manufacturing or distributing a list I chemical).

⁹ 21 U.S.C. 822(c)(2); 21 U.S.C. 957(b)(1)(B).

¹⁰ *See* 21 CFR 1309.23(b)(1).

¹¹ 21 CFR 1310.05(d).

⁴ *See* Designation of 4-Piperidone as a List I Chemical, 88 FR 21902 (Apr. 12, 2023) (effective date of designation was May 12, 2023).

⁵ *Id.*

⁶ 21 CFR 1310.13 specifies that this chemical mixture is a chemical mixture consisting of two or more chemical components, at least one of which is a list I or list II chemical. *See also* 21 CFR 1300.02 (defining the term "chemical mixture").

CSA. In addition, regulated persons must report the following: any proposed regulated transaction with a person whose description or other identifying characteristics DEA has previously furnished to the regulated person, any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person, and any in-transit loss in which the regulated person is the supplier.¹²

3. *Importation and Exportation.* All importation and exportation of 1-boc-4-piperidone must comply with 21 U.S.C. 957, 958, and 971 and be in accordance with 21 CFR part 1313.

4. *Security.* All applicants and registrants must provide effective controls against theft and diversion of list I chemicals in accordance with 21 CFR 1309.71–1309.73.

5. *Administrative Inspection.* Places, including factories, warehouses, or other establishments and conveyances, where registrants or other regulated persons may lawfully hold, manufacture, distribute, or otherwise dispose of a list I chemical or where records relating to those activities are maintained, are controlled premises as defined in 21 U.S.C. 880(a) and 21 CFR 1316.02(c). The CSA allows for administrative inspections of these controlled premises as provided in 21 CFR part 1316, subpart A.¹³

6. *Liability.* Any activity involving 1-boc-4-piperidone not authorized by, or in violation of, the CSA is unlawful, and would subject the person to administrative, civil, and/or criminal action.

Regulatory Analyses

Administrative Procedure Act

Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(B), DEA finds that good cause exists here to dispense with notice-and-comment rulemaking because it is unnecessary. 1-boc-4-piperidone is currently regulated as a list I chemical as a carbamate of 4-piperidone. The addition of a separate listing for 1-boc-4-piperidone and its DEA chemical code number in the list of list I chemicals in 21 CFR 1310.02(a) makes no substantive difference in the status of this chemical as a list I chemical, but instead is “a minor or merely technical amendment in which the public is not particularly interested.”¹⁴ Therefore, DEA finds that

publishing a notice of proposed rulemaking and soliciting public comment are unnecessary and good cause exists to dispense with these procedures.

In addition, DEA is concerned that delaying the effective date of this rule potentially could cause confusion regarding the regulatory status of 1-boc-4-piperidone. With 1-boc-4-piperidone currently regulated as a list I chemical, and with no additional requirements being imposed through this action, DEA finds good cause exists to make this rule effective immediately upon publication in accordance with 5 U.S.C. 553(d)(3).

Executive Orders 12866, 13563, 14912, and 14294 (Regulatory Review)

This rule was developed in accordance with the principles of Executive Orders (E.O.) 12866, 13563, and 14912. This rule is not a significant regulatory action under section 3(f) of E.O. 12866. 1-boc-4-piperidone is already regulated as a list I chemical in the United States, as a carbamate of the list I chemical 4-piperidone. In this final rule, DEA is making an administrative change by amending its regulations to separately list 1-boc-4-piperidone as a list I chemical and to assign the DEA chemical code number 8331 to this chemical. A separate listing for 1-boc-4-piperidone will not alter the status of 1-boc-4-piperidone as a list I chemical. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB). DEA scheduling actions are not subject to E.O. 14912, *Unleashing Prosperity Through Deregulation*.

E.O. 14294, *Overcriminalization of Federal Regulations*, requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This final rule does not impose a criminal regulatory penalty and is thus exempt from E.O. 14924 requirements.

Executive Order 12988, Civil Justice Reform

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

applicable in “those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public” (internal quotations and citation omitted).

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)¹⁵ applies to rules that are subject to notice and comment under section 553(b) of the APA or other laws. As noted in the above section regarding the applicability of the APA, DEA determined that there is good cause to exempt this final rule from notice and comment. Consequently, the RFA does not apply.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.*, DEA has determined and certifies that this rule will not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year.” Therefore, neither a Small Government Agency Plan nor any other action is required under the UMRA.

Paperwork Reduction Act of 1995

The action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995.¹⁶ This action will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

¹² 21 U.S.C. 830(b); 21 CFR 1310.05(a) and (b).

¹³ 21 U.S.C. 880.

¹⁴ *National Nutritional Foods Ass’n v. Kennedy*, 572 F.2d 377, 385 (2d Cir. 1978) (quoting S. Rep. No. 79–752, at 200 (1945)). See also *Utility Solid Waste Activities Group v. E.P.A.*, 236 F.3d 749, 755 (D.C. Cir. 2001) (the “unnecessary” prong

¹⁵ 5 U.S.C. 601–612.

¹⁶ 44 U.S.C. 3501–3521.

Congressional Review Act

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

List of Subjects 21 CFR Part 1310

Administrative practice and procedure, Drug traffic control, Exports,

Imports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, DEA amends 21 CFR part 1310 as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES; IMPORTATION AND EXPORTATION OF CERTAIN MACHINES

■ 1. The authority citation for 21 CFR part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

■ 2. In § 1310.02, add paragraph (a)(40) to read as follows:

§ 1310.02 Substances covered.

* * * * *
(a) * * *

(40) 1-boc-4-piperidone (tert-butyl 4-oxopiperidine-1-carboxylate) and its salts	8331

* * * * *
■ 3. In § 1310.04:
■ a. Redesignate paragraphs (g)(1)(iv) through (xix) as paragraphs (g)(1)(v) through (xx), respectively; and
■ b. Add new paragraph (g)(1)(iv).
The addition reads as follows:

§ 1310.04 Maintenance of records.

* * * * *

(g) * * *
(1) * * *
* * * * *
(iv) 1-boc-4-piperidone (tert-butyl 4-oxopiperidine-1-carboxylate) and its salts.
* * * * *
■ 4. In § 1310.12, amend the table in paragraph (c) by adding in alphabetical

order the entry for “1-boc-4-piperidone (tert-butyl 4-oxopiperidine-1-carboxylate) and its salts” to read as follows:

§ 1310.12 Exempt chemical mixtures.

* * * * *
(c) * * *

TABLE OF CONCENTRATION LIMITS

	DEA chemical code No.	Concentration	Special conditions
List I Chemicals			
1-boc-4-piperidone (tert-butyl 4-oxopiperidine-1-carboxylate) and its salts.	8331	Not exempt at any concentration.	Chemical mixtures containing any amount of 1-boc-4-piperidone (tert-butyl 4-oxopiperidine-1-carboxylate) and its salts are not exempt.
* * * * *	* * * * *	* * * * *	* * * * *

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Signing Authority

This document of the Drug Enforcement Administration was signed on September 30, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters

the legal effect of this document upon publication in the Federal Register.

Heather Achbach,
Federal Register Liaison Officer, Drug Enforcement Administration.
[FR Doc. 2025–19349 Filed 10–1–25; 8:45 am]
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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1311

[Docket No. DEA–732]

RIN 1117–AB79

Controlled Substances Ordering System (CSOS) Modernization

AGENCY: Drug Enforcement Administration, Department of Justice.
ACTION: Final rule.

SUMMARY: This rule is amending the Drug Enforcement Administration’s (DEA) regulations to conform to the Controlled Substances Ordering System (CSOS) modernization effort by requiring all CSOS enrollment applications and supporting materials to

be submitted through the Diversion Control Division secure online portal. These amendments improve the enrollment process by aligning it with DEA's current requirements for other online form submissions. The online submission of enrollment applications and supporting material through the secure online portal increases the efficiency of the enrollment, modification, and revocation processes, and ensures DEA's receipt of accurate documentation in a more timely and organized manner.

DATES: This Final Rule is effective November 3, 2025.

FOR FURTHER INFORMATION CONTACT: Heather E. Achbach, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 776-2265.

SUPPLEMENTARY INFORMATION

Legal Authority

The Controlled Substances Act (CSA) grants the Attorney General authority to promulgate rules and regulations relating to: the registration and control of the manufacture, distribution, and dispensing of controlled substances and listed chemicals; reporting changes to professional or business addresses; and the efficient execution of his statutory functions.¹ The Attorney General is further authorized by the CSA to promulgate rules and regulations relating to the registration and control of importers and exporters of controlled substances and listed chemicals.² The Attorney General has delegated this authority to the Administrator of DEA.³

The CSA defines "distribute" as "to deliver (other than by administering or dispensing) a controlled substance or a listed chemical" and "distributor" as "a person who so delivers a controlled substance or a listed chemical."⁴ The CSA further provides that it "shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) [of 21 U.S.C. 828] and regulations prescribed by him pursuant to [21 U.S.C. 828]."⁵ "Every person who gives an order required under subsection (a) [of 21 U.S.C. 828] shall, at or before the time of giving such

order, make or cause to be made a duplicate thereof on a form to be issued by the Attorney General in blank in accordance with subsection (d) [of 21 U.S.C. 828] and regulations prescribed by him pursuant to [21 U.S.C. 828], and shall, if such order is accepted, preserve such duplicate for a period of two years and make it available for inspection and copying. . . ." ⁶ "The Attorney General shall issue forms . . . only to persons validly registered under [21 U.S.C. 823] (or exempted from registration under [21 U.S.C. 822(d)]). Whenever any such form is issued to a person, the Attorney General shall, before delivery thereof, insert therein the name of such person, and it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances."⁷

Implementation of the CSA Written Order Form Requirement

Paper DEA Form 222

In 1971 DEA implemented the CSA's written order form requirement by publishing a final rule requiring triplicate paper DEA Form 222s.⁸ In 2019, DEA amended its regulations to create a new single-sheet format for the paper DEA Form 222s.⁹ The rule contained transition provisions allowing registrants to continue to use their existing stocks of the triplicate paper DEA Form 222s until October 30, 2021.¹⁰

Electronic DEA Form 222

In 2005, DEA published a final rule amending its regulations to provide an electronic equivalent to the DEA Form 222 (also known as CSOS).¹¹ The amendments allowed registrants to order schedule I and II controlled substances electronically and maintain records of these orders electronically. The intent of these amendments was to reduce paperwork and transaction times for DEA registrants who sell or buy controlled substances.

Summary of Current CSOS Regulations

The current CSOS regulations are found in 21 CFR parts 1305 and 1311. DEA Registrants use CSOS as a secure system to track schedule I and II controlled substance orders. The system allows for secure electronic controlled substance orders without the need for a paper order form (DEA Form 222). Using Public Key Infrastructure (PKI), CSOS requires that each individual supplier and purchaser enroll with DEA to acquire a CSOS digital certificate. System enhancements allow electronic documentation submission, self-service support options, and electronic processing of single and bulk applications, renewals, and revocations. Users are able to electronically search for, revoke, report, retrieve, and renew secure digital certificates.

Purpose of Rule

Current regulations require registrants who wish to participate in the CSOS system to enroll using a labor-intensive manual process which relies on paper applications. The paper application must be notarized and the package mailed to DEA, creating delays in the enrollment process and putting applications at risk of being lost.¹² The purpose of this rule is to simplify the application process by requiring all CSOS enrollment applications to be submitted online.¹³ All applicants for enrollment will follow the CSOS link on the *deaddiversion.gov* website to the CSOS log-in page. From the CSOS log-in page the applicant will be redirected to *Login.gov* for Identification Verification. Upon arrival at the site, the applicant will be asked to create a *Login.gov* account by entering a valid email address, selecting a default language, and agreeing to *Login.gov*'s Rules of Behavior. A confirmation email will then be sent to the applicant's selected email. Once the email has been confirmed, the applicant must create a *Login.gov* password by providing a telephone number to which a verification code can be sent. Once the code is sent and the applicant enters the given code on the *Login.gov* website, the applicant must agree to the site's security statement. *Login.gov* next requires applicants to upload photographs of one or more forms of identification as specified by *Login.gov* and to enter a Social Security Number, after which the applicant is asked to verify the given information. The applicant is next asked to re-enter their *Login.gov* password to receive a

¹ 21 U.S.C. 821, 822(a), 823, 827 (h), 871(b).

² 21 U.S.C. 957(a), 958(f).

³ 28 CFR 0.100(b).

⁴ 21 U.S.C. 802(11).

⁵ 21 U.S.C. 828(a).

⁶ 21 U.S.C. 828(c)(2).

⁷ 21 U.S.C. 828(d)(1).

⁸ *Regulations Implementing the Comprehensive Drug Abuse Prevention and Control Act of 1970*, 36 FR 7776, 7797 (Apr. 24, 1971).

⁹ *New Single-Sheet Format for U.S. Official Order Form for Schedule I and II Controlled Substances (DEA Form 222)*, 84 FR 5395 (Feb. 21, 2019); *New Single-Sheet Format for U.S. Official Order Form for Schedule I and II Controlled Substances (DEA Form 222)*, 84 FR 51368 (Sept. 30, 2019).

¹⁰ 21 CFR 1305.20.

¹¹ *Electronic Orders for Controlled Substances*, 68 FR 38557 (June 27, 2003), and *Electronic Orders for Controlled Substances*, 70 FR 16901, (Apr. 1, 2005).

¹² 21 CFR part 1311 *et seq.*

¹³ CSOS 2.0 was successfully deployed for public use on December 9, 2024.

Personal Key by separate message. The applicant is then asked to enter that Personal Key and review their information. Upon review of the information, the applicant is then directed back to the CSOS website for further processing. Upon return to the CSOS website, the applicant is asked to agree to the CSOS User Agreement and can apply for one of three system user roles (Registrant, Coordinator, or Power of Attorney in descending order of superiority) with enrollment requests approved or rejected by the superior role. After the Registrant role is established, all subordinate applications for enrollment must be approved by the Registrant. Upon establishment of a Coordinator, all subordinate applications for enrollment for the Power of Attorney role must be approved in the system by the responsible Coordinator.

This final rule amends DEA regulations to require electronic enrollment through a secure web-based system. Submission through the secure online system will be a streamlined process which will benefit both DEA and CSOS participants.

Summary of the Notice of Proposed Rulemaking

On February 2, 2023, the Drug Enforcement Administration (DEA) published a Notice of Proposed Rulemaking (hereinafter “NPRM”) proposing to amend DEA’s regulations to conform to the CSOS modernization effort by requiring CSOS enrollment applications and supporting materials to be submitted through the Diversion Control secure online portal.¹⁴ In this rulemaking, DEA is finalizing the regulatory text proposed in the NPRM and addressing concerns brought forth by commenters.

Discussion of Public Comments

DEA received eight (8) comments in response to the NPRM.¹⁵ The commenters included: the general public, third-party interest groups, and an online identity network company. The commenters were mostly supportive of the proposed rule. Six (6) commenters supported the new system and viewed the proposed rule’s modernization effort of CSOS as positive. However, one (1) commenter disagreed with the use of *Login.gov* and wanted DEA to align the credential service provider requirement to current practices within the healthcare industry

that coordinates with National Institute of Standards and Technology (hereinafter, “NIST”) IAL2/AAL2 standards. Most of the commenters were asking for clarification regarding certain aspects of the proposed rule. The comments will be further discussed in detail below.

Paper DEA Form 222s Should Still Be An Option

Issue 1: Two (2) commenters expressed concern that the proposed rule should continue to allow the use of paper DEA Form 222s as an option. Both of the commenters noted that some states still require paper forms to transfer controlled substances between a Long-Term Care (hereinafter, “LTC”) pharmacy and emergency kit in a skilled nursing facility.

DEA Response 1: Paper DEA Form 222s will still be an available option. The proposed rule will have no impact on the continued availability and use of paper DEA Form 222s. DEA is aware of some states continuing to require the use of paper DEA Form 222s, and therefore, will keep the forms available as an option for the distribution of controlled substances.

Transition of Existing Registrants to CSOS 2.0

Issue 2: Three (3) commenters asked for clarification on how DEA intends to transition registrants with existing, active certificates to CSOS 2.0.

DEA Response 2: DEA will transition existing registrants to CSOS 2.0 by transferring all active certificate holders and their associated information to CSOS 2.0. This associated information includes DEA number(s), certificate serial numbers, and other aspects. This information will be accessible when the user creates an account in the new portal. The following fields of active certificate holders are being moved into CSOS 2.0: registrant status, renewal instance number, application status code, application status date, certificate serial number, certificate expiration date, DEA number, individual identification, and role. The information that is related to current and/or active certificates will not need to be resubmitted.

Issue 3: Two (2) commenters wanted clarification on whether existing and active registrants will have to resubmit information in the new online portal.

DEA Response 3: Current and/or active registrants will not be required to re-submit information related to their current and/or active certificates.

Receipt of Verification Code

Issue 4: One (1) commenter asked for clarification as to whether the individual accessing the CSOS login page could provide either a cellular phone or a landline phone number for the purpose of receiving the verification code. This commenter was concerned as cellular phone usage is not always available. The commenter also asked for secure alternatives to providing the verification code as phone use will not always be available for all registrants attempting to utilize the CSOS system.

DEA Response 4: Individuals logging into CSOS will receive a verification code. CSOS registrants have the option of receiving the verification code through OKTA Verify,¹⁶ Google Authenticator, and email. OKTA Verify has recently discontinued the phone option. As a result, cell phones or land phones are no longer an option.

Features of CSOS

Issue 5: One (1) commenter sought clarification regarding the implementation of the electronic application submission process. Specifically, the commenter asked if the user will be notified upon login to the site that they have reached their two opportunities for online renewal before the certificate expires and now need to submit a new application.

DEA Response 5: Currently, the portal does not show that an individual has reached his or her two opportunities to renew online before the certificate expires. The DEA will continue working towards incorporating this feature in a future update to the portal.

Issue 6: One (1) commenter asked whether the Coordinator(s) will be notified that the subordinate’s application for enrollment for the Power of Attorney role is ready for review and approval by the Coordinator, as required by the rule and if so, how.

DEA Response 6: All users in the system will have full visibility into their actions pending review and approval. Approvers will receive email notifications of pending approvals. The Coordinator will be notified via email that the subordinate’s application for enrollment for the Power of Attorney role is ready for review and approval.

Issue 7: One (1) commenter asked DEA for a live chat option for registrants to contact DEA regarding enrollment issues, and the option to receive an email transcript of said chat conversation.

¹⁴ 88 FR 7033.

¹⁵ A total of eight (8) comments were received; however, one commenter submitted a duplicate comment.

¹⁶ OKTA Verify is a multifactor authentication application that enables users to confirm their identity. <https://help.okta.com/en-us/content/topics/mobile/okta-verify-overview.htm>.

DEA Response 7: Currently, this option is unavailable; however, this feature can be considered in a future upgrade. A new feature to CSOS will be an email option that generates a ticket number and assigns a time frame wherein a help desk representative will respond.

Implementation

Issue 8: One (1) commenter asked for DEA to further explore and clarify the implementation process.

DEA Response 8: The implementation and transition processes are being finalized. Prior to the launch date, informational announcements previewing new functionality, pertinent dates, and online application instructions will be provided to DEA registrants via email and on the DEA Diversion website. An email will be sent to users providing them with a website link. The email will come from *deaecom.gov*, which is a verified government email address, from which CSOS and DEA participants have received emails in the past. The email will only be sent in response to action taken by the participant, not initiated by DEA. These measures are sufficient for users to recognize valid communications from DEA. The website will provide the users with instructions. Users will be informed when the new process will go into effect as well as what steps users will need to take. Current users will continue utilizing the login page as they did in the past. Current users are not required to act until the time of renewal. There will be a pre-launch date that will enable users to perform the *Login.gov* identity verification process prior to creating a CSOS account. When CSOS 2.0 is launched, current users will be able to create accounts as well as take advantage of the new self-service features.

Issue 9: One (1) commenter asked whether DEA would take steps to remedy registrants experiencing excessive hold times when calling the CSOS help desk, and whether DEA would further staff the help desk with individuals that can resolve the problem as opposed to someone that records and relays information to the support team.

DEA Response 9: The newly automated system will allow subscribers to complete tasks independently on the portal that, under the current system, required users to call the help desk. This will greatly lower the number of calls made to the help desk. As a result, hold times will be significantly diminished. The call center operators are increasingly being cross-trained to handle CSOS and general registration

requests. Call center operators had their initial training session and are in the process of reviewing a training manual. There is a training site for them to utilize as well.

Issue 10: One (1) commenter wanted to see improvements with the CSOS certificate retrieval process as the retrieval process is time consuming and difficult. The commenter asked DEA to standardize and streamline the CSOS certificate retrieval process, particularly with pharmacy chains. This commenter urged DEA to create an automated process in which the passwords for CSOS certificate retrieval can be uploaded into the certificate retrieval system. Furthermore, the commenter asked DEA to update its software to eliminate the need for passwords to be issued in text files, and that the automated process allow a user to be logged in for extended periods of time.

DEA Response 10: A modernized retrieval process will be a part of a later upgrade to the portal. DEA has taken this comment into consideration for future upgrades to the system.

Credential Service Provider and Identity Proofing Security

Issue 11: One (1) commenter stated that DEA should strike *Login.gov* from its purpose statement and align the credential service provider (hereinafter, “CSP”) requirement to current practices within the healthcare industry, *i.e.*, credentials aligned with NIST IAL2/AAL2 standards. This commenter also stated that DEA should enable providers to use portable, digital credentials they already have for CSOS access by providing multiple CSP solutions selected through a competitive procurement process.

DEA Response 11: The use of additional CSPs may be a future enhancement. *Login.gov* will conduct identity proofing, and DEA will continue as the Certification Authority. *Login.gov* does not meet the standard of NIST IAL2/AAL2; however, *Login.gov* meets the IAL1/AAL1 standard. Following the standards of NIST IAL1/AAL1 is sufficient for CSOS 2.0 as *Login.gov* conducts additional verification procedures similar to those used by financial institutions. Alignment with NIST IAL2/AAL2 may be an enhancement in the future.

Issue 12: One (1) commenter wanted clarification regarding the notary requirement, and which free online verification method will be used. The “Purpose of Rule” section of the NPRM discusses the use of *Login.gov*, which the commenter states does not appear to be an identity proofing service. Further the commenter wanted clarification as

to whether ID.me is the identity proofing service that will be used, as other government agencies mention the use of *Login.gov*, but indicate ID.me is the actual identity proofing service.

DEA Response 12: The Technology Transformation Services within the General Services Administration operates a system, *Login.gov*, which provides authentication and identity verification services to federal agencies. DEA will use *Login.gov* for authenticating users and verifying identity. ID.me is not the identity proofing service that will be used. *Login.gov* conducts identity proofing, and no payment is required by the applicant during the *Login.gov* or CSOS account creation. Federal agencies are responsible for ensuring that users are properly authenticated and identified before accessing services, benefits, and other resources. *Login.gov* provides these capabilities as a shared service to agencies on a cost reimbursable basis. Strong authentication requires each account to be protected by a multi-factor option, which increases account security. Identity verification requires users to go through an identity proofing process to confirm that the user is who the user claims to be. This process may include, but is not limited to, a combination of digital technologies, government and commercial data sources, and in-person interactions to check identifying documents and evidence. *Login.gov* offers other settings for authentication, including requiring a user-provided second factor for authentication each time a user authenticates. This setting is required for identity verification and authentication-only services that use personal data.

Issue 13: One (1) commenter asked for clarification on whether the free online verification service is a hosted or cloud-based service, and what the level of assurance is compared with the level of assurance of the current process.

DEA Response 13: There is no payment requirement for the applicant during account creation for *Login.gov* and CSOS 2.0. *Login.gov* is cloud-based. After analyzing alternative solutions, *Login.gov* was selected as the preferred solution, based on comprehensive service offerings and competitive pricing. The level of assurance of the new process is comparable to the current process. The level of assurance with the current process involves a notary requirement. The *Login.gov* system that is going to be used for CSOS 2.0 is at the IAL1/AAL1 assurance level. DEA determined that the IAL1/AAL1 assurance level plus additional verification procedures similar to those

used in financial institutions is comparable to the current process. The use of CSPs and alignment with NIST IAL2/AAL2 may be a future enhancement.

Issue 14: Two (2) commenters were concerned with the level of assurance or security of the process that will be implemented.

DEA Response 14: The assurance level for CSOS 2.0 is at IAL1/AAL1, which includes additional verification procedures similar to those used by financial institutions conducted by *Login.gov*. The assurance level of IAL1/AAL1 was deemed sufficient due to the additional verification procedures that *Login.gov* conducts.

Issue 15: One (1) commenter discussed how currently, two copies of identification are needed for obtaining a CSOS digital certificate under 21 CFR 1311.25(a)(1). The commenter asked DEA to provide clarification as to what the new process will encompass as the proposed change states to “complete the online verification proofing process.”

DEA Response 15: Applicants should be prepared to provide the following information: state issued identification, email, phone bill details, and a verified address. Social Security Numbers are being collected during the *Login.gov* registration process, but are not being passed, transferred, or stored within CSOS 2.0.

Online Portal

Issue 16: One (1) commenter asked for clarity on what the online registration process will look like through the secure online portal. This commenter further asked for clarification if it will be a web-based form with the same exact fields as the current paper DEA Forms 251, 252, 253, and 254.

DEA Response 16: DEA will update the CSOS user guide with screenshots of the new portal prior to launch. The new portal uses web-based forms that require the same information as on the paper forms.

Issue 17: One (1) commenter asked whether the secure online portal will be cloud-based and what kind of security will be implemented.

DEA Response 17: The online portal is a FedRAMP government cloud-based solution with multifactor implementation. FedRAMP is a certified system and is a government-wide program that promotes the adoption of secure cloud services across the federal government by providing a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services. FedRAMP provides a standardized approach to security

authorizations for Cloud Service Offerings.

Coordinator

Issue 18: One (1) commenter asked for clarification for the reason of removal of the coordinator from the process in 21 CFR 1311.25, as the coordinator seems to have a significant security role in limiting who can apply for a CSOS digital certificate.

DEA Response 18: DEA is not removing the Coordinator role from the process in 21 CFR 1311.25. The individuals who are acting in the Coordinator role will be able to review and approve and/or deny applications in the online portal. *Login.gov* does the identification proofing on all subscriber applications; therefore, the Coordinator will no longer be tasked with verifying and approving submitted documentation for Power of Attorney applications. The requirement for the application to be notarized and physically mailed to DEA will be removed with the amending of the regulations.

Previously, the Principal Coordinator was responsible for identity proofing all applications submitted under a respective DEA registration. Although all applicants will now be verified and authenticated online, the Principal Coordinator remains an integral part of the application process. Once a Principal Coordinator is designated by the registrant, the Principal Coordinator will be involved in the issuance of, revocation of, and changes to digital certificates issued under that registrant's DEA registration and can approve subsequent applications submitted for the Power of Attorney role. The Principal Coordinator role will continue to provide security and certificate oversight.

Issue 19: One (1) commenter asked for clarification on how the Coordinator informs the Certification Authority of all digital certificate applications, and how the process will work with the Coordinator for approving applicants applying for a Power of Attorney certificate.

DEA Response 19: The Coordinator will receive an automatic email from CSOS 2.0 requesting that the Coordinator review and approve requests for the Power of Attorney role triggering issuance of the certificate. Coordinators use the portal to revoke certificates of subscribers they oversee and to approve or reject new Power of Attorney role requests and certificate renewals. Powers of Attorney submit these requests independently, which then go to the Coordinator to approve or reject the request. The Coordinator no

longer needs to provide a signature on the application for submission of the request.

Issue 20: One (1) commenter stated that 21 CFR 1311.20 and 1311.25 have been changed in a way so that the Coordinator no longer has to send a copy of the DEA Form 223¹⁷ to the CSOS Registration Authority. This commenter discussed how the NPRM proposed to remove language stating that the Coordinator is responsible for verifying the applicant's identity in 21 CFR 1311.20, as well as the Coordinator reviewing the application package, and the Coordinator submitting the completed package to the Certification Authority. Finally, the commenter asked for clarification regarding the purpose of the changes, and how security will be impacted.

DEA Response 20: The purpose of the change is to enable online registration for CSOS 2.0. DEA numbers will be validated during account creation. Coordinator applications will require approval by the registrant.

CSOS 2.0 will directly access DEA's registration database and review current DEA Form 223 status electronically, which will eliminate the need for the paper document. Due to this development, advanced security measures have been implemented.

When a registrant enrolls in CSOS 2.0, identity verification services will be provided by *Login.gov*. *Login.gov* will collect a photo of a government issued ID and other personal identifiable information (including, but not limited to, full name, date of birth, mailing address, phone number, and Social Security Number or Individual Taxpayer Identification Number). *Login.gov* will also validate the information submitted by the user with authoritative data sources. Depending on the information entered, the system will also perform one of the following: (1) sending a text message or call with a code to the phone number associated with the user, or (2) receiving a one-time code using face or touch unlock, security key, or third-party authentication applications such as OKTA Verify, and/or Google Authenticator. The user will need to provide this code to *Login.gov* in order to complete *Login.gov*'s identity verification process. If the user was

¹⁷ DEA form 223 is the Certificate of Registration, which contains “the name, address, and registration number of the registrant, the activity authorized by the registration, the schedules and/or Administration Controlled Substances Code Number (as set forth in part 1308 of this chapter) of the controlled substances which the registrant is authorized to handle, the amount of fee paid (or exemption), and the expiration date of the registration.” 21 CFR 1301.35(c).

successfully verified and provides consent, DEA may receive the user's attributes at the time of authentication. If the user was unable to successfully verify their identity, they will retain their account for authentication services.

Identity verification services may also involve in-person supervision and remote supervision of the user during the process, such as when *Login.gov* is unable to collect a photo of their government-issued ID, or other methods of verification such as inheriting credentials from an agency partner. In amending its regulations to transfer all paper applications for CSOS ordering to electronic submissions, the requirement for the application to be notarized and physically mailed to DEA will be removed. Previously, the Principal Coordinator role was responsible for identity-proofing all applications submitted under a respective DEA registration. As proposed, all applicants will be verified and authenticated online, however the Principal Coordinator remains an integral part of the application process. Once a Principal Coordinator is designated by the registrant, the Principal Coordinator will be involved in the issuance of, revocation of, and changes to digital certificates issued under that registrant's DEA registration and can approve subsequent applications submitted for the Power of Attorney role. The Principal Coordinator role will continue to provide security and certificate oversight.

Call Center Wait Times

Issue 21: One (1) commenter provided the following call center wait time calculations: savings to industry seems to represent a 94% reduction in DEA call center demand. Old process = (90 minutes per new application $\times$ 31,372 new applications per year) + (90 minutes per renewal $\times$ 62,344 renewals per year) = 8,434,440 minutes. New process = (15 minutes per new application $\times$ 31,372 new applications per year) + (0 minutes per renewal $\times$ 62,344 renewals per year) = 470,580. With the estimated numbers of new and renewal applications being found in DEA's Executive Order (E.O.) 12866 section. The commenter wanted DEA to confirm whether these calculations were correct.

DEA Response 21: The commenter seems to have misunderstood the calculation and DEA also notes that the commenter appears to have mistyped the number of new applications. As detailed in the Executive Order (E.O.) 12866 section below, DEA estimates there will be labor cost savings from

reduced time to complete a new application. DEA estimates that the current time to complete a new application is three hours, which includes an estimated 1.5 hours to prepare and provide the necessary information and 1.5 hours calling DEA for assistance or to check the status of the application. Under the proposed final rule, while an applicant is expected to require the same 1.5 hours to prepare and provide the necessary information, the online system will allow self-viewing of status, reducing the need for or duration of calls to DEA. DEA estimates the required time to complete a new application would be 1.75 hours, including an estimated 0.25 hours for logging in to the CSOS system or calls to DEA for assistance. The commenter's calculation would instead be correct as follows: Old process = (180 minutes per new application $\times$ 31,172 per year) + (90 minutes per renewal $\times$ 62,344 per year) = 11,221,920 minutes. New process = (105 minutes per new application $\times$ 31,172 per year) + (15 minutes per renewal $\times$ 62,344 per year) = 4,208,220.

Audits and Testing

Issue 22: One (1) commenter stated that third-party vendors of CSOS software are required to go through audits. This commenter asked DEA whether audits will be required of any third-party software contemplated for use in this modernized registration process.

DEA Response 22: DEA does not anticipate the use of any third-party software for the modernized registration process.

Issue 23: One (1) commenter inquired as to how the modernized system will be tested and whether there will be industry involvement in testing.

DEA Response 23: DEA performs ongoing, continual, and extensive testing to include: regression, performance, security, and user acceptance. DEA is considering opportunities for industry involvement.

Bulk Enrollment

Issue 24: One (1) commenter asked for clarification as to whether the CSOS 2.0 enrollment processes will continue to accommodate bulk enrollment (*i.e.*, the enrollment of multiple registrants under a single applicant, as occurs with chain pharmacy organizations).

DEA Response 24: DEA's CSOS online portal will continue to accommodate bulk enrollment. CSOS 2.0 will enable subscribers to complete the bulk enrollment process directly online, which will simplify the process.

Issue 25: One (1) commenter asked DEA to assign specialists for each pharmacy organization that uses bulk enrollment.

DEA Response 25: It is anticipated that these updates to CSOS will mitigate the need for DEA assistance, as the bulk renewal will be done online directly by the subscriber. As such, DEA does not anticipate a need to assign specialists for each pharmacy organization that uses bulk enrollment. In the event that assistance is required, the Diversion Control Contact Center Operators (help desk) will be available 8:30 a.m.–5:50 p.m. EST, Monday through Friday.

Power of Attorney

Issue 26: One (1) commenter asked for clarification as to whether individuals who have been granted the Power of Attorney authority for DEA registration purposes can serve in the role of the registrant for CSOS purposes and could therefore designate CSOS coordinators.

DEA Response 26: Individuals who have been granted Power of Attorney authority for DEA registration purposes can also serve in the role as the registrant coordinator for CSOS purposes, if such role is authorized through an executed Power of Attorney.

An applicant for a DEA number may authorize one or more individuals to sign applications for the applicant by filing a Power of Attorney for each such individual.¹⁸ A DEA registrant may also execute a Power of Attorney to authorize one or more individuals to issue orders for Schedule I and Schedule II controlled substances on behalf of the registrant.¹⁹

A DEA registrant may execute a Power of Attorney that designates an individual as the registrant coordinator for said registrant's respective DEA registration number, once this individual enrolls through the CSOS 2.0 portal. The registrant coordinator may designate an individual as the Principal Coordinator over the CSOS certifications. This individual designated as the Principal Coordinator can assign himself or another as the Principal Coordinator for CSOS.

Discussion of Regulatory Changes Need for Regulatory Changes

Regulatory changes are needed to conform existing DEA regulations regarding the submission of paper CSOS system enrollment forms to DEA's current requirements that other DEA

¹⁸ 21 CFR 1301.13(j) (May 11, 2022).

¹⁹ 21 CFR 1305.05(a) (Oct. 30, 2019).

forms be submitted online.²⁰ The paper enrollment process is prone to errors, creates wasteful and unnecessary paper records, requires manual processing, and leads to hard copy records that are expensive to process and store. This rule amends existing DEA regulations in one part—Title 21 Chapter II Part 1311. DEA is amending 21 CFR 1311 to require all CSOS enrollment applications and supporting materials to be submitted to DEA through the CSOS secure network portal. This amendment improves the submission process by aligning it with DEA’s current policy of reducing and/or eliminating the reliance on wasteful paper applications and expediting enrollment by utilizing modern technology. The online submission of applications and supporting materials through the secure database will ensure DEA’s receipt of documentation in a more timely and organized manner.

Section-by-Section Analysis

DEA is amending 21 CFR 1311.20, 1311.25, 1311.40, and 1311.60 by eliminating the ability of registrants to submit paper CSOS enrollment application forms. Registrants will be required to submit all their application materials through the secure online portal. Moreover, DEA is amending these regulations by eliminating certain recordkeeping requirements, as those records will now be accessible as a digital version in the system. DEA believes these amendments will expedite the enrollment process for registrants and facilitate the Agency-wide goal of reducing DEA’s reliance on paper forms.

DEA is amending 21 CFR 1311.20, which describes the role and responsibilities of the CSOS Coordinator. Current regulations require the CSOS Coordinator to complete the paper application process by submitting the notarized enrollment package to the DEA Certification Authority for processing. This amendment streamlines the process by eliminating

the paper process and requiring Coordinator applicants to enroll using the secure online portal.

Additionally, DEA is amending 21 CFR 1311.25, which establishes the requirements for a registrant, or authorized representative with a Power of Attorney, to complete the manual application process by submitting the notarized enrollment package to the DEA Certification Authority for processing. This amendment streamlines the process by eliminating the manual paper process and requiring all registrants, or authorized representatives with Powers of Attorney, to enroll using the secure online portal.

DEA is also amending 21 CFR 1311.40, which establishes the criteria for renewal of a CSOS digital certificate. This amendment streamlines the renewal process by eliminating the manual paper process and requiring that all renewal applications be submitted using the secure online portal.

Last, DEA is amending 21 CFR 1311.60, which establishes recordkeeping requirements on the part of the CSOS certificate holder by requiring that a copy of the subscriber agreement be maintained for the life of the certificate. This amendment removes the requirement of the CSOS certificate holder to maintain a copy of the subscriber agreement by enabling registrants to sign and access a digital version of the agreement in the online portal.

Regulatory Analyses

Executive Orders 12866, 13563, and 14192 (Regulatory Review)

DEA has determined that this rulemaking is not a “significant regulatory action” under section 3(f) of Executive Order (E.O.) 12866, Regulatory Planning and Review. Accordingly, this proposed rule has not been submitted to the Office of Management and Budget (OMB) for review. This proposed rule has been

drafted and reviewed in accordance with E.O. 12866, “Regulatory Planning and Review,” section 1(b), Principles of Regulation; E.O. 13563, “Improving Regulation and Regulatory Review,” section 1(b), General Principles of Regulation; and E.O. 14192 “Unleashing Prosperity Through Deregulation.”

Analysis of Benefits, Costs/Cost Savings

Current regulations require registrants who wish to participate in the CSOS system to enroll using a labor-intensive manual process which relies on paper applications. This final rule amends DEA regulations to require electronic enrollment through a secure web-based system.

The current regulations related to CSOS enrollment are summarized below.

- (1) 21 CFR 1311.20(b)–(c) requires Coordinators to enroll in writing.
 - (2) 21 CFR 1311.25(a)–(b) requires a registrant, or authorized representative with a Power of Attorney, to enroll in writing.
 - (3) 21 CFR 1311.40(c)–(d) requires submitting a new application in writing for every third renewal and for expired certificates.
 - (4) 21 CFR 1311.60(c) requires maintaining a copy of the subscription agreement for the life of the certificate.
- The final rule would change these requirements to the following.
- (1) 21 CFR 1311.20(b)–(c) requiring Coordinators to enroll online.
 - (2) 21 CFR 1311.25(a) (with (b) removed) requiring all registrants, or authorized representative with a Power of Attorney, to enroll online.
 - (3) 21 CFR 1311.40(c)–(d) requiring, for every third renewal and expiration, a new application online.
 - (4) 21 CFR 1311.60(c), removing this provision to allow electronic subscription agreements to be held online and no longer requiring a paper copy be maintained.
- Table 1 summarizes the changes from current regulations to the final rule.

TABLE 1—SUMMARY OF CURRENT REGULATIONS AND THE FINAL RULE

21 CFR location	Current	Final rule
1311.20(b)–(c)	Requires Coordinators to enroll in writing	Will require Coordinators to enroll online.
1311.25(a)–(b)	Requires a registrant, or authorized representative with a Power of Attorney, to enroll in writing.	Will require all registrants, or authorized representatives with Powers of Attorney, to enroll online.

²⁰ See *Reporting of Theft or Significant Loss of Controlled Substances*, 88 FR 40707 (June 22, 2023) (published Final Rule to require all DEA Form 106s to be submitted electronically); *Suspicious Orders of Controlled Substances*, 85 FR 212 (Nov. 2, 2020) (published NPRM proposing centralized electronic reporting for suspicious order reports based on Congressional mandate); Agency Rule List—Spring

2021 (2021), https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=1100&csrf_token=F19C7C599C70B80C228EC16B60AEB150F6339AF3C80E56FE003EEB7D3A758895BC8E16A215E8A0466326EBFBA8639

F799E09 (Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions, Active Regulatory Actions Listed By Agency, Agency Rule list noting proposed rule stage for Electronic Submission of DEA Form 41 (Registrant Record of Controlled Substances Destroyed)—1117–AB59).

TABLE 1—SUMMARY OF CURRENT REGULATIONS AND THE FINAL RULE—Continued

21 CFR location	Current	Final rule
1311.40(c)–(d)	Requires submitting a new application in writing, for every third renewal and for expired certificates.	Will require, for every third renewal and expiration, a new application online.
1311.60(c)	Requires maintaining a copy of the subscription agreement.	(Removal) will allow subscription agreements to be held online and no longer require a copy be maintained.

DEA has examined the benefits and costs/cost savings of this final rule and believes it is of net positive economic benefit. DEA believes the cost savings to registrants, as well as DEA, heavily outweigh any cost to DEA associated with implementing and maintaining the necessary computer systems to allow for online enrollment and renewal to CSOS.

Affected Parties and Number of CSOS Applications

This final rule will affect registrants who wish to participate in the CSOS system, and DEA. A registrant, designated person, or an authorized representative, who wishes to enroll in the CSOS system can apply for one of three system user roles: Registrant, Coordinator, or Power of Attorney. New and renewal enrollment applications are submitted online. DEA processes the applications in addition to operating and maintaining the systems used in the enrollment and certificate management process. The economic impact of this final rule is a function of changes in requirement for each CSOS enrollment application and the estimated number of applications.

Each year, DEA receives a mix of new and renewal applications for enrollment. In 2021, DEA received 31,172 new applications. These applications include 11,411; 6,974; and 12,787 new applications for Registrant, Coordinator, and Power of Attorney roles, respectively. For every third renewal, the CSOS certificate holder must submit a new application.²¹ Therefore, for the purposes of this analysis, a third renewal is considered as a new application. Based on this renewal requirement, DEA estimates that new applications are approximately one-third of total applications and the number of renewals is approximately twice the number of new applications. Therefore, DEA estimates there were 62,344 renewal applications for a total of 93,516 (31,172 + 62,344) total applications in 2021.

As pharmacies are the largest registration business activity that participate in CSOS, representing approximately 73 percent of CSOS

registered locations,²² DEA believes the growth in the number of pharmacies registered with DEA represents a good proxy for the growth of CSOS-participating registrants, and the number of CSOS applications for enrollment.

The number of DEA registered pharmacies has declined from 72,353 in 2015 to 70,628 in 2019 and has roughly stayed constant, with no growth, from 2019 to 2021, with 70,789 and 70,670 pharmacy registrations in 2020 and 2021, respectively. So, DEA believes that zero net growth in CSOS applications is a reasonable estimate. Therefore, DEA estimates the numbers of applications will stay constant at 31,172 new and 62,344 renewal, for a total of 93,516 applications, over the 10-year analysis period.

Registrant Impact

New Applications

Below is a description of the estimated impact of the final rule on new enrollment applications for Registrant, Coordinator, and Power of Attorney roles.

1. *Time to Complete New Application:* DEA estimates there will be labor cost savings from reduced time to complete a new application. DEA estimates that the current time to complete a new application is three hours, which includes an estimated 1.5 hours to prepare and provided the necessary information and 1.5 hours calling the DEA for assistance or status of application. Under the final rule, while an applicant is expected to require the same 1.5 hours to prepare and provide the necessary information, the online system will allow self-viewing of status, reducing the need or duration of calls to DEA. DEA estimates the required time to complete a new application would be 1.75 hours, including an estimated 0.25 hours for logging to CSOS system or calls to DEA for assistance. Using a loaded hourly rate of \$93.02 for Pharmacists,²³ ²⁴ ²⁵ the labor cost would

decrease from \$282.06 ($\$94.02 \times 3$) to \$164.54 ($\$94.02 \times 1.75$), resulting in an estimated cost savings of \$117.52 ($\$282.06 - \$164.54$) per application.

2. *Postage Cost:* Under current regulations paper application forms and supporting information need to be shipped to DEA. The final rule will eliminate the need to ship paper applications. Not having to ship the enrollment package is estimated to reduce postage costs by \$13.27 per application.²⁶

3. *Notary Cost:* Under current regulations, a new application for a Registrant or a Coordinator role requires a notary. The final rule will eliminate the notary requirement. Not having to get a notary (due to online verification methods is expected to eliminate an estimated notary cost of \$5.00 per enrollment package.²⁷ The notary requirement only applies to Registrant and Coordinator roles, and as discussed earlier, of the estimated 31,172 total new applications, 11,411 and 6,974 are for Registrant and Coordinator, respectively, making up 59 percent $((11,411 + 6,974)/31,174)$ of total registrations. Therefore, 59 percent of \$5.00, \$2.95 is the average notary cost savings for all new applications.

4. *Agreement Storage Costs:* Under current regulations, a CSOS certificate holder is required to maintain a copy of the subscriber agreement. The final rule will eliminate this requirement. DEA does not believe there is a material

²⁵ As pharmacies represent a large majority of CSOS participants and pharmacists are expected to be the most prevalent CSOS users, DEA believes pharmacists wages therefore represent a good estimate of the wage for all applicants. BLS reports that the median wage of pharmacists is \$66.10. BLS also reports that average benefits for private industry is 29.5 percent of total compensation. The 29.5 percent of total compensation equates to 42.24 percent (29.7 percent/70.3 percent) load on wages and salaries. The load of 42.24 percent is added to each of the hourly rates to estimate the loaded hourly rates. $\$66.1 \times 1.4224 = \$94.02$.

²⁶ FedEx Ground rates for a one-pound package using zone five, effective January 6, 2025 and downloaded on 5/22/2025.

²⁷ National Notary Association, “2025 Notary Fees by State”. <https://www.nationalnotary.org/knowledge-center/about-notaries/notary-fees-by-state> (accessed 5/22/2025). Notary fees can range from \$2 to \$25. DEA has decided to use \$5 as its estimate of notary fees. DEA believes many applicants can get documents notarized at low costs, i.e., at banks, employees with public notary, etc.

²² Source: DEA.

²³ U.S. Bureau of Labor Statistics (BLS), Occupational Employment and Wages, May 2024, 29–1051 Pharmacists. <https://data.bls.gov/oes/#/industry/000000>. (Accessed 5/22/2024).

²⁴ BLS, “Employer Costs for Employee Compensation—March 2025” (ECEC).

²¹ 21 CFR 1311.40(c).

impact from not having to store written subscription agreements and having them be stored online in CSOS.

Table 2 summarizes the impact of the final rule for new applications.

TABLE 2—REGISTRANT IMPACT: NEW APPLICATION

	Current (\$)	New (\$)	Cost savings (\$)
Labor cost per New app	282.06	164.54	117.52
Postage cost per New app	13.27	.....	13.27
Cost of notary per New app	2.95	.....	2.95
Total new application .....	.....	.....	133.74

Renewal Applications

Below is a description of the estimated impact of the final rule on renewal enrollment applications for Registrant, Coordinator, and Power of Attorney roles.

1. *Time Spent Requested Renewal:* DEA estimates there will be labor cost savings from reduced time to complete a renewal application. DEA estimates that the time spent requesting a renewal will fall from 1.5 hours using the phone method to 0.25 hours using the online method. Using a loaded hourly rate of

\$94.02 for Pharmacists,²⁸ the labor cost would decrease from \$141.03 (\$94.02 × 1.5) to \$23.51 (\$94.02 × 0.25), resulting in an estimated cost savings of \$117.52 (\$141.03 – \$23.51) per application.

Table 3 summarizes the impact of the final rule for renewal applications.

TABLE 3—REGISTRANTS IMPACT—RENEWAL APPLICATIONS

	Current (\$)	New (\$)	Cost savings (\$)
Labor cost per Renewal app	141.03	23.51	117.52

Total Registrant Impact

The total registrant cost savings is \$11,495,610 per year, calculated by

multiplying the cost of a new and renewal application by the number of

new and renewal applications. Table 4 details the calculation.

TABLE 4—TOTAL REGISTRANT IMPACT

Number of new applications	31,172
Number of renewal applications	62,344
Number of total applications	93,516
Cost savings per new application (\$)	133.74
Subtotal, all new applications (\$)	4,168,943
Cost savings per renewal application (\$)	117.52
Subtotal, all renewal applications (\$)	7,326,667
Total cost savings to registrants (\$)	11,495,610

Additional Benefits

There are additional benefits of the final rule. These include:

(1) *Shorter end-to-end process time (submission to certificate):* Allowing earlier use of CSOS for ordering Schedule II controlled substances and realizing the benefits of electronic ordering rather than using paper order forms.

(2) *Insight into status and workflows to track the progress of the submission:* Allowing Coordinators to get status updates online, see how the application progresses, and plan for additional CSOS users.

(3) *No longer needing to wait for the call center to request Certificate management action revocations:* Allowing Coordinators to self-manage and remove user certificates.

(4) *Safer submission process:* Allowing secure delivery of potentially sensitive information.

(5) *Error checking:* Allowing programmatic review for erroneous or incomplete information, reducing delays in application processing.

DEA Impact

DEA's costs are driven by the personnel and technology resources

required to process the applications. Below is a list of the cost activities and anticipated impact.

1. *Certification Authority Cost:* The Certification Authority serves as the central element responsible for establishing a trust relationship between controlled substance manufacturers, distributors, pharmacies, and other DEA authorized ordering entities. Certification Authority issues user digital certificates used to digitally sign electronic transactions. DEA believes that the personnel resources and costs to certify enrollment and issue digital certificates will not change as a result of

²⁸ Note 17.

this final rule. Based on current Certification Authority resources, DEA estimates the annual Certification Authority cost will remain at \$732,922.²⁹

2. *Registration Authority Cost:* The Registration Authority is the entity that collects and verifies each applicant's identity and information that are to be entered into his or her public key certificates. Receiving electronic applications eliminates the need to scan paper applications. DEA estimates that the personnel resources and costs to process enrollment applications will fall by 30 percent starting with the second year of implementation of the rule. However, in the first year of implementation, DEA anticipates the decrease in resource requirements from elimination of scanning requirement will be offset by increase in applicant questions referred to Registration Authority. DEA estimates the total annual Registration Authority cost of \$597,688³⁰ will remain the same in year

1 and will be \$418,382 ($\$597,688 \times 0.7$) in year 2 and thereafter.

3. *Mail Reception Cost:* Currently, DEA requires personnel to receive, sort, and deliver paper applications to the Registration Authority at an estimated annual cost of \$34,562.³¹ Under the final rule, applications would be received online, eliminating this cost.

4. *Data Entry Cost:* Currently, personnel resources are needed to verify the accuracy of the scanned paper applications and make any needed corrections. Under the final rule, online applications eliminate the need for this task. The estimated total current annual cost of \$109,138³² will be eliminated when this final rule is implemented.

5. *Call Center Support Cost:* DEA operates a CSOS call center to service questions, or provide assistance, regarding CSOS enrollment and certificate management. The estimated total current annual cost as \$1,749,946.³³ While DEA anticipates a reduction in the number of calls and duration of each call, DEA anticipates

this reduction will result in lower wait-times for callers rather than reduced call center resources. Therefore, DEA estimates this cost will remain the same at \$1,749,946.

6. *Information Technology Cost:* DEA currently spends approximately \$255,000 per year on its Information Technology enrollment-related systems and software. DEA anticipates Information Technology costs will increase to \$2,935,200 per year.³⁴ Information Technology cost includes, but are not limited to, cloud services, workflow management, identity verification, identity management functionality, professional services for continuous development, integration and deployment, and maintenance and troubleshooting.

All costs are expected to scale with the volume of new applications, except Information Technology cost, which does not vary with the volume of applications. Table 5 summarizes the DEA's impact.

TABLE 5—TOTAL DEA IMPACT
[Initial and remaining years]

	Current (\$)	Year 1 (\$)	Year 1, change from current (\$)	Year 2 * (\$)	Year 2, change from current (\$)
Number of applications	31,172	31,172	.....	31,172	.....
Certification Authority	732,992	732,992	.....	418,382	– 314,610
Registration Authority **	597,688	418,382	– 179,306	418,382	– 179,306
Mail preparation (received mail)	34,562	.....	– 34,562	.....	– 34,562
Data Entry	109,138	.....	– 109,138	.....	– 109,138
Call Center Support	1,749,946	1,749,946	.....	1,749,946	.....
Information Technology	255,000	2,935,200	2,680,200	2,935,200	2,680,200
Total cost	3,479,325	5,836,519	2,357,194	5,521,909	2,042,584

* Years 2 through 10 are all assumed to be the same.

** New cost starts on second year.

Additional Benefits

There are additional benefits to the DEA from the final rule. These include:

(1) That the CSOS System will be supported, secure, reliable, and scalable: Reducing the risk of lost or stolen data and long-term reduction in costs associated with to maintenance, operations, and growth.

(2) The Certificate management process no longer involves a help desk

call: Call center resources will be freed up to reduce hold-times for registrants allowing meeting call management service level agreements and improving user satisfaction.

(3) Possible increase in CSOS adoption due to ease of enrollment process: Reducing DEA costs associated with printing and mailing paper order forms.

(4) The ease at which enhancements can be made as needed, for example Enterprise Certificates with multiple DEA numbers: Allowing efficient future improvements to CSOS.

Registrant and DEA Total Impact

Using the registrant and DEA impacts from table 5 the estimated net cost savings of this final rule for the 10-year analysis period is listed in Table 8.

TABLE 6—DEA AND REGISTRANT TOTAL IMPACT

Year	Total cost savings to registrants (\$)	Net cost savings to DEA (net cost) (\$)	Total net cost savings, registrant + DEA (\$)
1	11,495,610	(2,536,501)	8,959,109

²⁹ Source: DEA.

³⁰ Source: DEA.

³¹ Source: DEA.

³² Source: DEA.

³³ Source: DEA.

³⁴ Source: DEA.

TABLE 6—DEA AND REGISTRANT TOTAL IMPACT—Continued

Year	Total cost savings to registrants (\$)	Net cost savings to DEA (net cost) (\$)	Total net cost savings, registrant + DEA (\$)
2	11,495,610	(2,357,194)	9,138,416
3	11,495,610	(2,357,194)	9,138,416
4	11,495,610	(2,357,194)	9,138,416
5	11,495,610	(2,357,194)	9,138,416
6	11,495,610	(2,357,194)	9,138,416
7	11,495,610	(2,357,194)	9,138,416
8	11,495,610	(2,357,194)	9,138,416
9	11,495,610	(2,357,194)	9,138,416
10	11,495,610	(2,357,194)	9,138,416

The present value of the net cost savings over the 10-year analysis period is \$77,952,542 and \$64,184,410 at three and seven percent discount rates, respectively. The annualized net cost savings is \$9,138,416 at three and seven percent.

The final rule is an E.O. 14192 deregulatory action because it is being finalized and has a total cost less than zero. The present value of the estimated net cost savings is \$64,184,410 at seven percent discount rate in 2025 dollars.

Executive Order 12988, Civil Justice Reform

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burdens. DEA expects the instant validation of online registration applications to reduce ambiguity and reduce the number of errors in submissions and reduce burdens on both DEA and registrants.

Executive Order 13132, Federalism

This final rule does not have federalism implications warranting the application of E.O. 13132. The final rule does not have substantial direct effects on the States, on the relationship between the National government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The final rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Executive Order 14267, Reducing Anti-Competitive Regulatory Barriers

The proposed rule does not reduce competition, entrepreneurship, and innovation.

Executive Order 14294, Overcriminalization of Federal Regulations

Executive Order 14294 specifies that all NPRMs and final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule or proposed rule is a criminal regulatory offense, the authorizing statute, and the mens rea requirement for each element of the offense. This final rule does not involve a criminal regulatory offense and thus E.O. 14294 does not apply.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA), the DEA has reviewed the economic impact of this final rule on small entities. DEA's economic impact evaluation indicates that the rule will not, if promulgated,

have a significant economic impact on a substantial number of small entities.

The RFA requires an agency to analyze options for regulatory relief of small entities unless it can certify that the rule will not have a significant impact on substantial number of small entities. DEA has analyzed the economic impact of each provision of this final rule and estimates that it will have minimal economic impact on affected entities, including small businesses, nonprofit organizations, and small governmental jurisdictions.

This final rule will simplify the enrollment process by requiring all initial registration and renewal applications be submitted online. The rule affects all enrollment and renewals for CSOS, whose users currently use paper applications. However, once a registrant is enrolled the DEA already requires them to order using CSOS. So, there is no additional cost to obtaining access to CSOS, since registrants will already be required to use it eventually.

There is a total of 94,011 CSOS participating entities, as can be seen in Table 7, with approximately 325,000 active certificates. Certificates have to be renewed every one or three years, based on the registrants' DEA registration renewal cycle. In 2021, the number of new applications were 31,172. For every third renewal, the CSOS certificate holder must submit a new application.³⁵ Therefore, for the purposes of this analysis, a third renewal is considered as a new application. DEA estimate that the total applications, including renewals, is 93,516.

TABLE 7—PERCENTAGE AND NUMBER OF REGISTERED LOCATIONS BY BUSINESS ACTIVITY

Business activity	Number of entities	Percent	Renewal cycle (years)
Pharmacy	62,291	66.26	3
Hospital/Clinic	11,898	12.66	3
Practitioner/Mid-Level Practitioner (MLP)	18,095	19.25	3
Teaching Institution	14	0.01	3

³⁵ 21 CFR 1311.40(c).

TABLE 7—PERCENTAGE AND NUMBER OF REGISTERED LOCATIONS BY BUSINESS ACTIVITY—Continued

Business activity	Number of entities	Percent	Renewal cycle (years)
Manufacturer	103	0.11	1
Distributor/Importer/Exporter	444	0.47	1
Researcher	247	0.26	1
Analytical Lab	26	0.03	1
Reverse Distributor	5	0.01	1
Narcotic Treatment Program (NTP)	888	0.94	1
Total	94,011	100.00	* 2.97

* Weighted average.
(Source: DEA).

This final rule affects all new and renewal enrollment applications for CSOS, as applications will have to take place online, and all entities who would submit new and renewal applications. This final rule affects small entities in

industries associated with the above business activities, primarily industries associated with pharmacy, hospital/clinic, and practitioner/MLP registrations, as these business activities make up 98.17 percent of the CSOS-

participating registrations. Table 8 indicates the sectors, as defined by the North American Industry Classification System (NAICS), that best correlate with business activities affected by the final rule.

TABLE 8—INDUSTRIAL SECTORS AFFECTED BY THE FINAL RULE

Business activity	NAICS code	NAICS code description
Pharmacy	445110	Supermarkets and Other Grocery (except Convenience) Stores.
	446110	Pharmacies and Drug Stores.
	452210	Department Stores.
	452311	Warehouse Clubs and Supercenters.
NTP, Hospital/Clinic, Practitioner, MLP * ...	621111	Offices of Physicians (except Mental Health Specialists).
	621112	Offices of Physicians, Mental Health Specialists.
	621330	Offices of Mental Health Practitioners (except Physicians).
	621420	Outpatient Mental Health and Substance Abuse Centers.
	621491	HMO Medical Centers.
	621493	Freestanding Ambulatory Surgical and Emergency Centers.
	622110	General Medical and Surgical Hospitals.
	622210	Psychiatric and Substance Abuse Hospitals.
	622310	Specialty (except Psychiatric and Substance Abuse) Hospitals.
Teaching Institute	611310	Colleges, Universities and Professional Schools.
Manufacturer	325411	Medicinal and Botanical Manufacturing.
	325412	Pharmaceutical Preparation Manufacturing.
Distributor, Importer, Exporter	424210	Drugs and Druggists' Sundries Merchant Wholesalers.
Researcher	541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).
Analytical Labs	541380	Testing Laboratories.
Reverse Distributor	562213	Solid Waste Combustors and Incinerators.
	562219	Other Nonhazardous Waste Treatment and Disposal.

* Practitioners and mid-level practitioners are generally employed in one of these industries.

As shown in Table 8, the final rule affects a wide variety of entities across many industry sectors. Some industry sectors are expected to consist primarily of DEA CSOS registrants (*i.e.*, 446110—Pharmacies and Drug Stores, 622110—General Medical and Surgical Hospitals, etc.). Therefore, this final rule is expected to affect a substantial number of small entities in some industries.

There are no new costs associated with this final rule. The labor burden to submit an application is estimated to be the same for electronic and paper submissions. All CSOS registered location will already need to have access to the internet in order to use CSOS. DEA acknowledges some applicants prefer paper forms. DEA does

not have a basis to quantify this preference; however, DEA believes any costs associated with eliminating this preference is offset by the cost savings discussion below.

DEA anticipates there will be cost savings associated with electronic submissions. Some cost savings are described qualitatively and some are quantified. Many paper applications submitted contain illegible or erroneous information or omit required information. Many such errors or omissions, such as not including a signature or paying the wrong amount, require DEA to contact applicants to correct or clarify the information in the paper form, consuming DEA's and the applicant's time and resources.

Electronic submissions are expected to virtually eliminate the requirement for DEA to contact applicants for clarifications of form data or correction of submission errors, as validation features in the system will flag common errors prior to transmission. As DEA has not tracked the number of delays or the duration of such delays, DEA does not have a basis to quantify the cost savings.

Furthermore, this final rule eliminates the need to print paper forms and transmit by mail or courier service, generating an estimated cost savings of \$13.27 per each paper application not submitted.³⁶ DEA assumes the cost savings associated with eliminating

³⁶ Note 18.

printing costs and envelopes is negligible. This final rule also eliminates the need to get a notary for new applications, which will save \$5.00 each for applications for registrant and coordinator roles.³⁷ An application for the Power of Attorney role does not require a notary; and while there would

be no notary cost savings for these applications, \$5 cost savings is included in the analysis to be conservative and because applications for registrant and coordinator roles are slightly more than half of all applications.

As discussed in the E.O. 12866 section above, DEA estimates that the

time savings from this final rule will save \$117.52 per new and renewal application.

Total cost savings for a new application is \$135.797 (117.52 + 13.27 + 5.00 = 135.79), as can be seen in Table 9.

TABLE 9—COST SAVINGS PER NEW APPLICATION

	Current (\$)	New (\$)	Cost savings (\$)
Labor cost per New app	282.06	164.54	117.52
Postage cost per app	13.27	.....	13.27
Cost of notary	5.00	.....	5.00
Total .....	.....	.....	135.79

As also calculated in the E.O. 12866 section above, total cost savings for

renewals is \$117.52, as can be seen in Table 10.

TABLE 10—COST SAVINGS PER RENEWAL APPLICATION

	Current (\$)	New (\$)	Cost savings (\$)
Labor cost per Renewal app	141.03	23.51	117.52
Total .....	.....	.....	117.52

There were 31,172 new applications in 2021. DEA estimates there were also 62,344 renewal applications for a total of 93,516 applications. Given there are 94,011 CSOS participating entities, there is less than one application per year per entity on average (93,516/94,011 = 0.99). Given that there are at approximately 325,000 active digital certificates, the vast majority of which are on three-year renewal cycles, DEA expects approximately 108,333

certificates to be renewed annually (325,000/3 = 108,333). There are then approximately 1.15 certificates per entity (108,333/94,011 = 1.15). Given that smaller firms should have less certificates than larger firms, DEA believes using one certificate or one application per entity per year is a reasonable assumption for the smallest of small entities.

To determine whether the final rule would have a significant economic

impact on small entities, DEA conducted a revenue test by comparing the estimated annual cost savings to the average annual revenue for the smallest of small entities in industries affected by the final rule. Based on the Statistics of U.S. Businesses data from the Census Bureau, table 11 lists the enterprise size, number of establishments, and the average annual revenue for the smallest of small businesses in each industry sector.^{38 39}

TABLE 11—AVERAGE ANNUAL REVENUE OF SMALLEST OF SMALL ENTITIES

NAICS	NAICS description	Enterprise size (number of employees)	Number of establishments	Average revenue per establishment (\$ thousands)
325411	Medicinal and Botanical Manufacturing	0–4	303	690
325412	Pharmaceutical Preparation Manufacturing	0–4	398	1,173
424210	Drugs and Druggists' Sundries Merchant Wholesalers	0–4	4,131	1,512
445110	Supermarkets and Other Grocery (except Convenience) Stores	0–4	20,420	519
446110	Pharmacies and Drug Stores	0–4	7,118	1,328
452210	Department Stores	0–4	3	467
452311	Warehouse Clubs and Supercenters	0–4	25	475
541380	Testing Laboratories	0–4	2,446	316
541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).	0–4	5,243	449
562213	Solid Waste Combustors and Incinerators	0–4	17	949
562219	Other Nonhazardous Waste Treatment and Disposal	0–4	299	580
611310	Colleges, Universities, and Professional Schools	0–4	526	802
621111	Offices of Physicians (except Mental Health Specialists)	0–4	80,722	465

³⁷ Note 20.

³⁸ Census Bureau, Statistics of U.S. Businesses Revenue Data by Size, 2017. <https://www.census.gov/programs-surveys/susb.html>. (Released 5/28/2021).

www.census.gov/programs-surveys/susb.html. (Released 5/28/2021).

³⁹ Census Bureau, Statistics of U.S. Businesses Number of Establishment Data by Size, 2021.

<https://www.census.gov/programs-surveys/susb.html>. (Released 12/21/2022).

TABLE 11—AVERAGE ANNUAL REVENUE OF SMALLEST OF SMALL ENTITIES—Continued

NAICS	NAICS description	Enterprise size (number of employees)	Number of establishments	Average revenue per establishment (\$ thousands)
621112	Offices of Physicians, Mental Health Specialists	0–4	9,836	291
621330	Offices of Mental Health Practitioners (except Physicians)	0–4	28,428	165
621420	Outpatient Mental Health and Substance Abuse Centers	0–4	4,015	248
621491	HMO Medical Centers	0–4	79	98
621493	Freestanding Ambulatory Surgical and Emergency Centers	0–4	2,001	666
622110	General Medical and Surgical Hospitals	0–4	215	15,559
622210	Psychiatric and Substance Abuse Hospitals	0–4	9	1,024
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	0–4	13	1,965

The estimated cost savings of \$135.79 for new applications and \$117.52 for renewal applications were compared to the average annual revenue for each of the NAICS codes in Table 11. For example, taking the smallest possible

entities, HMO Medical Centers with 0–4 people, with an average revenue of \$98,000, the benefit, in the form of cost savings, from new applications is \$133.97 ($116.27 + 12.70 + 5 = 133.97$), or 0.14 percent of revenues ($133.69/$

$98,000 = 0.0014$). The benefit from renewals is 0.12 percent of revenues ($116.27/98,000 = 0.0012$). Table 12 details the revenue test results for all affected NAICS codes.

TABLE 12—REVENUE TEST OF SMALLEST OF SMALL ENTITIES

NAICS	NAICS description	Average revenue per establishment (\$ thousands)	Benefit from new applications (\$)	Percent of revenue (%)	Benefit from renewal applications (\$)	Percent of revenue (%)
325411	Medicinal and Botanical Manufacturing	690	133.97	0.02	116.27	0.02
325412	Pharmaceutical Preparation Manufacturing	1,173	133.97	0.01	116.27	0.01
424210	Drugs and Druggists' Sundries Merchant Wholesalers	1,512	133.97	0.01	116.27	0.01
445110	Supermarkets and Other Grocery (except Convenience) Stores	519	133.97	0.02	116.27	0.02
446110	Pharmacies and Drug Stores	1,328	133.97	0.01	116.27	0.01
452210	Department Stores	467	133.97	0.03	116.27	0.02
452311	Warehouse Clubs and Supercenters	475	133.97	0.03	116.27	0.02
541380	Testing Laboratories	316	133.97	0.04	116.27	0.03
541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology)	449	133.97	0.03	116.27	0.02
562213	Solid Waste Combustors and Incinerators	949	133.97	0.01	116.27	0.01
562219	Other Nonhazardous Waste Treatment and Disposal ..	580	133.97	0.02	116.27	0.02
611310	Colleges, Universities, and Professional Schools	802	133.97	0.02	116.27	0.01
621111	Offices of Physicians (except Mental Health Specialists)	465	133.97	0.03	116.27	0.02
621112	Offices of Physicians, Mental Health Specialists	291	133.97	0.04	116.27	0.04
621330	Offices of Mental Health Practitioners (except Physicians)	165	133.97	0.08	116.27	0.07
621420	Outpatient Mental Health and Substance Abuse Centers	248	133.97	0.05	116.27	0.04
621491	HMO Medical Centers	98	133.97	0.13	116.27	0.11
621493	Freestanding Ambulatory Surgical and Emergency Centers	666	133.97	0.02	116.27	0.02
622110	General Medical and Surgical Hospitals	15,559	133.97	0.00	116.27	0.00
622210	Psychiatric and Substance Abuse Hospitals	1,024	133.97	0.01	116.27	0.01
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	1,965	133.97	0.01	116.27	0.01

As shown in Table 12, the revenue test for the smallest of small entities (0–4 employees) ranges from 0.00 percent with rounding for NAICS code 622110 to 0.13 percent for NAICS code 621491. Therefore, the economic impact of this final rule is not significant for the smallest of small entities, and the economic impact is estimated to be not significant on any small entity.

In conclusion, while the final rule impacts a substantial number of small entities in at least some industries, the economic impact will not be significant. Therefore, this final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act of 1995

(UMRA),⁴⁰ DEA has determined that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year.” Therefore, neither a Small

⁴⁰ 2 U.S.C. 1501 *et seq.*

Government Agency Plan nor any other action is required under the UMR.

Paperwork Reduction Act

This final rule will modify existing collection(s) of information requirement under the Paperwork Reduction Act (PRA).⁴¹ The final rule will combine all information collection into one on-line enrollment process eliminating the need for individual forms. Pursuant to the PRA,⁴² DEA has identified the collections of information below related to this final rule. A person is not required to respond to a collection of information unless it displays a valid OMB control number.⁴³

A. Collections of Information Associated With the Final Rule

1. Title: CSOS Certificate Application. OMB Control Number: 1117-0038. Form Number: DEA-251.

DEA is amending its regulations to require that all CSOS applications and supporting materials must be submitted to DEA through the DEA Diversion Control Division secure network application. This amendment will improve the submission process by aligning it with DEA's current requirements for other online form submissions. The online submission of applications and supporting material through the secure database will ensure DEA's receipt of documentation in a more timely and organized manner. This combined online form will be used for all CSOS user roles: DEA Registrant, Principal Coordinator/Alternate Coordinator, and Power of Attorney.

DEA estimates the following number of respondents and burden associated with this collection of information:

- Number of respondents: 94,011.
- Frequency of response: 0.994735 (as needed, calculated).⁴⁴
- Number of responses: 93,516.
- Burden per response: 0.75.⁴⁵
- Total annual hour burden: 70,137.

If you need additional information, please contact the Regulatory Drafting and Policy Support Section (DPW), Diversion Control Division, Drug Enforcement Administration; Mailing

Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (571) 362-3261.

Any comments on this collection of information may be sent in writing to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for DOJ, Washington, DC 20503. Please state that your comments refer to RIN 1117-AB79/Docket No. DEA-732.

Congressional Review Act

This final rule is not a major rule as defined by section 804 of the Congressional Review Act (hereinafter, "CRA"). This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. 5 U.S.C. 804. Pursuant to the CRA, the DEA has submitted a copy of the Final Rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1311

Administrative practice and procedure, Control substances, Drug traffic control, Prescription drugs, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, DEA amends 21 CFR part 1311 as follows:

PART 1311—REQUIREMENTS FOR ELECTRONIC ORDERS AND PRESCRIPTIONS

■ 1. The authority citation for part 1311 continues to read as follows:

Authority: 21 U.S.C. 821, 828, 829, 871(b), 958(e), 965, unless otherwise noted.

■ 2. Amend § 1311.20 by revising paragraphs (b) and (c) to read as follows:

§ 1311.20 Coordinators for CSOS digital certificate holders.

* * * * *

(b) If the designated coordinator changes at any time, the Certification Authority must immediately be notified of the change and the new responsibilities assumed by each of the registrant's coordinators, if applicable. New Coordinators must complete the online application as provided in § 1311.25.

(c) The registrant's coordinator must inform the Certification Authority of all digital certificate applications, renewals

and revocations for the registrant's users and approve applicants applying for a power of attorney digital certificate for a DEA registrant by means instructed by the Certification Authority within the system.

■ 3. Revise § 1311.25 to read as follows:

§ 1311.25 Requirements for obtaining a CSOS digital certificate.

(a) To obtain a certificate to use for signing electronic orders for controlled substances, a registrant, coordinator, or person with power of attorney authorized to obtain a certificate for signing electronic orders for controlled substances for a registrant must complete the online enrollment process at www.deaecom.gov by:

(1) Completing the online identification proofing process;

(2) Providing a current listing of DEA registrations for which the individual has authority to sign controlled substances orders.

(3) Uploading all copies of the power of attorney forms authorized by the registrant, when applicable.

(4) Acknowledging that the applicant has read and understands the Subscriber Agreement and agrees to all terms contained in the Statement of Subscriber Obligations contained online.

(b) When the Certification Authority verifies the applicant's identity and employment and approves the application, it will send the applicant a one-time use reference number and access code, via separate channels, and information on how to use them. Using this information, the applicant must then electronically submit a request for certification of the public digital signature key. After the request is approved, the Certification Authority will provide the applicant with the signed public key certificate.

(c) Once the applicant has generated the key pair, the Certification Authority must prove that the user has possession of the key. For public keys, the corresponding private key must be used to sign the certificate request. Verification of the signature using the public key in the request will serve as proof of possession of the private key.

■ 4. Amend § 1311.40 by revising paragraphs (c) and (d) to read as follows:

§ 1311.40 Renewal of CSOS digital certificates.

* * * * *

(c) If a CSOS certificate holder applies for a renewal before the certificate expires, the certificate holder may renew online at www.deaecom.gov twice. For every third renewal, the

⁴¹ 44 U.S.C. 3501-3521.

⁴² 44 U.S.C. 3507(d).

⁴³ Copies of existing information collections approved by OMB may be obtained at <http://www.reginfo.gov/public/do/PRAMain>.

⁴⁴ Calculated by dividing the number of responses (93,516) by the number of respondents (94,011).

⁴⁵ Weighted average of new and renewal applications. There are 31,172 new applications and they take 1.75 hours. There are 62,344 renewals and they take 0.25 hours. New applications represent 33 percent of applications (31,172/93,516 = 0.33) and renewals represent 67 percent of applications (62,344/93,516 = 0.67). The weighted average is then 0.75 [(0.33 × 1.75) + (0.67 × 0.25) = 0.75].

CSOS certificate holder must submit a new application and documentation, as provided in § 1311.25.

(d) If a CSOS certificate expires before the holder applies for a renewal, the certificate holder must submit a new application and all required documentation, as provided in § 1311.25.

§ 1311.60 [Amended]

■ 5. Amend § 1311.60 by removing paragraph (c).

Signing Authority

This document of the Drug Enforcement Administration was signed on September 30, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025–19325 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 10034]

RIN 1545–BN93

Interest Capitalization Requirements for Improvements That Constitute Designated Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations that, with regard to the interest capitalization requirements for improvements constituting designated property, remove the associated property rule and similar rules from the existing regulations. In addition, this document contains final regulations that modify the definition of “improvement” for purposes of applying those existing regulations. Lastly, this document contains final regulations that modify other rules in those existing regulations

in light of the removal of the associated property rule. The final regulations affect taxpayers making improvements to real or tangible personal property that constitute the production of designated property.

DATES:

Effective date: These regulations are effective on October 2, 2025.

Applicability date: For the applicability date, *see* § 1.263A–15(a)(6).

FOR FURTHER INFORMATION CONTACT:

Elizabeth Boone or Max Fishman of the Office of the Associate Chief Counsel (Income Tax and Accounting) at (202) 317–7007 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document amends the regulations under section 263A(f) of the Internal Revenue Code (Code) regarding the interest capitalization requirements for improvements that constitute the production of designated property under § 1.263A–8 (final regulations). The final regulations are issued under the express delegation of authority to the Secretary of the Treasury or the Secretary’s delegate (Secretary) under section 263A(j), which provides, in part, that “[t]he Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of [section 263A].” The final regulations are also issued under the express delegation of authority to the Secretary under section 7805(a) of the Code, which provides that “the Secretary shall prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.”

Background and Summary of Comments

On May 15, 2024, the Department of the Treasury (Treasury Department) and the IRS published in the **Federal Register** (89 FR 42404) a notice of proposed rulemaking (REG–133850–13) proposing amendments to regulations under 26 CFR part 1 (proposed regulations). The proposed regulations would remove the “associated property rule” and similar rules in § 1.263A–11(e) from the interest capitalization requirements for improvements that constitute the production of designated property under section 263A(f) and § 1.263A–8(d)(3). In addition, the proposed regulations would modify the mid-production purchases rule of § 1.263A–11(f) to clarify that the rule applies only to property purchased and further produced before it is placed in

service. Finally, the proposed regulations would amend § 1.263A–8(d)(3) to update the definition of “improvement” so that it is consistent with the definition of “improvement” in § 1.263(a)–3, including the exceptions, safe harbors, and elections provided under § 1.263(a)–3.

On July 24, 2024, the Treasury Department and the IRS published a correction to the proposed regulations in the **Federal Register** (89 FR 59864) to amend a citation error in the preamble of REG–133850–13. No public hearing was requested or held on the proposed regulations.

The Treasury Department and the IRS received two comments in response to the notice of proposed rulemaking. Both comments are available at <https://www.regulations.gov> or upon request. The first comment did not address the proposed regulations. The second comment expressed support for the proposed regulations without suggesting any modifications to the proposed regulations. Accordingly, this Treasury Decision adopts the proposed regulations as final regulations with only minor, clarifying changes. Specifically, the final regulations make minor changes to proposed § 1.263A–8(d)(3)(i) to clarify the scope of improvements that constitute the “production of property” for purposes of determining whether any such improvement is designated property under § 1.263A–8.

Special Analyses

I. Regulatory Planning and Review

The Office of Management and Budget’s Office of Information and Regulatory Analysis has determined that the final regulations are not significant and are not subject to review under section 6(b) of Executive Order 12866. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

1. Collections of Information

These final regulations do not impose additional recordkeeping or reporting burden related to section 263A for taxpayers. A change in a taxpayer’s treatment of interest to a method consistent with §§ 1.263A–8(d)(3) and 1.263A–11(e) and (f), as applicable, is a change in method of accounting to which sections 446 and 481 of the Code apply. Taxpayers change methods of accounting by filing Form 3115, *Application for Change in Accounting Method* (Office of Management and Budget 1545–2070). For purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) (PRA), the reporting

burden associated with Form 3115 will be reflected in the PRA submission for Form 3115 (OMB 1545–2070).

2. Burden Estimates

These final regulations impose 0 hours and \$0 of additional recordkeeping or reporting burden related to section 263A for taxpayers. Taxpayers who change their accounting method based on the revised requirements do so by filing Form 3115 (OMB 1545–2070). For purposes of the PRA, the reporting burden associated with Form 3115 will be reflected in the PRA submission for Form 3115 (OMB 1545–2070).

Because businesses with gross receipts of up to \$25 million (as adjusted for inflation pursuant to sections 263A(i) and 446(c)) are exempted from the requirement to capitalize costs, including interest, under section 263A, businesses with gross receipts in excess of \$25 million (as adjusted for inflation) are impacted by these final regulations. Approximately 30,000 taxpayers with gross receipts in excess of \$25 million (as adjusted for inflation) reported that they were subject to section 263A during the past five years. This number is based upon the number of taxpayers who reported that they were subject to section 263A on Form 1120, *U.S. Corporation Income Tax Return*, Form 1125–A, *Cost of Goods Sold*, and Form 4562, *Depreciation and Amortization (Including Information on Listed Property)*.

It is estimated that no more than 1 percent of these businesses will make improvements to real or tangible personal property that constitute the production of designated property for which a change in accounting method will be made in any one year. Therefore, it is estimated that approximately 300 taxpayers may be impacted by the changes in these final regulations.

III. Regulatory Flexibility Act

Taxpayers with gross receipts of up to \$25 million (as adjusted for inflation) are exempted from the requirement to capitalize costs, including interest, under section 263A. Therefore, very few, if any, small entities will be affected by these regulations. The Secretary of the Treasury hereby certifies that these final regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business. No comments on that notice of proposed rulemaking were received from the Chief Counsel for the Office of Advocacy of the Small Business Administration.

V. Unfunded Mandates Reform Act

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

VI. Executive Order 13132: Federalism

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal authors of these regulations are Elizabeth Boone and Max Fishman of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

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

Sections 1.263A–8 through 1.263A–15 also issued under 26 U.S.C. 263A(j).

§ 1.263A–0 [Amended]

Par. 2. Section 1.263A–0 is amended by removing the entries for § 1.263A–11(e)(1) and (2).

Par. 3. Section 1.263A–8 is amended by revising paragraph (d)(3)(i) to read as follows:

§ 1.263A–8 Requirement to capitalize interest.

* * * * *

(d) * * *

(3) * * *

(i) *In general.* Any improvement to real or tangible personal property under § 1.263(a)–3, or any improvement to tangible personal property as defined in § 1.263A–2(a)(2)(ii), constitutes the production of property. Generally, any improvement to designated property constitutes the production of designated property. An improvement is not treated as the production of designated property, however, if the de minimis exception described in paragraph (b)(4) of this section applies to the improvement. Paragraph (d)(3)(iii) of this section provides an exception for certain improvements to tangible personal property. In addition, improvements to designated property under this paragraph (d)(3)(i) do not include repairs and maintenance described in § 1.162–4(a).

* * * * *

Par. 4. Section 1.263A–11 is amended by revising paragraphs (e) and (f) to read as follows:

§ 1.263A–11 Accumulated production expenditures.

* * * * *

(e) *Improvements.* If an improvement constitutes the production of designated property under § 1.263A–8(d)(3), accumulated production expenditures with respect to the improvement consist of all direct and indirect costs required to be capitalized with respect to the improvement. *See* § 1.263A–12(d)(1) to determine when the production period for a unit of property has ended.

(f) *Mid-production purchases*. If a taxpayer purchases a unit of property for further production before the purchased unit of property is placed in service, the taxpayer's accumulated production expenditures include the full purchase price of the purchased unit of property plus all the additional direct and indirect production costs incurred by the taxpayer that are required to be capitalized with respect to the purchased unit of property.

* * * * *

Par. 5. Section 1.263A–15 is amended by adding paragraph (a)(6) to read as follows:

§ 1.263A15 Effective dates, transitional rules, and anti-abuse rule.

(a) * * *

(6) Sections 1.263A–8(d)(3) and 1.263A–11(e) and (f) apply to taxable years beginning after October 2, 2025. A change in a taxpayer's treatment of interest to a method consistent with §§ 1.263A–8(d)(3) and 1.263A–11(e) and (f), as applicable, is a change in method of accounting to which sections 446 and 481 of the Internal Revenue Code apply.

* * * * *

Edward T. Killen,

Acting Chief Tax Compliance Officer.

Approved: August 12, 2025.

Kenneth J. Kies,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2025–19279 Filed 10–1–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 3, 67, 72, 80, 100, 107, 110, 117, 141, 147, 151, 153, 162, and 165

46 CFR Parts 4, 42, and 401

[Docket No. USCG–2025–0716]

Renaming of U.S. Coast Guard Districts

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is updating its regulations to reflect the renaming of the Coast Guard districts from numerical to geographic designations.

DATES: This final rule is effective October 2, 2025.

ADDRESSES: To view documents mentioned in this preamble as being

available in the docket, go to www.regulations.gov, type USCG–2025–0716 in the search box, and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Mr. Timothy Brown, Coast Guard; telephone 202–372–2358, email Timothy.M.Brown@uscg.mil.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

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 - I. Protection of Children
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I. Abbreviations

ALCOAST All Coast Guard Message
CATEX Categorical Exclusion
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
RA Regulatory analysis
§ Section
U.S.C. United States Code

II. Purpose and Legal Basis

The purpose of this rule is to update the Coast Guard's chapters in the Code of Federal Regulations (CFR) to reflect the renaming of our districts. This is a conforming amendment regarding the Coast Guard's organization.

This final rule is issued under the authority of 5 United States Code (U.S.C.) 552(a) and 553; 14 U.S.C. 102, 503, and 504; and Department of Homeland Security (DHS) Delegation No. 00170.1(II)(23) Revision No. 01.4. As explained in 33 CFR 1.05–1(h), the Chief of the Coast Guard's Office of Regulations and Administrative Law has been delegated authority to issue regulations necessary to implement technical, organizational, and conforming amendments and corrections to regulations.

We did not publish a notice of proposed rulemaking before this final rule. The Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements under 5 U.S.C. 553(b)(A) because the district renaming is a conforming amendment involving

agency organization. Updating the district names in the CFR imposes no substantive changes on the public's rights or obligations and will be inconsequential in impact.

The Coast Guard finds good cause exists under 5 U.S.C. 553(d)(3) to make the rule effective fewer than 30 days after publication in the **Federal Register**. Delaying the effective date of the rule is unnecessary because updating the district name we use in our regulations is inconsequential to the public and the name has already been adopted by the Coast Guard in agency practice.

III. Background

The Coast Guard announced the renaming of the districts in a message, ALCOAST 305/25, “Force Design 2028—Renaming Coast Guard Districts” on July 3, 2025. A copy of the ALCOAST is available in the docket under the **ADDRESSES** section of this preamble. As explained in the ALCOAST, when the Coast Guard operated as part of the Navy during World War II it adopted the Navy's numbered district system to ensure alignment between the services. In the 80 years since the end of World War II, the Coast Guard has maintained its numbered districts. However, the Navy stopped using numbered districts over 25 years ago. Renaming Coast Guard districts to reflect their geographical location will help the public and maritime stakeholders easily find and understand which Coast Guard district they live, boat, and operate in. In the ALCOAST we explained the name change will not impact operations or change existing geographical district boundaries. The ALCOAST also stated we would change district names in the CFR in coming months.

IV. Discussion of Final Rule

This final rule updates the CFR to reflect the renaming of Coast Guard operational districts from numerical to geographic names. The geographic names more clearly align districts with their areas of responsibility, improve collaboration with interagency partners, and ensure the public and maritime stakeholders can easily find and understand the districts in which they live, recreate, and operate.

The new geographic names are as follows:

Previous numerical district name	New geographical district name
District 1	USCG Northeast District.
District 5	USCG East District.
District 7	USCG Southeast District.

Previous numerical district name	New geographical district name
District 8	USCG Heartland District.
District 9	USCG Great Lakes District.
District 11	USCG Southwest District.
District 13	USCG Northwest District.
District 14	USCG Oceania District.
District 17	USCG Arctic District.

The Coast Guard periodically issues technical, organizational, and conforming amendments to existing regulations. These conforming amendments provide the public with accurate and current regulatory information but do not change the effect of any Coast Guard regulations on the public.

This rule also revises the authority citations in several parts of the CFR solely to update the DHS Delegation No. 00170.1 to the most current revision number 01.4.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.”

This rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866. See OMB Memorandum M–25–20, “Guidance Implementing Section 3 of Executive Order 14192, titled ‘Unleashing Prosperity Through

Deregulation’ ” (March 26, 2025). The name change will have no substantive effect on the public. A regulatory analysis (RA) follows.

This rule involves non-substantive technical amendments and updates to internal agency practices and procedures and will not impose any additional costs. The technical amendments in this rule modify existing language in the CFR. The Coast Guard does not expect any additional costs for the public or the Federal Government because none of the technical and editorial changes included in this rule will change existing regulatory requirements. Specifically, renaming the districts to reflect their geographical location will help the public and maritime stakeholders easily find and understand which Coast Guard district they live, boat, and operate in, leading to less confusion. A summary of these amendments by numerical district name and geographical district name are presented in table 1.

TABLE 1—SUMMARY OF REGULATORY CHANGES BY DISTRICT NUMBER AND NAME

Previous numerical district name	New geographical district name	Description of changes	Economic impact
District 1	USCG Northeast District	Editorial	No impact; editorial changes.
District 5	USCG East District	Editorial	No impact; editorial changes.
District 7	USCG Southeast District	Editorial	No impact; editorial changes.
District 8	USCG Heartland District	Editorial	No impact; editorial changes.
District 9	USCG Great Lakes District	Editorial	No impact; editorial changes.
District 11	USCG Southwest District	Editorial	No impact; editorial changes.
District 13	USCG Northwest District	Editorial	No impact; editorial changes.
District 14	USCG Oceania District	Editorial	No impact; editorial changes.
District 17	USCG Arctic District	Editorial	No impact; editorial changes.

The unquantified benefits of these non-substantive technical amendments are increased accuracy of regulatory information by removing expired or cancelled provisions that are no longer relevant. Further, these changes will improve public understanding and accessibility of Coast Guard regulations, ensuring that the public benefits from accurate regulatory text and reduced confusion.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

Under 5 U.S.C 604(a), a regulatory flexibility analysis is not required for this final rule because under the provision in section 553(b)(A) we were not required to publish a general notice of a proposed rulemaking. Therefore, we did not conduct a regulatory flexibility analysis for this rule.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, 3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531, 1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, Local, or Tribal government, in the aggregate, or by the private sector of \$100 million (adjusted for inflation) or

more in any one year. Although this rule will not result in such an expenditure, we do discuss the potential effects of this rule in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (Civil Justice Reform), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Environment

We have analyzed this rule under DHS Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not

individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This final rule is categorically excluded under paragraph A3, and L54 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. The categorical exclusion (CATEX) A3 pertains to the promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (a) those of a strictly administrative or procedural nature, (b) those that implement, without substantive change, statutory or regulatory requirements, (c) those that implement, without substantive change, procedures, manuals, and other guidance documents, and (d) those that interpret or amend an existing regulation without changing its environmental effect, (e) technical guidance on safety and security matters, or (f) guidance for the preparation of security plans. CATEX L54 pertains to regulations which are editorial or procedural. This final rule involves non-substantive technical, organizational, and conforming amendments to existing Coast Guard regulations for district name changes.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 72

Government publications, Navigation (water).

33 CFR Part 80

Navigation (water), Treaties, Waterways.

33 CFR Parts 100, 165

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

33 CFR Part 107

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

33 CFR Part 110

Anchorage grounds.

33 CFR Part 117

Bridges.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 162

Navigation (water), Waterways.

46 CFR Part 4

Administrative practice and procedure, Drug testing, Investigations, Marine safety, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 42

Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, under the authority of 14 U.S.C. 503 and 504, the Coast Guard amends 33 CFR chapter I and 46 CFR chapters I and III as follows:

Title 33—Navigation and Navigable Waters

Chapter I [Amended]

- 1. Amend 33 CFR chapter I, parts 3, 67, 100, 110, 147, and 165 by removing the text “First Coast Guard” wherever it appears and adding, in its place, the text “USCG Northeast”.
- 2. Amend 33 CFR chapter I, parts 80, and 165 by removing the text “First

District” wherever it appears, and adding, in its place, the text “USCG Northeast District”.

■ 3. Amend 33 CFR chapter I, parts 3, 67, 100, 110, 147, and 165 by removing the text “Fifth Coast Guard” wherever it appears, and adding, in its place, the text “USCG East”.

■ 4. Amend 33 CFR chapters I, parts 3, 67, 100, 107, 117, and 165 by removing the text “Seventh Coast Guard” wherever it appears, and adding, in its place, the text “USCG Southeast”.

■ 5. Amend 33 CFR chapter I, parts 3, 67, 100, 110, 147, 162, and 165 by removing the text “Eighth Coast Guard” wherever it appears, and adding, in its place, the text “USCG Heartland”.

■ 6. Amend 33 CFR chapter I, parts 3, 80, 141, and 165 by removing the text “Eighth District” wherever it appears, and adding, in its place, the text “USCG Heartland District”.

■ 7. Amend 33 CFR chapter I, parts 3, 67, 100, 162, and 165 by removing the text “Ninth Coast Guard” wherever it appears, and adding, in its place, the text “USCG Great Lakes”.

■ 8. Amend 33 CFR chapter I, parts 151, and 165 by removing the text “Ninth District” wherever it appears, and adding, in its place, the text “USCG Great Lakes District”.

■ 9. Amend 33 CFR chapter I, parts 3, 67, 100, 147, 162, and 165 by removing the text “Eleventh Coast Guard” wherever it appears, and adding, in its place, the text “USCG Southwest”.

■ 10. Amend 33 CFR chapter I, parts 80 and 110 by removing the text “Eleventh District” wherever it appears, and adding, in its place, the text “USCG Southwest District”.

■ 11. Amend 33 CFR chapter I, parts 3, 67, 100, 162, and 165 by removing the text “Thirteenth Coast Guard” wherever it appears, and adding, in its place, the text “USCG Northwest”.

■ 12. Amend 33 CFR chapter I, parts 80 and 100 by removing the text “Thirteenth District” wherever it appears, and adding, in its place, the text “USCG Northwest District”.

■ 13. Amend 33 CFR chapter I, parts 3, 100, and 165 by removing the text “Fourteenth Coast Guard” wherever it appears, and adding, in its place, the text “USCG Oceania”.

■ 14. Amend 33 CFR chapter I, parts 1, 3, 67, 100, and 165 by removing the text “Seventeenth Coast Guard” wherever it appears and adding, in its place, the text “USCG Arctic”.

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

■ 15. The authority citation for part 3 is revised to read as follows:

Authority: 14 U.S.C. 501, 504; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

§ 3.04–1 [Amended]

■ 16. In § 3.04–1 amend paragraphs (b) and (c)(1) by removing the text “First, Fifth, Seventh, Eighth and Ninth” and adding, in its place, the text “USCG Northeast, USCG East, USCG Southeast, USCG Heartland, and USCG Great Lakes”;

§ 3.04–3 [Amended]

■ 17. In § 3.04–3 amend paragraph (b) by removing the text “Eleventh, Thirteenth, Fourteenth, and Seventeenth” and add, in its place, the text “USCG Southwest, USCG Northwest, USCG Oceania, and Arctic”;

§ 3.05–1 [Amended]

■ 18. In § 3.05–1 amend the section heading by removing the text “First district” and add, in its place, the text “USCG Northeast District”;

§ 3.25–1 [Amended]

■ 19. Amend § 3.25–1 as follows:
 ■ a. In the section heading, remove the text “Fifth district” and add, in its place, the text “USCG East District”;
 ■ b. In paragraph (b):
 ■ i. Remove the text “First and Fifth” and add, in its place, the text “USCG Northeast and USCG East”; and
 ■ ii. Remove the text “between the Fifth” and add, in its place, the text “between the USCG East”; and
 ■ iii. Remove the text “end of the Fifth and Seventh” and add, in its place, the text “end of the USCG East and USCG Southeast”;

§ 3.35–1 [Amended]

■ 20. Amend § 3.35–1 in the section heading, by removing the text “Seventh district” and add, in its place, the text “USCG Southeast District”;

§ 3.40–1 [Amended]

■ 21. Amend § 3.40–1 in the section heading, by removing the text “Eighth district” and add, in its place, the text “USCG Heartland District”;

§ 3.45–1 [Amended]

■ 22. Amend § 3.45–1 in the section heading, remove the text “Ninth district” and add, in its place, the text “USCG Great Lakes District”;

§ 3.55–1 [Amended]

■ 23. In § 3.55–1 header, remove the text “Eleventh district” and add, in its place, the text “USCG Southwest District”;

§ 3.65–1 [Amended]

■ 24. Amend § 3.65–1 in the section heading, remove the text “Thirteenth district” and add, in its place, the text “USCG Northwest District”;

§ 3.70–1 [Amended]

■ 25. Amend § 3.70–1 in the section heading, remove the text “Fourteenth district” and add, in its place, the text “USCG Oceania District”;

§ 3.85–1 [Amended]

■ 26. Amend § 3.85–1 in the section heading, remove the text “Seventeenth district” and add, in its place, the text “USCG Arctic District”;

§ 3.85–10 [Amended]

■ 27. In § 3.85–10, remove the text “Coast Guard District Seventeen” and add, in its place, the text “USCG Arctic District”.

PART 72—MARINE INFORMATION

■ 28. The authority citation for part 72 is revised to read as follows:

Authority: 14 U.S.C. 503, 544; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

§ 72.01–10 [Amended]

■ 29. In § 72.01–10 amend paragraph (a)(2) by removing the text “1st, 5th, 7th, 8th, 9th, 11th, 13th, 14th, and 17th Coast Guard districts” and adding, in its place, the text “USCG Northeast, East, Southeast, Heartland, Great Lakes, Southwest, Northwest, Oceania, and Arctic Districts”.

PART 80 [AMENDED]

■ 30. The authority citation continues to read as follows:

Authority: 14 U.S.C. 102, 503; 33 U.S.C. 151(a).

■ 31. Amend part 80 as follows:

■ a. Remove the text “Fifth District” wherever it appears, and add, in its place, the text “USCG East District”;
 ■ b. Remove the Text “Seventh District” wherever it appears, and add, in its place, the text “USCG Southeast District”;
 ■ c. Remove the text “Fourteenth District” wherever it appears, and add, in its place, the text “USCG Oceania District”;

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 32. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

§ 100.35 [Amended]

- 33. In § 100.35 amend paragraph (d) by removing the text “First, Fifth, Seventh, Eighth, Ninth, Eleventh, Thirteenth, Fourteenth, and Seventeenth Districts” and adding, in its place, the text “USCG Northeast, East, Southeast, Heartland, Great Lakes, Southwest, Northwest, Oceania, and Arctic Districts”.

§ 100.130 [Amended]

- 34. In § 100.130 amend table 1 by removing the text “USCG District 1” wherever it appears, and adding, in its place, the text “USCG Northeast District”.

§ 100.1701 [Amended]

- 35. In § 100.1701 amend paragraph (d) by removing the text “Seventeenth District” and adding, in its place, the text “USCG Arctic District”.

PART 107 [AMENDED]

- 36. The authority citation for part 107 is revised to read as follows:

Authority: 14 U.S.C. 701; 46 U.S.C. 70051, 70052, 70053; Presidential Proclamation 6867, 61 FR 8843, 3 CFR, 1996 Comp., p. 8; Presidential Proclamation 7757, 69 FR 9515 (March 1, 2004); Secretary of Homeland Security Order 2004–001; Department of Homeland Security Delegation No. 00170.1, Rev. 01.4; and 33 CFR 1.05–1.

- 37. Amend part 107 by removing the text “Seventh District” wherever it appears, and adding, in its place, the text “USCG Southeast District”.

PART 110—ANCHORAGE REGULATIONS

- 38. The authority citation for part 110 is revised to read as follows:

Authority: 33 U.S.C. 2071; 46 U.S.C. 70006, 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

§ 110.220 [Amended]

- 39. In § 110.220 amend paragraph (b)(2) by removing the text “Coast Guard”.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

- 40. The authority citation for part 153 is revised to read as follows:

Authority: 14 U.S.C. 503; 33 U.S.C. 1321, 1903, 1908; 42 U.S.C. 9615; 46 U.S.C. 6101; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

§ 153.205 [Amended]

- 41. Amend § 153.205 as follows:
- a. Remove the text “1st” wherever it appears and add, in its place, the text “USCG Northeast District”;
 - b. Remove the text “5th” wherever it appears and add, in its place, the text “USCG East District”;
 - c. Remove the text “7th” wherever it appears and add, in its place, the text “USCG Southeast District”;
 - d. Remove the text “8th” wherever it appears and add, in its place, the text “USCG Heartland District”;
 - e. Remove the text “9th” wherever it appears and add, in its place, the text “USCG Great Lakes District”;
 - f. Remove the text “11th” wherever it appears and add, in its place, the text “USCG Southwest District”;
 - g. Remove the text “13th” wherever it appears and add, in its place, the text “USCG Northwest District”;
 - h. Remove the text “14th” wherever it appears and add, in its place, the text “USCG Oceania District”; and
 - i. Remove the text “17th” wherever it appears and add, in its place, the text “USCG Arctic District”.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED AREAS

- 42. The authority citation for part 165 continues to read as follows:

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

§ 165.118 [Amended]

- 43. In § 165.118 amend table 1 by removing the text “USCG District 1” wherever it appears, and adding, in its place, the text “USCG Northeast District”.

§ 165.151 [Amended]

- 44. In § 165.151 amend paragraphs (g) and (h) by removing the text “USCG First District” and replace with “USCG Northeast District”.

§ 165.160 [Amended]

- 45. In § 165.160 amend paragraph (d) by removing the text “USCG First

District” and replace with “USCG Northeast District”.

§ 165.164 [Amended]

- 46. In § 165.164 amend paragraph (c) by removing the text “Coast Guard’s First District Commander” and replace with “Coast Guard’s Northeast District Commander”.

§ 165.171 [Amended]

- 47. In § 165.171 amend paragraph (g) by removing the text “USCG First District” and replace with “USCG Northeast District”.

§ 165.T24–0393 [Amended]

- 48. In § 165.T24–0393 amend paragraph (e) by removing the text “Coast Guard District 9” and adding, in its place, the text “USCG Great Lakes District”.

§ 165.2025 [Amended]

- 49. In § 165.2025 amend paragraph (a) and Note to paragraph (a) by removing the text “First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts” and adding, in its place the text “USCG Northeast, East, Southeast, Heartland, and Great Lakes Districts”.

§ 165.2030 [Amended]

- 50. In § 165.2030 amend paragraph (a) and Note to paragraph (a) by removing the text “Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts” and adding, in its place, the text “USCG Southwest, Northwest, Oceania, and Arctic Districts”.

Title 46—Shipping**PART 4—MARINE CASUALTIES AND INVESTIGATIONS**

- 51. The authority citation for part 4 is revised to read as follows:

Authority: 14 U.S.C. 102; 43 U.S.C. 1333; 46 U.S.C. 2103, 2303A, 2306, 6101, 6301, 6305, 70034; 50 U.S.C. 198; DHS Delegation 00170.1, Revision No. 01.4, issued under 49 U.S.C. 1131(a)(1)(E).

§ 4.07–10 [Amended]

- 52. In § 4.07–10 amend paragraph (b) by removing the text “Fourteenth Coast Guard” wherever it appears, and adding, in its place, the text “USCG Oceania”.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

- 53. The authority citation is revised to read as follows:

Authority: 46 U.S.C. 5101–5116; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4; section

42.01–5 also issued under the authority of 44 U.S.C. 3507.

§ 42.07–45 [Amended]

■ 54. In § 42.07–45 amend paragraph (d)(2) by removing the text “Ninth Coast Guard” and adding, in its place, the text “USCG Great Lakes”.

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 55. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; DHS Delegation No. 00170.1, Revision No. 01.4, paragraphs (II)(92)(a), (d), (e), (f).

§ 401.510 [Amended]

■ 56. In § 401.510 amend paragraph (b) introductory text by removing the text “9th Coast Guard” and adding, in its place, the text “USCG Great Lakes”.

Dated: September 30, 2025.

Michael T. Cunningham,
*Chief, Office of Regulations and
Administrative Law.*

[FR Doc. 2025–19282 Filed 10–1–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2025–0912]

RIN 1625–AA00

Safety Zone; Maumee River, Toledo OH

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Maumee River within a 150-yard radius of the Toledo Country Club in Toledo, OH. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards during a fireworks event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Detroit (COTP).

DATES: This rule is effective from 8 p.m. until 9 p.m. on October 3, 2025.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2025–0912.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule,

contact MST1 Cera Turner, Marine Safety Unit Toledo Waterways Management Division, U.S. Coast Guard; telephone 419–418–6050 or email D09-SMB-MSUToledo-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received notification that fireworks will be launched from shore on the Maumee River near Toledo Country Club in Toledo, OH. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port (COTP) Detroit has determined that potential hazards associated with fireworks are a safety concern for anyone within a 150 yards of the fireworks display. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard was notified of this event on September 23rd, 2025 but we must establish this safety zone by October 3, 2025, to protect personnel, vessels, and the marine environment. Therefore, we have do not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the FR.

III. Discussion of the Rule

This rule establishes a safety zone from 8 p.m. until 9 p.m. on October 3, 2025. The safety zone will cover all navigable waters of the Maumee River within a 150-yard radius of the Toledo Country Club in Toledo, OH. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act’s flexibility analysis provisions do not apply here.

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

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies

that this rule will not result in an annual expenditure of \$100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0912 to read as follows:

§ 165.T09–0912 Safety Zone; Maumee River, Toledo OH.

(a) *Location.* The following area is a safety zone: All navigable waters of the Maumee River within a 150-yard radius of the Toledo Country Club in Toledo, OH.

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

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

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

(d) *Enforcement period.* This section will be enforced from 8 p.m. until 9 p.m. on October 3, 2025.

Dated: September 29, 2025.

Richard P. Armstrong,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2025–19299 Filed 10–1–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2025–0840]

RIN 1625–AA00

Safety Zone; New York Harbor, Upper Bay, Jersey City, NJ

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Upper Bay in New York Harbor in the vicinity of Ellis Island and Liberty Island, NJ. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by law enforcement vessels operating at high speed while participating in a security training exercise occurring in this area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector New York.

DATES: This rule is effective from 9 a.m. to noon on October 8, 2025.

ADDRESSES: To view documents in the docket, go to <https://www.regulations.gov> and search for USCG–2025–0840. Next, select “Supporting & Related Material” in the Document Type column.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email MST2 Conard Audesirk, Sector New York Waterways Management, U.S.

Coast Guard; telephone 571–610–5174, SectorNYWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard and other Federal, State, and Local law enforcement agencies are engaging in a security related exercise in preparation for the FIFA 2026 World Cup Fan Festival. During the training exercise, participating law enforcement vessels and opposing force training vessels will be operating at high speeds in a confined area. The Captain of the Port (COTP) has identified the risk of collision with transiting vessels as a potential hazard associated with the training exercise and determined that a safety zone is required to minimize that risk. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone from potential hazards related to the security training exercise.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to publish an NPRM, respond to comments, and publish a final rule by October 8, 2025, to protect personnel, vessels, and the marine environment.

The Coast Guard also finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the FR as there are less than 30 days before October 8, 2025, available now.

III. Discussion of the Rule

This rule establishes a safety zone from 9 a.m. until noon on October 8, 2025. The safety zone will cover all waters from surface to bottom of the Upper Bay around Ellis and Liberty Island. The coordinates of the safety zone are provided in the regulatory text below. We have also included a chartlet in the docket to visually depict the safety zone. For instructions on viewing items in the docket, see the **ADDRESSES** section above.

This safety zone is being established for the protection of mariners from

training exercise participants operating at high speeds during the security training exercise. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Notification of the safety zone will be provided by Broadcast Notice to Mariners and publication in the Local Notice to Mariners. Broadcasts will continue throughout the exercise and will cease when all operations have finished.

IV. Regulatory Analyses

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

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

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

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order

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

D. Unfunded Mandates Reform Act

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

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0840 to read as follows:

§ 165.T01–0840 Safety Zone; New York Harbor, Upper Bay, Jersey City, NJ.

(a) *Location.* The following area is a safety zone: all waters from surface to bottom of the Upper Bay around Ellis and Liberty Island formed by connecting latitude and longitude points in the following order: 40°41′26″ N 74°03′17″ W, thence to 40°41′11″ N 74°02′36″ W, thence to 40°41′25″ N 74°02′26″ W, thence to 40°41′40.0″ N 74°02′28.0″ W, thence to 40°41′56″ N 74°02′05″ W, thence to 40°42′15″ N 74°02′31″ W and along the shoreline back to the beginning point, expressed in Degrees (°) Minutes (′) Seconds (″) (DMS) based on World Geodetic System 1984 (WGS 84).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at 1 (844) NYC–USCG. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to noon on October 8, 2025.

Jonathan A. Andrechik,
Captain, U.S. Coast Guard, Captain of the Port, Sector New York.

[FR Doc. 2025–19361 Filed 10–1–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2025–0771]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Huntington Beach, CA

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing a temporary safety zone offshore of Huntington Beach, CA, in support of the Pacific Airshow. This safety zone is necessary to provide for the safety of life on these navigable waters during the airshow and to protect the high concentration of spectators attending the event. This regulation prohibits vessels from entering into, transiting through, or remaining within the safety zone unless specifically authorized by the Captain of the Port, Los Angeles—Long Beach (COTP), or a designated representative.

DATES: This rule is effective from October 2, 2025, through October 5, 2025.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2025–0771.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LCDR Kevin Kinsella, Sector Los Angeles—Long Beach Waterways Management Division, U.S. Coast Guard; telephone 310–521–3860, or email D11-SMB-SectorLALB-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Captain of the Port Los Angeles—Long Beach (COTP) has determined that navigational hazards may arise due to low-flying aircraft and stunt performances over the water, offshore of Huntington Beach, during the Pacific Air Show. This event will consist of military and civilian aircraft performing aerobatic maneuvers at high speeds within the lateral limits of an aerobatic box, extending from the ocean surface to 15,000-feet above mean sea level (MSL). The event typically attracts over 800 spectator vessels each year. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and

contrary to the public interest. The Coast Guard only recently received final details for the proposed safety zone, but we must establish this safety zone by October 2, 2025, to protect personnel, vessels, and the marine environment. Therefore, we have do not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a safety zone from 11 a.m. until 2 p.m. on October 2, 2025, 9:30 a.m. until 4:30 p.m. on October 3, 2025, 10 a.m. until 4:30 p.m. on October 4, 2025, and 10 a.m. until 4:30 p.m. on October 5, 2025. The safety zone will cover all navigable waters within a designated 12,000-foot by 3,000-foot box offshore of Huntington Beach, CA. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

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

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule involves a temporary safety zone lasting four days that will prohibit entry into all navigable waters within a designated 12,000-foot by 3,000-foot box offshore of Huntington Beach, CA. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ **2.** Add § 165.T11–214 to read as follows:

§ 165.T11–214 Safety Zone; Pacific Ocean, Huntington Beach, CA.

(a) *Location.* The following area is a safety zone: All waters offshore of Huntington Beach, CA, from surface to bottom, encompassed by a line connecting the following points beginning at 33°38.005' N, 117°59.187' W, thence to 33°39.182' N, 118°1.089' W, thence to 33°39.579' N, 118°0.734' W, thence to 33°38.401' N, 117°58.833' W, and back to the beginning point. These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (310) 521–3805. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be subject to enforcement from 11 a.m. until 2 p.m. on October 2, 2025, 9:30 a.m. until 4:30 p.m. on October 3, 2025, 10 a.m. until 4:30 p.m. on October 4, 2025, and 10 a.m. until 4:30 p.m. on October 5, 2025.

S.L. Crecy,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.

[FR Doc. 2025–19313 Filed 10–1–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 6

[Docket No. PTO–T–2025–0013]

RIN 0651–AD87

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO) issues this final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Agreement). These changes are listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification), which is published by the World Intellectual Property Organization (WIPO), and will become effective on January 1, 2026.

DATES: This rule is effective on January 1, 2026.

FOR FURTHER INFORMATION CONTACT: Cristiana Schwab, Office of the Deputy Commissioner for Trademark Examination Policy, at 571–272–3514 or TMFRNotices@uspto.gov.

SUPPLEMENTARY INFORMATION: This final rule incorporates classification changes adopted by the Nice Agreement that will become effective on January 1, 2026. Specifically, this rule adds new goods to, or deletes existing goods from, eight class headings to further define and identify the type of goods appropriate to the classes.

The USPTO is revising § 6.1 of 37 CFR part 6 to incorporate classification changes and modifications, as listed in the Nice Classification (13th ed., ver. 2026), published by WIPO, that will become effective on January 1, 2026. The Nice Agreement is a multilateral treaty, administered by WIPO, that establishes the international classification of goods and services for the purpose of registering trademarks and service marks. Since September 1, 1973, this international classification system is the controlling system used by the United States, and it applies, for all statutory purposes, to all applications filed on or after September 1, 1973, and their resulting registrations. See 37 CFR 2.85(a). Every signatory to the Nice Agreement must use the international classification system.

Each state party to the Nice Agreement is represented in the Committee of Experts of the Nice Union (Committee of Experts), which meets annually to vote on proposed changes to the Nice Classification. Any state that is a party to the Nice Agreement may submit proposals for consideration by the other members of the Committee of Experts, in accordance with agreed-upon rules of procedure. Proposals are currently submitted annually to an electronic forum on the WIPO website, where they are commented on, modified, and compiled for further discussion and voting at the annual Committee of Experts meeting.

In 2013, the Committee of Experts began annual revisions to the Nice Classification. The annual revisions, which are published electronically and enter into force on January 1 each year, are referred to as versions and identified by an edition number and the year of the effective date (e.g., “Nice Classification, 10th ed., ver. 2013” or “NCL 10–2013”). Each annual version includes changes adopted by the Committee of Experts since the adoption of the previous version, consisting of: (1) the addition of new goods and services to, and the deletion of goods and services from, the Alphabetical List; and (2) any modifications to the wording in the Alphabetical List, the class headings, or the explanatory notes that do not involve the transfer of goods or services from one class to another.

As of January 1, 2023, new editions of the Nice Classification are published electronically every three years. They include all changes adopted since the previous annual version, as well as goods or services transferred from one class to another and new classes that have been created since the previous edition.

The 35th session of the Committee of Experts, comprised of member states and WIPO, was held from April 28 to May 2, 2025, at WIPO headquarters in Geneva, Switzerland. The revisions contained in this final rule consist of modifications to class headings that were voted upon and incorporated into the Nice Agreement during the session.

Under the Nice Classification, there are 34 classes of goods and 11 classes of services, each with a class heading. Class headings generally indicate the fields to which goods and services belong. Specifically, this rule adds new goods to, or deletes existing goods from, eight class headings to further define and identify the types of goods appropriate to the classes. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to Article 1.

Discussion of Regulatory Changes

The USPTO is revising § 6.1 as follows:

In Class 1, the wording and semicolon “putties and other paste fillers;” are deleted.

In Class 3, the word “perfumery,” is amended to “perfumes” and the comma is deleted. The wording “essential oils” is deleted.

In Class 5, the wording “veterinary use” is amended to “veterinary purposes.” The word “adhesive” is added before “plasters.” The wording “stopping teeth” is amended to “filling teeth.”

In Class 8, the wording “Hand tools and implements, hand-operated” is amended to “Hand-operated hand tools and implements.”

In Class 9, the word “media” is amended to “multimedia files.” The wording “and swimmers” is deleted.

In Class 10, the wording “spectacles, contact lenses and sunglasses;” is added between “teeth” and “orthopaedic.”

In Class 26, the word “braid” and the comma preceding it are deleted.

In Class 29, the wording “for culinary purposes” is added after “meat extracts.” The wording “and vegetables” is amended to “vegetables and seaweeds” and a comma is added after “fruits.”

Rulemaking Requirements

A. Administrative Procedure Act: This final rule revises the regulations to reflect modifications to class headings, which indicate the classes to which goods and services belong, that were incorporated into the Nice Agreement. The changes in this final rule do not change the substantive criteria for the registration of a trademark. Therefore, the changes in this rulemaking involve rules of agency practice and procedure and/or interpretive rules and do not require notice-and-comment rulemaking pursuant to 5 U.S.C. 553(b)(B). See *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 97, 101 (2015) (explaining that interpretive rules “advise the public of the agency’s construction of the statutes and rules which it administers” and do not require notice-and-comment when issued or amended); *Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice”); *In re Chestek PLLC*, 92 F.4th 1105, 1110 (Fed. Cir. 2024) (noting that rule changes that “do[] not alter the substantive standards by which the

USPTO evaluates trademark applications” are procedural in nature and thus “exempted from notice-and-comment rulemaking.”); and *JEM Broadcasting Co. v. F.C.C.*, 22 F.3d 320, 328 (D.C. Cir. 1994) (“[T]he ‘critical feature’ of the procedural exception [in 5 U.S.C. 553(b)(A)] ‘is that it covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.’” (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980))).

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. See 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, and as discussed above, the USPTO has, to the extent feasible and applicable: (1) made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 14192 (Deregulation): This regulation is not an Executive Order 14192 regulatory action because it has been determined to be not significant under Executive Order 12866.

F. Executive Order 13132 (Federalism): This rulemaking pertains strictly to federal agency procedures and

does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burdens as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. Executive Order 12630 (Taking of Private Property): This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a “major rule” as defined in 5 U.S.C. 804(2).

M. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, of \$100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of \$100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

N. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

O. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. Paperwork Reduction Act of 1995: This final rule does not involve information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information has a currently valid OMB control number.

Q. E-Government Act Compliance: The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 37 CFR Part 6

Administrative practice and procedure, Courts, Lawyers, Trademarks.

For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1112 and 1123 and 35 U.S.C. 2, as amended, the USPTO is amending 37 CFR part 6 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

■ 1. The authority citation for part 6 continues to read as follows:

Authority: Secs. 30, 41, 60 Stat. 436, 440; 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

■ 2. Revise § 6.1 to read as follows:

§ 6.1 International schedule of classes of goods and services.

Goods

1. Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and hides; adhesives for use in industry; compost, manures, fertilizers; biological preparations for use in industry and science.

2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

3. Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumes; bleaching preparations and other substances for laundry use; cleaning, polishing and abrasive preparations.

4. Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.

5. Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary purposes, food for babies; dietary supplements for human beings and animals; adhesive plasters, materials for dressings; material for filling teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

6. Common metals and their alloys, ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

7. Machines, machine tools, power-operated tools; motors and engines, except for land vehicles; machine coupling and transmission components, except for land vehicles; agricultural implements, other than hand-operated

hand tools; incubators for eggs; automatic vending machines.

8. Hand-operated hand tools and implements; cutlery; side arms, except firearms; razors.

9. Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable multimedia files, computer software, blank digital or analogue recording and storage media; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers' masks, ear plugs for divers, nose clips for divers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; spectacles, contact lenses and sunglasses; orthopaedic articles; suture materials; therapeutic and assistive devices adapted for persons with disabilities; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

11. Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosives; fireworks.

14. Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments.

15. Musical instruments; music stands and stands for musical instruments; conductors' batons.

16. Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

17. Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in

extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

18. Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

19. Materials, not of metal, for building and construction; rigid pipes, not of metal, for building; asphalt, pitch, tar and bitumen; transportable buildings, not of metal; monuments, not of metal.

20. Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

21. Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

22. Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

23. Yarns and threads for textile use.

24. Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

25. Clothing, footwear, headwear.

26. Lace and embroidery, and haberdashery ribbons and bows; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings, not of textile.

28. Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts for culinary purposes; preserved, frozen, dried and cooked fruits, vegetables and seaweeds; jellies, jams, compotes; eggs; milk, cheese, butter, yogurt and other milk products; oils and fats for food.

30. Coffee, tea, cocoa and substitutes therefor; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; chocolate; ice cream, sorbets and other edible ices; sugar,

honey, treacle; yeast, baking-powder; salt, seasonings, spices, preserved herbs; vinegar, sauces and other condiments; ice (frozen water).

31. Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

32. Beers; non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other preparations for making non-alcoholic beverages.

33. Alcoholic beverages, except beers; alcoholic preparations for making beverages.

34. Tobacco and tobacco substitutes; cigarettes and cigars; electronic cigarettes and oral vaporizers for smokers; smokers' articles; matches.

Services

35. Advertising; business management, organization and administration; office functions.

36. Financial, monetary and banking services; insurance services; real estate services.

37. Construction services; installation and repair services; mining extraction, oil and gas drilling.

38. Telecommunications services.

39. Transport; packaging and storage of goods; travel arrangement.

40. Treatment of materials; recycling of waste and trash; air purification and treatment of water; printing services; food and drink preservation.

41. Education; providing of training; entertainment; sporting and cultural activities.

42. Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software.

43. Services for providing food and drink; temporary accommodation.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, aquaculture, horticulture and forestry services.

45. Legal services; security services for the physical protection of tangible property and individuals; dating

services, online social networking services; funerary services; babysitting.

John A. Squires,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

[Docket No. VA–2022–VHA–0020]

RIN 2900–AQ59

Health Care Professionals Practicing Via Telehealth

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, with changes, a proposed rule to amend its medical regulations that govern VA's health care professionals who practice health care via telehealth. This final rule implements the authorities of the VA MISSION Act of 2018 and the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. This final rule enables VA to maximize health care resource utilization and provide safe and convenient national health care to veterans using telehealth. It also strengthens VA's role in supporting national and State responses to war, terrorism, national emergencies and natural disasters.

DATES: This rule is effective November 3, 2025.

FOR FURTHER INFORMATION CONTACT: Dr. Kevin Galpin, Executive Director, Telehealth Services, Office of Connected Care, Veterans Health Administration, (404) 771–8794.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** (FR) on August 23, 2022, VA proposed to revise its regulations that govern a VA health care professional's practice via telehealth. 87 FR 51625. VA provided a 60-day comment period, which ended on October 24, 2022. We received a total of 18 comments, ten of which fully supported the proposed rule. We thank the commenters for their comments and do not further address them below. The remaining comments, some of which were generally supportive of the rule, raised issues and concerns that are grouped together by like topic and addressed below. We make minor changes to the rule as described below.

Comments Related to Preemption of State Law

We received two comments regarding VA's preemption of conflicting State laws. One commenter stated that VA is prohibited by the Tenth Amendment of the Constitution from requiring States to issue or continue licenses to health care professionals who do not meet State licensing requirements, such as the requirement that the health care professional's supervisor is providing in person supervision or the requirement that the trainee be supervised by a health care professional who is licensed in the same State as the trainee. The commenter requested that VA clarify that it is not commandeering States to license those employees who do not meet State requirements for a license. We do not make any changes based on the comment.

The Tenth Amendment of the United States Constitution provides that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. However, VA's authority to furnish health care to veterans has not been reserved to the States or the people. Under Article I, section 8, Congress has the power to "provide for the common Defence and general Welfare of the United States"; to "raise and support Armies", and to "provide and maintain a Navy"; and to "make Rules for the Government and Regulation of the land and naval Forces". See Art. I, sec. 8, cls. 1, 12–14. Congress also has power to "make all Laws which shall be necessary and proper for carrying into Execution the foregoing powers". See Art. I, sec. 8, cls. 18. Congress exercises its authority under some or all of these clauses when enacting veterans' benefits. See, e.g., *Torres v. Texas Dep't of Pub. Safety*, 597 U.S. 580 (2022). Exercising these powers, Congress, under section 7301(b) of title 38, United States Code (U.S.C.), established that the primary function of the Veterans Health Administration (VHA) within VA is to provide a complete medical and hospital service for the medical care and treatment of veterans. Generally, VA is allowed to employ medical professionals so long as they are licensed "in a State," see, e.g., 38 U.S.C. 7402(b)(1)(C), rather than in every State in which they or their patients will be located while providing care through VA. See also title 38, Code of Federal Regulations (CFR) 17.419(b)(1)(i) (providing that a VA health care professional may practice in any State "irrespective of the State where they hold a valid license,

registration, certification or other State qualification"). Specific to the provision of care through telehealth, Congress explicitly provided that, notwithstanding any provision of law regarding the licensure of health care professionals, a VA health care professional may practice at any location in any State, regardless of where the health care professional or the patient is located, when using telehealth to provide treatment to an individual under chapter 17. 38 U.S.C. 1730C(a). Section 1730C(d) further states that this section supersedes any State law to the extent that the State law is inconsistent with section 1730C, and that no State shall deny or revoke a license, registration, or certification who otherwise meets the qualifications of the State for holding such credential on the basis of their practice of telehealth at VA. Therefore, the rule does not encroach on any rights reserved to the States or to the people and is not a violation of the Tenth Amendment to the U.S. Constitution both because Congress has authority to enact laws regarding veterans' benefits under Article I, section 8, and because Congress asserted Federal supremacy under clause 2 of Article VI of the Constitution, which provides that the Constitution, and the laws of the United States made in pursuance thereof, are the supreme law of the land. In enacting section 1730C, Congress exercised its authority under this clause (commonly referred to as the supremacy clause) to preempt inconsistent State law.

We clarify that through this rulemaking, we are not requiring or commandeering a State to grant a license to those VA employees who do not meet the State requirements to receive a license, registration, certification, or other requirements. Rather, we are preempting any provisions of State requirements as applied to VA health care professionals to the extent that such provisions are inconsistent with a VA health care professional's practice via telehealth. If a State requirement is inconsistent with the VA employee's ability to carry out their Federal duties, that State requirement will have no force or effect on the VA employee when carrying out their VA duties. As explained above, section 1730C(d)(2) confirms that no State shall deny or revoke the license, registration, or certification of a covered health care professional who otherwise meets the qualifications of the State for holding the license, registration, or certification on the basis that the covered health care professional has engaged or intends to engage in

telehealth at VA. However, the States will still determine whether the health care professional otherwise meets the State qualifications for holding the license, registration, or other requirement.

We received one comment addressing limitations in the Controlled Substances Act (CSA) and other applicable Federal law, regulation, and policy as applied to VA, to include possible limitation by State law through such authority. The commenter referenced practice guidelines regarding the prescribing of buprenorphine, citing 86 FR 22439 (April 28, 2021), that ordinarily require prescribers to be licensed to treat patients in the State in which the patient is located. As the commenter acknowledged, the practice guidelines specifically exempt Federal practitioners who are acting within the scope of their Federal employment. We do not make a substantive change based on the comment but make a non-substantive clarifying change to 38 CFR 17.417(b)(3) to avoid any potential confusion regarding the authority of VA health care professionals to prescribe controlled substances via telehealth and the impact of State law as referenced by Federal authority.

State law that would conflict with VA health care professionals prescribing via telehealth is not applicable to VA health care professionals, but Federal standards regarding prescribing via telemedicine are applicable. VA stated in proposed § 17.417(b)(3) that its health care professionals are subject to the CSA and other "applicable Federal law, regulation, and policy," 87 FR 51631, whereas the provision it is replacing (currently in § 17.417(b)(1) requires health care professionals to comply with "the laws and practice acts of the health care providers' State license, registration, or certification" in addition to applicable Federal law. VA views the change as being authorized by, and consistent with, the relevant statutory authority.

Specifically, the CSA creates a number of standards for a prescription to be valid. See, e.g., 21 U.S.C. 829. Additional standards are applicable to prescribing via "telemedicine." See, e.g., 21 U.S.C. 802(54) (authorizing prescribing a controlled substance when the prescriber is, inter alia, communicating with the patient via "a telecommunications system referred to in section 1395m(m) of title 42."). These standards created by the CSA are among the applicable Federal laws addressed in proposed 38 CFR 17.417(b)(3).

The CSA also references "applicable . . . State laws" into the "practice of telemedicine." 21 U.S.C. 802(54). VA

health care professionals are specifically authorized to practice medicine through telehealth notwithstanding State law. 38 U.S.C. 1730C(a). VA does not view a conflict as existing between the two provisions. See *Morton v. Mancari*, 417 U.S. 535 (1974) (discussing the preference for reading statutes to co-exist if possible). Rather, section 1730C identifies a group of State laws—those that conflict with a covered health care professional's practice of health care through telehealth that are not applicable to VA health care professionals in their VA role—without specifically excluding State laws that interfere with prescribing controlled substances through telemedicine, whereas the CSA in section 802(54) identifies that health care professionals must generally comply with those State laws applicable to them. Section 1730C(d)(2) explicitly prohibits a State from denying or revoking the license, registration, or certification of a covered VA health care professional based on their practice of telehealth at VA.

Therefore, we conclude that it is possible to give effect to both 21 U.S.C. 802(54) and 38 U.S.C. 1730C, with the latter establishing that State laws interfering with VA health care professionals prescribing controlled substances are not applicable to VA health care professionals under the former. To the extent a conflict exists between the two statutes, we conclude that section 1730C(d) is the specific rule addressing State law as applied to the practice of telehealth by VA health care professionals and would control the general rule of 21 U.S.C. 802(54). See, e.g., *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992) (“[I]t is a commonplace of statutory construction that the specific governs the general.”). Moreover, 38 U.S.C. 1730C was enacted (in 2018) after 21 U.S.C. 802(54) (in 2008). To the extent there is a conflict, the canon of interpretation that the later statute will generally prevail over a conflicting earlier statute would also support VA's interpretation. Indeed, to do otherwise would effectively render 38 U.S.C. 1730C(d) surplusage with regard to prescribing via telemedicine, an interpretation that is not generally favored. See, e.g., *Montclair v. Ramsdell*, 107 U.S. 147, 152 (1883).

VA does not view section 1730C(e) as requiring a different result. Section 1730C(e) states a rule of construction that nothing in section 1730C may “be construed to remove, limit, or otherwise affect any obligation of a covered health care professional under the [CSA]”. State law is superseded by section 1730C(a) (“notwithstanding any provision of law regarding the licensure

of health care professionals”) to the extent it is inconsistent with a VA health care professional's practice of medicine through telehealth, with section 1730C(d) making clear that State may take no action against a VA health care professional's license based on a professional providing or intending to provide treatment through telehealth as part of their VA practice. Section 1730C(d)(1). In this context, such State laws are not “applicable . . . State law” under 21 U.S.C. 802(54) and create no “obligation” for VA health care professionals to follow conflicting State laws. 38 U.S.C. 1730C(e). Therefore, VA concludes that section 1730C(e) incorporates the Federal standards of the CSA, but not more. VA also notes that Congressional recognition of the unique nature of VA's Nationwide practice by removing some State-level requirements regarding prescribing is not unprecedented. For instance, in the CSA, Congress exempted VA health care professionals from some State requirements even before section 1730C was enacted. See, e.g., 21 U.S.C. 802(54)(A)(ii)(III)(bb)(AA) (exempting VA health care professionals from the requirement of being “registered . . . in the State in which the patient is located” when prescribing via telehealth if the patient is being treated by, and physically located in, a hospital or clinic registered under 21 U.S.C. 823(g)).

This addition also supports VA's “Fourth Mission” to improve the Nation's preparedness for response to war, terrorism, national emergencies, and natural disasters by developing plans and taking actions to ensure continued service to veterans, as well as to support national, State, and local emergency management, public health, safety and homeland security efforts. VA's Fourth Mission is authorized under three separate authorities 38 U.S.C. 1784, 1784A, and 1785. Section 1784 authorizes VA to furnish hospital care or medical services as a humanitarian service in emergency cases. Under section 1784A, in the case of a VA hospital that has an emergency department, if any individual comes to the hospital or the campus of the hospital and a request is made on behalf of the individual for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists. Lastly, under section 1785, VA may, during and immediately following

a disaster or emergency, furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by that disaster or emergency. In conjunction with other Federal entities, such as the Department of Health and Human Services (HHS) and the Department of Defense, VA serves as an asset to the nation during disasters and emergencies. As a foundational part of Federal emergency management efforts through the National Response Framework, VA leads the effort for meeting veterans' needs and has expanded authority to assist service members or civilians. Telehealth and the ability to prescribe controlled substances in these situations are important capabilities to support VA's Fourth Mission. This rulemaking will ensure VA health care providers are able to practice according to Federal standards when prescribing controlled substances during emergencies to help support VA's Fourth Mission.

We considered whether our proposed rule made this point sufficiently clear to allow the public to meaningfully comment on the issue and conclude that the issue was sufficiently explained. In the preamble to the proposed rule VA now seeks to finalize, we explicitly addressed Executive Order 13132, which “provides the requirements for preemption of State law when it is implicated in rulemaking.” 87 FR 51627–51631. We further explained that VA health care professional's practice of health care via telehealth “is subject to the limitations imposed by the Controlled Substances Act [. . .] and implementing regulations [. . .] on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law, regulation, and policy.” 87 FR 51625, 51626. See also *id.* at 51631 (proposed 38 CFR 17.417(b)(3)). This statement and corresponding regulatory text were intended to clarify that VA health care professionals are not excluded from Federal authority by 38 U.S.C. 1730C or the proposed rule, neither of which reference State law or suggest that the preemption of conflicting State laws does not extend to those State laws that are inconsistent with Federal standards regarding the prescription of controlled substances through telehealth.

We again note that this statement meaningfully departs from the existing regulation, which predates section 1730C. VA's initial efforts to preempt State law addressing the practice of telehealth prior to 1730C were not intended to exempt VA health care professionals from all State-law requirements. Specifically, VA engaged

in rulemaking in October 2017, publishing a proposed rule entitled Authority of Health Care Providers to Practice Telehealth. 82 FR 45756 (October 2, 2017). While conflicting State law was generally preempted (“this proposed rule would preempt certain State laws”, and “conflicting State and local laws, rules, regulations, and requirements related to health care providers’ practice would have no force or effect when practicing telehealth”), see *id.* at 45759, VA also stated that the rulemaking did not affect VA’s existing requirement that all VA health care providers “adhere to restrictions imposed by their State license, registration, or certification regarding the professional’s authority to prescribe and administer controlled substances.” *Id.* at 45758.

VA consulted with State officials before proposing the rule in 2017, with at least one response suggesting some varying interpretations about the scope of VA’s rule to preempt State-law requirements interfering with VA’s practice of telehealth as including controlled substances. *Id.* at 45760 (stating Florida’s requirement that patients receive an in-person examination each time a physician issues a certification for medical marijuana would not apply to VA practitioners practicing telehealth, but VA would maintain the restrictions imposed by Federal law and policy regarding the prescription of controlled substances). See generally *id.* at 45759–60 (for a more fulsome discussion of the generally favorable input VA received from State agencies and National Associations for State practice groups).

In 2018, VA’s rule was promulgated, 83 FR 21897 (May 11, 2018), and VA again clarified that this section “does not otherwise grant health care providers additional authorities that go beyond what is required or authorized by Federal law and regulations or as defined in the laws and practice acts of the health care providers’ State license, registration, or certification.” Authority of Health Care Providers to Practice Telehealth, 83 FR 21897, 21898 (May 11, 2018). The version of 38 CFR 17.417(b)(1) that will be replaced is clear, therefore, both in plain language and regulatory history in directing compliance with prescribing requirements from a practitioner’s State of licensure, save where there is a conflict with Federal duties or requirements.

Shortly after VA codified § 17.417 in regulation, 38 U.S.C. 1730C was enacted. MISSION Act of 2018, Public Law 115–182, sec. 151(a) (June 6, 2018). VA views section 1730C as a clear

expansion of VA’s authority to provide health care through telehealth. Congress made clear that VA health care professionals “may practice” their “health care profession . . . at any location in any State, regardless of where” the practitioner or patient were located when the practitioner was practicing via telehealth. 38 U.S.C. 1730C(a). State laws are superseded “to the extent that such provision of State law [is] inconsistent,” including that no State may “deny or revoke the license, registration, or certification of a” VA practitioner “on the basis that the covered health care professional has engaged or intends to engage in activity covered by subsection (a).” *Id.* at section 1730(d). While Congress made clear that VA health care professionals are subject to the provisions of the CSA in section 1730(e), it does not subject providers to the “laws and practice acts of the health care providers’ State license, registration, or certification”, unlike the VA regulation that was in effect. 38 CFR 17.417(b)(1). Following the enactment of the VA MISSION Act of 2018, VA published the proposed rule it now seeks to finalize. 87 FR 51625 (August 23, 2022). In the preamble to this proposed rule, VA stated that this proposed rulemaking would state that VA health care providers’ practice of medicine via telehealth “is subject to the limitations imposed by the Controlled Substances Act [. . .] and implementing regulations [. . .] on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law, regulation, and policy.” *Id.* at 51626. VA removed the current requirement for compliance with State-level restrictions in the providers’ State of licensure, registration, or certification, echoing 38 U.S.C. 1730C, but did not address the change beyond the discussion above and the regulatory text stating that providers are subject to the CSA and “other limitations on the provision of VA care set forth in applicable Federal law, regulation and policy.” *Id.* at 51631 (proposed 38 CFR 17.417(b)(3)).

We explicitly address here and in updated § 17.417(b)(3) and clarify that this rulemaking supersedes any conflicting State requirements regarding the practice of telehealth, including such State or local laws, rules, regulations, and requirements related to the prescribing of controlled substances. This preemption applies both to the State’s enforcement of these laws and to the CSA, to the extent the CSA could be read to reference State-level authority. See, e.g., 21 U.S.C. 802(54) (defining

“practice of telemedicine” as meaning “in accordance with applicable Federal and State laws”). Conflicting State-level restrictions on the practice of telehealth are not applicable to VA health care professionals while those professionals are acting in the scope of their VA employment and practicing through telehealth, including to the extent that a State might otherwise take action regarding the license, registration, or certification of the provider. 38 U.S.C. 1730C(a), (d).

As articulated in our proposed rule, VA does not read section 1730C as removing requirements for prescribing via telehealth in the CSA or as set forth in other Federal law and policy. Section 1730C(e). Therefore, to the extent a Federal actor with authority to prescribe Federal standards, such as the U.S. Department of Justice (including the Drug Enforcement Administration) or the Department of Health and Human Services, promulgate guidance binding on VA regarding the practice of telehealth, we view such authority as binding on VA health care professionals in their Federal practice. Additionally, any VA specific policies on prescribing controlled substances, *i.e.*, checking the Prescription Drug Monitoring Program, how many days of medication VA health care professional may prescribe, etc., must be followed. VA has a robust system in place for prescribing controlled substances and, as an integrated health system, has better substance use disorder service (SUDS) outcomes. These outcomes are achieved via VA’s SUDS continuum of care, which provides standard outpatient services, intensive outpatient programs, opioid replacement therapies, residential rehabilitation and acute hospital services. VA has been proactive in developing initiatives and tools to ensure VA employed health care professionals deliver safe, high-quality care to veterans within its integrated health care system, be it through in-person or virtual care. By way of example, VA highlights its Opioid Safety Initiative (OSI), implemented Nationwide in 2013, which facilitates the safe, effective prescribing of opioid containing controlled substances in alignment with evidence-based practice.

Key outcomes from this initiative demonstrate its effectiveness. Between fourth quarter of Fiscal Year (FY) 2012 and fourth quarter of FY 2024, VA’s achievements include:

- A 68% reduction in patients receiving opioids (874,897 to 282,346 patients);
- A 90% reduction in patients receiving opioids and benzodiazepines together (162,444 to 15,446 patients);

- An 82% reduction in patients with high dosage opioid therapy (greater than or equal to 90 Morphine Equivalent Daily Dose) (76,466 to 13,453 patients);
- A 73% reduction in patients on long-term opioid therapy (569,027 to 155,945 patients);
- A 53% increase in patients on long term opioid therapies with urine drug screen (UDS) (from 32% to 85%); and
- An 83% reduction in new patients on long-term opioid therapy (58,417 to 10,005 patients). (VHA internal OSI dashboard data).

Furthermore, VA mandates that all veterans have their care reviewed by an interdisciplinary team of health care professionals with expertise spanning pain, mental health, addiction, pharmacy and rehabilitation when the veteran:

- Is prescribed or has recently discontinued use of opioid analgesic medications and is identified as very high risk for overdose events, suicide events, or death through the VA's Stratification Tool for Opioid Risk Mitigation (STORM); or
- Has recently suffered from a non-fatal overdose.

Note: STORM estimates the risk of overdose or suicide events or death for all patients and has been incorporated in a decision support tool to support population management and individual patient risk review.

In a randomized program evaluation, this mandate was associated with a 22 percent reduction in all-cause mortality in the next 4 months among the very high-risk veterans targeted by this prevention program.¹ With VA's integrated health system and robust system in place for prescribing controlled substances, veterans who receive VA health care have better health outcomes than non-enrolled veterans, and VA hospitals have dramatically outperformed non-VA hospitals in overall quality ratings and patient satisfaction ratings.²

We also note that, in the FY 2024 budget request, VA included a legislative proposal addressing prescribing via telehealth. We view this

request as complementary to the interpretation of 38 U.S.C. 1730C and 21 U.S.C. 802(54) articulated above. While State law is not applicable to VA health care professionals insofar as it is inconsistent with those professionals prescribing via telehealth, our legislative proposal provides further clarity regarding standards for quality and safety that VA would need to follow and establish in partnership with the Attorney General. Our legislative proposal provides additional clarity on VA's standards for prescribing via telehealth when doing so would be inconsistent with a State law that would be preempted by 38 U.S.C. 1730C.

We note that, in order to practice telehealth pursuant to section 1730C(b), a VA health care professional must have an active, current, full, and unrestricted license, registration, or certification in a State to practice the health care profession of the health care professional or, with respect to a health care profession listed under section 7402(b), have qualifications for such profession as set forth by the Secretary. Trainees and postgraduate employees may only participate in telehealth with clinical supervision, which must be by an employee who is licensed, registered, or certified by a State or who otherwise meets qualifications as defined by the Secretary. See 87 FR 51629. In addition, all health care professionals that require a certification, registration, or other State requirement must maintain their credentials as outlined by VA's qualification standards in VA Handbook 5005, Staffing. VA health care professionals must still follow State laws, unless there is a conflict with Federal duties or requirements, and that pursuant to section 1730C(b)(1)(C), VA health care professionals are still "required to adhere to all standards for quality relating to the provision of health care in accordance with applicable policies of the Department." We are amending 38 CFR 17.417(b)(4) by adding a new paragraph (b)(4)(viii) to add a new example of a situation where there would be a conflict between the health care professional's State license and Federal duties or requirements. This new paragraph states that an example of where a health care professional's VA practice of telehealth may be inconsistent or conflict with a State law or State license, registration, or certification requirements related to telehealth include when the beneficiary is receiving a controlled substance medication in a State other than the health care professional's State of licensure, registration, or certification. While several of the existing examples

in § 17.417(b)(4) are relevant to prescribing controlled substances, VA believes a specific example adds clarity.

Another commenter raised concerns about the lack of public and State consultation prior to the promulgation of the rule. In particular, the commenter stated that promulgating health care professional practice rules at the Federal level rather than the State level reduces opportunities for public participation and limits public accountability, as the public can impact State laws and regulations governing licensed health care professionals as well as State regulating bodies. The commenter further explained that the State consultation process used for this rule was insufficient, as VA did not consult with individual State boards of nursing. We do not make any changes to the rule based on this comment.

As an initial matter, VA reiterates that Congress enacted 38 U.S.C. 1730C to specifically authorize VA to establish rules related to telehealth on a Federal level for VA health care professionals that would explicitly preempt State requirements that are inconsistent with VA's requirements. VA further believes that appropriate opportunities for public and State participation were available for this rule. VA provided a 60-day comment period on the proposed rule, which afforded the public, including State officials and individual State boards, the opportunity to submit comments on the rule. We also consulted with appropriate State officials, including the National Council of State Boards of Nursing, prior to the publication of the proposed rule in compliance with sections 4(d) and (e) and section 6(c) of Executive Order 13132, as that was the most practicable form of consultation. In addition, VA will continue to work closely with State licensing boards to make certain that VA health care professionals continue to meet the standards of clinical practice, which will ensure patient safety.

Comments Related to Employee Protections and State Licensing

We received several comments regarding how VA will protect VA health care professionals if a State pursues an adverse action against such professional for practicing via telehealth. While we do not consider any of these comments within the scope of the rule because they all concern internal VA processes, we will address the concerns to provide clarity and transparency. We do not make any changes based on these comments.

One commenter raised concerns that the rule does not explain how current and former VA employees should report

¹ See Strombotne KL, Legler A, Minegishi T, Trafton JA, Oliva EM, Lewis ET, Sohoni P, Garrido MM, Pizer SD, Frakt AB. Effect of a Predictive Analytics-Targeted Program in Patients on Opioids: A Stepped-Wedge Cluster Randomized Controlled Trial. *J Gen Intern Med.* 2022 May 2;21-7. doi: 10.1007/s11606-022-07617-y. Epub ahead of print. PMID: 35501628; PMCID: PMC9060407.

² <https://www.va.gov/wilmington-health-care/news-releases/400000-veterans-enrolled-in-va-health-care-over-past-365-days-30-increase-over-last-year/> and Eric A. Apaydin, et al. Veterans Health Administration (VA) vs. Non-VA Healthcare Quality: A Systematic Review. *Journal of Internal Medicine*, 38 (2023).

to VA State action that is being taken against their license based on activities undertaken within the scope of VA employment. While we do not consider any of this comment within the scope of the rule because it concerns internal VA processes, we will address the concern to provide clarity and transparency, as further described below. We do not make any changes based on this comment.

Multiple commenters raised concerns about how and whether VA would support or represent VA employees who have adverse actions taken against them for practicing via telehealth inconsistent with their State requirements. One commenter specifically raised concerns about how VA would protect postgraduate health care employees, health professions trainees, and those providing clinical supervision. Another commenter suggested that VA commit to assisting its employees from State action while another raised concerns about whether VA will devote resources, financial or otherwise, to employees in such instances. One of the commenters recommended that VA implement programs and procedures to protect employees who are acting within the scope of the rule. While we do not consider any of this comment within the scope of the rule because it concerns internal VA processes, we will address the concern to provide clarity and transparency. We do not make any changes based on this comment.

We emphasize that VA is committed to providing representation to all VA health care professionals who have any State action proposed or taken against them for practicing consistent with their Federal duties. VA health care professionals who carry out their Federal duties must be allowed to do so free from the threat of liability. The Supremacy Clause of the U.S. Constitution bars States and State officials from penalizing government personnel for performing their Federal functions, whether through State criminal prosecution, license revocation proceedings, or civil litigation unless authorized by Federal law. Subject to the requirements and procedures set forth in 28 CFR 50.15(a), Department of Justice representation is available to Federal employees in civil, criminal, and professional licensure proceedings where they face personal exposure for actions performed within the scope of their Federal duties. This includes representation of any postgraduate health care employees, health professions trainees, and those providing clinical supervision, as long as they meet the definition of health care professional in 38 CFR 17.417(a)(2).

We note that such defense does not extend to situations where a State Board may be taking appropriate disciplinary action against a VA health care professional when their behavior or clinical practice substantially fails to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients or if the VA health care professional is practicing outside of the scope of their VA employment. This is consistent with VA's current practice.

Although VA is committed to protecting its health care professionals were any State to propose or take action against them, VA does not anticipate that many, if any, actions will be taken against its professionals for practicing via telehealth within the scope of their Federal duties. As previously explained, 38 U.S.C. 1730C(d) explicitly provides that the provisions of this section shall supersede any provisions of the law of any State to the extent that such provision of State law are inconsistent with this section and that no State shall deny or revoke the license, registration, or certification of a covered health care professional who otherwise meets the qualifications of the State for holding the license, registration, or certification on the basis that the covered health care professional has engaged or intends to engage in activity covered by subsection (a). Furthermore, State officials are barred from penalizing VA employees for performing their Federal duties, whether through criminal prosecution, license revocation, or civil litigation. See, e.g., *Intergovernmental Immunity for the Department of Veterans Affairs and Its Employees When Providing Certain Abortion Services*, 46 Op. O.L.C., ____ at *10 (Sept. 21, 2022), https://www.justice.gov/d9/2022-11/2022-09-21-va_immunity_for_abortion_services.pdf.

One commenter raised a concern about whether VA or a future non-VA employer could take adverse employment action against the health care professional due to any proposed or actual State action against them. This commenter also stated that despite VA's preemption in this rule, a State regulatory body could still pursue action against a VA employee, which could prohibit such employee from working until the issue is resolved. While we do not consider any of this comment within the scope of the rule because it concerns internal VA processes, we will address the concern to provide clarity and transparency. We do not make any changes based on this comment.

VA will not take adverse employment action if a State proposes action against

a VA health care professional solely on the basis of practicing consistent with their Federal duties. A State will typically not take immediate action against a health care professional whose practice is inconsistent with State law without first providing a professional due process. Thus, VA would have an opportunity to assist providers in their defense of any action proposed by a State as described above. In order to be employed at VA in certain health care professions, VA is statutorily required to ensure the health care professional has an active license, certification, registration, or other State requirement. Section 7402. If the health care professional does not meet these qualification standards, VA must remove the individual from a patient care position, *i.e.*, VA may move health care professionals to non-patient care positions, if necessary, while the professionals go through the process of defending their State license. VA would only take this action if a State has taken action against the health care professional's State license and the individual has no other active, current, unrestricted State license.

One commenter recommended VA include a provision in the final rule that allows VA to continue the employment of a health care professional whose licensure has been suspended, conditioned, or revoked when VA believes that the action is based on the employee's activities within the scope of their VA employment. Similar to the comments above we do not consider any of this comment within the scope of the rule because it concerns internal VA processes. We do not make any changes based on these comments.

Comments Related to the Definition of Health Care Professional

We received several comments related to the definition of health care professional in the regulation. Although one commenter specifically thanked VA for excluding contractors from the definition of health care professional, some commenters requested that VA include contractors under its definition of health care professional. One commenter suggested that contractors be included to ensure access to care. Another commenter stated that contractors are not expressly excluded under section 1730C; thus, there are no legal barriers to including them in the definition of health care professional. Another commenter suggested that VA could create a narrow exception to the exclusion of VA contractors from this rule in the instance when they are exempted under HHS's Practice Guidelines for the Administration of

Buprenorphine for Treating Opioid Use Disorder (HHS Practice Guidelines) from requiring supervision or collaboration with a Drug Enforcement Agency registered physician, even if required by State law.

VA stated in the proposed rule that VA-contracted health care professionals would be excluded from the definition of health care professional. VA maintains this exclusion because 38 U.S.C. 1730C requires that a health care professional be an employee of the Department appointed under 38 U.S.C. 7306, 7401, 7405, 7406, or 7408 or under title 5 and contracted health care professionals and community care professionals are not appointed under these authorities. We do not make any changes based on these comments.

Another commenter opposed amending the definition of health care professional to include postgraduate health care employees and health care professional trainees, as there may be ambiguity about which practice standards to follow, which could lead to unsafe patient care. We do not make any changes based on this comment. The definition of health care professional in section 1730C includes those who are postgraduate health care employees and those who are health professional trainees. See section 1730C(b)(2) and (3). Thus, VA is required by law to include such individuals in its definition of health care professional for purposes of telehealth.

One commenter suggested VA include certified registered nurse anesthetists (CRNA) in the definition of health care professional. We make no changes based on this comment. The proposed rule amended VA's definition of health care professional defined in 38 CFR 17.417(a)(2) to be consistent with the statutory definition found in 38 U.S.C. 1730C(b)(1)(A), which includes those appointed pursuant to section 7401. Section 7401(1) includes registered nurses. As CRNAs are advanced practice registered nurses appointed under section 7401, they are included in the definition of health care professional in section 1730C(b)(1)(A) and proposed 38 CFR 17.417(a)(2). This definition does not list specific health care professions, but rather lists the criteria that must be met to meet the definition of health care professional.

Comments Related to Quality of Care, Supervision, and Oversight

One commenter was generally supportive of the rule, but highlighted areas that VA should consider to ensure that VA provides the highest quality of care possible. The commenter was supportive of the rule's supervision

requirement, but suggested that VA ensure that the proper level of supervision (*i.e.*, general, direct, or personal) and oversight is provided to both trainees as well as non-physician health care professionals.

We appreciate the suggestions from the commenter; however, we will not make any changes to the rule based on the comment. We agree with the commenter that the appropriate level of supervision should be required for trainees, but do not believe it is appropriate to define that level of supervision in this regulation. The level of supervision may depend on a variety of factors, in particular which health care occupation the trainee is practicing in, and therefore would be better determined sub-regulatorily. As to the commenter's concern about oversight, this is also beyond the scope of the rulemaking for similar reasons. However, as part of its telehealth expansion efforts, VA has developed and refined its telehealth policy to include telehealth oversight responsibilities that support access to safe, high quality services for veterans. VA will continue its efforts to enhance quality management and oversight practices.

Similarly, another commenter raised concerns about the lack of VA guidance, to include a lack of clear delineation for responsibility and oversight, regarding clinical supervision of nurses who have completed their education requirements but are not yet licensed.

While we appreciate this commenter's concerns regarding the need for clear guidance addressing supervisory requirements, we consider them beyond the scope of the proposed rule as they relate to internal VA processes. This rule codifies VA's statutory authority that VA trainees, such as student nurses and unlicensed postgraduate health care employees, may participate in telehealth under appropriate clinical supervision. It does not attempt to delineate or provide guidance on supervisory requirements based on different professions or a trainee's level of experience. VA will provide internal guidance to address the standards of practice that health care professionals should follow while practicing via telehealth. No changes are being made to the rule in response to this comment.

Comments Related to VA's National Standards of Practice and Scope of Practice

Multiple commenters addressed practice standards for various health care professional occupations. One commenter raised concerns about how quality of care would be affected were

VA to increase the scope of practice of non-physician health care professionals when they practice via telehealth particularly, as the commenter asserts, that the clinical judgment of a non-physician health care professional cannot be substituted for that of a physician. Similarly, another commenter raised concerns regarding VA's development of national standards of practice. Another commenter recommended VA remove physician supervision requirements for CRNAs, particularly as such supervision does not impact patient safety and quality of care and instead may restrict access to care and increase costs.

These comments are beyond the scope of this rulemaking. VA has a separate regulatory authority at § 17.419 which authorizes it to develop national standards of practice for VA health care professionals via sub-regulatory guidance. Each national standard of practice will be posted on the **Federal Register** for a 60-day comment period prior to finalization and implementation. We encourage the commenters to provide their feedback regarding any potential change in the scope of practice of non-physician providers when they are posted for public feedback in the **Federal Register**.

Other Comments

One commenter recommended that VA correct the use of a comma after 21 CFR 1300 *et seq.* in 38 CFR 17.417(b)(3). The commenter stated that the implementing regulations should be cited as 21 CFR 1300 *et seq.* without a comma.

We disagree with the commenter, as the comma is used as a description of the citation 21 CFR 1300 *et seq.* Usually, if something or someone is sufficiently identified, such as the CFR citation, the description that follows is considered nonessential and should be surrounded by commas. However, we acknowledge that the proposed regulatory text at 38 CFR 17.417(b)(3) had a technical error as a comma was added after 21 U.S.C. 801. As part of this final rule, we are removing the comma after 21 U.S.C. 801 from the final regulation text in 38 CFR 17.417(b)(3).

A commenter appeared to highlight for VA that VA health care professionals and contractors are exempt from certain requirements from the Controlled Substances Act as a result of the HHS Practice Guidelines when prescribing controlled substances. The commenter seemed to further highlight that the exemption, while only in practice guideline, still retained the force and effect of law. The HHS Practice Guidelines provide an exemption from

certain statutory certification requirements related to training, counseling, and other ancillary services (*i.e.*, psychosocial services) to eligible physicians, physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse midwives, who are State licensed and registered by the Drug Enforcement Agency to prescribe controlled substances. See 86 FR 22439. We presume that the commenter is suggesting VA update its regulation to include this exception from VA's adherence to the Controlled Substances Act. We are not making any changes based on this comment.

As noted by the commenter, the HHS Practice Guidelines were promulgated pursuant to 21 U.S.C. 823(h)(2)(B)(i)–(ii).³ On December 29, 2022, the Consolidated Appropriations Act, 2023, was signed into law. Division FF, section 1262 of this Act repealed, among other subsections, 21 U.S.C. 823(h)(2)(B)(i)–(ii). Thus, because the statutory provisions granting HHS the authority to promulgate the practice guidelines have been repealed, they have no force or effect on VA health care providers. However, VA reiterates here that this rule preempts any State requirements regarding the practice of telehealth, including such State or local laws, rules, regulations, and requirements related to the prescribing of controlled substances.

Section 1730C(e) of title 38, U.S.C. provides that nothing in this section may be construed to remove, limit, or otherwise affect any obligation of a covered health care professional under the Controlled Substances Act. Similarly, 38 CFR 17.417(b)(3), provides that health care professionals' practice is subject to the Federal limitations imposed by the Controlled Substances Act, 21 U.S.C. 801 *et seq.* and implementing regulations at 21 CFR 1300 *et seq.*, on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law, regulation, and policy.

A commenter was also concerned with VA's prioritization of telehealth over in-person care, especially in instances when a patient is receiving acute hospital care in the home, as they alleged that substituting telehealth for in-person interactions can negatively impact patients, including their relationship with the health care

professional, and should only be used when other options are unsafe. The commenter also opined that practicing via telehealth can be challenging for experienced health care professionals, even more so for student nurse trainees and unlicensed postgraduate Registered Nurses (RN). Another commenter supported telehealth but also noted there may be instances when telehealth should not be utilized and in-person care may be more appropriate.

As an initial matter, VA respects the decisions that veterans make as to their own health care decisions and does not force nor require any veteran to utilize telehealth if they would prefer an in-person appointment. Further, we disagree with the commenter that telehealth negatively impacts patients and their relationship with health care professionals, and we disagree that telehealth should only be used when other options are unsafe. Telehealth enhances VA's capacity to deliver essential and critical health care services to beneficiaries located in areas where health care professionals may be unavailable or to beneficiaries who may be unable to travel to the nearest VA medical facility for care because of their medical conditions. Telehealth increases the accessibility of VA health care, bringing VA medical services to locations convenient for beneficiaries, including clinics in remote communities and beneficiaries' homes. Our intent is not to replace visits that require in-person interactions with telehealth. VA must ensure that patient care is appropriate and safe. As such, a health care professional would determine if or when it would be appropriate for a patient who is receiving acute hospital care in the home to receive health care via telehealth. When clinically appropriate and preferred by a patient, telehealth is an important option to enhance health care access and convenience. With regards to the commenter's concern about the challenges of student nurse trainees and unlicensed postgraduate RNs practicing via telehealth, we note that these employees will be appropriately supervised and will benefit from exposure to telehealth during their training programs, which will better prepare them for practice upon graduation, as health care is provided via telehealth throughout the health care industry. No changes are being made to the rule in response to this comment.

Another commenter strongly encouraged VA to continue to build upon the Anywhere to Anywhere VA Health Care initiative, further deploying digital health innovations that will

improve outcomes, reduce costs, and realize an improved caregiver experience and utilizing every opportunity to achieve a truly connected continuum of care, especially for those in rural communities.

While we consider this outside the scope of this rulemaking, VA appreciates this comment, agrees with the importance of integrating connected care into VA's health care delivery model, and intends to remain an innovative leader in this area. No changes are being made to the rule based on this comment.

Technical Edits

VA is making a technical edit to the definition of telehealth in 38 CFR 17.417(a)(4). VA defines the term telehealth to mean the use of electronic information or telecommunications technologies to support clinical health care, patient and professional health-related education, public health, and health administration. VA notes that the term virtual health is used interchangeably with the term telehealth. As such, VA is making a non-substantive change to the definition of "telehealth" to add that "the term virtual health has the same meaning as the term telehealth and can be used interchangeably." No other changes in the meaning of the definition of telehealth are made by this change.

VA is also making technical edits to capitalize the term "federal" in § 17.417(a)(2)(iv)(D)(4)(b)(1) and (2); correctly format the cross references to the Controlled Substances Act in § 17.417(b)(3)(i) and (iii); and to replace a hyphen with the word "through" in the reference contained in § 17.417(a)(2)(iv)(D). These were errors in the proposed rule, and making these technical edits will ensure consistency with **Federal Register** publishing guidelines.

Based on the rationale set forth in the Supplementary Information to the proposed rule and in this final rule, VA is adopting the proposed rule as final with the changes described in this rule.

Executive Order 13132, Federalism

Executive Order 13132 provides the requirements for preemption of State law when it is implicated in rulemaking. Where a Federal statute does not expressly preempt State law, agencies shall construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the exercise of State authority directly conflicts with the exercise of Federal authority or there is clear evidence to conclude that the

³ We noted that section 1262 of Division FF of the Consolidated Appropriations Act, 2023 references 21 U.S.C. 823(g). However, this is a clerical error, and the repealed portions of the statute are within 21 U.S.C. 823(h).

Congress intended the agency to have the authority to preempt State law. Through this rulemaking process, we can preempt any State law or action that conflicts with the exercise of Federal duties in providing health care via telehealth to VA beneficiaries.

In addition, any regulatory preemption of State law must be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to the regulations that are promulgated. In this rulemaking, State licensure, registration, and certification laws, rules, regulations, or other State requirements are preempted only to the extent such State laws are inconsistent with the VA health care professionals' practicing health care via telehealth while acting within the scope of their VA employment. VA also has statutory authority under 38 U.S.C. 1730C to preempt State law. Therefore, we believe that the rulemaking is restricted to the minimum level necessary to achieve the objectives of the Federal statute.

The Executive Order also requires an agency that is publishing a regulation that preempts State law to follow certain procedures. These procedures include: the agency consult with, to the extent practicable, the appropriate State and local officials in an effort to avoid conflicts between State law and Federally protected interests; and the agency provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings.

Because this final rule preempts certain State laws, VA consulted with State officials prior to the publication of the proposed rule in compliance with sections 4(d) and (e), as well as section 6(c) of Executive Order 13132. VA also provided a 60-day comment period on the proposed rule, which allowed for the State officials to provide additional comments on the rule. On August 21, 2019, VA sent a letter to the following: National Association of Boards of Pharmacy, Association of State and Provincial Psychology Boards, National Governors Association, American Academy of Physicians Assistants, National Council of State Boards of Nursing, National Association of State Directors of Veterans Affairs, Association of Social Work Boards, and the Federation of State Medical Boards to state VA's intent to amend the current regulations that allow VA health care professionals to practice telehealth. VA received 11 comments from the State officials, which were addressed in the proposed rule.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rulemaking is a not significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. This final rule is an Executive Order 14192 deregulatory action because it generates incremental cost savings, while also simplifying and standardizing telehealth licensing requirements for VA health professionals. The regulatory impact analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The provisions associated with this rulemaking are not processed by any other entities outside of VA. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

This final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not satisfying the criteria under 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government

contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 23, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

For the reasons set forth in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as set forth below:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended by revising the authority for § 17.417 to read in part as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

* * * * *

Section 17.417 also issued under 38 U.S.C. 1701 (note), 1709A, 1712A (note), 1722B, 1730C, 7301, 7306, 7330A, 7331, 7401–7403, 7405, 7406, 7408.

* * * * *

■ 2. Amend § 17.417 by:

- a. Revising the section heading and paragraphs (a)(2) and (4) and (b); and
- b. In paragraph (c), removing the term “health care providers” and adding in its place the term “health care professionals” wherever it appears.

The revisions read as follows:

§ 17.417 Health care professionals practicing via telehealth.

(a) * * *

(2) *Health care professional.* The term health care professional is an individual who:

- (i) Is appointed to an occupation in the Veterans Health Administration that is listed in or authorized under 38 U.S.C. 7306, 7401, 7405, 7406, or 7408, or title 5 of the U.S. Code;
- (ii) Is required to adhere to all standards for quality relating to the provision of health care in accordance with applicable VA policies;
- (iii) Is not a VA-contracted health care professional; and
- (iv) Is qualified to provide health care as follows:

(A) Has an active, current, full, and unrestricted license, registration, certification, or satisfies another State requirement in a State to practice the health care profession of the health care professional;

(B) Has other qualifications as prescribed by the Secretary for one of the health care professions listed under 38 U.S.C. 7402(b);

(C) Is an employee otherwise authorized by the Secretary to provide health care services; or

(D) Is under the clinical supervision of a health care professional that meets the requirements of paragraph (a)(2)(iii)(A) through (C) of this section and is either:

(1) A health professions trainee appointed under 38 U.S.C. 7405 or 38 U.S.C. 7406 participating in clinical or research training under supervision to satisfy program or degree requirements; or

(2) A health care employee, appointed under title 5, 38 U.S.C. 7401(1), (3), or 38 U.S.C. 7405 for any category of personnel described in 38 U.S.C. 7401(1), (3) who must obtain full and unrestricted licensure, registration, or certification or meet the qualification standards as defined by the Secretary within the specified time frame.

* * * * *

(4) *Telehealth*. The term telehealth means the use of electronic information or telecommunications technologies to support clinical health care, patient and professional health-related education, public health, and health administration. The term virtual health has the same meaning as the term telehealth and can be used interchangeably.

(b) *Health care professional's practice via telehealth*. (1) When a State law, license, registration, certification, or other State requirement is inconsistent with this section, the health care professional is required to abide by their Federal duties and requirements. No State shall deny or revoke the license, registration, or certification of a covered health care professional who otherwise meets the qualifications of the State for holding the license, registration, or certification on the basis that the covered health care professional has engaged or intends to engage in activity covered under this section.

(2) VA health care professionals may practice their health care profession within the scope of their Federal duties in any State irrespective of the State or location within a State where the health care professional or the beneficiary is physically located, if the health care professional is using telehealth to provide health care to a beneficiary.

(3) Prescribing controlled substances via telehealth.

(i) Health care professionals' practice is subject to the limitations imposed by the Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and implementing regulations at 21 CFR chapter II, on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal statute, regulation, and policy.

(ii) State law, license, registration, certification, or other State requirements conflicting with a VA health care professional's prescribing of controlled substances via telehealth are not applicable laws for VA health care professionals practicing their health care profession within the scope of their Federal duties in any State.

(iii) State requirements conflicting with a VA health care professional's prescribing of controlled substances via telehealth are not applicable through the Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and implementing regulations at 21 CFR chapter II, for health care professionals' practice insofar as statute or regulation refer to "applicable State law".

(4) Examples of where a health care professional's VA practice of telehealth may be inconsistent or conflict with a State law or State license, registration, or certification requirements related to telehealth include when:

(i) The beneficiary and the health care professional are physically located in different States during the episode of care;

(ii) The beneficiary is receiving services in a State other than the health care professional's State of licensure, registration, or certification;

(iii) The health care professional is delivering services while the professional is located in a State other than the health care professional's State of licensure, registration, or certification;

(iv) The health care professional is delivering services while the professional is either on or outside VA property;

(v) The beneficiary is receiving services while the beneficiary is located either on or outside VA property;

(vi) The beneficiary has not been previously assessed, in person, by the health care professional;

(vii) The beneficiary has verbally agreed to participate in telehealth but has not provided VA with a signed written consent; or

(viii) The beneficiary is receiving a controlled substance medication in a State other than the health care

professional's State of licensure, registration, or certification.

* * * * *

[FR Doc. 2025-19324 Filed 10-1-25; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2024-0513; FRL-12075-02-R3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Revisions to Regulation for Control of Ozone Season Nitrogen Oxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of West Virginia. The revision pertains to West Virginia 45 Code of State Rules (CSR) 40 (WV rule) that establishes the nitrogen oxides (NO_x) ozone season limitations and requirements for non-electrical generating unit (EGU) large industrial boilers and combustion turbines that have a maximum design heat input of greater than 250 million British thermal units per hour (MMBtu/hr), as well as affected stationary internal combustion engines and cement manufacturing kilns. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on November 3, 2025.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2024-0513. All documents in the docket are listed on the website. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Bryan Cashman, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four

Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2012. Mr. Cashman can also be reached via electronic mail at Cashman.Bryan@epa.gov.

SUPPLEMENTARY INFORMATION: On April 17, 2024, the State of West Virginia, through the West Virginia Department of Environmental Protection (WVDEP), submitted a revised version of West Virginia Legislative Rule 45CSR40—Control of Ozone Season Nitrogen Oxides Emissions (WV rule) for inclusion in the West Virginia SIP. This included two state revisions dated June 1, 2020 and April 1, 2023. The submission was supplemented on October 8, 2024, with additional information related to public noticing of the June 1, 2020 revision. The revisions to the WV rule included: (1) updating the characterization of units not subject to the rule because they are subject to a Federal NO_x ozone season trading program, and (2) amending monitoring requirements consistent with the Federal rule, “Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_x SIP Call” (84 FR 8422, March 8, 2019).

I. Background

On June 11, 2025 (90 FR 24549), the EPA published a notice of proposed rulemaking (NPRM) for the state of West Virginia. In the NPRM, the EPA proposed approval of West Virginia’s April 17, 2024 SIP revision pertaining to 45CSR40—Control of Ozone Season Nitrogen Oxides Emissions. For additional background information on the EPA rulemakings and court decisions relevant to this SIP revision, beginning with the EPA’s October 27, 1998 (63 FR 57356), “Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone” (NO_x SIP Call), please refer to the June 2025 NPRM.

II. Summary of SIP revisions and EPA analysis

For the applicable units, as described in subsection 4, West Virginia rule 45CSR40 establishes: (a) ozone season NO_x emissions limitations, monitoring, recordkeeping, reporting, excess emissions, and NO_x budget demonstration requirements for non-EGU large industrial boilers and combustion turbines that have a maximum design heat input greater than 250 MMBtu/hr, in accordance with 40 CFR 51.121; (b) ozone season NO_x reduction, compliance plan, monitoring,

recordkeeping and reporting requirements for affected stationary internal combustion engines; and (c) ozone season NO_x control standards, ozone season NO_x for cement kilns.¹

As explained in the NPRM, WV rule 45CSR40, approved most recently into the West Virginia SIP on January 3, 2019, was adopted to implement the ozone season trading program under the Cross State Air Pollution Rule (CSAPR), and to address NO_x SIP Call requirements including the requirements that apply to stationary internal combustion engines and cement manufacturing kilns. WV rule 45CSR40 was revised effective June 1, 2020,² and further revised effective April 1, 2023, to conform the applicability section to changes in the Federal ozone season “trading programs,” and monitoring, reporting and recordkeeping requirements set forth in the 2019 NO_x SIP Call Rule amendments (84 FR 8422, March 8, 2019). Notably, West Virginia did not previously submit the June 1, 2020 revisions for approval into the SIP.

The April 17, 2024 West Virginia SIP submittal is comprised of revised WV rule 45CSR40 (both the June 2020 and April 2023 amendments) and the NO_x SIP Call non-EGU Budget Demonstration, a non-regulatory supplement that is required under Section 8 of WV rule 45CSR40. Specific references to CSAPR ozone season trading program provisions were replaced with language updating the characterization of units not subject to the rule because they are subject to a Federal NO_x ozone season trading program. Definitions, applicability, and other provisions responding to the NO_x SIP Call including monitoring and reporting under 40 CFR part 75, were retained. New requirements were added to the WV rule for monitoring, reporting, and recordkeeping consistent with the 2019 NO_x SIP Call Rule amendments (84 FR 8422, March 8, 2019) and 40 CFR part 60³ for units that

are not part of a Federal trading program. The ozone season NO_x emission budget of 2,184 tons and the limits that applied to non-EGU sources, stationary internal combustion engines, and cement kilns were retained and recodified. For detailed descriptions of the revisions please see the June 2025 NPRM (90 FR 24549).

The April 17, 2024 West Virginia SIP Non-EGU Budget Demonstration submission shows that total ozone season NO_x emissions from non-EGUs that are subject to the NO_x SIP Call do not exceed the West Virginia ozone season budget of 2,184 tons for non-EGUs. The ozone season NO_x budget for non-EGUs was established in the West Virginia SIP in 2002 in response to the NO_x SIP Call. As detailed and explained further in the June 2025 NPRM, the maximum potential ozone season NO_x emissions of 1,202 tons based on permit and consent order limits is less than the total West Virginia NO_x non-EGU budget and leaves 982 tons available for new units which may at a later date become subject to NO_x SIP Call requirements.

Whenever a new unit that meets the applicability of section 4.1 of WV rule 45CSR40 (and thus is also subject to the NO_x SIP Call) commences operation, or an existing unit becomes newly applicable, West Virginia is required under subsection 8.3 of WV rule 45CSR40 to submit a revised demonstration to the EPA that shows continuing compliance with the state-wide ozone season NO_x emissions cap of 2,184 tons for applicable units. The EPA finds that West Virginia’s revised provisions in WV rule 45CSR40 meet the requirements for the NO_x SIP Call, the CAA (including section 110) and 40 CFR 51.121.

The changes West Virginia has made to rule 45CSR40 are approvable under CAA section 110 because: (1) the applicability provisions at section 4.1 cover all existing and new NO_x SIP Call non-EGUs that are not subject to a seasonal NO_x trading program established under 40 CFR part 97; (2) the enforceable cap on the collective ozone season NO_x emissions from covered non-EGUs does not exceed the limit set forth in Section 8.1 of the WV rule and previously approved as part of the 2016 SIP responding to the NO_x SIP Call and identified in 40 CFR part 97, subpart E, appendix C; (3) monitoring, recordkeeping and reporting in accordance with 40 CFR part 75, 40 CFR

¹ 45 CSR 40–1.1.

² WV rule 45CSR40 was revised effective June 1, 2020 to update references to CSAPR trading programs in effect at that time and incorporate alternate monitoring, reporting and recordkeeping requirements consistent with the amended 2019 NO_x SIP Call Rule regulations (84 FR 8422, March 8, 2019) for units that are not subject to a Federal trading program. The “Applicability” section of the WV rule was further revised effective April 1, 2023 to replace specific outdated references to the CSAPR Group 2 trading program with language referring to “Federal trading program” to facilitate compliance with future changes to Federal trading programs that may include non-EGUs and large stationary sources.

³ 40 CFR part 60 Standards of Performance for New Stationary Sources are pollution control standards, adherence to which maintains the air quality in an area or region by reducing or

eliminating pollutants release. Included in 40 CFR part 60 are various subparts that define methods by which facilities or operations can achieve compliance with emission guidelines or standards of performance.

part 60, and West Virginia rule 45CSR16 are required for the non-EGUs; (4) the cement kiln and internal combustion engine provisions previously applicable to such sources in the 2016 West Virginia SIP have not been substantively changed and are simply recodified; and (5) the revised WV rule 45CSR40 generally addresses the requirements for large non-EGUs for the SIP Call pursuant to 40 CFR 51.121 and is consistent with all applicable CAA requirements. As explained in the June 2025 NPRM, the SIP revision is consistent with the provisions of CAA section 110(l). The EPA does not expect any emission increases, or interference with attainment or maintenance of the NAAQS, reasonable further progress, or any other CAA requirements.

Additional information regarding West Virginia's submittal and the rationale for the EPA's action are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

III. Final Action

The EPA is approving the April 17, 2024 West Virginia SIP revision, as supplemented on October 8, 2024. This revision pertains to the amended version of WV rule 45CSR40 that addresses CAA requirements in section 110 and 40 CFR 51.121 for the NO_x SIP Call and for units subject to the NO_x SIP Call.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is incorporating by reference the revisions to West Virginia Rule 45CSR40-Control of Ozone Season Nitrogen Oxides Emissions as described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through *Regulations.gov* and at the EPA Region III office (please contact the person identified in the For Further Information Contact section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a

SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 1, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Recording and recordkeeping requirements, Sulfur oxides.

Amy Van Blarcom-Lackey,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (c) is amended by revising the entries “Section 45–40–1”, “Section 45–40–2”, “Section 45–40–3”, “Section 45–40–4”, “Section 45–40–6” and “Section 45–40–9” to read as follows:

§ 52.2520 Identification of plan.

*	*	*	*	*
(c)	*	*	*	*

EPA—APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 40 Control of Ozone Season Nitrogen Oxides Emissions				
Section 45–40–1	General	04/01/2023	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BE- GINS].	Revising 1.5. Prior approval of this section was 83 FR 62470 on 12/04/18.
Section 45–40–2	Definitions	04/01/2023	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BE- GINS].	Revising 2.15, 2.17, 2.6. Adding new 2.16, 2.19, 2.20, 2.21 and renumbered. Prior approval of this section was 83 FR 62470 on 12/04/18.
Section 45–40–3	Measurements, Abbreviations and Acronyms.	04/01/2023	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BE- GINS].	Section 3 was renumbered and acronyms were added. Prior approval of this section was 83 FR 62470 on 12/04/18.
Section 45–40–4	Applicability	04/01/2023	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BE- GINS].	Revised 4.1. Prior approval of this section was 83 FR 62470 on 12/04/18.
*	*	*	*	*
Section 45–40–6	Monitoring, Recordkeeping and Reporting Requirements.	04/01/2023	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BE- GINS].	Revised 6.1, 6.2, 6.3, 6.4, 6.5. Prior approval of this section was 83 FR 62470 on 12/04/18.
*	*	*	*	*
Section 45–40–9	Ozone season NO _x reduction re- quirements for stationary inter- nal combustion engines.	04/01/2023	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BE- GINS].	Revised 9.2.1. Prior approval of this section was 83 FR 62470 on 12/04/18.
*	*	*	*	*

* * * * *

[FR Doc. 2025–19238 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2024–0606; FRL–12862–02–R4]

Air Plan Approval; GA; Updates to the Cross-State Air Pollution Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted through the Georgia Environmental Protection Division (GA EPD) on July 18, 2024, regarding updates to the State’s Cross-State Air Pollution Rule (CSAPR) emissions trading programs. The SIP revision incorporates by reference (IBRs) certain

amendments EPA has made to the regulations for the Federal CSAPR trading programs for annual emissions of nitrogen oxides (NO_x) and sulfur dioxide (SO₂) and NO_x ozone season (from May 1 to September 30), all three of which apply to large electric generating units (EGUs). The SIP revision also updates the definition for “Volatile organic compound.” EPA is approving Georgia’s July 18, 2024, SIP revision because it is consistent with the Clean Air Act (CAA or Act).

DATES: This rule is effective November 3, 2025.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2024–0606. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly

available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Josue Ortiz Borrero, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Ortiz can be reached via phone number (404) 562–8085 or via electronic mail at ortizborrero.josue@epa.gov.

SUPPLEMENTARY INFORMATION:

I. This Action

In this final rule EPA is approving a revision to the Georgia SIP, submitted by the GA EPD on July 18, 2024. The revision updates Georgia's incorporation by reference of Federal rules for the CSAPR NO_x Annual, SO₂ Group 2, and NO_x Ozone Season Group 1 Trading Programs at: Rule 391–3–1–.02(12), “Cross State Air Pollution Rule NO_x Annual Trading Program;” Rule 391–3–1–.02(13), “Cross State Air Pollution Rule SO₂ Annual Trading Program;” and Rule 391–3–1–.02(14), “Cross State Air Pollution Rule NO_x Ozone Season Trading Program. The SIP submission also updates the State's definition of “Volatile organic compounds” (VOC) at Rule 391–3–1–.01, *Definitions*, at subparagraph (llll) to align with the federal definition at 40 CFR 51.100(s). EPA has determined that the IBR update at Rules 391–3–1–.02(12), 391–3–1–.02(13), and 391–3–1–.02(14) included in Georgia's SIP revision is consistent with the Federal CSAPR NO_x Annual, CSAPR SO₂ Group 2, and CSAPR NO_x Ozone Season Group 1 Trading Program regulations. EPA has determined, that, with these updates, Georgia's State CSAPR rules will continue to satisfy the State's “good neighbor” obligations under CAA section 110(a)(2)(D)(i)(I) to prohibit emissions that significantly contribute to nonattainment or interfere with maintenance of the 1997 annual fine particulate matter (PM_{2.5}) NAAQS, the 2006 24-hour PM_{2.5} NAAQS, and the 1997 8-hour ozone NAAQS in downwind states. EPA is finalizing this action because the changes are consistent with the CAA and EPA's regulations.

II. Background

On July 18, 2024, GA EPD transmitted a SIP revision¹ to update the State's CSAPR emissions trading programs to incorporate by reference (IBR) certain amendments EPA has made to the regulations for the Federal CSAPR NO_x Annual, SO₂ Group 2, and NO_x Ozone Season Group 1 trading programs for EGUs. EPA created these Federal trading programs in 2011 as market-based mechanisms for Georgia and other states to address their obligations to downwind states under the CAA section 110(a)(2)(D)(i)(I) good neighbor provision with respect to the 1997 PM_{2.5}

and ground-level ozone NAAQS and 2006 PM_{2.5} NAAQS.²

Through a notice of proposed rulemaking (NPRM) published on August 14, 2025 (90 FR 39144), EPA proposed to approve the portions of Georgia's July 18, 2024,³ SIP submission that update 391–3–1–.02(12), 391–3–1–.02(13), and 391–3–1–.02(14) by incorporating into the Georgia SIP the amendments to the Federal CSAPR NO_x Annual and SO₂ Group 2 trading programs at 40 CFR part 97, subparts AAAAA and DDDDD, respectively, and the NO_x Ozone Season Group 1 Trading Program established in subpart BBBB promulgated in EPA's 2021 Revised CSAPR Update⁴ and 2022 Recordation Rule⁵ and the technical corrections or cross-references in the 2023 Good Neighbor Plan (GNP).⁶ Georgia Rules 391–3–1–.02(12)(a) and 391–3–1–.02(13)(a) are revised to update the IBR date from October 26, 2016, to June 5, 2023, for the NO_x Annual and Group 2 SO₂ Trading Programs respectively. Georgia Rule 391–3–1–.02(14)(a) is revised to update the IBR date from October 26, 2016, to July 31, 2023, for the NO_x ozone season to incorporate the relevant amendments to the Federal rules at 40 CFR part 97 Subpart AAAAA, DDDDD, and BBBB, respectively. Specifically, Georgia's SIP revision replaces these citations with the updated citations to June 5, 2023 (88 FR 36654) for subparts AAAAA and DDDDD at Rules 391–3–1–.02(12) and 391–3–1–.02(13), and to July 31, 2023 (88 FR 49295) for subpart BBBB at Rule 391–3–1–.02(14). Georgia's July 18, 2024, SIP revision also updates the portions of the emissions budgets reserved in the new unit set-asides

(NUSAs) for all three trading programs⁷ from 1,075 tons to 1,074 tons for the CSAPR NO_x Annual allowances at Georgia Rule 391–3–1–.02(12)(f)2.; from 2,711 tons to 2,721 tons for the CSAPR SO₂ Group 2 allowances at Georgia Rule 391–3–1–.02(13)(f)2.; and from 481 tons to 485 tons for the CSAPR NO_x Ozone Season Group 1 allowances at Georgia Rule 391–3–1–.02(14)(f)2.

This revised IBR language ensures that the text of the Federal regulations incorporated into Georgia's SIP is consistent with the most recent Federal amendments that EPA made to the Federal trading program regulations after the Agency had previously approved Georgia's CSAPR trading program regulations into the SIP and by correcting cross-references. EPA is therefore taking final action to approve Georgia's July 18, 2024, SIP submission respecting revisions to Rule 391–3–1–.02. EPA is also taking final action to approve Georgia's July 18, 2024, SIP submission that revises Rule 391–3–1–.01, *Definitions*, for “Volatile organic compound” (VOC) at subparagraph (llll) to add trans-1,1,1,4,4,4-hexafluorobut-2-ene (HFO–1336mzz(E)) to the list of organic compounds excluded from the regulatory definition of VOC due to negligible reactivity,⁸ as well as other administrative updates to improve consistency with the Federal VOC definition at 40 CFR 51.100(s).

In this rulemaking, EPA is finalizing its approval of these portions of the SIP submission as they are consistent with the Federal CSAPR NO_x Annual Trading Program, the Federal CSAPR SO₂ Group 2 Trading Program and the Federal CSAPR NO_x Ozone Season

⁷ In 2021, EPA promulgated the corrected NUSA amounts in part 97 in the Revised CSAPR Update. The Revised CSAPR Update also included revised regulatory text in 40 CFR part 52 that authorizes EPA to administer the trading programs using the corrected NUSA amounts even in instances where a state's approved SIP still includes the previous uncorrected NUSA amounts. See 40 CFR 52.38(a)(7)(i)(B) (NO_x Annual), 52.38(b)(14)(i)(B) (NO_x Ozone Season Group 1), and 52.39(k)(1)(ii) (SO₂ Group 2).

⁸ Tropospheric or ground-level ozone occurs when VOC and NO_x react in the atmosphere in the presence of sunlight. Because of the harmful effects of ozone, EPA and State governments implement rules to limit the amount of certain VOC and NO_x that can be released into the atmosphere. CAA section 302(s) specifies that EPA has the authority to define the meaning of “VOC” and hence, what compounds shall be treated as VOC for regulatory purposes. EPA determines whether a given carbon compound has “negligible” reactivity by comparing the compound's reactivity to the reactivity of ethane. EPA's longstanding policy is that compounds of carbon with negligible reactivity need not be regulated to reduce ground-level ozone and should be excluded from the regulatory definition of VOC. See 42 FR 35314 (July 18, 1977), 70 FR 54046 (September 13, 2005). EPA lists these compounds in its regulations at 40 CFR 51.100(s) and excludes them from the definition of VOC.

¹ EPA is not acting on proposed changes in Georgia's July 18, 2024, submittal regarding Rule 391–3–1–.02(8), *New Source Performance Standards*, and 391–3–1–.02(9), *Emission Standards for Hazardous Air Pollutants* because these rules are not included in EPD's federally approved SIP and are not submitted as SIP revisions.

² Georgia has been subject to CSAPR since its inception, with EGUs required to participate in Federal trading programs for NO_x and SO₂ emissions. As part of the original CSAPR in 2011, EPA determined that emissions from Georgia significantly contributed to nonattainment or interference with maintenance of the 1997 ozone NAAQS, 1997 annual PM_{2.5} NAAQS, and 2006 24-hour PM_{2.5} in other states. See 76 FR at 48213.

³ EPA is not acting on changes reflected in this submittal to South Carolina Regulation 61–62.60, subpart XXX, subpart IIII, subpart JJJJ, and South Carolina Regulation 61–62.63, subpart C, subpart AAAAA, subpart YYYYY, subpart ZZZZ, subpart DDDDD, subpart GGGGG, subpart IIIII, and subpart HHHHHH, since these rules are not part of the SIP.

⁴ Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 86 FR 23054 (Apr. 30, 2021).

⁵ Deadlines for Submission and Recordation of Allowance Allocations Under the Cross-State Air Pollution Rule (CSAPR) Trading Programs and the Texas SO₂ Trading Program, 87 FR 52473 (Aug. 26, 2022).

⁶ See 88 FR 36654 (June 5, 2023). For additional context on Georgia's July 18, 2024, SIP submittal and the GNP, see EPA's August 14, 2025, NPRM (90 FR 39144).

Group 1 Trading Program⁹ regulations in 40 CFR part 97, subparts AAAAA, BBBBB, and DDDDD which satisfy the good neighbor requirements of CAA section 110(a)(2)(D)(i)(I), and the VOC definition in 40 CFR 51.100(s). The details of the Georgia submission and the rationale for EPA approving these changes are explained in the August 14, 2025, NPRM. Comments on the August 14, 2025, NPRM were due on or before September 15, 2025. No comments were received on the August 14, 2025, NPRM adverse or otherwise.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section II of this preamble, EPA is finalizing the incorporation by reference Georgia Rules 391–3–1–.02(12), *Cross State Air Pollution Rule NO_x Annual Trading Program*; 391–3–1–.02(13), *Cross State Air Pollution Rule SO₂ Annual Trading Program*; and 391–3–1–.02(14), *Cross State Air Pollution Rule NO_x Ozone Season Trading Program*, state effective July 15, 2024, which adopt and incorporate by reference Federal amendments to 40 CFR part 97, subpart AAAAA—CSAPR NO_x Annual Trading Program, and subpart DDDDD—CSAPR SO₂ Group 2 Trading Program, as promulgated after October 26, 2016, through June 5, 2023 and subpart BBBBB—CSAPR NO_x Ozone Season Group 1 Trading Program through July 31, 2023. EPA is also finalizing the incorporation by reference Georgia Rule 391–3–1–.01, *Definitions*, at section (llll), state effective July 15, 2024, which updates the definitions of “Volatile organic compound.” EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹⁰

IV. Final Action

For the aforementioned reasons, EPA is approving the July 18, 2024, SIP revision consisting of changes to Georgia Air Quality Rules related to the CSAPR trading programs found at Rules 391–3–1–.02(12), 391–3–1–.02(13), and 391–3–1–.02(14), and the definition for “Volatile organic compound” found at Rule 391–3–1–.01(llll).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 1, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 22, 2025.

Kevin McOmber,

Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

- 2. In § 52.570(c), amend the table by revising the entry for “391–3–1–.01”, “391–3–1–.02(12)”, “391–3–1–.02(13)”, and “391–3–1–.02(14)”. The revisions to read as follows:

⁹ Following the CSAPR Update, Georgia is the only state whose units participate in this trading

program. *See* 40 CFR 52.38(b)(2)(i); CSAPR Update, 81 FR at 74509.

¹⁰ *See* 62 FR 27968 (May 22, 1997).

§ 52.570 Identification of plan.

(c) * * *

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TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01	Definitions	7/29/2020	4/5/2022, 87 FR 19643	Except the first paragraph, sections (a)–(nn), (pp)–(ccc), (eee)–(jjj), (nnn)–(bbbb), (dddd)–(kkkk), (mmmm), (rrrr)–(ssss), which were approved on 12/4/2018 with a state effective date of 7/20/2017; sections (ddd) and (cccc) which were approved on 2/2/1996 with a state effective date of 11/20/1994; section (llll) which was approved on 10/2/2025 with a state effective date of 7/15/2024; (nnnn), which was approved on 1/5/2017 with a state effective date of 8/14/2016; and sections (oooo) and (pppp), which are not in the SIP.
391–3–1–.02(12)	Cross State Air Pollution Rule NO _x Annual Trading Program.	7/15/2024	10/2/2025, 90 FR [Insert Federal Register page where the document begins].	
391–3–1–.02(13)	Cross State Air Pollution Rule SO ₂ Annual Trading Program.	7/15/2024	10/2/2025, 90 FR [Insert Federal Register page where the document begins].	
391–3–1–.02(14)	Cross State Air Pollution Rule NO _x Ozone Season Trading Program.	7/15/2024	10/2/2025, 90 FR [Insert Federal Register page where the document begins].	

* * * * *

[FR Doc. 2025–19226 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52****[EPA–R04–OAR–2024–0163; FRL–12823–02–R4]****Air Plan Approval; North Carolina; Revisions to Regulations for Sulfur Dioxide Emissions From Combustion Sources****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the North Carolina Division of Environmental Quality (NCDEQ), Division of Air Quality on November 28, 2023, for the purpose of revising regulations that establish sulfur dioxide (SO₂) emission limits and compliance parameters for SO₂-emitting combustion sources in the State. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act) and EPA regulations.

DATES: This rule is effective November 3, 2025.

ADDRESSES: EPA has established a docket for this action under Docket

Identification No. EPA–R04–OAR–2024–0163. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Matthew Bloemer, Multi Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9653. Mr. Bloemer can also be

reached via electronic mail at Bloemer.Matthew@epa.gov.

SUPPLEMENTARY INFORMATION:**I. This Action**

EPA is approving a SIP revision submitted by the NCDEQ, on November 28, 2023, that revises Rule 15A North Carolina Administrative Code (NCAC) 02D .0516, *Sulfur Dioxide Emissions from Combustion Sources*. Rule 02D .0516 requires sources emitting SO₂ through combustion and discharging through a vent, stack, or chimney to comply with an emission standard of 2.3 pounds per million British thermal unit (lbs/MMBtu). The Rule also provides criteria for how affected sources should determine compliance with the emission standard. North Carolina's November 28, 2023, SIP revision seeks to modify the Rule 02D .0516 applicability criteria respecting control devices and the provisions for determining compliance with the SO₂ emission standard. More specifically, the SIP revision seeks to provide clarity and consistency with North Carolina's position that the use of supplemental fuels in combustion units beyond what is needed for proper operation is not a means for compliance with the SO₂ emission standard at Rule 02D .0516.

II. Background

Through a notice of proposed rulemaking (NPRM) published on August 14, 2025, (90 FR 39142), EPA

proposed to approve North Carolina's November 28, 2023, SIP revision, changing Rule 02D .0516 to provide clarity and consistency with the State's position that the use of supplemental fuels in combustion units beyond what is needed for proper operation is not a means for compliance with the 2.3 lbs/MMBtu SO₂ emission standard at Rule 02D .0516. The details of the North Carolina's submission and the rationale for EPA approving these changes are explained in the August 14, 2025, NPRM. Comments on the August 14, 2025, NPRM were due on or before September 15, 2025. EPA received three comments on the action: two in support and one potentially adverse. The comments are posted to the docket for this rulemaking. EPA summarizes and responds to the potentially adverse comment below.

III. Response to Comments

EPA addresses the potentially adverse comment below.

The commenter poses questions to EPA about EPA's proposed action. First, the commenter asks whether the SIP revision "meaningfully aligns with the latest climate science and the National Climate Assessment's projections for the Southeast, particularly regarding cumulative ozone and particulate matter exposures under increasing heat and wildfire events." This comment is not relevant to this action on the North Carolina SIP. North Carolina's Rule 02D .0516 does not relate to wildfires, and the commenter does not provide any specificity about how their concerns with cumulative ozone and particulate matter in the Southeast relate to this SIP revision. As noted in the August 14, 2025, notice of proposed rulemaking (NPRM), the changes to North Carolina's SIP clarify and add to the existing emission limits and requirements regulating SO₂ from fuel combustion sources, so there are no increases in emissions as a result of this change.

Next, the commenter asks "[g]iven that environmental justice communities in the region often face disproportionate cumulative pollution burdens," whether EPA will "require quantifiable distributional impact analysis to ensure the SIP does not perpetuate or exacerbate inequities in air quality outcomes." This comment is not relevant to this action on the North Carolina SIP. No emissions will increase as a result of the changes to the SIP, and the commenter does not provide any information to indicate that there are any "inequalities in air quality outcomes" as a result of North Carolina's changes to Rule 02D .0516.

The commenter goes on to ask how "the proposed revision [will] ensure enforceable emissions reductions from both stationary and mobile sources, with provisions to prevent backsliding if industrial activity increases or if economic growth outpaces existing control measures." First, Rule 02D .0516 does not regulate mobile sources. Nor does the commenter provide any information to indicate that the SIP revision does not provide for enforceable emission reductions from stationary sources. As explained in the August 14, 2025, NPRM, the approved SIP regulates SO₂ emissions from fuel combustion sources, and the SIP revision would help to provide clarity and consistency with the State's position that the use of supplemental fuel beyond what is needed for proper operation of a combustion unit is not a means for determining compliance with the SO₂ emission limit.

The commenter then asks whether EPA has "considered co-benefits of integrating stricter SIP measures with climate mitigation strategies—such as accelerating electrification of transport and industrial processes—to improve both public health and greenhouse gas reductions." This comment is not relevant to this action on the North Carolina SIP.

Next, the commenter asks "[w]hat mechanisms will be in place to guarantee transparent, publicly accessible monitoring data, particularly in rural and low-income areas where regulatory air quality sensors are sparse, but health vulnerabilities are often high." This comment is not relevant to this action on the North Carolina SIP. Generally, state and local air agencies are required to maintain an ambient air monitoring network consistent with regulations in 40 CFR part 58, and the state and local agencies go through a public participation process in establishing their federally approved monitoring networks.

The commenter then asks whether the SIP revision will "include adaptive management protocols to quickly respond to emerging air pollution sources, such as industrial expansions, port traffic increases, or climate-exacerbated wildfire smoke transport, without requiring multi-year procedural delays." This comment is not relevant to the changes being made to North Carolina's SIP.

Finally, the commenter asks whether "[c]onsidering the economic costs of air pollution-related health impacts" the "cost-benefit analysis incorporated updated public health valuation methods that capture the full societal benefits of stronger controls, especially

for children, seniors, and outdoor workers." This comment is not relevant to this action on the North Carolina SIP. There is no such cost-benefit analysis in the August 15, 2025, NPRM, and as noted therein, and above in this action, the changes to Rule 02D .0516 will not result in emissions increases.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Sections I and II of this preamble, EPA is finalizing the incorporation by reference of North Carolina Rule 15A NCAC 02D .0516, *Sulfur Dioxide Emissions from Combustion Sources*, state effective June 1, 2023. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Final Action

EPA is approving North Carolina's November 28, 2023, SIP revision consisting of changes to Rule 15A NCAC 02D .0516, *Sulfur Dioxide Emissions from Combustion Sources*, state effective June 1, 2023, for the reasons discussed above.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under

¹ *See* 62 FR 27968 (May 22, 1997).

Executive Order 12866 (58 FR 51735, October 4, 1993);

- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 1, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 22, 2025.

Kevin McOmber,
Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II—North Carolina

■ 2. In § 52.1770, in paragraph (c)(1), amend the table “EPA-Approved North Carolina Regulations” by revising the entry for “Rule .0516” to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(1) EPA-APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Section .0500 Emission Control Standards				
Rule .0516	Sulfur Dioxide Emissions from Combustion Sources.	6/1/2023	10/2/2025, 90 FR [Insert Federal Register page where the document begins].	*
*	*	*	*	*

* * * * *

[FR Doc. 2025–19225 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2024–0387; FRL–12923–02–R4]

Air Plan Approval; Alabama; Standards for Granting Permits and Major New Source Review Permit Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Alabama State Implementation Plan (SIP) submitted by the Alabama Department of Environmental Management (ADEM) on December 20, 2023. The SIP revision consists of minor changes to certain air permit regulations that have been revised by the State agency since EPA last approved those provisions. EPA is approving the SIP revision pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective November 3, 2025.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2024-0387. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Faith Goddard, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8757. Ms. Goddard can also be reached via electronic mail at *goddard.fai@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. This Action

In this final rule, EPA is approving a revision to the Alabama SIP submitted by ADEM on December 20, 2023, which makes changes to Alabama Administrative Code (Ala. Admin. Code) Rules 335-3-14-.03, .04, and .05.¹ EPA is approving Rule 335-3-14-.03, as revised to incorporate an administrative correction; Rule 335-3-14-.04, as revised to incorporate administrative and clarifying changes; and Rule 335-3-14-.05, as revised to incorporate administrative changes, a correction, and an offset credit update. Given the nature of these changes, they will not interfere with any applicable requirement concerning attainment and

reasonable further progress, or any other applicable CAA requirement.²

II. Background

Through a notice of proposed rulemaking (NPRM) published on August 21, 2025 (90 FR 40793), EPA proposed to approve ADEM's December 20, 2023, SIP revision with changes to Ala. Admin. Code Rule 335-3-14-.03, *Standards for Granting Permits*, Rule 335-3-14-.04, *Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]*, and Rule 335-3-14-.05, *Air Permits Authorizing Construction in or Near Nonattainment Areas*. The details of Alabama's submission, as well as EPA's rationale for approving the changes, are described in more detail in the August 21, 2025, NPRM. Comments on the NPRM were due on or before September 11, 2025. EPA received three comments: one in support, one not relevant to the action, and one potentially adverse.³ EPA addresses the potentially adverse comment in the following section.

III. Response to Comments

EPA summarizes and responds to the potentially adverse comment below.

The commenter "recommend[s] under no circumstances permits be issued under these proposed rules" because "[a]llowing construction before environmental review gives polluters a right of way to damage American environments and American citizens['] health." However, it is not clear whether the comment is adverse because the commenter frames the comment as a "recommend[ation]" and does not explain why the changes EPA proposed to approve to the Alabama SIP in the August 21, 2025, NPRM would allow construction before environmental review occurs or would damage health or the environment. In fact, the purpose of the new source review (NSR) preconstruction review program is to require that the State provide environmental review of proposed projects consistent with CAA requirements prior to issuing a permit. As explained in the August 21, 2025, NPRM, the changes proposed to the Alabama NSR program are minor, clarifying in nature, and consistent with the CAA. Therefore, EPA is finalizing approval of the changes to the Alabama SIP transmitted in the December 20, 2023, submittal.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Sections I and II of this preamble, EPA is finalizing the incorporation by reference of Ala. Admin. Code Rule 335-3-14-.03, *Standards for Granting Permits*, state-effective February 12, 2024, except that EPA is not incorporating by reference the February 12, 2024, state-effective version of Rule 335-3-14-.03(1)(h).⁴ EPA is also finalizing the incorporation by reference of Ala. Admin. Code Rule 335-3-14-.04, *Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]*, state-effective February 12, 2024, with the following exceptions: EPA is not incorporating by reference Rule 335-3-14-.04(2)(w)1, which lists a 100 tons per year significance threshold for regulated NSR pollutants not otherwise specified at Rule 335-3-14-.04(2)(w);⁵ the second and third sentences of paragraph 335-3-14-.04(2)(bbb)2 and the second and fourth sentences of paragraph 335-3-14-.04(2)(bbb)3;⁶ or the significant impact levels at Rule 335-3-14-.04(10)(b).⁷ Finally, EPA is finalizing the incorporation by reference of Ala. Admin. Code Rule 335-3-14-.05, *Air Permits Authorizing Construction in or Near Nonattainment Areas*, state-effective February 12, 2024, with the following exceptions: EPA is not incorporating by reference Rule 335-3-14-.05(1)(h), the actual-to-potential test for projects that only involve existing emissions units;⁸ the portion of Rule 335-3-14-.05(1)(k)20 stating "excluding ethanol production facilities that produce ethanol by natural

⁴ The February 12, 2024, state-effective version of Rule 335-3-14-.03(1)(h) was withdrawn by ADEM from the December 20, 2023, SIP revision on March 8, 2024. With this action, the Agency is updating the SIP table at 40 CFR 52.50(c) to reflect the retention of the May 23, 2011, state-effective version of Rule 335-3-14-.03(1)(h).

⁵ See the SIP table at 40 CFR 52.50(c). For more information, see 73 FR 23957 (May 1, 2008).

⁶ Portions of Rule 335-3-14-.04(2)(bbb) are currently excluded from the SIP table at 40 CFR 52.50(c), specifically, the second sentence of paragraph 335-3-14-.04(2)(bbb)2 and the second and fourth sentences of paragraph 335-3-14-.04(2)(bbb)3. However, in a July 3, 2019, rulemaking, EPA excluded from approval the second and third sentences of paragraph 335-3-14-.04(2)(bbb)2, as well as the second and fourth sentences of paragraph 335-3-14-.04(2)(bbb)3. For more information, see 84 FR 31741. With this action, the Agency is correcting the SIP table at 40 CFR 52.50(c) to reflect this.

⁷ See the SIP table at 40 CFR 52.50(c). For more information, see 77 FR 59100 (September 26, 2012).

⁸ See the SIP table at 40 CFR 52.50(c). For more information, see 81 FR 1124 (January 11, 2016).

¹ The December 20, 2023, submittal contains revisions to other Alabama SIP-approved rules that are not addressed in this rulemaking. EPA will act on those changes in separate rulemakings.

² See CAA section 110(l).

³ EPA received two identical comments which are not related to this action from one commenter.

fermentation”;⁹ Rule 335–3–14–.05(2)(c)3 addressing fugitive emission increases and decreases;¹⁰ the last sentence at Rule 335–3–14–.05(3)(g), stating “Interpollutant offsets shall be determined based upon the following ratios:”; or the NNSR interpollutant ratios at Rule 335–3–14–.05(3)(g)1–4.¹¹ EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹²

V. Final Action

EPA is approving Alabama’s December 20, 2023, SIP revision consisting of the aforementioned changes to Ala. Admin. Code Rules 335–3–14–.03, .04, and .05 for the reasons discussed above.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under

Executive Order 12866 (58 FR 51735, October 4, 1993);

- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 1, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 22, 2025.
Kevin McOmber,
Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:
Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

- 2. In § 52.50(c), amend the table by revising the entries for “Section 335–3–14–.03”, “Section 335–3–14–.04”, and “Section 335–3–14–.05” to read as follows:

§ 52.50 Identification of plan.
* * * * *
(c) * * *

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter No. 335–3–14 Air Permits				

⁹ *Id.*
¹⁰ *Id.*
¹¹ *Id.*
¹² *See* 62 FR 27968 (May 22, 1997).

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section 335–3–14–.03	Standards for Granting Permits.	2/12/2024	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except for paragraph 335–3–14–.03(1)(h) which was approved on 9/26/2012 with a state effective date of 5/23/2011.
Section 335–3–14–.04	Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)].	2/12/2024	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except for changes to 335–3–14–.04(2)(w)1., state effective July 11, 2006, which lists a 100 ton per year significant net emissions increase for regulated NSR pollutants not otherwise specified at 335–3–14–.04(2)(w). Except for the significant impact levels at 335–3–14–.04(10)(b). Except for the second and third sentences of paragraph 335–3–14–.04(2)(bbb)2., as well as the second and fourth sentences of paragraph 335–3–14–.04(2)(bbb)3., which include changes from the vacated federal ERP rule.
Section 335–3–14–.05	Air Permits Authorizing Construction in or Near Non-attainment Areas.	2/12/2024	10/2/2025, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except for the portion of 335–3–14–.05(1)(k)20 stating "excluding ethanol production facilities that produce ethanol by natural fermentation"; and 335–3–14–.05(2)(c)3 (addressing fugitive emission increases and decreases). Except for 335–3–14–.05(1)(h) (the actual-to-potential test for projects that only involve existing emissions units); the last sentence at 335–3–14–.05(3)(g), stating "Interpollutant offsets shall be determined based upon the following ratios"; and the NNSR interpollutant ratios at 335–3–14–.05(3)(g)1–4.

* * * * *

[FR Doc. 2025–19227 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52****[EPA–R04–OAR–2025–0045; FRL–12937–02–R4]****Air Plan Approval; GA; Removal of Emissions Statements Requirement and Updates To Permit by Rule****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Georgia State Implementation Plan (SIP) submitted by the Georgia Department of Natural Resources Environmental Protection Division (GA EPD), on June 27, 2024, to revise a source monitoring and reporting regulation by, among other things, removing the requirement for emissions statements in counties formerly designated as nonattainment for ozone and to revise the permit by rule regulation. EPA is approving these revisions pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective November 3, 2025.

ADDRESSES: EPA has established a docket for this action under Docket

Identification No. EPA–R04–OAR–2025–0045. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Weston Freund, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8773. Mr. Freund can also be reached via electronic mail at *freund.weston@epa.gov*.

SUPPLEMENTARY INFORMATION:**I. This Action**

EPA is approving changes to the Georgia SIP submitted by the State of Georgia through a letter dated June 27, 2024, to revise a source monitoring and reporting regulation and the permit by rule regulation.¹ Specifically, the changes address Rules 391–3–1–.02(6)(a), *Specific Monitoring and Reporting Requirements for Particular Sources*, and 391–3–1–.03(11)(b)7, *Coating and/or Gluing Operations*.²

Through a notice of proposed rulemaking (NPRM), published on August 21, 2025, (90 FR 40795), EPA proposed to approve the June 27, 2024, changes to Georgia Rules 391–3–1–.02(6)(a), *Specific Monitoring and Reporting Requirements for Particular Sources*, and 391–3–1–.03(11)(b)7, *Coating and/or Gluing Operations*.

¹ On July 9, 2025, EPA received a letter from GA EPD clarifying that the changes to 391–3–1–.03(11)(b)7.(i). do not include the language, "or enforceable as a practical matter limiting the source to below Part 70 or Part 63 major source thresholds." This phrase was originally submitted to EPA on December 15, 2011, and was subsequently included in a partial withdrawal letter dated January 8, 2019.

² The June 27, 2024, submittal also contains changes to Rules 391–3–1–.02(1), *General Requirement*; 391–3–1–.02(2)(nnn), *NO_x Emissions from Large Stationary Gas Turbines*; 391–3–1–.03(1), *Construction (SIP) Permit*; 391–3–1–.03(6)(j), *Construction Permit Exemption for Pollution Control Projects*; 391–3–1–.03(8), *Permit Requirements*; and 391–3–1–.03(13), *Emission Reduction Credits*. EPA will address these changes in a separate rulemaking.

Comments on the August 21, 2025, NPRM were due on or before September 11, 2025. EPA received two comments, one in support and one potentially adverse. EPA addresses the potentially adverse comment in the following section.

II. Response to Comments

EPA summarizes and responds to the potentially adverse comment below.

The commenter “recommend[ed] under no circumstance that the rules be changed or plans approved that endanger the air and water quality Georgians have a God given right to have. The government [sic] should not be allowing companies to pollute the air we breathe and the water we drink, and then leave Georgian taxpayer the bill for clean up.” However, it is not clear whether the comment is adverse because the commenter does not explain why the changes EPA proposed to approve to the Georgia SIP in the August 21, 2025, NPRM would “endanger” air or water quality. As explained in the August 21, 2025, NPRM, the change to remove the emissions statement requirement merely removes an emissions reporting requirement that is only applicable in areas designated as “nonattainment” for the ozone NAAQS. As explained in the NPRM, the Atlanta Area was redesignated to “attainment/unclassifiable” for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS) in an October 17, 2022, action (87 FR 62733), and no other part of the State is designated “nonattainment” for the 2015 standard or any other NAAQS. Thus, this reporting obligation is no longer required pursuant to the CAA. This change to the SIP to remove the reporting requirement does not impact any air emissions and is not related to water quality regulations. Further, the changes made to the permit by rule regulations are minor and clarifying in nature and do not relax the existing rule. Therefore, EPA is finalizing approval of the changes to the Georgia SIP transmitted in the June 27, 2024, submittal.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Rules 391–3–1–.02(6)(a), *Specific Monitoring and Reporting Requirements for Particular Sources*, and 391–3–1–.03(11)(b)7,

Coating and/or Gluing Operations,³ state effective on June 19, 2023. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

IV. Final Action

EPA is approving the aforementioned Georgia SIP revision consisting of changes to Rules 391–3–1–.02(6)(a), *Specific Monitoring and Reporting Requirements for Particular Sources*, and 391–3–1–.03(11)(b)7, *Coating and/or Gluing Operations*,⁵ state effective June 19, 2023, for the reasons discussed above.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;

³ Except that EPA is not proposing to incorporate by reference into the SIP the phrase “or enforceable as a practical matter limiting the source to below Part 70 or Part 63 major source thresholds” within Rule 391–3–1–.03(11)(b)7., *Coating and/or Gluing Operations*.

⁴ 62 FR 27968 (May 22, 1997).

⁵ Except that EPA is not proposing to incorporate by reference into the SIP the phrase “or enforceable as a practical matter limiting the source to below Part 70 or Part 63 major source thresholds” within Rule 391–3–1–.03(11)(b)7., *Coating and/or Gluing Operations*.

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 1, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 22, 2025.

Kevin McOmber,

Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart (L)—Georgia

■ 2. In § 52.570(c), amend Table 1 to Paragraph (c) by revising the entries for “391–3–1–.02(6)” and “391–3–1–.03(11)”.

The revisions to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.02(6)	Source Monitoring	8/1/2013	7/28/2017, 82 FR 35108 ..	Except paragraph (a), which was approved on 10/2/2025 with a state effective date of 6/19/2023.
391–3–1–.03(11).	Permit by Rule	7/23/2018	11/22/2019, 84 FR 64427	Except section (b)(7), which was approved on 10/2/2025 with a state effective date of 6/19/2023; sections (a)–(b)(5) and (b)(8)–(b)(10), which were approved on 2/9/2010 with a state effective date of 7/20/2005; section (b)(6), which was approved on 3/13/2000 with a state effective date of 12/25/1997; the phrase “or enforceable as a practical matter” in section (b)(11)(i), which is not in the SIP; and the phrase “or enforceable as a practical matter limiting the source to below Part 70 or Part 63 major source thresholds” within (b)(7)(i), which is not in the SIP.

* * * * *

[FR Doc. 2025–19228 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 423

[EPA–HQ–OW–2009–0819; FRL– 8794.3–02–OW]

RIN 2040–AG48

Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category—Initial Notification Date Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (the EPA or Agency) is taking direct final action to extend the date for existing steam electric power plants to decide whether to submit a notice of planned participation (NOPP) for the permanent cessation of coal combustion subcategory in the 2024

Supplemental Steam Electric Reconsideration Rule (“2024 rule”).

DATES: This rule is effective on December 1, 2025 without further notice, unless the EPA receives adverse comment by November 3, 2025. If the EPA receives adverse comment, the agency will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2009–0819, by any of the following methods:

Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.

Mail: U.S. Environmental Protection Agency, EPA Docket Center, Office of Water, Office of Science and Technology, Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

Hand Delivery or Courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center’s hours of operations are 8:30

a.m. to 4:30 p.m., Monday through Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Richard Benware, Engineering and Analysis Division Office of Water (Mail Code 4303T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–566–1369; email address: benware.richard@epa.gov. Information about the 2024 rule is available online at: <https://www.epa.gov/eg/steam-electric-power-generating-effluent-guidelines-2024-final-rule>.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Why is the EPA using a direct final rule?
- II. Does this action apply to me?

- III. What is the Agency’s authority for taking this action?
- IV. Background
- V. What action is the EPA taking?
- VI. Statutory and Executive Order Reviews

I. Why is the EPA using a direct final rule?

The EPA is taking direct final action because the agency views this as a noncontroversial action and anticipates no adverse comment because the rule extends the date for existing steam electric power plants to submit a NOPP in the 2024 rule’s (89 FR 40198, May 9, 2024) subcategory for electric generating

units (EGUs) permanently ceasing coal combustion by December 31, 2034, from December 31, 2025, to December 31, 2031. This direct final rule does not otherwise amend 40 CFR part 423 in any way. In the “Proposed Rules” section of this issue of the **Federal Register**, however, the EPA is publishing a separate document that will serve as the proposed rulemaking to extend the initial notification date if adverse comments are received on this direct final rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For

further information about commenting on this rule, see the **ADDRESSES** and **DATES** sections of this document.

If the EPA receives adverse comment on this direct final rule, it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. The EPA would address all public comments in any subsequent final rule based on the proposed rulemaking.

II. Does this action apply to me?

Entities potentially regulated by this action include:

Category	Example of regulated entity	North American Industry Classification System (NAICS) code
Industry	Electric Power Generation Facilities—Electric Power Generation	22111
	Electric Power Generation Facilities—Fossil Fuel Electric Power Generation	221112

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table includes the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not included could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR 423.10 (Applicability). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. What is the Agency’s authority for taking this action?

The statutory authority for this rule is the same as that relied upon for the 2024 rule: Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, including Clean Water Act sections 301; 304(b), (c), (e), and (g); 306; 307; 308 and 501(a); 33 U.S.C. 1311, 1314(b), 1314(c), 1314(e), 1314(g), 1316, 1317, 1318, and 1361(a).

The statutory authority for the rulemaking procedures followed in this action is Administrative Procedure Act (APA) section 553(b)(B), 5 U.S.C. 553(b)(B). The EPA finds good cause to forego notice-and-comment rulemaking as unnecessary because the Agency does not anticipate adverse comments on this limited deadline extension. However, if the EPA receives adverse comments, it will withdraw this direct final rule and respond to comments as indicated in the proposed rule published in the **Federal Register** contemporaneously with this action.

IV. Background

The EPA promulgated the most recent iteration of the Supplemental Steam Electric Effluent Limitations Guidelines and Standards in 2024. In the 2024 rule, the EPA established a subcategory for EGUs permanently ceasing coal combustion by December 31, 2034. For these EGUs, less stringent limitations and standards apply for discharges of pollutants found in flue gas desulfurization wastewater, bottom ash transport water, and combustion residual leachate (CRL) than limitations applicable to non-closing or non-repowering sources in this source category. These less stringent limitations and standards are the same as the limitations and standards previously applicable under the 2020 Steam Electric Reconsideration Rule (85 FR 64650, October 13, 2020). As there were no nationally applicable limitations and standards for CRL prior to 2024, the subcategory left in place the requirement for permitting authorities to develop case-by-case technology-based effluent limitations using their best professional judgment, and it established mercury and arsenic limitations based on chemical precipitation after retirement of the plant. In order to participate in this subcategory, facilities had to submit a NOPP to their permitting authority or control authority by December 31, 2025, and subsequently submit annual progress reports on the steps taken to achieve permanent cessation of coal combustion. The NOPP notifies the permitting authority or the control authority of the plant’s intent to opt into

the 2024 rule’s subcategory for sources that anticipate closure or repowering.

Stakeholders, including grid operators, grid reliability experts, trade associations, and utilities, have raised concerns that a significant number of facilities need more time to understand how their operations fit within a changing landscape of local and regional demand that is untethered from rapidly approaching compliance timelines crafted under different demand assumptions used in the 2024 rule. This includes, among other decisions, whether to avail themselves of the compliance pathway for EGUs seeking to retire or convert to alternative fuel sources by December 31, 2034.

V. What action is the EPA taking?

Based on the recent discussions with electric utility trade associations and other stakeholders suggesting that there are likely additional EGUs seeking more time to decide whether to provide notice of intent to voluntarily cease coal combustion by December 31, 2034, and that these EGUs need additional time to make this decision in light of surging electricity demand and corresponding concerns related to energy availability across the country, the EPA is extending the NOPP filing date in 40 CFR 423.19(h) from December 31, 2025, to December 31, 2031. This direct final rule does not change any other dates for the reporting and recordkeeping requirements of 40 CFR 423.19, nor does it make any other changes to 40 CFR part 423.

Any adverse comment on the direct final rule must be submitted within 30 days after publication of this action for the EPA to withdraw the action. Where

it is not clear that an adverse comment relates to this direct final rule's extension of the NOPP date, or is submitted after November 3, 2025, the EPA may not consider the comment. To the extent that an adverse comment explicitly indicates that it is being submitted on the direct final rule, the EPA will not consider relevant to this direct final action any additional included comments on any topic other than the extension of the NOPP date for the permanent cessation of coal combustion by 2034 subcategory. Any other comments will be considered outside the scope of this action.

VI. Statutory and Executive Order Reviews

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

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. This final rule provides burden reduction by providing additional time for the regulated community associated with their decision making; however, no expenses are incurred at the time of NOPP submission.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2040–0310. This rule contains no new requirements for reporting and recordkeeping.

D. Regulatory Flexibility Act (RFA)

This direct final action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements because the Agency has invoked the APA “good cause” exemption under 5 U.S.C. 553(b).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in Unfunded Mandates Reform Act, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or Tribal governments, or the private sector.

F. Executive Order 13132: Federalism

This action does not have significant federalism implications under Executive Order 13132, entitled “Federalism” (64 FR 43255; August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249; November 9, 2000).

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

The EPA interprets Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) do not apply.

K. Congressional Review Act

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 423

Environmental protection, Electric power generation, Power facilities, Waste treatment and disposal, Water pollution control.

Lee Zeldin,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 423 as follows:

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

■ 1. The authority citation for part 423 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 1311; 1314(b), (c), (e), (g), and (i)(A) and (B); 1316; 1317; 1318 and 1361.

■ 2. Amend § 423.19 by revising paragraph (h)(1) to read as follows:

§ 423.19 Reporting and recordkeeping requirements.

* * * * *

(h) * * *

(1) *Notice of Planned Participation.*
For sources seeking to qualify as an electric generating unit that will achieve permanent cessation of coal combustion by December 31, 2034, under this part, a Notice of Planned Participation shall be made to the permitting authority, or to the control authority in the case of an indirect discharger, no later than December 31, 2031.

* * * * *

[FR Doc. 2025–19269 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials Safety Administration****49 CFR Part 190**

[Docket No. PHMSA–2025–0106]

RIN 2137–AF76

Pipeline Safety: Rationalize Calculation of Regulatory Filing and Compliance Deadlines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's procedural regulations to establish a rule of construction clarifying the operation of procedural filing deadlines scheduled to fall on weekends and Federal holidays.

DATES: Consistent with 49 CFR 190.339(b), the effective date of the DFR published July 1, 2025 (90 FR 28044), is updated from October 9, 2025, to November 3, 2025.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28044), PHMSA published a DFR amending its regulations at 49 CFR part 190 to amend the definition of “day” at 49 CFR 190.3 to specify that a filing deadline scheduled to fall on a weekend or Federal holiday will be deferred until the following business day.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on October 9, 2025. PHMSA's regulations at 49 CFR 190.339 require that, in the event a direct final rule does not garner an adverse comment or notice to file such a comment, the effective date stated in the DFR or at least 30 days after publication of the confirmation document, whichever is later. PHMSA is hereby providing confirmation that it did not receive any comments that warranted withdrawal of the DFR, and therefore, the DFR published July 1, 2025 (90 FR 28044), is effective on November 3, 2025.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19326 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials Safety Administration****49 CFR Part 191**

[Docket No. PHMSA–2025–0108]

RIN 2137–AF77

Pipeline Safety: Adjust Annual Report Filing Timelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Withdrawal of direct final rule (DFR).

SUMMARY: Due to the receipt of adverse comment, PHMSA is withdrawing the DFR titled “Adjust Annual Report Filing Timelines,” which published on July 1, 2025.

DATES: Effective October 2, 2025, PHMSA withdraws the DFR published at 90 FR 28047 on July 1, 2025.

FOR FURTHER INFORMATION CONTACT: Sayler Palabrica, Transportation Specialist, 1200 New Jersey Avenue SE, Washington, DC 20590, by phone at 202–744–0825 or by email at sayler.palabrica@dot.gov.

SUPPLEMENTARY INFORMATION: Due to the receipt of adverse comment, PHMSA is withdrawing the DFR titled “Adjust Annual Report Filing Timelines,” which published on July 1, 2025 (90 FR 28047). PHMSA stated in that DFR that if PHMSA received adverse comment by September 2, 2025, the DFR would not take effect and PHMSA would publish a timely withdrawal in the **Federal Register**. Because PHMSA subsequently received adverse comment on that DFR, PHMSA is withdrawing the DFR. In accordance with PHMSA's procedures at 49 CFR 190.339 for direct final rulemaking, the Administrator may incorporate the adverse comment into a subsequent DFR or may publish a notice of proposed rulemaking (NPRM). An NPRM would provide an opportunity for public comment and will be processed in accordance with 49 CFR 190.311 through 190.329.

List of Subjects in 49 CFR Part 191

Pipeline safety, Reporting and recordkeeping requirements.

■ Accordingly, as of October 2, 2025, PHMSA withdraws the direct final rule amending 49 CFR part 191, which published at 90 FR 28047 on July 1, 2025.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19321 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials Safety Administration****49 CFR Parts 191 and 195**

[Docket No. PHMSA–2025–0109]

RIN 2137–AF78

Pipeline Safety: Property Damage Definition for Incident Reporting on Gas Pipelines and Accidents on Hazardous Liquid Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Withdrawal of direct final rule (DFR).

SUMMARY: Due to the receipt of adverse comment, PHMSA is withdrawing the DFR titled “Property Damage Definition for Incident Reporting on Gas Pipelines and Accidents on Hazardous Liquid Pipelines,” which published on July 1, 2025.

DATES: Effective October 2, 2025, PHMSA withdraws the DFR published at 90 FR 28050 on July 1, 2025.

FOR FURTHER INFORMATION CONTACT: Sayler Palabrica, Transportation Specialist, 1200 New Jersey Avenue SE, Washington, DC 20590, by phone at 202–744–0825 or by email at sayler.palabrica@dot.gov.

SUPPLEMENTARY INFORMATION: Due to the receipt of adverse comment, PHMSA is withdrawing the DFR titled “Property Damage Definition for Incident Reporting on Gas Pipelines and Accidents on Hazardous Liquid Pipelines,” which published on July 1, 2025 (90 FR 28050). PHMSA stated in that DFR that if PHMSA received adverse comment by September 2, 2025, the DFR would not take effect and PHMSA would publish a timely withdrawal in the **Federal Register**.

Because PHMSA subsequently received adverse comment on that DFR, PHMSA is withdrawing the DFR. In accordance with PHMSA's procedures at 49 CFR 190.339 for direct final rulemaking, the Administrator may incorporate the adverse comment into a subsequent DFR or may publish a notice of proposed rulemaking (NPRM). An NPRM would provide an opportunity for public comment and will be processed in accordance with 49 CFR 190.311 through 190.329.

List of Subjects

49 CFR Part 191

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Pipeline safety, Reporting and recordkeeping requirements.

■ Accordingly, as of October 2, 2025, PHMSA withdraws the direct final rule amending 49 CFR Parts 191 and 195, which published at 90 FR 28050 on July 1, 2025.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19323 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0131]

RIN 2137–AG00

Pipeline Safety: Standards Update PPI–TR 3

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard Plastic Pipe Institute (PPI) Technical Report (TR)-3, "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Hydrostatic Design Stresses (HDS), Pressure Design Basis (PDB), Strength Design Basis (SDB), Minimum Required Strength (MRS) Ratings, and

Categorized Required Strength (CRS) for Thermoplastic Piping Materials or Pipe."

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28097).

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28097), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2024 edition of PPI TR–3, "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Hydrostatic Design Stresses (HDS), Pressure Design Basis (PDB), Strength Design Basis (SDB), Minimum Required Strength (MRS) Ratings, and Categorized Required Strength (CRS) for Thermoplastic Piping Materials or Pipe." Reference to the 2024 edition of the standard will replace the existing reference to PPI TR–3/2012, "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Hydrostatic Design Stresses (HDS), Pressure Design Basis (PDB), Strength Design Basis (SDB), Minimum Required Strength (MRS) Ratings, and Categorized Required Strength (CRS) for Thermoplastic Piping Materials or Pipe," issued in November 2012, within 49 CFR 192.121(a).

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19333 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0129]

RIN 2137–AF98

Pipeline Safety: Standards Update— ASTM F1973

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference ASTM International's updated industry standard ASTM F1973, "Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems."

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28079).

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28079), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2021 edition of ASTM F1973, "Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems."

References to the 2021 edition of the standard will replace existing references to ASTM F1973–13, "Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems," May 1, 2013, within 49 CFR 192.204(b) and Section I of Appendix B to 49 CFR part 192.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not

receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19328 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0133]

RIN 2137–AF94

Pipeline Safety: Standards Update— ASTM F2600

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference ASTM International's updated industry standard ASTM F2600, "Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing."

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28057).

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28057), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2023 edition of ASTM F2600, "Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing." Reference to the 2023 version of the standard will replace the existing reference to ASTM F2600–09, "Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing," April 1, 2009, within Section I of Appendix B to 49 CFR part 192.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19343 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0130]

RIN 2137–AF99

Pipeline Safety: Standards Update— NFPA 70

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard National Fire Protection Association (NFPA) 70, "National Electrical Code" (NEC).

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28072).

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28072), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2023 edition of NFPA 70, NEC.

References to the 2023 edition of the standard will replace existing references to NFPA 70, "National Electrical Code (NEC)," 2017 edition, effective August 24, 2016, within 49 CFR 192.163(e) and 192.189(c).

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339.

In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19332 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0120]

RIN 2137–AF88

Pipeline Safety: Standards Update— API RP 1170 and API RP 1171

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standards American Petroleum Institute (API) recommended practice (RP) 1170, "Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage," and API RP 1171, "Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs."

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28086).

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28086), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the second editions of API RPs 1170 ("Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage") and 1171 ("Functional Integrity of Natural Gas Storage in

Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs”). Reference to the second edition of API RP 1170 will replace existing references within sections 192.7 and 192.12 to API Recommended Practice 1170, “Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage,” First edition, July 2015. Reference to the second edition of API RP 1171 will replace existing references within sections 192.7 and 192.12 to API Recommended Practice 1171, “Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs,” First edition, September 2015.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19340 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0132]

RIN 2137–AG01

Pipeline Safety: Standards Update— PPI–TR 4

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA’s regulations to incorporate by reference the updated industry standard Plastic Pipe Institute (PPI) Technical Report (TR)–4, “PPI HSB Listing of Hydrostatic Design Basis (HDB), Hydrostatic Design Stress (HDS), Strength Design Basis (SDS), Pressure Design Basis (PDB) and Minimum Required Strength (MRS) Ratings For

Thermoplastic Piping Materials or Pipe.”

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28075).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28075), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2024 edition of PPI TR–4, “PPI HSB Listing of Hydrostatic Design Basis (HDB), Hydrostatic Design Stress (HDS), Strength Design Basis (SDS), Pressure Design Basis (PDB) and Minimum Required Strength (MRS) Ratings For Thermoplastic Piping Materials or Pipe.” Reference to the 2024 edition of the standard will replace the existing reference to PPI TR–4/2011, “PPI Listing of Hydrostatic Design Basis (HDB), Hydrostatic Design Stress (HDS), Strength Design Basis (SDB), Pressure Design Basis (PDB) and Minimum Required Strength (MRS) Ratings For Thermoplastic Piping Materials or Pipe,” March 2011, within 49 CFR 192.121(b)(4).

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19334 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0128]

RIN 2137–AG02

Pipeline Safety: Standards Update— ASTM F2817

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA’s regulations at 49 CFR part 192 to incorporate by reference ASTM International’s updated industry standard ASTM F2817, “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair.”

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28068).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28068), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2023 edition of ASTM F2817, “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair.” References to the 2023 version of the standard will replace the existing reference to ASTM F2817–10, “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings For Maintenance or Repair,” February 1, 2010, within 49 CFR part 192.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19331 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials
Safety Administration****49 CFR Part 192**

[Docket No. PHMSA–2025–0127]

RIN 2137–AF96

**Pipeline Safety: Standards Update—
ASTM A578/A578M**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference ASTM International's updated industry standard ASTM A578/A578M, "Standard Specification for Straight-Beam Ultrasonic Examination of Rolled Steel Plates for Special Applications."

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28061).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28061), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2017 edition (reapproved 2023) of ASTM A578/A578M, "Standard Specification for Straight-Beam Ultrasonic Examination of Rolled Steel Plates for Special Applications."

Reference to the 2017 version will replace the existing reference within 49 CFR 192.112(c) to ASTM A578/A578M–96, "Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications," reapproved January 1, 2001.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19327 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials
Safety Administration****49 CFR Part 192**

[Docket No. PHMSA–2025–0126]

RIN 2137–AF95

**Pipeline Safety: Standards Update—
ASTM F2767**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference ASTM International's updated industry standard ASTM F2767, "Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution."

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28090).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28090), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2023 edition of ASTM F2767, "Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution." Reference to the 2023 version of the standard will replace existing references to ASTM F2767–12, "Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution," issued Oct. 15, 2012, within 49 CFR part 192.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no

adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19330 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials
Safety Administration****49 CFR Part 192**

[Docket No. PHMSA–2025–0125]

RIN 2137–AF93

**Pipeline Safety: Standards Update—
ASTM F2145**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference ASTM International's updated industry standard ASTM F2145, "Standard Specification for Polyamide 11 and Polyamide 12 Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing."

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28064).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28064), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2023 edition of ASTM F2145, "Standard Specification for Polyamide 11 (PA 11) and Polyamide 12 (PA12) Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing." Reference to the 2023 version of the standard will replace existing references to ASTM F2145–13, "Standard

Specification for Polyamide 11 (PA 11) and Polyamide 12 (PA12) Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing,” issued May 1, 2013, within 49 CFR part 192.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19329 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2025–0134]

RIN 2137–AF97

Pipeline Safety: Standards Update— ASTM F2945

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA’s regulations to incorporate by reference ASTM International’s updated industry standard ASTM F2945, “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings.”

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28082).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28082), PHMSA published a DFR amending its regulations at 49 CFR part 192 to incorporate by reference the 2023 edition of ASTM F2945, “Standard Specification for Polyamide

11 Gas Pressure Pipe, Tubing, and Fittings.” Reference to the 2023 version of the standard will replace the existing reference to ASTM F2945–12a, “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings,” Nov. 27, 2012, within Item I, Appendix B to 49 CFR part 192.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19336 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket No. PHMSA–2025–0124]

RIN 2137–AF92

Pipeline Safety: Standards Update— ASTM A381/A381M

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA’s regulations at 49 CFR parts 192 and 195 to incorporate by reference ASTM International’s updated industry standard ASTM A381/A381M–18, “Standard Specification for Metal-Arc-Welded Carbon or High-Strength Low-Alloy Steel Pipe for Use with High-Pressure Transmission Systems.”

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28112).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28112), PHMSA published

a DFR amending its regulations at 49 CFR parts 192 and 195 to incorporate by reference the 2023 edition of ASTM A381/A381M, “Standard Specification for Metal-Arc-Welded Carbon or High-Strength Low-Alloy Steel Pipe for Use with High-Pressure Transmission System.” References to the 2023 version of the standard will replace existing references to ASTM A381/A381M–18, “Standard Specification for Metal-Arc-Welded Carbon or High-Strength Low-Alloy Steel Pipe for Use with High-Pressure Transmission System,” approved November 1, 2018, within 49 CFR 192.113, Appendix B to 49 CFR part 192, and 49 CFR 195.106(e).

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19338 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket No. PHMSA–2025–0119]

RIN 2137–AF87

Pipeline Safety: Standards Update— API Spec 6D

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA’s regulations at 49 CFR parts 192 and 195 to incorporate by reference the updated industry standard American Petroleum Institute (API) Specification 6D, “Specification for Valves.”

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28101).

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at 771-215-0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28101), PHMSA published a DFR amending its regulations at 49 CFR parts 192 and 195 to incorporate by reference the 25th edition of API Specification 6D, “Specification for Valves” (issued November 1, 2021). References to the 25th edition of the standard will replace existing references in 49 CFR 192.145(a) and 195.116(d) to API Specification Spec 6D, “Specification for Pipeline and Piping Valves,” 24th edition, August 2014, including Errata 1 through 10 (October 2014 through July 2021), Addendum 1 (March 2015), and Addendum 2 (June 2016).

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025-19341 Filed 10-1-25; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials
Safety Administration****49 CFR Parts 192 and 195**

[Docket No. PHMSA-2025-0123]

RIN 2137-AF91

**Pipeline Safety: Standards Update—
ASTM A53/A53M**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA’s regulations at 49 CFR parts 192 and 195 to incorporate by reference ASTM International’s updated industry standard ASTM A53/A53M, “Standard Specification for Pipe, Steel, Black and

Hot-Dipped, Zinc-Coated, Welded and Seamless.”

DATES: PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28108).

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at 771-215-0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28108), PHMSA published a DFR amending its regulations at 49 CFR parts 192 and 195 to incorporate by reference the 2022 edition of ASTM A53/A53M, “Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.” Reference to the 2022 approved version of the standard will replace existing references to ASTM A53/A53M-20, “Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless,” approved July 1, 2020, within 49 CFR 192.113, Appendix B to 49 CFR part 192, and 49 CFR 195.106(e).

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR pursuant to 49 CFR 190.339(c). Although PHMSA received a single, anonymous comment criticizing the DFR, that comment lacked reasoning, grounded in the content of the 2022 edition of ASTM A53/A53M, for its assertion that the DFR would adversely affect safety. Therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025-19337 Filed 10-1-25; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials
Safety Administration****49 CFR Parts 192 and 195**

[Docket No. PHMSA-2025-0118]

RIN 2137-AF79

**Pipeline Safety: Integration of
Innovative Remote Sensing
Technologies for Right-of-Way Patrols
on Gas and Hazardous Liquid
Pipelines**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Withdrawal of direct final rule (DFR).

SUMMARY: Due to the receipt of adverse comment, PHMSA is withdrawing the DFR titled “Integration of Innovative Remote Sensing Technologies for Right-of-Way Patrols on Gas and Hazardous Liquid Pipelines,” which published on July 1, 2025.

DATES: Effective October 2, 2025, PHMSA withdraws the DFR published at 90 FR 28105 on July 1, 2025.

FOR FURTHER INFORMATION CONTACT:

Sayler Palabrica, Transportation Specialist, 1200 New Jersey Avenue SE, Washington, DC 20590, by phone at 202-744-0825 or by email at sayler.palabrica@dot.gov.

SUPPLEMENTARY INFORMATION: Due to the receipt of adverse comment, PHMSA is withdrawing the DFR titled “Integration of Innovative Remote Sensing Technologies for Right-of-Way Patrols on Gas and Hazardous Liquid Pipelines,” which published on July 1, 2025 (90 FR 28105). PHMSA stated in that DFR that if PHMSA received adverse comment by September 2, 2025, the DFR would not take effect and PHMSA would publish a timely withdrawal in the **Federal Register**. Because PHMSA subsequently received adverse comment on that DFR, PHMSA is withdrawing the DFR. In accordance with PHMSA’s procedures at 49 CFR 190.339 for direct final rulemaking, the Administrator may incorporate the adverse comment into a subsequent DFR or may publish a notice of proposed rulemaking (NPRM). An NPRM would provide an opportunity for public comment and will be processed in accordance with 49 CFR 190.311 through 190.329.

List of Subjects**49 CFR Part 192**

Natural gas, Pipeline safety.

49 CFR Part 195

Pipeline safety.

■ Accordingly, as of October 2, 2025, PHMSA withdraws the direct final rule amending 49 CFR parts 192 and 195, which published at 90 FR 28105 on July 1, 2025.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19322 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials
Safety Administration

49 CFR Part 195

[Docket No. PHMSA–2025–0121]

RIN 2137–AF89

Pipeline Safety: Standards Update—
API STD 620

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations to incorporate by reference the updated industry standard American Petroleum Institute (API) Standard (STD) 620, "Design and Construction of Large, Welded, Low-Pressure Storage Tanks." **DATES:** PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28119).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28119), PHMSA published a DFR amending its regulations at 49 CFR part 195 to incorporate by reference the 12th edition of API STD 620, "Design and Construction of Large, Welded, Low-Pressure Storage Tanks," including Addendum 1 through 4 (November 2014 through February 2025) and Errata 1 (March 2025).

References to the 12th edition of API STD 620 will replace existing references within sections 195.3; 195.132(b); 195.205(b); 195.264(b), and (e); 195.307(b); 195.565; and 195.579(d) to

API Standard 620, "Design and Construction of Large, Welded, Low-Pressure Storage Tanks," 11th edition, effective February 2008.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19342 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials
Safety Administration

49 CFR Part 195

[Docket No. PHMSA–2025–0122]

RIN 2137–AF90

Pipeline Safety: Standards Update—
API RP 2026

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR that appeared in the **Federal Register** on July 1, 2025. The DFR amended PHMSA's regulations at 49 CFR part 195 to incorporate by reference the updated industry standard American Petroleum Institute (API) Recommended Practice (RP) 2026, "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service." **DATES:** PHMSA confirms the effective date of January 1, 2026, for the DFR that appeared in the **Federal Register** on July 1, 2025 (90 FR 28116).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2025 (90 FR 28116), PHMSA published a DFR amending its regulations at 49 CFR part 195 to incorporate by reference the 4th edition of API RP 2026, "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service."

Reference to the 4th edition of API RP 2026 will replace existing references within 49 CFR 195.405(b) to API Recommended Practice 2026, "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service," 3rd edition, June 2017.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those provisions, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become final and effective on January 1, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, on September 30, 2025, under the authority designated in 49 CFR 1.97.

Benjamin D. Kochman,
Deputy Administrator.

[FR Doc. 2025–19339 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety
Administration

49 CFR Part 384

[Docket No. FMCSA–2025–0622]

RIN 2126–AC98

Restoring Integrity to the Issuance of
Non-Domiciled Commercial Drivers
Licenses (CDL); Correction

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Correcting amendments.

SUMMARY: In an interim final rule (IFR) published in the **Federal Register** on September 29, 2025, FMCSA amended the Federal regulations for State Driver's Licensing Agencies (SDLAs) issuing commercial driving credentials to foreign-domiciled individuals. The IFR contained an error in the amendatory instructions. The Agency corrects this error.

DATES: This correction is effective October 2, 2025. Comments on the IFR must still be received on or before November 28, 2025.

FOR FURTHER INFORMATION CONTACT: Philip Thomas, Deputy Associate Administrator, Office of Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–9554; Philip.Thomas@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION: On September 29, 2025, FMCSA published an IFR (90 FR 46509) that amended the Federal regulations for SDLAs issuing commercial driving credentials to foreign-domiciled individuals. Through the IFR, FMCSA restored the integrity of the commercial driver's license (CDL) issuance processes by significantly limiting the authority for SDLAs to issue and renew non-domiciled commercial learner's permits and CDLs to individuals domiciled in a foreign jurisdiction. This change strengthened the security of the CDL issuance process and enhanced the safety of commercial motor vehicle operations. Through amendatory instruction no. 6 in the IFR, the Agency sought to revise § 384.212, but inadvertently wrote § 383.212 in the instruction. The Agency corrects this error by providing a new instruction to add new paragraphs (a)(1) and (2) to § 384.212. The revisions to § 384.212 are the same revisions described in the final rule.

List of Subjects in 49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

In consideration of the foregoing, FMCSA corrects 49 CFR part 384 by making the following correcting amendments:

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 1. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 5524 of Pub. L. 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

■ 2. Amend § 384.212 by adding paragraph (a)(1) and reserved paragraph (a)(2) to read as follows:

§ 384.212 Domicile requirement.

(a) * * *

(1) For applicants domiciled in a foreign jurisdiction, the State must:

(i) Comply with the document verification requirements set forth in § 383.73(m)(2) before issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL;

(ii) Retain copies of all documents involved in the licensing process, including documents provided by the applicant to prove lawful immigration status, for a period of no less than 2

years from the date of issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL; and

(iii) Provide copies of all documents involved in the licensing process to FMCSA within 48 hours after request.

(2) [Reserved]

* * * * *

Issued under authority delegated in 49 CFR 1.87.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2025–19230 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120404257–3325–02]

RTID 0648–XE762

2025 Commercial Longline Closure for Golden Tilefish in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure for the commercial longline component of golden tilefish in South Atlantic Federal waters. Commercial landings of golden tilefish harvested by bottom longline gear are projected to reach the 2025 commercial quota for the longline component. Therefore, NMFS closes the commercial longline component of golden tilefish in South Atlantic Federal waters. This closure is necessary to protect the golden tilefish resource.

DATES: This temporary rule is effective from October 17, 2025, through December 31, 2025.

FOR FURTHER INFORMATION CONTACT:

Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes golden tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by NMFS and the South Atlantic Fishery Management Council (Council), was approved by the Secretary of

Commerce, and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. The metric conversion for the imperial measurements used in this document is 1 pound (lb) equals approximately 0.45 kilograms.

The commercial sector for golden tilefish has two components, each with its own quota: the longline and hook-and-line components [50 CFR 622.190(a)(2)]. The commercial annual catch limit (ACL) for golden tilefish is allocated as 75 percent to the longline component and 25 percent to the hook-and-line component. The total commercial ACL in 2025, which is equivalent to the total commercial quota, is 442,886 lb in gutted weight. The longline component quota for 2025 is 332,165 lb in gutted weight [50 CFR 622.190(a)(2)(iii)(C)].

Under 50 CFR 622.193(a)(1)(ii), NMFS is required to close the commercial longline component for the harvest of golden tilefish when NMFS projects the component quota will be reached. During this closure, golden tilefish may not be commercially fished or possessed by a vessel with a South Atlantic golden tilefish longline endorsement. NMFS projects that commercial landings of golden tilefish harvested by bottom longline gear from South Atlantic Federal waters will reach the 2025 component quota by October 17, 2025. Accordingly, the commercial longline component of South Atlantic golden tilefish is closed beginning on October 17, 2025, and will remain closed through the rest of the fishing year ending on December 31, 2025.

The sale or purchase of longline-caught golden tilefish harvested from South Atlantic Federal waters is prohibited during the commercial longline closure. The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper and a valid commercial longline endorsement for golden tilefish with golden tilefish on board must have landed and bartered, traded, or sold such golden tilefish before October 17, 2025. The prohibition on sale or purchase does not apply to the sale or purchase of longline-caught golden tilefish that were harvested, landed ashore, and sold before October 17, 2025, and were held in cold storage by a dealer or processor. Additionally, the recreational bag and possession limits and the sale and purchase prohibitions under the commercial quota closure apply to a person on a vessel with a golden tilefish longline endorsement

and apply to the harvest of golden tilefish from state or Federal waters, as specified in 50 CFR 622.190(c)(1).

On March 21, 2025, NMFS also closed the recreational harvest of golden tilefish in the South Atlantic for the rest of 2025 (90 FR 13099, March 20, 2025). Therefore, during the commercial longline closure and for the rest of 2025, all harvest or possession of golden tilefish in or from South Atlantic Federal waters or adjacent state waters is prohibited by a vessel with a golden tilefish longline endorsement.

The 2026 fishing season for the commercial harvest of South Atlantic golden tilefish with bottom longline gear opens again on January 15, 2026 [50 CFR 622.183(b)(11)].

During the commercial longline closure, golden tilefish may still be commercially harvested using hook-and-line gear on a vessel with a South Atlantic unlimited snapper-grouper commercial permit and without a longline endorsement until the hook-and-line quota specified in 50 CFR 622.190(a)(2)(ii)(C) is reached. A vessel with a golden tilefish longline endorsement at any time during a fishing year is not eligible to fish for or possess golden tilefish using hook-and-line gear under the hook-and-line commercial trip limit, as specified in 50 CFR 622.191(a)(2)(ii).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(a)(1)(ii), which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary, because the regulations associated with the commercial closure of the golden tilefish longline component have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment on this action is contrary to the public interest because of the need to immediately implement the commercial longline component closure to protect the golden tilefish resource in the South Atlantic. The capacity of the longline fishing fleet allows for rapid harvest of the commercial longline component quota, and any delay in the commercial closure could result in the exceedance of the commercial longline component quota.

Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

For the reasons just stated, NMFS also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: September 30, 2025.

Kelly Denit,

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

[FR Doc. 2025–19346 Filed 9–30–25; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 250924–0162]

RIN 0648–BN26

Fisheries Off West Coast States; West Coast Salmon Fisheries; Federal Salmon Regulations for Overfished Species Rebuilding Plans

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

ACTION: Final rule.

SUMMARY: NMFS is revising regulations that implement the Pacific Fishery Management Council's (Council) Pacific Coast Salmon Fishery Management Plan (Salmon FMP). This final action removes the rebuilding plans for Queets River natural coho salmon (Queets coho salmon) and Strait of Juan de Fuca natural coho salmon (JDF coho salmon) from regulation, as these stocks have been rebuilt and are no longer required to be managed under a rebuilding plan.

DATES: Effective November 3, 2025.

FOR FURTHER INFORMATION CONTACT: Anna Heeter, Fishery Management Specialist, at (971) 361–8895, Anna.Heeter@noaa.gov, or Shannon Penna, (562)980–4239, Shannon.Penna@noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations at 50 CFR part 660, subpart H implement the management of West Coast salmon fisheries under the Salmon FMP in the exclusive economic zone (3 to 200 nautical miles (5.6 to 370.4 kilometers)) off the coasts of the States of Washington, Oregon, and California.

In 2018, NMFS determined that the Queets coho salmon and JDF coho

salmon stocks were overfished under the Magnuson-Stevens Fishery and Conservation Management Act (MSA) (Letter from Barry A. Thom, NMFS West Coast Regional Administrator, to Phil Anderson, Pacific Fishery Management Council Chair, dated June 18, 2018). The MSA requires Councils to develop and implement a rebuilding plan within 2 years of being notified by NMFS that a stock is overfished (16 U.S.C. 1854(e)(3)). The Council transmitted its recommended rebuilding plans to NMFS on October 17, 2019, which were similar to the existing management frameworks, to rebuild Queets coho salmon and JDF coho salmon (Letter from Charles A. Tracy, Pacific Fishery Management Council Executive Director, to Barry A. Thom, NMFS West Coast Regional Administrator, dated October 17, 2019).

The Council determined that the recommended rebuilding plans met the MSA requirement to rebuild the stocks as quickly as possible, taking into account the status and biology of any overfished stock and the needs of fishing communities (50 CFR 600.310(j)(3)(i)). NMFS approved and implemented the Council's recommended rebuilding plans for the Queets coho salmon and JDF coho salmon stocks through a final rule (86 FR 9301, March 15, 2021).

In 2024, NMFS determined that Queets coho salmon and JDF coho salmon met the criteria in the Salmon FMP for being rebuilt and notified the Council (Letter from Jennifer Quan, NMFS West Coast Regional Administrator, to Merrick Burden, Pacific Fishery Management Council Executive Director, dated August 1, 2024). A stock is rebuilt when the 3-year geometric mean spawning escapement exceeds the level associated with the maximum sustainable yield (S_{MSY}) (Salmon FMP).

When Queets coho salmon was determined to be overfished, the 3-year geometric mean was 4,291 (2014 to 2016). The most recent 3-year geometric mean of the spawning escapement reported for this stock (2020 to 2022) is 6,624, which exceeds the stock's spawning escapement required to achieve S_{MSY} 5,800 spawners. When JDF coho salmon was determined to be overfished, the 3-year geometric mean was 6,842 (2014 to 2016). The most recent 3-year geometric mean of the spawning escapement reported for this stock (2020 to 2022) is 14,461, which exceeds the stock's spawning escapement required to achieve S_{MSY} , which is 11,000 spawners.

As these stocks have been determined to be rebuilt, they are no longer required

to be managed under rebuilding plans. The Queets coho salmon and JDF coho salmon rebuilding plans should be removed from regulation because the plans are no longer necessary. Removing the rebuilding plans from regulation would also avoid potential misconceptions regarding the status of these stocks. Additionally, removing these rebuilding plans from regulation will avoid errors should NMFS make a future determination that these stocks are overfished again, in which case the MSA requires the Council to prepare and implement a rebuilding plan within 2 years of that determination (50 CFR 600.310(j)(2)(ii)). Leaving the current rebuilding plans in regulation could cause confusion as they might be misperceived as being the applicable management measures for Queets coho salmon and JDF coho salmon, which is not the intention of the Council nor of NMFS. Therefore, to avoid any misinterpretation, it is necessary to remove the existing rebuilding plans from 50 CFR 660.413(c) and (d).

Public Comment

NMFS received five comments during the public comment period from March 28, 2025, to April 28, 2025. Four comments were from private citizens, and the fifth comment was a letter from the Sportsmen's Alliance Foundation.

Comment 1: NMFS received three public comments in support of removing the Queets coho salmon and JDF coho salmon rebuilding plans from regulation. Two of these comments were from the public and one was from the Sportsmen's Alliance Foundation. The commenters expressed that they felt NMFS had presented sufficient scientific evidence to support the rebuilt determinations for the Queets coho salmon and JDF coho salmon and that removing the rebuilding plans from regulation will further clarify the current status of the stocks.

Response: NMFS appreciates the time these commenters took to outline their support for the Queets coho salmon and JDF coho salmon rebuilt rule. These comments raise no additional issues that need to be addressed.

Comment 2: Two comments from the public expressed concern over removing the specified rebuilding plans. The commenters both emphasized the importance of collaborating with tribal co-managers, ensuring stock assessments are detailed, identifying mathematical and monitoring shortcomings, and considering emerging threats to these stocks during the rebuilt determination process. Both commenters emphasized that NMFS should approach the removal of the

Queets coho salmon and JDF coho salmon rebuilding plans with caution due to the complexity of salmon management.

Response: NMFS appreciates these comments submitted regarding the Queets coho salmon and JDF coho salmon rebuilt rule. NMFS already determined that these two salmon stocks have been successfully rebuilt (Letter from Jennifer Quan, NMFS West Coast Regional Administrator, to Merrick Burden, Pacific Fishery Management Council Executive Director, dated August 1, 2024). This rulemaking is administrative in nature insofar as it removes from the CFR the rebuilding plans that no longer serve a functional purpose. This action does not alter protections for Queets coho salmon and JDF coho salmon that are outlined in the Salmon FMP, and will not alter the control rules already established by the Salmon FMP as the Council adopted the Status Quo alternative (*i.e.*, Salmon FMP control rule) for both stocks.

Analysis of the proposed management alternatives in both rebuilding plans indicated the stocks were anticipated to rebuild within a few years which is what has occurred. As described in the Salmon FMP, the 3-year geometric mean is used as the metric to determine stock status relevant to overfished determinations consistent with the requirements of the MSA. The affected Tribes were members of the team that developed the rebuilding plans, participated Council discussions and technical analysis regarding the status of the stocks and were consulted about NMFS' decisions regarding changes in stock status for these stocks. The status of both stocks will continue to be assessed each year as required by the Salmon FMP. Further information on the topics outlined in each of these comments can be found in the Salmon FMP located on the PFMC website at: <https://www.pcouncil.org>.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the MSA. This rule is a technical change and would update the regulations governing the salmon fishery by deleting a provision that is no longer necessary. The NMFS Assistant Administrator has determined that this rule is consistent with the FMP and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This final rule is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 is not required and has not been prepared. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Recording and reporting requirements.

Dated: September 24, 2025.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

§ 660.413 [Amended]

■ 2. Amend § 660.413 by removing paragraphs (c) and (d).

[FR Doc. 2025–19371 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 250312–0037; RTID 0648–XF263]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure; request for comments.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2025 total allowable catch of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 3, 2025, through 2400 hours, A.l.t., December 31, 2025. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 17, 2025.

ADDRESSES: You may submit comments on this document, identified by docket number NOAA–NMFS–2024–0124 by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2024–0124 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be

considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.

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

NMFS closed directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA on September 1, 2025 (90 FR 42337, September 2, 2025). NMFS has determined that as of September 22, 2025, approximately 2,693 metric tons of Pacific cod remain in the 2025 Pacific cod apportionment for catcher vessels using trawl gear in the Central Regulatory Area of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2025 total allowable catch (TAC) of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) the current catch of Pacific cod, including by catcher vessels using trawl gear in the

Central Regulatory Area of the GOA, (2) the harvest capacity and stated intent on future harvesting patterns of vessels participating in this fishery, and (3) the remaining Pacific cod TAC available to harvest in the fishing year

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on Pacific cod catch by catcher vessels using trawl gear in the Central Regulatory Area of the GOA only became available as of September 22, 2025.

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

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA to be harvested in an expedient manner. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 17, 2025.

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

Dated: September 30, 2025.

Kelly Denit,

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

[FR Doc. 2025–19366 Filed 9–30–25; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 90, No. 189

Thursday, October 2, 2025

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

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1209, 1281, and 1282

RIN 2590–AB59

2026–2028 Enterprise Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is issuing a proposed rule and requesting comments on the housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2026 through 2028 as required by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. The proposed rule establishes benchmark levels for the housing goals for 2026 through 2028. The proposed rule replaces the two area-based subgoals with one low-income areas subgoal, simplifies the goal determination process, clarifies inflation adjustments to maximum civil money penalties related to housing goals, and makes other technical changes.

DATES: FHFA will accept written comments on the proposed rule on or before November 3, 2025.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB59, by any one of the following methods:

- **Agency Website:** <https://www.fhfa.gov/regulation/federal-register>.
- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB59.
- **Hand Delivered/Courier:** The hand delivery address is: Clinton Jones,

General Counsel, Attention: Comments/RIN 2590–AB59, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m. EST.

- **U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:** The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB59, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact MediaInquiries@FHFA.gov. For technical questions, please contact Leda Bloomfield, Senior Associate Director, Office of Affordable Housing and Community Investment, Division of Housing Mission and Goals, 202–649–3415, Leda.Bloomfield@fhfa.gov; Siobhan Kelly, Senior Associate Director, Office of Multifamily Analytics and Policy, Division of Housing Mission and Goals, 202–649–3142, Siobhan.Kelly@fhfa.gov; or Elena Hoffman, Honors Counsel, Office of General Counsel, 202–649–3511, Elena.Hoffman@fhfa.gov. These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Comments will be posted to the electronic rulemaking docket on the FHFA public website at <https://www.fhfa.gov/regulation/rulemaking>, except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical

comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal rulemaking file and considered as required by all applicable laws. Commenters that would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings*, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information, or the identity of the commenter, will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and the FHFA *FOIA Reference Guide* at <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

II. Background

A. Statutory and Regulatory Background for Enterprise Housing Goals

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires FHFA to establish several annual housing goals for both single-family and multifamily mortgages purchased by the Enterprises.¹ The annual housing goals are one measure of the extent to which the Enterprises are meeting their public purposes as defined by statute, which include “an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return.”²

FHFA establishes annual housing goals for Enterprise purchases of single-family and multifamily mortgages consistent with the requirements of the

¹ 12 U.S.C. 4561(a).

² 12 U.S.C. 4501(7).

Safety and Soundness Act. The structure of the housing goals and the parameters for determining how mortgage purchases are counted or not counted towards the goals are defined in FHFA's Enterprise housing goals regulation.³ This proposed rule would establish benchmark levels for the single-family and multifamily housing goals for 2026–2028.

Single-family housing goals. The single-family housing goals defined under the Safety and Soundness Act include separate categories for home purchase mortgages for low-income families, very low-income families, and families that reside in low-income areas.⁴ For purposes of the single-family housing goals, families that reside in low-income areas⁵ include: (1) families in low-income census tracts, defined as census tracts with median income less than or equal to 80 percent of area median income (AMI);⁶ (2) families with incomes less than or equal to 100 percent of AMI who reside in minority census tracts (defined as census tracts with a minority population of at least 30 percent and a tract median income of less than 100 percent of AMI);⁷ and (3) families with incomes less than or equal to 100 percent of AMI who reside in designated disaster areas.⁸ The current Enterprise housing goals regulation also includes subgoals⁹ within the low-income areas home purchase goal.¹⁰ Performance on the single-family home purchase goals and subgoals is measured as the percentage of the total home purchase mortgages purchased by an Enterprise each year that qualify for each goal or subgoal. There is also a separate goal for single-family refinance mortgages for low-income families, and performance on the refinance goal is determined in a similar way.

Under the Safety and Soundness Act, the single-family housing goals are

limited to mortgages on owner-occupied housing with one to four units. The single-family goals cover first lien, conventional, conforming mortgages, meaning mortgages that are not subordinate to other mortgage liens, that are not insured or guaranteed by the Federal Housing Administration or another government agency, and that have principal balances that do not exceed the conforming loan limits for Enterprise mortgages.

Two-part evaluation approach for single-family housing goals. The Enterprises' performance on the single-family housing goals is evaluated using a two-part approach that compares the goal-qualifying share of each Enterprise's mortgage purchases to two separate measures: a benchmark level and a market level. To meet a single-family housing goal, the percentage of mortgage purchases by an Enterprise that qualifies for credit under each goal must equal or exceed either the benchmark level or the market level for that year. The benchmark level is set prospectively by rulemaking based on various factors set forth in the Safety and Soundness Act, which are further discussed below.¹¹ The market level is determined retrospectively for each year, based on the actual goal-qualifying share of the overall market as measured by the Home Mortgage Disclosure Act¹² (HMDA) data for that year.¹³ The overall market that FHFA uses for setting both the prospective benchmark level and the retrospective market level consists of all single-family, owner-occupied, conventional, conforming mortgages that would be eligible for purchase by either Enterprise. It includes loans purchased by the Enterprises as well as comparable loans held in a lender's portfolio or that are part of a private label security (PLS).

Since 2018, several new HMDA data fields have become available. FHFA continues to monitor reporting of these new fields to consider potential adjustments to the way FHFA measures the overall market. Because FHFA's econometric market models use past years' data in their construction, a potential transition to incorporate any new data variables will require time to obtain an adequate input data series.

While the retrospective market levels measure mortgage originations in a particular year, the performance of the Enterprises on the housing goals includes all Enterprise purchases in that year, regardless of the year in which the loan was originated. This includes any loans that are originated in one year and purchased by an Enterprise in a later year.

Multifamily housing goals. The multifamily housing goals defined under the Safety and Soundness Act include separate categories for mortgages on multifamily properties (properties with five or more units) with rental units affordable to low-income and very low-income families. The Safety and Soundness Act also requires reporting on smaller properties.¹⁴ The multifamily housing goals generally include all Enterprise multifamily mortgage purchases, regardless of the purpose of the loan. The multifamily housing goals evaluate the performance of the Enterprises based on the share of affordable units in properties that serve as collateral for mortgages purchased by an Enterprise (loans that are excluded as ineligible under 12 CFR 1282.16(b) are not counted for purposes of measuring Enterprise performance). The Enterprise housing goals regulation does not include a retrospective market level measure for the multifamily housing goals, due in part to a lack of comprehensive data about the multifamily market. As a result, FHFA measures Enterprise multifamily housing goals performance against the benchmark levels only and the proposed rule retains this approach.

The Safety and Soundness Act requires that affordability for rental units under the multifamily housing goals be determined based on rents that “[do] not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.”¹⁵ The Enterprise housing goals regulation considers the net rent paid by the renter, *i.e.*, the rent is decreased by any subsidy payments that the renter may receive, including housing assistance payments.¹⁶

B. Adjusting the Housing Goals

If, after publication of this proposed rule, new information indicates that any of the single-family or multifamily housing goals should be adjusted in light of market conditions or the safety and soundness of the Enterprises, or for

³ 12 CFR part 1282.

⁴ 12 U.S.C. 4562(a)(1). To distinguish the goals and subgoals related to home purchase mortgages from the goal related to refinance mortgages, this preamble refers to the “low-income home purchase goal” and the “very low-income home purchase goal” to refer to the low-income families housing goal and the very low-income families housing goal, respectively, described in 12 CFR 1282.12(c) and (d).

⁵ See 12 U.S.C. 4502(28); 12 CFR 1282.1 (definition of “families in low-income areas”).

⁶ 12 CFR 1282.1 (par. (i) of definition of “families in low-income areas”).

⁷ 12 U.S.C. 4502(29); 12 CFR 1282.1 (par. (ii) of definition of “families in low-income areas” and definition of “minority census tract”).

⁸ 12 U.S.C. 4502(28); 12 CFR 1282.1 (definition of “designated disaster area” and par. (iii) of definition of “families in low-income areas”).

⁹ For brevity, sometimes this preamble uses the term “goals” to refer to goals and subgoals.

¹⁰ 12 CFR 1282.12(f).

¹¹ See 12 U.S.C. 4562(e).

¹² 12 U.S.C. 2801 *et seq.*

¹³ FHFA bases these calculations on its analysis of public HMDA data made available by the Consumer Financial Protection Bureau (CFPB) based on data that mortgage originators submit to the Federal Financial Institutions Examination Council (FFIEC). Additional information about loans held in lender portfolios is available through HMDA and the National Mortgage Database (National Mortgage Database (NMDB®), a joint dataset published by FHFA and CFPB).

¹⁴ 12 U.S.C. 4563(a)(3).

¹⁵ See 12 U.S.C. 4563(c).

¹⁶ See 12 CFR 1282.1 (par. (i)(B) of definition of “rent”).

any other reason, FHFA may take any steps that are necessary and appropriate to respond, consistent with the Safety and Soundness Act and the Enterprise housing goals regulation.

For example, under the Safety and Soundness Act and the Enterprise housing goals regulation, FHFA is permitted to reduce a benchmark level in response to an Enterprise petition for reduction for any of the single-family or multifamily housing goals in a particular year. Any adjustment in response to such a petition must be based on a determination by FHFA that: (1) market and economic conditions or the financial condition of the Enterprise require a reduction; or (2) efforts to meet the goal or subgoal would result in the

constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of the Safety and Soundness Act or the purposes of the Enterprises’ charter acts.¹⁷

The Safety and Soundness Act and the Enterprise housing goals regulation also provide for the possibility that achievement of a particular housing goal or subgoal may not have been feasible for an Enterprise. If FHFA determines that a housing goal or subgoal was not feasible for an Enterprise to achieve, then the statute and regulation do not require any further action related to that housing goal or subgoal for that year.¹⁸

If FHFA determines that an Enterprise did not meet a housing goal or subgoal

and that achievement of the housing goal or subgoal was feasible, the statute and regulation provide FHFA with discretion in determining whether to require the Enterprise to submit a housing plan describing the specific actions the Enterprise will take to improve its housing goals performance.¹⁹

III. Summary of Proposed Rule

A. Benchmark Levels for the Single-Family Housing Goals and Subgoal

This proposed rule would establish the benchmark levels for the single-family housing goals for 2026–2028 as follows:

Goal or subgoal	Criteria	Current benchmark level (percent)	Proposed benchmark level for 2026–2028 (percent)
Low-Income Home Purchase Goal.	Home purchase mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 80 percent of area median income (AMI).	25.0	21.0
Very Low-Income Home Purchase Goal.	Home purchase mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 50 percent of AMI.	6.0	3.5
Low-Income Refinance Goal	Refinance mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 80 percent of AMI.	26.0	26.0
Low-Income Areas Home Purchase Subgoal.	Home purchase mortgages on single-family, owner-occupied properties with: • Borrowers in census tracts with tract median income of no greater than 80 percent of area median income; or • Borrowers with income no greater than 100 percent of area median income in census tracts where (i) tract income is less than 100 percent of area median income, and (ii) minorities comprise at least 30 percent of the tract population.	N/A	16.0

The proposed rule would combine the current low-income census tracts home purchase subgoal and the minority census tracts home purchase subgoal into a single low-income areas home purchase subgoal. Similar to the existing regulation, the benchmark level for the low-income areas home purchase goal would be the sum of the benchmark levels for the low-income areas home purchase subgoal, plus an additional amount that will be determined separately by FHFA that takes into account families in disaster areas with incomes no greater than 100 percent of AMI.²⁰ The low-income areas home purchase goal is published annually on FHFA’s website.²¹

To simplify the structure of the Enterprise housing goals regulation, FHFA is proposing to remove temporary measurement buffers for the housing goals that the Agency previously established for 2025–2027. The measurement buffers were established to encourage the Enterprises to focus on achieving certain single-family housing goals by meeting the market level, if the benchmark level turns out to be higher than the market level. These measurement buffers partly addressed the uncertainty in forecasting the market several years in advance as well as the time lag in determining the actual market level retrospectively. Since the 2026–2028 proposed benchmarks are set

below the forecasted marketed level, FHFA expects that the Enterprises will be able to calibrate their mortgage purchase strategies to anticipate small fluctuations in market uncertainty, making it unnecessary to maintain an additional regulatory buffer. This would accomplish the original intent of the measurement buffers, rendering the buffers duplicative and unnecessary.

B. Proposed Benchmark Levels for the Multifamily Housing Goals and Subgoal

The proposed rule would establish the benchmark levels for the multifamily housing goals and subgoal for 2026–2028 as follows:

¹⁷ See 12 U.S.C. 4564(b); 12 CFR 1282.14(d).
¹⁸ See 12 U.S.C. 4566(b); 12 CFR 1282.22(a).
¹⁹ See 12 U.S.C. 4566(c); 12 CFR 1282.22(a).

²⁰ See 12 CFR 1282.12(e). The low-income areas home purchase goal benchmark level for 2025 is 21 percent.

²¹ See Housing Goal Annual Housing Activity Reports and Determinations for each Enterprise at <https://www.fhfa.gov/programs/affordable-housing/enterprise-housing-goals>.

Goals and subgoal	Criteria	Current benchmark level (percent)	Proposed benchmark level for 2026–2028 (percent)
Low-Income Goal	Percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in the year that are affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.	61.0	61.0
Very Low-Income Goal	Percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in the year that are affordable to very low-income families, defined as families with incomes less than or equal to 50 percent of AMI.	14.0	14.0
Small Multifamily Low-Income Subgoal.	Percentage share of all goal-eligible units in all multifamily properties financed by mortgages purchased by the Enterprises in the year that are units in small multifamily properties affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.	2.0	2.0

C. Required Adjustments to Maximum Civil Money Penalty Amounts

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015²² (Adjustment Improvements Act) requires FHFA to adjust the level of civil monetary penalties for inflation (including an initial catch-up adjustment and annual adjustments thereafter). This proposed rule would make explicit that the required inflation adjustments apply to civil money penalties described in section 1345 of the Safety and Soundness Act (12 U.S.C. 4585), including penalties applicable to the Enterprise and Federal Home Loan Bank housing goals.

D. Notice of Preliminary Determination of Compliance With Housing Goals

To streamline the housing goal compliance determination processes, this proposed rule would provide that the Director need only provide written notice to an Enterprise of a preliminary determination if an Enterprise has failed to meet a housing goal or subgoal.

E. Technical Changes

The proposed rule would make technical changes to the names of the single-family housing goals to distinguish between goals related to home purchase mortgages and the goal related to refinance mortgages.

IV. Single-Family Housing Goals and Subgoal

A. Factors Considered in Setting the Single-Family Housing Goal Benchmark Levels

The Safety and Soundness Act requires FHFA to consider the following seven factors in setting the single-family housing goals:

1. National housing needs;
2. Economic, housing, and demographic conditions, including expected market developments;
3. The performance and effort of the Enterprises toward achieving the housing goals in previous years;
4. The ability of the Enterprises to lead the industry in making mortgage credit available;
5. Such other reliable mortgage data as may be available;
6. The size of the purchase money conventional mortgage market, or refinance conventional mortgage market, as applicable, serving each of the types of families described, relative to the size of the overall purchase money mortgage market or the overall refinance mortgage market, respectively; and
7. The need to maintain the sound financial condition of the Enterprises.²³

FHFA has considered each of these seven statutory factors in setting the proposed benchmark levels for each of the single-family housing goals in the proposed rule. In setting the benchmark levels for the single-family housing goals, FHFA typically relies on statistical market models developed by FHFA to evaluate four of the seven factors (national housing needs; economic, housing, and demographic conditions; other reliable mortgage data; and the size of the conventional purchase money or refinance mortgage segment). These market models generate a point forecast for each goal as well as a confidence interval for the point forecast. FHFA monitors information on market developments and Enterprise financial condition that are not reflected in the models. FHFA also considers the other statutory factors that are not explicitly modeled in the statistical forecast models (*i.e.*, performance and effort of the Enterprises to lead the industry in

making mortgage credit available; the ability of the Enterprises to do so; and the need to maintain sound financial condition of the Enterprises) to make post-model adjustments to the point forecast for each goal.

Market forecast models. The purpose of FHFA's market forecast models is to forecast the market share of the goal-qualifying mortgage originations for the relevant goal period. The models are intended to generate reliable forecasts rather than to test various economic hypotheses about the housing market or to explain the relationship between variables. Therefore, following standard practice among forecasters and economists at other federal agencies, FHFA estimates a reduced-form equation for each of the housing goals and fits an Autoregressive Integrated Moving Average (or ARIMA) model to each goal share. The models look at the statistical relationship between (a) the historical market share for each single-family housing goal or subgoal, as calculated from monthly HMDA data, and (b) the historical values for various factors that may influence the market shares, such as interest rates, inflation, home prices, home sales, the unemployment rate, and other factors. The models then project the future value of the affordable market share using forecast values of the model inputs. Separate models are developed for each of the single-family housing goals.

FHFA has employed similar models in past cycles of rulemaking for Enterprise housing goals to generate market forecasts. The models are developed using monthly series generated from HMDA and other data sources, and the resulting monthly forecasts are then averaged into an annual forecast for each of the three years in the goal period. The most recently developed models, published in December 2024, relied on 20 years of HMDA data, from 2004 to 2023, the

²² Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, title VII, sec. 701, 129 Stat. 599 (28 U.S.C. 2461 note) (2015), available at <https://www.govinfo.gov/content/pkg/PLAW-114publ74/pdf/PLAW-114publ74.pdf>.

²³ See 12 U.S.C. 4562(e)(2)(B).

latest year for which public HMDA data was available at the time of model construction. Additional discussion of the most recent market forecast models can be found in a technical report on FHFA’s website.²⁴

This proposed rule continues to use the most recent market forecast models, because the 2024 HMDA data, which is critical for accurately forecasting the outcome variables (*i.e.*, market share estimates), was not available at the time FHFA prepared this proposed rule. In addition, as shown below, the current forecasts for several key independent variables are substantially similar to those used in the most recent market forecast models. As such, FHFA finds it appropriate to use the most recent market forecasts for this proposed rule.

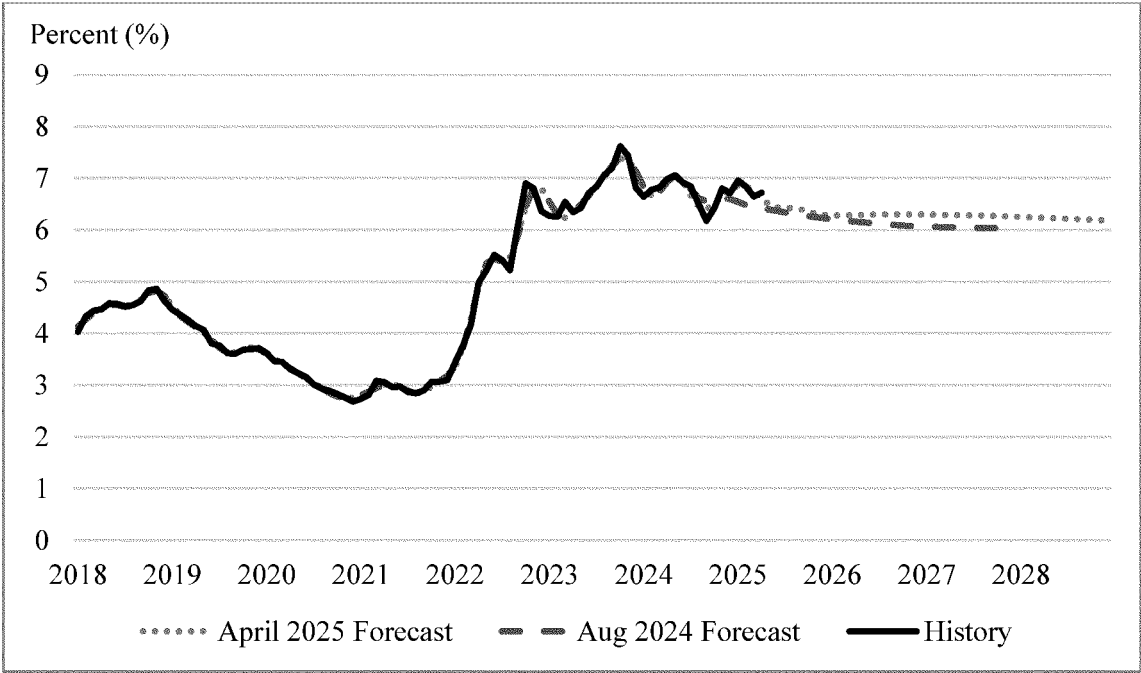
Current market outlook. There are many factors that impact the affordable housing market, and changes to any of them could significantly impact the ability of the Enterprises to meet the goals. In developing the most recent market forecast models, FHFA used

Moody’s August 2024 baseline forecasts as the source for macroeconomic variables.²⁵ FHFA reviewed Moody’s April 2025 baseline forecast and determined that it is not materially different from the August 2024 baseline forecast for key driver variables in the models, including mortgage interest rates, FHFA’s Purchase-Only House Price Index (HPI), and the Housing Affordability Index (HAI) provided by the National Association of Realtors (NAR). In their December 2024 meeting, the Federal Open Market Committee (FOMC) of the Federal Reserve affirmed its policy priorities to seek maximum employment and a 2 percent long-term inflation rate, by lowering its target for the federal funds rate to a range of 4.25 percent to 4.5 percent.²⁶ In its May 2025 meeting, FOMC reiterated that commitment by maintaining its target range for the federal funds rate at that level.²⁷ Consistent with Moody’s 2024 baseline forecast, Moody’s April 2025 baseline forecast projects that the

federal funds rate will decrease to 3 percent by the fourth quarter of 2026.²⁸

Moody’s April 2025 baseline forecast for the 30-year fixed mortgage rate indicates a slightly more elevated trajectory compared to the August 2024 baseline forecast, with a projected decline of 0.2 percentage points from 6.5 percent in 2025 to 6.3 percent in 2027 versus the earlier projection of 6.4 percent in 2025 to 6.0 percent in 2027. However, this difference is not considered material for the purposes of this rulemaking. Notably, the projected 30-year mortgage rate for 2025 in both forecasts is nearly identical (6.5 percent versus 6.4 percent). Given the inherent uncertainties in long-term economic projections and the relatively modest divergence in out-year forecasts, particularly when the initial year remains largely consistent, the Agency finds these projections to be substantially similar and, therefore, appropriate to use to inform our current policy considerations.²⁹

Graph 1: Historical and Projected Trends of the 30-year Fixed Mortgage Rate



Home prices increased rapidly in 2021 and 2022, as indicated by the HPI,

due to a strong demand for housing and limited supply of homes for sale.³⁰ The

rapid rise in mortgage rates through 2022 and their stabilization at new

²⁴ Details on FHFA’s single-family market models are available in the technical report “The Size of the Affordable Mortgage Market: 2025–2027 Enterprise Single-Family Housing Goals,” (December 2024), available at <https://www.fhfa.gov/research/papers/2025-2027-enterprise-single-family-housing-goals-12-2024>.
²⁵ *Ibid.*

²⁶ Press Release, “Federal Reserve issues FOMC statement,” (December 2024), available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20241218a.htm>.
²⁷ Press Release, “Federal Reserve issues FOMC statement,” (May 2025) available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20250507a.htm>.

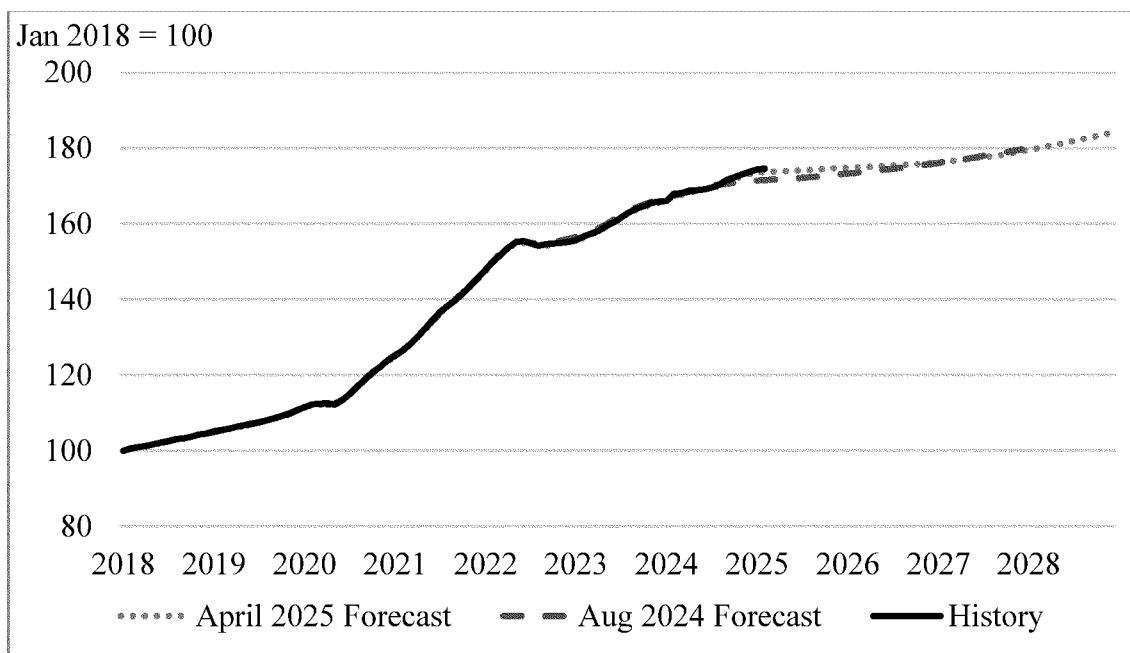
²⁸ Moody’s Analytics, “Economic Data and Forecasts,” August 2024 and April 2025.
²⁹ *Ibid.*
³⁰ FHFA, “House Price Index Datasets,” see <https://www.fhfa.gov/data/hpi/datasets?tab=hpi-datasets>.

elevated levels in 2023 slowed down the pace of house price growth. Although slower, house price growth was still significant, rising 3.9 percent from February 2024 to February 2025.³¹ Moody's predicts that home price appreciation will continue to slow in

2026. Moody's April 2025 forecast of the same HPI expects the annual rates of house price growth to decline to 0.8 percent in 2026 before rising to 1.6 percent and 2.7 percent in 2027 and 2028, respectively. While Moody's August 2024 baseline forecast predicted

a lower 2024 percentage growth than seen in the April 2025 forecast (3.3 percent vs 4.5 percent), the average annual price growth for both forecasts for 2024–2027 is the same at 2 percent.³²

Graph 2: Historical and Projected Trends of FHFA's House Price Index <PHOTO>



Housing affordability in 2025 remains historically low compared to the past two decades. Based on Moody's April 2025 baseline forecast of the HAI, as reported by NAR, affordability is

expected to improve.³³ That forecast projects a continued, albeit moderate, upward trajectory in affordability from an index value of 99.8 in 2024 to 110.1 in 2027 and remain flat at 110.2 in

2028.³⁴ Moody's August 2024 baseline forecast saw a similar rise in the index from 99.5 in 2024 to 111.6 in 2027.³⁵

³¹ FHFA, "FHFA House Price Index Report—Monthly Report," (April 2025), see <https://www.fhfa.gov/document/fhfa-hpir-monthly-april-2025>.

³² Moody's Analytics, "Economic Data and Forecasts," August 2024 and April 2025.

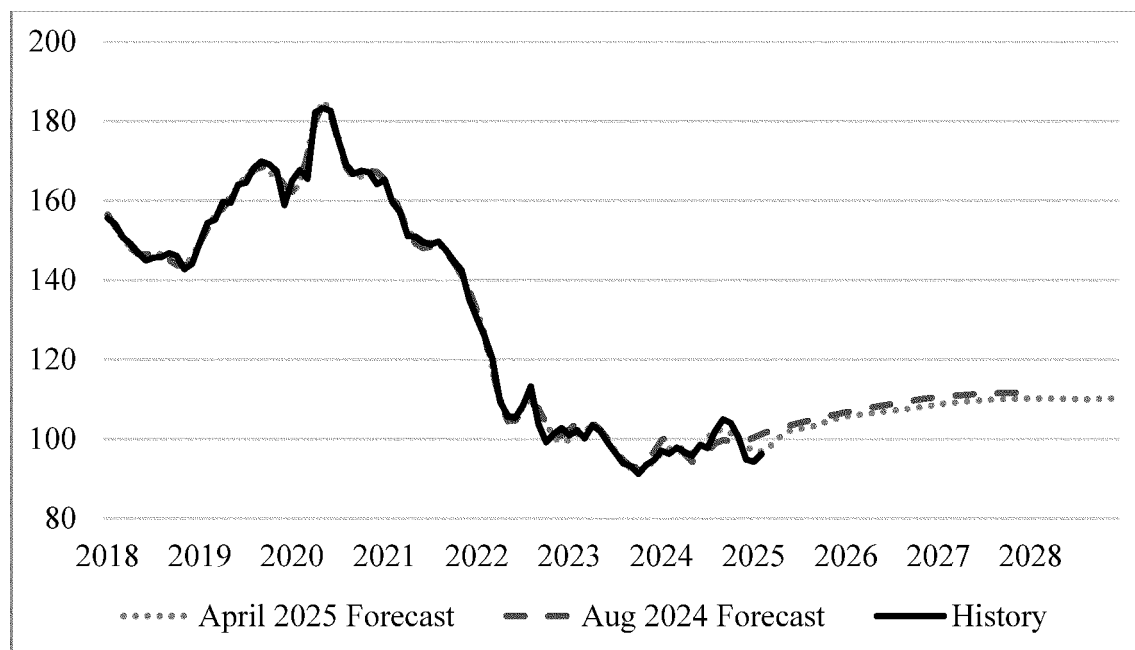
³³ NAR's HAI is a national index. It measures, nationally, whether an average family could qualify for a mortgage on a typical home. A typical home

is defined as the national median-priced, existing single-family home as reported by NAR. An average family is defined as one earning the median family income. The calculation assumes a down payment of 20 percent of the home price and a monthly payment that does not exceed 25 percent of the median family income. An index value of 100 means that a family earning the median family income has exactly enough income to qualify for a

mortgage on a median-priced home. An index value above 100 signifies that a family earning the median family income has more than enough income to qualify for a mortgage on a median-priced home. A decrease in the index value over time indicates that housing is becoming less affordable.

³⁴ Moody's Analytics, "Economic Data and Forecasts," August 2024 and April 2025.

³⁵ *Ibid.*

Graph 3: Historical and Projected Trends of Housing Affordability Index

Following the historic low in housing supply observed in March 2022, inventory levels have shown consistent growth. As of April 2025, active listings have increased by 30.1 percent compared to April 2024 and 70.4 percent relative to April 2023.³⁶ Current listing levels now exceed pre-pandemic benchmarks, surpassing January 2020 figures by 7,552 units. Single-family housing starts—which measure new construction of one-to-four-unit residential properties—registered a modest 7.3 percent increase from 2023 to 2024 but remain slightly below the decade-high levels recorded in 2021.³⁷

FHFA continues to monitor how these changes in the housing market, as well as other market conditions, may impact various segments of the market, including those targeted by the housing goals.

Post-model adjustments. While FHFA's models can address and forecast many of the factors referenced in the statute, including increasing mortgage interest rates and rising property values, some factors are not captured in the models. FHFA, therefore, considers additional factors when selecting the benchmark level for each of the single-family housing goals. These factors may adjust the model point forecast to arrive at the proposed benchmark levels.

Demographic trends. Although the models consider some demographic factors, FHFA also considers specific demographic changes not captured in the models as post-model adjustments when setting the housing goals benchmark levels. Notably, according to NAR, Millennials represented the largest share of homebuyers for almost a decade until 2022.³⁸ After a brief dip in 2022, Millennials once again constituted the largest share of homebuyers in 2023, surging from 28 percent to 38 percent.^{39 40} As a substantial portion of this generation continues to enter their peak homebuying years, this demographic wave is poised to create additional, substantial demand across the housing market.

However, the nature of this demand, when considered in conjunction with prevailing market conditions, presents notable affordability challenges, particularly for first-time homebuyers and lower-income households. The NAR 2025 "Housing Affordability & Supply" report indicates a significant disparity between available inventory

and affordability for this segment.⁴¹ While overall housing inventory has experienced an increase, the preponderance of newly available housing is not affordable to first-time homeowners. Specifically, the NAR report identifies that buyers earning less than \$50,000 per year now face a reduction in affordable options compared to the preceding year. This observation underscores a widening affordability gap, demonstrating that lower-income households are increasingly excluded from homeownership opportunities within the current market environment.

This evidence suggests that, despite robust demand originating from the Millennial cohort, the commensurate supply of available and affordable housing is insufficient to meet the needs of low- and moderate-income segments. Elevated housing goals, if unaligned with the realistic capacity of the market to deliver affordable units, possess the potential to exacerbate existing affordability pressures. Consequently, in consideration of these demographic trends and the persistent affordability constraints documented by NAR—particularly for low- and moderate-income homebuyers—the Agency deems it prudent to establish more modest benchmarks for the housing goals. This

³⁶ "Housing Inventory: Active Listing Count in the United States," accessed on May 20, 2025, at <https://fred.stlouisfed.org/series/ACTLISCOUUS>.

³⁷ "New Privately-Owned Housing Units Started: Single-Family Units," accessed on May 20, 2025, at <https://fred.stlouisfed.org/series/ACTLISCOUUS>.

³⁸ NAR, "2023 Home Buyers and Sellers Generational Trends Report," (2023), p. 8, available at <https://www.nar.realtor/sites/default/files/documents/2023-home-buyers-and-sellers-generational-trends-report-03-28-2023.pdf>.

³⁹ *Ibid.*

⁴⁰ NAR, "2024 Home Buyers and Sellers Generational Trends Report," (2024), p. 8, available at <https://www.nar.realtor/sites/default/files/documents/2024-home-buyers-and-sellers-generational-trends-04-03-2024.pdf>.

⁴¹ NAR, "Housing Affordability & Supply: Rising Inventory, But for Whom? A Look at Inventory Gaps by Price Range and Income Levels in 2025," (May 2025), available at <https://www.nar.realtor/sites/default/files/2025-05/2025-housing-affordability-and-supply-05-15-2025.pdf>.

adjustment acknowledges the current limitations in affordable inventory, facilitating a lending pace that more accurately reflects accessible supply and mitigating the potential for further price escalation that could disproportionately affect the intended beneficiaries of these goals.

Past performance and effort of the Enterprises to achieve the housing goals.

The Enterprises' primary method to meet the housing goal targets is through guarantee fee pricing subsidies. Guarantee fee subsidies designed to facilitate lending to housing goal-qualifying households include the elimination of upfront fees, cash window incentives, and variable ongoing fees. Notably, none of the three methods of providing incentives are generally required to be passed on to the borrower; rather, they incent sellers to deliver loans that qualify for the goals. The Enterprises charge guarantee fees to sellers to cover expected credit losses, administrative costs, and the cost of capital associated with their guarantees. There are two types of guarantee fees: ongoing and upfront. Ongoing fees are factored into each loan's interest rate and collected monthly over the life of a loan. Upfront fees are one-time payments made by sellers upon delivery of a loan to an Enterprise, and are similarly factored into the interest rate paid by the borrower. Upfront guarantee fees are determined by the risk attributes of a borrower, such as the loan-to-value ratio, borrower's credit score, property type, and occupancy type. Loans with riskier attributes have higher upfront fees.⁴² This is the primary manner by which the Enterprises implement risk-based pricing.

In October 2022, FHFA announced the elimination of upfront fees for certain homebuyers and affordable products. Upfront fees were eliminated for first-time homebuyers at or below 100 percent of AMI or at or below 120 percent of AMI in high-cost areas; HomeReady and Home Possible loans;⁴³ HFA Advantage and HFA Preferred loans; and single-family loans supporting the Duty to Serve program. Loans that qualify for upfront fee waivers align with, but are not exact

matches to, loans that qualify for goals credit. The fee subsidies encourage lenders to deliver these loans to the Enterprises.⁴⁴

The Enterprises also provide incentives for loans that qualify for goals that are delivered through the cash window.⁴⁵ The cash window allows sellers to deliver loans directly to an Enterprise in return for a cash payment. The Enterprises bundle these loans into mortgage-backed securities (MBS) and sell the MBS into the secondary market. The Enterprises can provide subsidies, in the form of pay-ups or other pricing benefits, to goal-qualifying loans. While pay-ups are used primarily to account for these loans' lower prepayment risk, an important secondary effect is to encourage the delivery of more goal-qualifying loans due to the overlapping populations.

The Enterprises may also vary the ongoing guarantee fees they charge to lenders. Ongoing fees are based primarily on the product type, such as whether the loan is a 30-year fixed-rate or a 15-year fixed-rate loan, but also reflect other factors, which may include the share of mortgages delivered that are goals-qualifying. As described by the Congressional Budget Office in its report on the housing goals: "For example, when lenders consistently deliver a higher percentage of mortgages that meet the requirements of one or more housing goals, the GSEs may charge those lenders a lower ongoing fee for future deliveries than the fee paid by lenders who deliver a lower share of such mortgages."⁴⁶

Through ongoing discussions and stakeholder engagement with market participants,⁴⁷ the Agency is also aware of other methods for meeting housing goals that do not rely on pricing incentives. One large lender stated that to meet the housing goals, the Enterprises reduced purchases of higher-balance loans through their cash window, provided less competitive pricing for non-goal qualifying loans, and implemented market share and/or

volume restrictions. Another large lender shared that to maintain its relationship with the Enterprises, they have to pay-up for goal-qualifying loans from third-party loan aggregators that they would have not ordinarily purchased in order to deliver those loans to the Enterprises, noting that the lower pricing is not passed to the borrower in the form of down payment assistance, closing cost assistance, or a lower rate. One large trade association reiterated these concerns, noting that the Enterprises' actions resulted in distorted pricing and an inefficient subsidy mechanism that benefits lenders, rather than "creating a bigger [affordable housing] pie" that benefits future homeowners, and that sellers' ability to participate in pilots and receive preferential pricing was directly tied to goals.⁴⁸ The trade association also noted that lenders felt compelled to turn away non-goals business in order to keep their goal percentages high, or place low-income borrowers in conventional loans when another product might be a better fit.

Anecdotal feedback from the Enterprises and industry notes that the housing goals often result in Fannie Mae and Freddie Mac competing with each other for the same low- and moderate-income borrowers. In Congressional testimony, Edward DeMarco of the Housing Policy Council, similarly stated that "the current target level of affordable loans materially exceeds what the market is capable of producing, given today's market conditions As a result, there is a bidding war for these loans but there is no mechanism to ensure the homebuyer benefits. Moreover, competition between the two GSEs over goals loans does nothing to expand the number of borrowers reached."⁴⁹ These insights highlight that the Enterprises compete over a limited pool of borrowers rather than ensuring all credit eligible applicants have access to a liquid market. If the housing goals benchmark target results in shifting volume from one Enterprise to another, it may indicate that the goals are set too high.

These anecdotal discussions reinforce the need to carefully set the housing goals to avoid unintended consequences that harm borrowers, lenders, and the market. Of particular concern is feedback from lenders that they have turned away middle-class borrowers or increased prices on middle-class

⁴² FHFA, "Fannie Mae and Freddie Mac Single-Family Guarantee Fees in 2022," (May 2024), available at <https://www.fhfa.gov/sites/default/files/2024-05/GFee-Report-2022.pdf>.

⁴³ HomeReady is Fannie Mae's low-down payment mortgage product designed for creditworthy low-income borrowers, available at <https://singlefamily.fanniemae.com/media/8316/display>. Home Possible is Freddie Mac's equivalent see: <https://sf.freddie.com/working-with-us/origination-underwriting/mortgage-products/home-possible>.

⁴⁴ New Release, "FHFA Announces Updates to the Enterprises' Single-Family Pricing Framework," (January 2023), available at <https://www.fhfa.gov/news/news-release/fhfa-announces-updates-to-the-enterprises-single-family-pricing-framework>.

⁴⁵ Also known as the whole loan conduit channel and distinct from the MBS swap acquisition channel, whereby a seller exchanges a group of loans for an Enterprise-guaranteed mortgage-backed security, which the seller may then sell into the secondary market. See <https://www.cbo.gov/publication/60978>.

⁴⁶ See Congressional Budget Office, "Fannie Mae and Freddie Mac's Housing Goals," (November 2024), available at <https://www.cbo.gov/publication/60978>.

⁴⁷ FHFA is not aware of a data source that would quantify the trends illustrated by these examples.

⁴⁸ *Ibid*.

⁴⁹ See Housing Policy Council, "Edward DeMarco Testimony," (May 17, 2023), available at https://www.housingpolicycouncil.org/files/ugd/d315af_c923c372d1074faebc5c80f2b2bbc6ec.pdf.

borrowers in pursuit of meeting housing goals.⁵⁰ These concerns were also expressed in public comments to the 2025–2027 proposed rule.⁵¹ While this feedback is not presented as formal statistical data, it offers illustrative examples of the real-world impact of the current regulatory structure. These concerns also suggest that the benchmarks for the housing goals have been set too high.

Further, on January 20, 2025, the President issued a Memorandum entitled “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis,” instructing federal agencies to, among other actions, lower the cost of housing and expand housing supply.⁵² FHFA, in carrying out this policy priority, is assessing the impact of the housing goals on the cost of housing, particularly to middle-class borrowers, who may be

turned away or receive higher prices than they would in the absence of overly aggressive housing goals.

The Agency recognizes that it is difficult to fully isolate and quantify the extent to which setting inappropriately aggressive housing goals penalizes middle-class borrowers. However, insights from discussions with market participants suggest a material impact on access to liquidity and inefficient deployment of funds. While the scope and systemic impact of these unintended consequences are not yet fully understood, the Agency recognizes the importance of ensuring the Enterprises meet their charter act mission to provide liquidity to all markets at all times for all income segments. Further, the Agency has a policy interest in ensuring effective allocation of resources, as well as lowering costs for American families.

To address the concern that middle-class borrowers are penalized by benchmarks that are too high, and to facilitate a more thorough examination of the relationship between housing goal benchmarks and Enterprise practices to meet the benchmarks, the Agency believes that a recalibration of the Enterprise housing goals is warranted. By setting the goals at a level that allows for greater flexibility in Enterprise operations, FHFA anticipates that it and the Enterprises will be better positioned to collect and analyze comprehensive data on lending patterns, pricing structures, and borrower outcomes. This

approach will enable the Agency to gain a more robust, data-driven understanding of whether and to what extent certain pricing mechanisms are indeed creating unintended barriers for middle-class families. Allowing FHFA to better observe and study these potential impacts will be invaluable in informing the establishment of more appropriately benchmarked housing goals in future rulemakings that enable the Enterprises to serve all income levels fairly.

In previous iterations of the Enterprise Housing Goals rules, the Agency has, by design, afforded less significant weight to the Enterprises’ past performance and effort to achieve the housing goals in setting future benchmarks. This approach was largely predicated on a recognition that past performance data, while valuable, may not always capture the nuances of the Enterprises’ efforts, particularly regarding the specific actions taken to achieve goals, and a larger weighting on the Enterprises’ ability to lead the mortgage market. However, recent insights into the Enterprises’ operational behaviors, coupled with an updated understanding of how various pricing mechanisms can affect overall housing affordability, necessitate a recalibration of the Agency’s approach.

Table 1 provides the annual performance of both Enterprises on the single-family housing goals between 2010 and 2024.

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⁵⁰ AEI, “Reforming GSE Lending: A Sustainable Path for Fannie Mae and Freddie Mac White Paper,” (April 2025), available at <https://aei.org/wp-content/uploads/2025/04/FHFA-White-Paper-Reforming-GSE-Lending-A-Sustainable-Path-for-Fannie-Mae-and-Freddie-Mac-FINAL-2.pdf>.

⁵¹ See, e.g., John Meussner, MMCD, “Public Comment on FHFA 2025–2027 Proposed Housing Goals,” (August 26, 2024), available at <https://www.fhfa.gov/regulation/federal-register/proposed-rulemaking/2025-2027-enterprise-housing-goals>.

⁵² Presidential Memorandum “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis,” (January 20, 2025), 90 FR 8245 (Jan. 28, 2025), available at <https://www.federalregister.gov/documents/2025/01/28/2025-01904/delivering-emergency-price-relief-for-american-families-and-defeating-the-cost-of-living-crisis>.

Table 1—Enterprise Single-Family Housing Goals Performance (2010-2024)

Low-Income Home Purchase Goal															
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Actual Market	27.2	26.5	26.6	24.0	22.8	23.6	22.9	24.3	25.5	26.6	27.6	26.7	26.8	26.3	TBD
Benchmark	27.0	27.0	23.0	23.0	23.0	24.0	24.0	24.0	24.0	24.0	24.0	24.0	28.0	28.0	28.0
Fannie Mae Performance	25.1*	25.8*	25.6	23.8	23.5	23.5*	22.9	25.5	28.2	27.8	29.0	28.7	27.4	26.1+	26.7
Freddie Mac Performance	27.8	23.3*	24.4	21.8*	21.0*	22.3*	23.8	23.2*	25.8	27.4	28.5	27.4	29.0	28.5	26.6
Very Low-Income Home Purchase Goal															
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Actual Market	8.1	8.0	7.7	6.3	5.7	5.8	5.4	5.9	6.5	6.6	7.0	6.8	6.8	6.5	TBD
Benchmark	8.0	8.0	7.0	7.0	7.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	7.0	7.0	7.0
Fannie Mae Performance	7.2*	7.6*	7.3	6.0*	5.7	5.6*	5.2*	5.9	6.7	6.5	7.3	7.4	6.9	6.0+	5.9
Freddie Mac Performance	8.4	6.6*	7.1	5.5*	4.9*	5.4*	5.7	5.7*	6.3	6.8	6.9	6.3	7.1	6.8	6.1
Low-Income Areas Home Purchase Goal															
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Actual Market	24.0	22.0	23.2	22.1	22.1	19.8	19.7	21.5	22.6	22.9	22.4	19.1	28.0	28.1	TBD
Benchmark	24.0	24.0	20.0	21.0	18.0	19.0	17.0	18.0	18.0	19.0	18.0	14.0	20.0	20.0	19.0
Fannie Mae Performance	24.1	22.4	22.3	21.6	22.7	20.4	20.2	22.9	25.1	24.5	23.6	20.3	29.6	28.1	29.0
Freddie Mac Performance	23.8*	19.2*	20.6	20*	20.1	19.0	19.9	20.9	22.6	22.9	21.8	18.0	28.7	29.5	28.0
Low-Income Census Tracts Home Purchase Subgoal															
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Actual Market	-	-	-	-	-	-	-	-	-	-	-	-	9.7	9.8	TBD
Benchmark	-	-	-	-	-	-	-	-	-	-	-	-	4.0	4.0	4.0
Fannie Mae Performance	-	-	-	-	-	-	-	-	-	-	-	-	9.3	9.3	9.6
Freddie Mac Performance	-	-	-	-	-	-	-	-	-	-	-	-	9.1	9.4	9.2
Minority Census Tracts Home Purchase Subgoal															
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Actual Market	-	-	-	-	-	-	-	-	-	-	-	-	12.1	12.5	TBD
Benchmark	-	-	-	-	-	-	-	-	-	-	-	-	10.0	10.0	10.0
Fannie Mae Performance	-	-	-	-	-	-	-	-	-	-	-	-	13.5	12.6	13.0
Freddie Mac Performance	-	-	-	-	-	-	-	-	-	-	-	-	12.8	13.2	12.0
Low-Income Refinance Goal															
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Actual Market	20.2	21.5	22.3	24.3	25.0	22.5	19.8	25.4	30.7	24.0	21.0	26.1	37.3	40.3	TBD
Benchmark	21.0	21.0	20.0	20.0	20.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0	26.0	26.0	26.0
Fannie Mae Performance	20.9	23.1	21.8	24.3	26.5	22.1	19.5*	24.8	31.2	23.8	21.2	26.2	34.7	38.4	36.4
Freddie Mac Performance	22.0	23.4	22.4	24.1	26.4	22.8	21.0	24.8	27.3	22.4	19.7*	24.8	37.1	43.2	33.0

Note: 2024 data is preliminary.

**Numbers marked with an asterisk indicate that the Enterprise failed to meet the goal.*

+Numbers marked with a plus sign indicate that FHFA determined the goal to be infeasible.

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To better align the housing goals with the Agency's objectives, and to gain a more granular understanding of how Enterprise actions contribute to or

detract from this aim, FHFA believes that adjustments to the weighting of past performance is appropriate for some of the benchmarks. As described above, FHFA's review of past Enterprise tactics

used to achieve housing goals target indicates that some actions taken may have increased housing costs for some homebuyers. A key policy priority for the Agency is to reduce costs to

homeownership for all borrowers across all income brackets. FHFA is assessing both the Enterprises' performance in meeting the goals and the effectiveness of strategies used to complete the goals in order to inform the establishment of more precise and appropriately calibrated benchmark housing goals in future rulemakings that reduce homeownership costs for all borrowers.

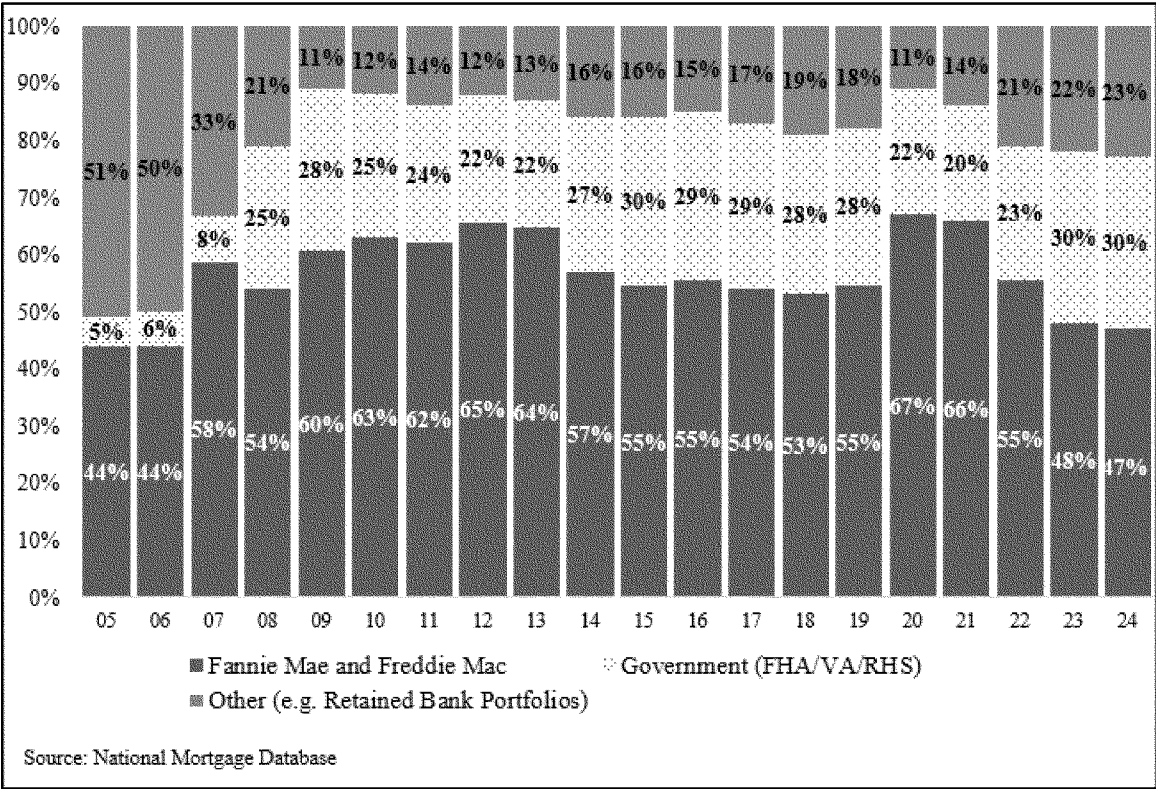
Ability of the Enterprises to lead the mortgage market. The Enterprises'

overall share of the mortgage market at origination is subject to fluctuation. In the years preceding the 2008 financial crisis, the Enterprises' share of the market dropped to about 44 percent. As shown in Graph 4, that share rose to about 65 percent in 2012, but declined to about 55 percent in 2015. The Enterprises' share remained relatively stable until 2019, then jumped to 67 percent in 2020 as the Enterprises continued to acquire mortgages even as

others in the market stepped back during the COVID-19 pandemic. Since then, the Enterprises' share has declined as the shares of government-guaranteed and government-insured loans, as well as the shares of other market participants, have grown. Government-guaranteed and government-insured loans are not eligible for housing goals credit.

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Graph 4: Shares of the Conforming Mortgage Market: New Originations



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Graph 4 also shows that the Enterprises' share of the conforming mortgage market returned to pre-pandemic levels in 2022 but declined significantly the following year, by seven percentage points in 2023. In 2024, the Enterprises' share continued to decline, dropping one percentage point from the previous year. Compared to pre-pandemic levels of 2019, the Enterprise share in 2024 was 8 percentage points lower. Over the same period, the total direct government share of the mortgage market (not including the Enterprises) and the Other share (such as retained bank portfolios) expanded. Government share of the mortgage market increased seven

percentage points from 2022 to 2023 and remained the same level in 2024.

It is neither efficient nor necessary for the Enterprises to serve the entire of the low- and moderate-income market. The market serving low- and moderate-income households is a distinct segment of the housing market, offering tailored mortgage products and programs to serve the credit needs of these borrowers. The federal government—through the Federal Housing Administration (FHA),⁵³ Rural Housing Service (RHS), and Veterans Administration (VA)—also provide mortgage products geared toward low-

⁵³ See HUD, "Let FHA Loans Help You," available at <https://www.hud.gov/helping-americans/loans>.

and moderate-income households.⁵⁴ For example, HUD reports that in FY 2024 about 32 percent of FHA-insured mortgages were issued to borrowers earning less than 80 percent of the Area Median Income, compared with 26 percent in the rest of the broader market.⁵⁵ In FY 2024, FHA served 766,942 forward mortgage borrowers, including 603,040 purchase mortgages.⁵⁶ Assuming, of the 603,040 purchase mortgages, a similar

⁵⁴ See VA, "Rural Housing Programs," available at <https://www.va.gov/HOMELESS/docs/Rural-Housing-Programs-Fact-Sheet.pdf>.

⁵⁵ See FHA Annual Report to Congress FY2024, available at <https://www.hud.gov/sites/dfiles/Housing/documents/2024FHAAnnualReportMMIFund.pdf>.

⁵⁶ *Ibid.*

percentage were to low-income borrowers, FHA insured home purchase mortgages to roughly 193,150 borrowers earning less than 80 percent of the AMI—roughly on par with the 189,247 low-income home purchases mortgages supported by Fannie Mae and the 200,757 low-income home purchase mortgages supported by Freddie Mac. According to the Veterans' Administration report, similarly, in FY 2024, 22 percent (65,949 purchase loans) of Veterans Administration insured loans were to borrowers with incomes of less than \$74,999.⁵⁷ That same year, 4,164 low- and very low-income borrowers received funding through the Section 502 Single Family Housing Direct Loan program under USDA's Rural Housing Programs.⁵⁸ For the USDA rural housing program, data provided by USDA shows an average loan size of \$102,154 for the most recent year with available data (2016), compared to an average conventional loan amount of \$256,000 for that same year.⁵⁹

State Housing Finance Agencies (HFAs) are state-chartered organizations that provide financing and services for affordable housing, generally targeted towards low- and moderate-income borrowers. HFAs can offer first-lien mortgage products and programs that include low down payment products, down payment assistance, flexible underwriting guidelines, and competitive or lower-than-market interest rates.⁶⁰ Certain HFA loans may be delivered to the Enterprises, while others may not meet the Enterprises'

charter act requirements or underwriting guidelines.⁶¹

Finally, many financial institutions elect to keep mortgage loans in their portfolios to meet their obligations under the Community Reinvestment Act (CRA). A core component of CRA evaluations is an assessment of a bank's record of providing credit to low- and moderate-income households, and first-lien mortgages directly contribute to this test.⁶² By originating and retaining these loans in their portfolio, financial institutions demonstrate their commitment to serving these communities.

As described above, the Enterprises are not the sole source of support for mortgage originations to low- and moderate-income households. Mortgage lenders offer a broad range of products and assess each individual borrower's circumstances to identify the best product. For affordable lending, lender considerations include strategies that ensure long-term affordability and borrower success. For an individual household, a conventional mortgage that is eligible to be purchased by the Enterprise may not always offer the best execution or product for their needs.⁶³ Loans held in portfolio for CRA purposes, and other non-Enterprise eligible loans may be a better fit based on a borrower's credit profile, down payment, and other factors. For example, a bank may offer a CRA product that provides a below-market interest rate, ensuring a more sustainable loan compared to the rates offered in the conventional market, or a household eligible for a Veterans Administration loan may wish to use a product with no down payment requirement.⁶⁴ Financial institutions serving low- to moderate-income borrowers may also seek liquidity through Federal Home Loan Bank advances to best meet affordability needs.

The Presidential Memorandum on Federal Housing Finance Reform issued by President Trump on March 27, 2019,⁶⁵ includes the following policy

objectives: (1) "increasing competition and participation of the private sector in the mortgage market;" and (2) "defining the GSEs' role in promoting affordable housing without duplicating support provided by the FHA or other Federal programs." Consistent with the policy objectives and the U.S. Treasury's Housing Reform Plan,⁶⁶ the Enterprises should provide support for low- and moderate-income households without crowding out or displacing other important sources of liquidity that may better serve these segments.

It is appropriate, therefore, that FHFA consider the potentially distortive impacts of the Enterprises on the market when determining their appropriate role in the low- and moderate-income segment. Benchmark levels that are set inappropriately high will likely result in the Enterprises increasing their relative market share of low-income borrowers, but, as discussed in the *Past performance and effort of the Enterprises to achieve the housing goals* section of this preamble, may reduce liquidity for middle-class borrowers and increase costs for all borrowers.

Further, unduly elevated housing goals may continue to inhibit the PLS market. The PLS market, which includes mortgage-backed securities not guaranteed by the Enterprises or the federal government, is a critical component of a diversified and resilient housing finance system.⁶⁷ As shown in Graph 4, the PLS market has not robustly returned following the 2008 financial crisis.⁶⁸ A diminished PLS market can stifle innovation in private sector underwriting, product development, and risk management. A small PLS market also limits the financing options for low-income borrowers who do not have the necessary credit for government-backed loans.⁶⁹

Further, if the most straightforward and least risky segments of the market

⁵⁷ See VA Annual Benefits Report FY2024, available at <https://www.benefits.va.gov/REPORTS/abr/docs/2024-abr.pdf#>.

⁵⁸ See Congressional Research Service, "USDA Rural Housing Programs: An Overview," (March 2022), available at <https://www.congress.gov/crs-product/R47044>; USDA's current low- and very low-income limits, "Rural Development Single Family Housing Guaranteed Loan Program," available at <https://www.rd.usda.gov/files/rd-grhlimitmap.pdf>; and Housing Assistance Council, "USDA Rural Development Housing Activity Report Fiscal Year 2024," available at <https://ruralhome.org/wp-content/uploads/2025/03/2024-usda-rural-development-housing-activity-report.pdf>.

⁵⁹ See USDA Rural Development Single Family Section 502 Direct Active Loans by County, available at http://www.sc.egov.usda.gov/data/files/SFH_Data/USDA%20Single%20Family%20Section%20502%20Direct%20Loans%20by%20County%20as%20of%207.8.2016.csv; and FHFA NMDB data base for new mortgages available at <https://www.fhfa.gov/data/dashboard/nmdb-new-residential-mortgage-statistics>.

⁶⁰ See FDIC, "Affordable Mortgage Lending Guide," available at <https://www.fdic.gov/resources/bankers/affordable-mortgage-lending-center/guide/part-2-docs/affordable-mortgage-lending-guide-part-2.pdf>.

⁶¹ See HFA Preferred, available at <https://singlefamily.fanniemae.com/media/8661/display>; and HFA Advantage, available at <https://sf.freddiemac.com/working-with-us/origination-underwriting/mortgage-products/hfa-advantage>.

⁶² See, generally, 12 CFR part 25.

⁶³ See FDIC, "Affordable Mortgage Lending Guide," (October 2021), available at <https://www.fdic.gov/affordable-mortgage-lending-center/affordable-mortgage-lending-guide>.

⁶⁴ See Veterans United, "VA Loan Downpayment Requirements," (January 2025), available at <https://www.veteransunited.com/realestate/why-va-loans-dont-require-a-down-payment/?msocid=17e9c459dfd169f939ecd1a3de5a6807>.

⁶⁵ See White House, Presidential Memorandum "Memorandum on Housing Finance Reform,"

(March 2019), available at <https://www.govinfo.gov/content/pkg/DCPD-201900181/pdf/DCPD-201900181.pdf>.

⁶⁶ Treasury, "U.S. Department of Treasury Housing Reform Plan," (September 2019), available at <https://home.treasury.gov/system/files/136/Treasury-Housing-Finance-Reform-Plan.pdf>.

⁶⁷ See Congressional Research Service, "An Overview of the Housing Finance System in the United States," (January 2017), available at <https://www.congress.gov/crs-product/R42995>.

⁶⁸ FHFA, Office of Inspector General Report, "FHFA's Initiative to Reduce the Enterprises' Dominant Position in the Housing Finance System by Raising Gradually their Guarantee Fees," (July 2013), available at <https://www.fhfaog.gov/Content/Files/EVL-2013-005.pdf>.

⁶⁹ Urban Institute, "The Rebirth of Securitization: Where is the Private Label Mortgage Market?" available at <https://mitsloan.mit.edu/sites/default/files/inline-files/GCFP-3rdConference-Goodman.pdf>.

are disproportionately absorbed by the Enterprises, private capital may be deterred from developing solutions for the remaining, potentially higher-risk, market niches, and FHA will be left with the riskiest loans. A comprehensive review of the mortgage risk of Enterprise, VA, PLS, and FHA loans from 1990 to 2019 found a history of the least risky loans being absorbed by the Enterprises,⁷⁰ and results from 2024 show that PLS, VA, and FHA loans continue to have higher rates of default compared to Enterprise loans.⁷¹ If elevated housing goals crowd out the PLS market, pushing risky loans to non-Enterprises, the result could leave private capital with a reduced incentive to innovate. Lowering the benchmarks may help support a vibrant PLS market which encourages diverse product offerings and risk solutions that may not be available through the GSEs or government programs.

Importantly, housing goals that are set too high may simply steer borrowers from other loan products, such as FHA loans, to conventional loans, rather than providing liquidity for new households. As defined in statute, the Enterprises have the objective of supporting financing for low- to moderate-income households, including ensuring the Enterprises promote access to mortgage capital throughout the Nation.⁷² However, this does not require the Enterprises to diminish the vital role of other market participants in a diversified secondary market ecosystem or engage in a “race to the bottom” competition between the two Enterprises. These outcomes ultimately diminish the benefit to underserved and middle-class borrowers. In such scenarios, the Enterprises may gain a disproportionate share of the existing market for certain loan types, rather than expand the universe of eligible borrowers or foster new, innovative lending solutions across the entire market. This can lead to a phenomenon where the benefits of housing goals accrue more to the Enterprises’ market presence than to a broader societal gain in housing accessibility.

Commenters on the proposed rule for the 2025–2027 housing goals expressed this concern about how high housing goals can shift borrowers away from

other loan products to conventional loans, thereby creating competition between the Enterprises, rather than increasing affordable housing supply. For example, the Mortgage Bankers Association (MBA) wrote, “While well intended . . . there is extreme competition for LIP and VLIP loans,” noting how there is a “tug of war effect,” over these loans that can “cause market disruption, mispricing of underlying risks, and potentially higher costs for nongovernment loans—i.e., cross-subsidization beyond the levels intended in the Enterprises’ pricing framework.”⁷³

Conversely, if housing goals are set too low, there is a risk of a decrease in liquidity and outreach to low- and moderate-income borrowers if market participants are not sufficiently incented to provide mortgage liquidity to these borrowers. However, there are several countervailing reasons why this is unlikely. First, both Enterprises have a statutory mandate to provide ongoing assistance for residential mortgages, including “housing for low- and moderate-income families.” This broad mission is enshrined in their charter acts and extends beyond the specifics of housing goals.⁷⁴ Second, lenders and the Enterprises are incented to deliver loans to low- and moderate-income borrowers due to the pay-ups (premiums) they command through spec pool trading.⁷⁵ Loans to low- and moderate-income borrowers exhibit more stable prepayment behavior and other desirable attributes for investors. Third, and finally, low- and moderate-income households represent a significant (and still profitable) proportion of the overall potential homebuying market.⁷⁶ It is not in the

Enterprises’ interest to cease purchases from this market because it would result in a substantial loss of business and market reach.

FHFA also looks to past performance to assess the likelihood that an Enterprise would cease or reduce liquidity to low- and moderate-income borrowers if the benchmarks were lowered. A review of performance in the 2018 and 2021 housing goals cycle finds that the Enterprises consistently delivered above the benchmark number.⁷⁷ When the benchmark was set higher, as in the 2022–2024 cycle, one or both Enterprises did not meet the benchmarks for low-income and very low-income purchase goals.⁷⁸ For 2025, FHFA lowered the benchmark and to date, both Enterprises are performing above the benchmark. Additionally, when FHFA lowered the single-family benchmarks for the 2012–2014 housing goals, Enterprise performance maintained a similar variance from the actual market to the period when the benchmarks were higher.⁷⁹ This pattern leads FHFA to conclude that the Enterprises would not pull back from providing liquidity if the goals were lowered.

For the reasons discussed above, FHFA believes that in some instances it is appropriate to set benchmarks that are lower than the market forecasts to encourage other secondary market outlets to participate in the market, and to avoid unnecessary and costly duplication of support. While the housing goals provide a quantitative framework for avoiding significant liquidity gaps in the market, the underlying business rationale, market dynamics, and the Enterprises’ foundational mission ensure a continued, strong incentive to provide liquidity to low- and moderate-income borrowers. Moreover, the presence of the goals, even at a lower level, ensures that the low- and moderate-income mortgage market continues to be served and recognizes the crucial role the Enterprises play in maintaining this stability.

⁷⁰ FHFA, “A Quarter Century of Mortgage Risk,” Figure 4, (February 2022 revised; January 2019 original), available at <https://www.fhfa.gov/document/wp1902.pdf>.

⁷¹ MBA, “Mortgage Delinquencies Increase in the Fourth Quarter of 2024,” (February 2025), available at <https://www.mba.org/news-and-research/newsroom/news/2025/02/06/mortgage-delinquencies-increase-in-the-fourth-quarter-of-2024>.

⁷² 12 U.S.C. 4501.

⁷³ MBA, Public Comment Letter on “FHFA 2025–2027 Proposed Housing Goals,” (October 28, 2024), available at https://www.fhfa.gov/sites/default/files/2024-10/FHFA_2025-2027_Housing_Goals_Final.pdf; LIP refers to low-income purchase mortgages and VLIP refers to very low-income purchase mortgages.

⁷⁴ See <https://www.govinfo.gov/content/pkg/USCODE-2023-title12/pdf/USCODE-2023-title12-chap11A.pdf> and <https://www.govinfo.gov/content/pkg/USCODE-2023-title12/pdf/USCODE-2023-title12-chap13-subchapIII.pdf>.

⁷⁵ A spec pool is an MBS where all loans in the pool meet a specified criteria at issuance, and these characteristics are known at the time of the trade. Investors generally invest in spec pools because of the prepayment characteristics of these pools. For a discussion of this issue in the context of low-loan balance spec pools, see Fannie Mae, “Low Balance Lending Economics: The Role of the Spec Pay-up,” (December 2023), available at <https://www.fanniemae.com/media/49786/display>.

⁷⁶ National Community Reinvestment Coalition, “Home Lending to LMI Borrowers and Communities by Banks Compared to Non-Banks,” (April 2019), available at <https://ncrc.org/home-lending-to-lmi-borrowers-and-communities-by-banks-compared-to-non-banks/>.

⁷⁷ FHFA, “[Affordable] Housing Goals Performance,” available at <https://www.fhfa.gov/programs/affordable-housing/housing-goals-performance>.

⁷⁸ FHFA, “Annual Housing Report 2024,” p. 33, (October 2024), available at <https://www.fhfa.gov/document/annual-housing-report-2024>.

⁷⁹ FHFA, “[Affordable] Housing Goals Performance,” available at <https://www.fhfa.gov/programs/affordable-housing/housing-goals-performance>.

⁸⁰ Since the Housing Goals market performance level includes loans purchased by Fannie Mae and Freddie Mac, in periods where the Enterprises had a high market share, their purchase activities could influence the overall market level.

In previous Enterprise Housing Goals rules, the Agency's assessment of the Enterprises' ability to lead the mortgage market has primarily focused on their direct contributions to providing liquidity to low- and moderate-income borrowers. This approach historically placed less explicit emphasis on the broader market's composition, including the vital roles and activities of other federal housing programs, such as FHA, and of the PLS market, as well as lender decisions regarding their portfolio. While acknowledging the interconnectedness of the overall housing finance system, prior regulations were structured to primarily address the Enterprises' activities. Prior FHFA housing goal regulations often lacked a detailed consideration of potential overlaps or synergistic effects with other market participants.

However, recent policy priorities and market conditions necessitate a more holistic view. The Agency is now placing a significant policy focus on ensuring that Enterprise subsidies are deployed efficiently, minimizing unnecessary and costly duplication of efforts within the government share of the mortgage market. Additionally, the Agency will undertake a critical examination of how the Enterprises' activities intersect with, impact, and compete with FHA's mission, the health of the PLS market, and financial institutions' obligations under the Community Reinvestment Act. Furthermore, the Agency is aligning its approach with Treasury's recommendations regarding the appropriate roles and potential overlap between the Enterprises and FHA, with the goal of creating a more streamlined and effective housing finance system. Therefore, the Agency's analysis and weighting of the Enterprises' ability to lead the market will consider the Enterprises' role within the entire mortgage market, seeking to optimize resource allocation and ensure that each segment of the market efficiently serves its intended purpose without undue competition or inefficiency.

Need to maintain the sound financial condition of the Enterprises. A key factor guiding FHFA in setting the benchmark levels for the housing goals is FHFA's statutory mandate and critical policy objective to maintain the sound financial condition of the Enterprises. FHFA is reevaluating the housing goals to prioritize Enterprise safety and soundness, ensure adequate capital accumulation, and promote efficient deployment of Enterprise resources. This rulemaking occurs during a period of heightened housing affordability challenges and increased market

uncertainty. FHFA carefully considered benchmark levels that represent a balanced approach to supporting access for low- and moderate-income families, and those living in low-income areas, while supporting the Enterprises' financial stability and overall market integrity.

The Housing and Economic Recovery Act (HERA) of 2008 mandates that Fannie Mae and Freddie Mac operate in a "safe and sound manner, including maintenance of adequate capital and internal controls."⁸¹ FHFA's unwavering policy priority is to ensure that the Enterprises accumulate statutorily required capital, mitigate risk exposures, and adjust financial strategies to ensure their long-term stability.

Despite this statutory requirement, the Enterprises continue to face significant capital shortfalls. As noted in FHFA's 2024 Annual Report to Congress, while their capital positions have improved since the 2008 financial crisis, they have not yet accumulated the statutorily required capital.⁸² At the end of 2024, both Fannie Mae and Freddie Mac failed to meet the minimum regulatory capital requirements established under the Enterprise Regulatory Capital Framework (ERCF).⁸³ Their continued reliance on government support through the Senior Preferred Stock Purchase Agreements (PSPAs) with Treasury, evidenced by accumulated deficits and negative retained earnings, underscores their ongoing capital needs.⁸⁴ Specifically, as of December 2024, Fannie Mae's statutory capital shortfall was \$157 billion, with a total regulatory shortfall of \$164 billion (\$243 billion when including regulatory capital buffers).⁸⁵ For Freddie Mac, the statutory capital shortfall stood at \$108 billion, with a total regulatory capital shortfall of \$107 billion (\$164 billion when including regulatory capital buffers).⁸⁶

⁸¹ HERA, Public Law 110–289, title I, subtitle A, sec. 1102(a), 122 Stat 2664 (12 U.S.C. 4513(a)(1)(B)(i)), (2008), available at <https://www.congress.gov/110/plaws/publ289/PLAW-110publ289.pdf>.

⁸² 2024 Annual Report to Congress, (June 2025), p. 15, available at <https://www.fhfa.gov/document/fhfa-2024-annual-report-to-congress.pdf>.

⁸³ Fannie Mae, available at <https://www.fanniemae.com/media/document/pdf/fnma-capital-disclosures-2024q4-022625.pdf>; and Freddie Mac, available at https://www.freddiemac.com/investors/docs/4Q24_ERCF_Public_Disclosure.pdf.

⁸⁴ 2024 Annual Report to Congress, (June 2025), p. 15, available at <https://www.fhfa.gov/document/fhfa-2024-annual-report-to-congress.pdf>.

⁸⁵ U.S. Securities and Exchange Commission Form 10–k, 2024, Fannie Mae, p. 125, available at <https://www.fanniemae.com/media/document/pdf/q42024.pdf>.

⁸⁶ U.S. Securities and Exchange Commission Form 10–k, 2024, Freddie Mac, p. 93, available at

These shortfalls underscore why the Enterprises must make safety and soundness their primary focus, considering their size and role in the housing market. The Enterprises' profitability, crucial for organic capital generation, depends heavily on the credit risk associated with guarantee fees. However, the Enterprises often expect lower returns on mortgage loans for low- and moderate-income families.⁸⁷ A study conducted by Fannie Mae in 2017 on "The Credit Risk of Low-Income Mortgages" describes how several risk factors, such as debt-to-income ratios, loan-to-value ratios, and credit scores can vary significantly across income groups, with loans to lower-income borrowers exhibiting higher risk profiles. The data illustrates that default rates for mortgages are higher when borrower income declines, reinforcing the need to carefully balance support for low- and moderate-income families with safety and soundness concerns.⁸⁸

Given the current economic climate characterized by elevated mortgage rates, reduced transaction volume, and affordability concerns, as well as the Enterprises' current capital shortfalls, the Agency must reweight its policy priorities to emphasize the need to maintain the sound financial condition of the Enterprises. In prior housing goal rulemakings, FHFA has given less weight to safety and soundness considerations than it has to other considerations. In today's climate, reduced loan origination volumes, elevated interest rates, and economic uncertainty may make it harder for the Enterprises to generate sufficient retained earnings to meet ERCF requirements if benchmark levels are not reduced since housing goals loans generally earn a lower return relative to non-housing goals loans, harming their financial resiliency and independence. A strategic shift to weighing safety and soundness more heavily is necessary to continue to maintain sound financial positioning. Prioritizing full recapitalization and then maintaining sufficient capital reserves will be critical to fulfilling their statutory obligations and preserving their ability to support

https://www.freddiemac.com/investors/financials/pdf/10k_021325.pdf.

⁸⁷ FHFA, "Fannie Mae and Freddie Mac Single-Family Guarantee Fees in 2023," (January 2025), p. 8, available at <https://www.fhfa.gov/document/gfee-report-2023.pdf>.

⁸⁸ Hamilton Fout, Grace Li, Mark Palim, "Credit Risk of Low Income Mortgages, Economic and Strategic Research, Fannie Mae," (May 2017), p. 7, available at <https://www.fanniemae.com/sites/g/files/kogqhd191/files/migrated-files/resources/file/research/datanotes/pdf/credit-risk-of-low-income-mortgages-white-paper.pdf>.

the entire housing market sustainably while adhering to HERA requirements for financial stability.

During a period of affordability challenges and uncertainty around market conditions,^{89 90} setting the single-family housing goals benchmark levels too high could compromise safe and sound acquisition standards. Failure to appropriately account for important risk management considerations, such as the need to maintain sound financial conditions and meet minimum regulatory capital requirements could lead to unintended consequences, including persistent capital shortfalls. The proposed benchmarks levels are designed to

support access to mortgage lending for low- and moderate-income families while concurrently enabling the Enterprises to adequately support all other segments of the market fairly and fortify their financial foundations.

B. Proposed Benchmark Levels for the Single-Family Housing Goals for 2026–2028

FHFA is proposing to establish the following benchmark levels for the single-family housing goals for 2026–2028:

1. Low-Income Home Purchase Goal

The low-income home purchase goal is based on the percentage share of all

conventional, conforming, single-family, owner-occupied home purchase mortgages purchased by an Enterprise that are made to low-income families, defined as families with incomes less than or equal to 80 percent of AMI. FHFA proposes setting the low-income home purchase benchmark at 21.0 percent. Lowering the benchmark is necessary to ensure the Enterprises’ participation remains effective, avoids distorting the market and competing unnecessarily with other secondary market participants, and supports a policy objective of reducing overall housing costs for all borrowers.

Table 2—Single-Family Low-Income Home Purchase Goal

Year	Historical Performance				2025	2026	2027	2028
	2021	2022	2023	2024				
Actual Market	26.7%	26.8%	26.3%					
Benchmark	24.0%	28.0%	28.0%	28.0%	25.0%	21.0%	21.0%	21.0%
Fannie Mae Performance								
Low-Income Home Purchase Mortgages	375,569	278,799	189,439	189,247				
Total Home Purchase Mortgages	1,306,459	1,016,371	726,139	710,076				
Low-Income % of Home Purchase Mortgages	28.7%	27.4%	26.1%	26.7%				
Freddie Mac Performance								
Low-Income Home Purchase Mortgages	329,426	264,118	209,432	200,757				
Total Home Purchase Mortgages	1,201,540	911,037	735,932	753,338				
Low-Income % of Home Purchase Mortgages	27.4%	29.0%	28.5%	26.6%				

Recent performance and forecasts. As presented in Table 2, the low-income home purchase market level, derived from HMDA data, declined from 27.6 percent in 2020 to 26.3 percent in 2023. FHFA’s most recent forecast for this goal projects a continued market level decline, averaging 25.9 ± 5.6 percent. FHFA’s current model forecasts the market level to remain below 26.0 percent through 2027, with an average forecast midpoint value of 25.9 percent.

Regarding Enterprise performance, Freddie Mac recorded a low-income home purchase performance of 29.0 percent in 2022 and 28.5 percent in 2023, exceeding both the benchmark

and market levels in those years. Fannie Mae’s performance in 2022 was 27.4 percent, which was below the benchmark level but above the market level. In 2023, however, Fannie Mae’s performance decreased to 26.1 percent, falling below both the benchmark and the market levels. For 2023, FHFA determined that while Fannie Mae did not meet the goal, the established benchmark was not feasible for the Enterprise.⁹¹ Preliminary performance for 2024 indicates Fannie Mae at 26.7 percent and Freddie Mac at 26.6 percent. FHFA will issue its preliminary and final determinations on this goal when HMDA data becomes available.

FHFA rationale for the proposed benchmark. FHFA’s holistic review of Enterprise pricing factors, coupled with a policy objective to facilitate lower housing costs for all borrowers and to ensure efficient deployment of Enterprise subsidy, supports a reduction in this goal’s benchmark. It is imperative for the Enterprises to remain active participants within this market segment; however, FHFA must ensure that the established benchmark does not create distortive incentives or unintended consequences within the housing finance system.

As discussed previously in this preamble, feedback from lenders and

⁸⁹ See evidence of uncertainty in mortgage conditions: Bank of America, “BoFA Report: 60% of Homeowners and Prospective Buyers Uncertain About the Housing Market—A Three-Year High,” (May 2025), available at <https://newsroom.bankofamerica.com/content/newsroom/press-releases/2025/05/bofa-report--60--of-homeowners-and-prospective-buyers-uncertain.html>. Joint Center for Housing Studies, “New Report Highlights Unease in Housing Market Amid a Worsening Affordability Crisis,” (June 2025), available at <https://www.jchs.harvard.edu/press-releases/new-report-highlights-unease-housing-market-amid-worsening-affordability-crisis>. Goodness C. Aye, Matthew W. Clance, Rangan Gupta, “The Effect of Economic Uncertainty on the Housing Market Cycle,” (2019), available at <https://www.jstor.org/stable/26742376?seq=1>.

⁹⁰ See uncertainty in general market conditions: UNDP, “Global Train Update (September 2025): Trade Policy Uncertainty Looms Over Global Markets,” available at <https://unctad.org/>

publication/global-trade-update-september-2025-trade-policy-uncertainty-looms-over-global-markets. McKinsey & Co, “Economic Conditions Outlook, June 2025,” (June 2025), available at <https://www.mckinsey.com/capabilities/strategy-and-corporate-finance/our-insights/economic-conditions-outlook>.

⁹¹ FHFA’s final determination of Fannie Mae’s performance for 2023, available at <https://www.fhfa.gov/sites/default/files/2024-11/2023-Final-Determination-Letter-Fannie-Mae.pdf>.

other market participants has indicated that, under the previous benchmark level, the Enterprises employed various pricing incentives and other competitive tactics to increase goals-eligible loan delivery, or decrease non-goals-eligible loan delivery, particularly for low-income and very low-income loans. This competition extended not only between the Enterprises themselves, but also with the government share of the mortgage market and private market participants. This dynamic raised concerns about unnecessary and costly duplication of support. Resources that could have been more efficiently deployed to ensure sustainability and access for low- and moderate-income borrowers through down payment or closing cost assistance, or towards building accretive capital for the Enterprises were instead used to pursue a comparatively limited pool of loans, potentially at the expense of the wider market.

FHFA finds that the current benchmark of 25.0 percent is inconsistent with the current Administration's policy focus of ensuring efficiency in operations and minimizing duplication of efforts across the secondary mortgage market. FHFA

believes that lowering the benchmark to 21.0 percent will better align with these objectives. This proposal to reduce the benchmark from 25.0 percent to 21.0 percent is further supported by the lower threshold of the model output, indicating that 21.0 percent remains within the model's projected range for an achievable goal that is commensurate with the Enterprises' size and role in the market. The revised benchmark is anticipated to enable the Enterprises to meet their statutory obligations without distorting market dynamics or creating unintended incentives.

Moreover, while the 21.0 percent benchmark remains a significant component of the Enterprises' overall book of business, its reduction would offer several strategic advantages. Other market participants, including FHA, VA, RHS, and potentially PLS lenders, would be able to provide alternative funding without contributing to artificially bidding up prices within this segment since the Enterprises would not be incented to engage in denominator management activities described above. This can facilitate the flow of more loans, thereby bolstering their portfolios and diversifying market support. By reducing the Enterprises' tendency to

"crowd out" this space, FHFA explicitly aims to avoid unnecessary overlap with FHA's core mission and foster a more efficient allocation of capital across the housing finance system. Finally, a reduction in the benchmark may enable the Enterprises to build additional capital at an accelerated rate, consequently improving their safety and soundness.

2. Very Low-Income Home Purchase Goal

The very low-income home purchase goal is based on the percentage share of all conventional, conforming, single-family, owner-occupied home purchase mortgages purchased by an Enterprise that are for very low-income families, defined as families with incomes less than or equal to 50 percent of AMI. FHFA proposes setting the very low-income home purchase benchmark at 3.5 percent. Like the low-income home purchase goal, lowering the benchmark will ensure the Enterprises effectively support very low-income borrowers, while preventing market distortions and redundant efforts, all while advancing FHFA's policy of lower housing costs for all borrowers.

Table 3—Single-Family Very Low-Income Home Purchase Goal

	Historical Performance							
Year	2021	2022	2023	2024	2025	2026	2027	2028
Actual Market	6.8%	6.8%	6.5%					
Benchmark	6.0%	7.0%	7.0%	7.0%	6.0%	3.5%	3.5%	3.5%
Fannie Mae Performance								
Very Low-Income Home Purchase Mortgages	97,154	69,919	43,792	41,783				
Total Home Purchase Mortgages	1,306,459	1,016,371	726,139	710,076				
Very Low-Income % of Home Purchase Mortgages	7.4%	6.9%	6.0%	5.9%				
Freddie Mac Performance								
Very Low-Income Home Purchase Mortgages	75,945	64,850	50,244	46,055				
Total Home Purchase Mortgages	1,201,540	911,037	735,932	753,338				
Very Low-Income % of Home Purchase Mortgages	6.3%	7.1%	6.8%	6.1%				

Recent performance and forecasts. As detailed in Table 3, the very low-income home purchase market level, derived from HMDA data, decreased from 7.0 percent in 2020 to 6.5 percent in 2023. FHFA's most recent forecast projects a continued market level decline, averaging 6.0 ± 2.5 percent. FHFA's current model forecasts the market to continue its downward trajectory reaching below 6 percent through 2027, with an average forecast midpoint value of 5.9 percent.

Regarding the Enterprises, Freddie Mac's performance was 7.1 percent in 2022, exceeding both the benchmark and the market. In 2023, Freddie Mac's performance was 6.8 percent, which was above the market, but below the benchmark. Fannie Mae's performance was 6.9 percent in 2022, exceeding the market, but below the benchmark. In 2023, Fannie Mae's performance was 6.0 percent, which was below both the market and the benchmark. Preliminary 2024 performance shows Fannie Mae at

5.9 percent and Freddie Mac at 6.1 percent, both of which are below the benchmark. FHFA will issue final determinations later this year when HMDA data is released.

The observed decline is largely attributable to a constrained housing supply within the very low-income borrower purchase market. Sustained house price appreciation has reduced the inventory of homes affordable to

very low-income borrowers.⁹² Concurrently, new construction of starter homes remains insufficient to meet consumer demand.⁹³ This deficit in the supply of new homes is compounded by current economic incentives within the construction sector. Builders are drawn to developing properties at the higher end of the market due to more substantial profit margins. The increase in the cost of land acquisition,⁹⁴ construction materials,⁹⁵ lack of skilled labor, and regulatory barriers has compressed profit margins on starter homes significantly, thereby hindering the addition of new, affordable supply to the market.

FHFA rationale for proposed benchmark. FHFA is proposing a benchmark level of 3.5 percent for the very low-income home purchase goal for the 2026–2028 cycle based on a comprehensive review of the Enterprises’ actions and tactics to achieve goal benchmarks and FHFA’s policy objectives to facilitate lower housing costs for all borrowers, particularly by avoiding distortive incentives and ensuring efficient deployment of Enterprise subsidy. This proposed benchmark is appropriate,

⁹² NY Times, “Whatever Happened to the Starter Home?” (September 2022), available at <https://www.nytimes.com/2022/09/25/upshot/starter-home-prices.html>.

⁹³ National Association of Realtors, “Housing Affordability & Supply: Rising Inventory, But for Whom? A Look at Inventory Gaps by Price Range and Income Levels in 2025,” (May 2025), available at <https://www.nar.realtor/sites/default/files/2025-05/2025-housing-affordability-and-supply-05-15-2025.pdf>.

⁹⁴ Joint Center for Housing Studies, Housing Perspectives, “Increasing Land Prices Make Housing Less Affordable,” (July 2019), available at <https://www.jchs.harvard.edu/blog/increasing-land-prices-make-housing-less-affordable>.

⁹⁵ National Association of Home Builders, “How Soaring Prices for Building Materials Impact Housing,” (July 2024), available at <https://www.nahb.org/blog/2024/07/how-soaring-prices-building-materials-impact-housing>.

reasonable, and consistent with the prudential risk management of the Enterprises’ respective portfolios.

Similar to the rationale for the low-income home purchase goal, a reduction in the very low-income purchase goal compared to current levels offers significant benefits for both the Enterprises and the broader mortgage market. For the very low-income goal, in particular, FHFA has received lender feedback since publication of the 2025–2027 final rule indicating that the benchmark is unattainable due to the severe insufficiency of affordable housing supply. The cumulative effect of sustained house price appreciation, elevated interest rates, and persistent demand coupled with a lack of affordable housing supply over recent years has significantly constrained this market segment. Discussions with lenders indicate a strategic reallocation of resources away from pursuing goal-eligible loans towards higher-margin products in an effort to remain in business, further underscoring the market’s current capacity constraints in this segment.

FHFA believes that the current benchmark of 6 percent, established in the 2025–2027 Enterprise Housing Goals final rule, does not fully align with the current Administration’s policy focus of ensuring operational efficiency and minimizing duplication of efforts across the secondary mortgage market. The proposed 3.5 percent benchmark remains within the tolerance band of FHFA’s model, indicating that it is an achievable goal that is commensurate with the Enterprises’ size and role in the market. Further, it encourages the Enterprises to continue their efforts to promote safe and sustainable lending to very low-income families without creating undue market pressure. By setting the benchmark at 3.5 percent, the Enterprises can ensure that liquidity for

middle-class borrowers is not constrained, while also improving their own sound financial condition.

The Agency also recognizes that very low-income borrowers are often better served by other market participants, such as FHA or HFAs, which can offer more flexible products and underwriting. By setting a more appropriate benchmark, the Enterprises will no longer create as great an adverse competitive pressure in the market for these loans. Instead, they will provide a complementary level of support without overwhelming or distorting the broader market. In sum, FHFA believes that a benchmark of 3.5 percent is appropriate, offering a stronger emphasis on maintaining the Enterprises’ sound financial condition, avoiding the displacement of potentially innovative market participants, and more effectively serving a wide range of borrowers, reflecting a prudent balance between mission achievement, market dynamics, and safety and soundness.

3. Low-Income Areas Home Purchase Subgoal

The proposed rule would establish a single low-income areas home purchase subgoal, rather than two separate area-based subgoals, each with their own benchmark level. The proposed subgoal would count all single-family, owner-occupied home purchase mortgages purchased that are either: (1) for families in low-income areas, defined to include census tracts with median income less than or equal to 80 percent of AMI; or (2) for families with incomes less than or equal to AMI who reside in minority census tracts (defined as census tracts with a minority population of at least 30 percent and a tract median income of less than 100 percent of AMI). The proposed rule would set the annual benchmark level for this subgoal for 2026–2028 at 16.0 percent.

Table 4—Single-Family Low-Income Areas Home Purchase Subgoal

Year	Historical Performance							
	2021	2022	2023	2024	2025	2026	2027	2028
Actual Market	19.1%	21.8%	22.1%					
Benchmark	14.0%	N/A	N/A	N/A	N/A	16.0%	16.0%	16.0%
Fannie Mac Performance								
Minority Census Tracts Home Purchase Mortgages	143,340	137,474	91,202	92,060				
Low-Income Census Tracts Home Purchase Mortgages	122,177	94,864	67,844	68,370				
Low-Income Areas Subgoal Home Purchase Mortgages	265,517	232,338	159,046	160,430				
Total Home Purchase Mortgages	1,306,459	1,016,371	726,139	710,076				
Low-Income Area Subgoal % of Home Purchase Mortgages	20.3%	22.9%	21.9%	22.6%				
Freddie Mac Performance								
Minority Census Tracts Home Purchase Mortgages	111,691	116,223	97,378	90,754				
Low-Income Census Tracts Home Purchase Mortgages	104,401	82,883	69,459	69,438				
Low-Income Areas Subgoal Home Purchase Mortgages	216,092	199,106	166,837	160,192				
Total Home Purchase Mortgages	1,201,540	911,037	735,932	753,338				
Low-Income Area Subgoal % of Home Purchase Mortgages	18.0%	21.9%	22.7%	21.3%				

The numbers in italics refer to FHFA's tabulations of the market and Enterprise performance had this subgoal been in place from 2022-2024.

Recent performance and forecasts.

Table 4 shows the market levels and Enterprise performance on this subgoal in 2021, along with implied market levels and Enterprise performance for the years 2022 through 2024, during which the low income areas subgoal was replaced by the low-income census tracts and minority census tracts subgoals. As shown above, both Enterprises exceeded the proposed benchmark level for this subgoal in 2022, 2023, and, based on preliminary data, in 2024.

FHFA rationale for the proposed benchmark: In 2010, FHFA established a low-income areas housing subgoal as a component of the overall low-income areas housing goal.⁹⁶ Both the low-income areas housing goal and subgoal were established as part of FHFA's implementation of the new housing goals structure created by Congress in the Housing and Economic Recovery Act of 2008.⁹⁷ HERA amended the Safety and Soundness Act to include a new single-family housing goal for "low-income areas," which were defined to include census tracts where the median tract income does not

exceed 80 percent of the areas median income, as well as moderate-income families in minority census tracts and moderate-income families in designated disaster areas. Because the areas of the country affected by disasters change each year, it was necessary to structure the overall low-income areas housing goal in a way that would allow the target level to be adjusted by notice each year. FHFA established the low-income areas housing subgoal as including the other two components of the goal, to facilitate the setting of the overall low-income areas housing goal.

The 2022–2024 Enterprise Housing Goal rule replaced the low-income areas housing subgoal that had been in place each year since 2010 with a new structure for the low-income areas goal. The 2022–2024 Enterprise Housing Goals rule established two new area-based subgoals: the minority census tracts subgoal and the low-income census tract subgoals. The minority census tracts subgoal assesses the Enterprises' performance in minority areas with respect to loans for families with incomes no greater than 100 percent of AMI. The low-income census tracts subgoal assesses the Enterprises' performance in low-income census tracts, exclusive of loans that would qualify for the minority census tracts subgoal. In other words, the low-income census tracts subgoal is limited to: (1) loans in low-income census tracts that are not minority census tracts, and (2) loans to borrowers above 100 percent of

AMI in low-income census tracts that are also minority census tracts.

FHFA adopted the two-part subgoal structure, with separate subgoals for low-income census tracts and minority census tracts, to "refocus Enterprise efforts towards . . . families at or below 100 percent of AMI."⁹⁸ FHFA had observed that many goal-qualifying loans purchased by the Enterprises were for higher income families (over 100 percent of AMI) rather than for families at or below 100 percent of AMI. At the time, FHFA was concerned that the single subgoal structure incentivized the Enterprises to lend to higher-income households in low-income census tracts. FHFA also cited concerns about gentrification and displacement of lower-income borrowers as part of its rationale for setting a relatively low benchmark level for the low-income census tracts subgoal compared to historical performance and market levels.

FHFA is proposing to restore the single low-income areas subgoal to simplify the regulatory framework, improve operational clarity for the regulated Enterprises, and better align subgoals with existing borrower-based metrics. After consideration of implementation challenges related to the current subgoal structure, overlap of

⁹⁶ "2010–2011 Enterprise Housing Goals; Enterprise Book-entry Procedures" (Final Rule), 75 FR 55892 (Sept. 14, 2010), available at <https://www.federalregister.gov/documents/2010/09/14/2010-22361/2010-2011-enterprise-housing-goals-enterprise-book-entry-procedures>.

⁹⁷ HERA, Public Law 110–289, 122 Stat. 2654 (2008), available at <https://www.congress.gov/110/plaws/publ289/PLAW-110publ289.pdf>.

⁹⁸ "2025–2027 Enterprise Housing Goals," (Proposed Rule), 89 FR 70127, 70138 (Aug. 29, 2024), available at <https://www.federalregister.gov/documents/2024/08/29/2024-19261/2025-2027-enterprise-housing-goals>.

the subgoals with existing low-income borrower goals, and broader policy objectives to promote socioeconomic diversity and attract private investment to distressed communities, FHFA concludes that returning to the single low-income areas subgoal will further FHFA's policy objectives while reducing complexity and unintended consequences.

The proposed elimination of the two-part subgoal structure advances Administration priorities for regulatory reform by reducing needless complexity and focusing the Enterprises' affordable housing targets on a single low-income areas subgoal. The current structure of the low-income areas goal includes two separate subgoals, each with mutually exclusive definitions for qualifying loans that require distinct quantitative computation, tracking, and analysis for FHFA and the regulated entities. Removing the current subgoal structure and replacing with the low-income area's goal definition that applied from 2010 through 2021 is consistent with the Agency's objectives and with Administration policy. Executive Order 14192 calls for agencies to be "prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens."⁹⁹ By switching to one simplified definition of a low-income area that aligns with statutory objectives, the Agency reduces compliance costs, increases efficiency, and reduces regulatory burden.

The two-part subgoal structure also imposed modeling and compliance challenges to the Enterprises that made it difficult to operationalize the minority areas subgoal. Under the two-subgoal approach, the Enterprises must develop and maintain models that accurately identify qualifying census tracts, incorporate frequently updated geographic and demographic inputs, and apply differing eligibility rules across multiple subgoals—tasks that increase implementation complexity, raise model risk, and divert resources from mission-oriented financing. Since publication of the 2025–2027 final rule, FHFA has become aware of operational challenges encountered by the Enterprises in accurately forecasting lending within minority census tracts. For example, the Enterprises have noted the difficulty in obtaining real-time metrics on the size of the market due to the timing of the HMDA data release,

the availability of macroeconomic data at the census tracts level, and the lack of technology infrastructure available to lenders to help target and deliver the loans.¹⁰⁰ The Agency seeks to prevent the Enterprises from engaging in practices that could lead to an artificial increase in lending within this market segment solely to overcome forecasting uncertainties to meet the elevated benchmark level. These practices include distortive pricing and inefficient use of subsidy. Eliminating these subgoals returns the Enterprises to a simpler, more predictable framework that better supports underwriting, targeted investment, efficient deployment of pricing incentives, and consistent reporting.

Empirical analysis and program experience indicate substantial overlap between beneficiaries captured by the minority area subgoal and those already reached through the low-income borrower goals. Approximately 70 percent of minority census tracts subgoal loans otherwise qualify for the low-income purchase goal metrics. Maintaining the two-part subgoal structure therefore produces limited incremental benefit relative to the added complexity. The proposed low-income areas subgoal maintains the statutory focus on families that reside in low-income areas, including minority census tracts and designated disaster areas. The Agency acknowledges that in 2022, there was a noticeable increase in both the market level and the Enterprises' performance. While this increase could be attributed to Enterprise efforts at achieving the housing goal benchmark, several other factors may also explain this material change. For example, 2022 marked the implementation of new census boundaries derived from the 2020 Census, which included a substantial increase in minority census tracts.¹⁰² Concurrently, 2022 also saw an unusually high average AMI increase, which led to more borrowers qualifying for the subgoal.¹⁰³ Another factor that may have contributed to increased Enterprise performance in this

loan segment is a potential shift of loans from other entities that previously served these borrowers before 2022, rather than serving new borrowers or providing liquidity to areas that needed it. As noted in the 2025–2027 Enterprise Housing Goals final rule, isolating the precise driver of this increase—specifically, distinguishing between the Enterprises' efforts to meet the subgoal and the impact of external factors—was challenging. The new census tract boundaries and unusually high AMI increases, for instance, may have independently led to more borrowers qualifying for this subgoal.¹⁰⁴ Therefore, FHFA finds that this high performance does not justify maintaining the 2025–2027 minority census tract and low-income census tract subgoal structure.

FHFA further acknowledges that gentrification and displacement are real concerns when financing activity increases in low-income neighborhoods. These potential harms merit consideration and monitoring. Researchers note that gentrification since the 1970s impacts a targeted set of central cities on the eastern and western coasts.¹⁰⁵ However, the National Community Reinvestment Coalition reported in May 2025 that only about 15 percent of urban neighborhoods showed signs of gentrification in the fifty-year time window of 1970–2020.¹⁰⁶ Increasingly, studies have found evidence that vulnerable, low-income Americans leave gentrified neighborhoods at similar rates then they leave non-gentrified neighborhoods.¹⁰⁷

¹⁰⁴ *Ibid.*

¹⁰⁵ Institute on Metropolitan Opportunity, "Executive Summary: American Neighborhood Change in the 21st Century," (April 2019), available at https://law.umn.edu/sites/law.umn.edu/files/metro-files/american_neighborhood_change_in_the_21st_century_-_executive_summary_-_4-2-2019.pdf; and National Community Reinvestment Coalition, "Displaced by Design: Fifty Years of Gentrification and Black Cultural Displacement in US Cities," available at <https://ncrc.org/displaced-by-design/#gen>.

¹⁰⁶ National Community Reinvestment Coalition, "Displaced by Design: Fifty Years of Gentrification and Black Cultural Displacement in US Cities," (May 2025), available at <https://ncrc.org/displaced-by-design/#gen>.

¹⁰⁷ HUD, "Displacement of Lower-Income Families in Urban Areas Report," (May 2018), available at <https://www.huduser.gov/portal/sites/default/files/pdf/DisplacementReport.pdf>; T. McKinnish, R. Walsh, T.K. White, "Who gentrifies low-income neighborhoods?" *J. Urban Econ.*, 67 (2) (2010), pp. 180–193, available at <https://www.sciencedirect.com/science/article/pii/S0094119009000588?via%3Dihub>; Jacob L. Vigdor, Douglas S. Massey, Alice M. Rivlin, "Does Gentrification Harm the Poor? [with Comments]," *Brookings-Wharton Papers on Urban Affairs* (2002), pp. 133–173 available at <https://www.jstor.org/stable/25067387?seq=1>; "Gentrification and displacement: New York City in the 1990s," *J. Am. Plann. Assoc.*, 70 (1) (2004), pp. 39–52; and "Displacement or succession? Residential mobility

⁹⁹ Executive Order 14192 "Unleashing Prosperity Through Deregulation," section 2, (January 31, 2025), 90 FR 9065 (Feb. 6, 2025), available at <https://www.federalregister.gov/documents/2025/02/06/2025-02345/unleashing-prosperity-through-deregulation>.

¹⁰⁰ Freddie Mac, "Proposed Rulemaking on 2025–2027 Enterprise Housing Goals—Comments/RIN 2590–AB34 (Enterprise Housing Goals)," (October 28, 2024), available at: https://www.fhfa.gov/sites/default/files/2024-10/FreddieMacCommentsRIN2590-AB34_2025-2027EHG_2024.pdf.

¹⁰¹ Fannie Mae, "Notice of Proposed Rule and Request for Public Comment concerning the 2025–2027 Enterprise Housing Goals, RIN 2590–AB34," (October 25, 2024), available at: <https://www.fhfa.gov/sites/default/files/2024-10/FNMACommentLetteron20252027HousingGoalsNPROct252024.pdf>.

¹⁰² See 89 FR 106253 (Dec. 30, 2024).

¹⁰³ *Ibid.*

In fact, Ellen and O'Regan (2011) found that exit rates were lower in gentrifying neighborhoods than in non-gentrifying neighborhoods, even among renters or poor households.¹⁰⁸ Further, scholars find mixed effects of gentrification, noting while gentrification can have negative impacts, it can also result in positive outcomes like lower unemployment, and higher wages.¹⁰⁹ Given this evidence of gentrification's isolated and complex impacts, FHFA believes the two-part subgoal structure is unnecessary.

FHFA does not have evidence that the low-income areas subgoal, as previously defined, was a major cause of gentrification across the country. Limited housing supply and heightened affordability persist, regardless of housing goal structure, and are some of the driving causes of gentrification.¹¹⁰ While FHFA has a responsibility to underserved communities and low-to moderate income borrowers, reverting the low-income area's goal back to the structure that applied from 2010 through 2021 adequately fulfills this duty, while ensuring all credit is acknowledged in low-income areas to best support housing supply constraints and development needs.

FHFA's most recent forecast for the low-income areas subgoal averaged 22.8 ± 3.3 percent.¹¹¹ FHFA is proposing to set the benchmark level below the lower bound of the confidence interval to balance the need for access to credit in

the low-income census tracts with the concern that a higher benchmark level could over-incentivize the Enterprises to purchase loans for higher-income borrowers. The 2025–2027 final rule notes that around 70 percent of the loans that qualified for the low-income census tracts segment of this subgoal were made to borrowers at or above 100 percent of AMI.¹¹²

Taking this into account, FHFA is proposing to set the benchmark level for this subgoal at 16.0 percent, which is the sum of the 12.0 percent benchmark level for the minority census tracts subgoal and the 4.0 percent benchmark level for the low-income census tracts subgoal set in the 2025–2027 final rule. This approach ensures that the Enterprises continue to adequately serve borrowers in both segments of the low-income areas subgoal while also addressing concerns about the displacement of low-income families in these areas.

4. Low-Income Areas Home Purchase Goal

FHFA will continue to set a benchmark level for the overall low-income areas home purchase goal by notice. The proposed rule will define the low-income areas home purchase goal benchmark level as the benchmark level for the low-income areas home purchase subgoal plus an adjustment factor reflecting the additional incremental share of mortgages for low- and moderate-income families in

designated disaster areas. This proposed definition is exactly equivalent to the current low-income areas home purchase goal which is the sum of the benchmark levels for the area-based subgoals plus an adjustment factor for the low- and moderate-income families in designated disaster areas. FHFA will continue to set a benchmark level for the overall low-income areas home purchase goal that will reflect the adjustment factor for mortgages to families with incomes less than or equal to 100 percent of AMI who are in federally declared disaster areas.¹¹³ Accordingly, the low-income areas home purchase goal benchmark level is not included in the proposed rule. During the 2026–2028 housing goals period, FHFA will continue its annual practice of notifying the Enterprises of the benchmark level for the overall low-income areas home purchase goal for each year and posting the benchmark on FHFA's website.

5. Low-Income Refinance Goal

The low-income refinance goal is based on the percentage share of all conventional, conforming, single-family, owner-occupied refinance mortgages purchased by an Enterprise that are for low-income families, defined as families with incomes less than or equal to 80 percent of AMI. The proposed rule would keep the annual benchmark level for this goal for 2026–2028 at 26.0 percent.

Table 5—Single-Family Low-Income Refinance Goal

Year	Historical Performance							
	2021	2022	2023	2024	2025	2026	2027	2028
Actual Market	26.1%	37.3%	40.3%					
Benchmark	21.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%
Fannie Mae Performance								
Low-Income Refinance Mortgages	809,452	279,020	60,682	67,584				
Total Refinance Mortgages	3,089,529	803,634	157,984	185,763				
Low-Income % of Refinance Mortgages	26.2%	34.7%	38.4%	36.4%				
Freddie Mac Performance								
Low-Income Refinance Mortgages	658,845	254,332	54,906	61,557				
Total Refinance Mortgages	2,651,858	686,394	127,043	186,266				
Low-Income % of Refinance Mortgages	24.8%	37.1%	43.2%	33.0%				

in gentrifying neighborhoods," *Urban Aff. Rev.*, 40 (4) (2005), pp. 463–491.

¹⁰⁸ Ingrid Gould Ellen and Kathy O'Regan, "How Low Income Neighborhoods Change: Entry, Exit, and Enhancement," (June 2010), available at https://furmancenter.org/files/publications/How_Low_Income_Neighborhoods_Change_1.pdf.

¹⁰⁹ Jacob L. Vigdor, Douglas S. Massey, Alice M. Rivlin, "Does Gentrification Harm the Poor? [with Comments]," *Brookings-Wharton Papers on Urban Affairs*, (2002), pp. 133–182, available at <https://www.jstor.org/stable/25067387?seq=1>.

¹¹⁰ National Community Reinvestment Coalition, "Displaced by Design: Fifty Years of Gentrification and Black Cultural Displacement in US cities,"

(May 2025), available at <https://ncrc.org/displaced-by-design/#gen>.

¹¹¹ FHFA did not publish a forecast for this subgoal in the 2025–2027 final rule.

¹¹² See 89 FR 106253 (Dec. 30, 2024).

¹¹³ Disaster declarations are listed on the Federal Emergency Management Agency (FEMA) website at <https://www.fema.gov/disasters>.

Recent performance and forecasts. Annual performance in low-income refinance mortgages, when measured in percentage terms, consistently demonstrates an inverse relationship to the overall volume of refinance loans within the market and the Enterprises' acquisitions. For instance, during the low mortgage rate environment in 2020, a significant refinance boom occurred, with overall low-income refinance volume in the market exceeding 1.3 million loans.¹¹⁴ However, the total market volume for all refinances reached over 6.3 million loans, resulting in a low-income refinance market performance of only 21.0 percent.¹¹⁵

In contrast, in 2023, amidst higher mortgage rates, the overall low-income refinance volume contracted sharply to approximately 160,000 loans, while total market refinance volume declined to about 397,000 loans.¹¹⁶ This contraction in volume corresponded to a substantially higher low-income refinance market performance of 40.3 percent. The Enterprises' performance on the low-income refinance goal mirrored this pattern, with their low-income refinance percentages increasing significantly during this later period, even as the absolute volume of their low-income refinance mortgage purchases decreased. This trend demonstrates the inverse relationship of low-income refinance mortgages. It also highlights that percentage-based performance metrics can reflect market contraction rather than increased absolute support for low-income borrowers during periods of reduced refinance activity.

As shown in Table 5, both Enterprises have met this goal since 2021. The table also shows that when mortgage rates were low in 2021 and refinance volume high, both Enterprises met the benchmark but only Fannie Mae performed higher than the actual market. However, when mortgage rates rose in the following year and years since then, refinance volume declined, and Enterprise performance rose and has remained elevated.

FHFA rationale for proposed benchmark. As noted in the 2025–2027 Enterprise Housing Goals final rule, and shown in Table 5, the annual performance in the overall market and by the Enterprises on low-income refinance mortgages tends to be

inversely proportional to the volume of low-income refinance loans in the market.¹¹⁷ While FHFA's most recent forecast for this goal averaged 36.3 ± 6.9 percent, the Agency noted in the 2025–2027 final rule that “although mortgage rates are expected to decline during the 2025–2027 housing goals period, FHFA's model cannot forecast the low-income refinance market with a high degree of confidence due to the unpredictability of future interest rates and the strong sensitivity of refinance originations to interest rates.”¹¹⁸ Particularly, if interest rates were to decline more significantly, and volume returned to the levels seen in 2021, a benchmark level within the confidence interval could be difficult for the Enterprises to achieve based on market conditions.

FHFA is proposing to maintain the benchmark level of 26.0 percent for this goal because it believes that this level will keep the Enterprises focused on providing liquidity to this affordable segment in 2026–2028 under current and projected market conditions, as well as if interest rates decline more than projected and refinance volume materially increases. This benchmark level maintains the Enterprises' sound financial condition and avoids market participant displacement, while supporting low-income borrowers.

V. Measurement Buffers

The 2025–2027 final housing goal rule established measurement buffers, numerical factors to encourage each Enterprise to focus on achieving the housing goal by meeting the market level if the benchmark level is higher than the market level, thereby addressing uncertainties regarding the final market level throughout the year.¹¹⁹ Specifically, an Enterprise that failed to meet the goal would not be required to submit a housing plan if its performance met or exceeded: (i) the market level minus 1.3 percentage points for the low-income home purchase goal; (ii) the market level

minus 0.5 percentage points for the very low-income home purchase goal; or (iii) the market level minus 1.3 percentage points for the low-income refinance goal. The final rule articulated that these measurement buffers are a fair mechanism to encourage Enterprise achievement of these three single-family housing goals despite market level uncertainty during the measurement period.

FHFA is proposing to remove the measurement buffers for the 2026–2028 proposed rule. The Agency now believes these measurement buffers to be duplicative and unnecessary. The flexibility previously sought through the buffers, particularly during uncertain market periods, is now accounted for in proposing lower benchmark levels for the low-income and very low-income home purchase goals, and by maintaining the low-income refinance goal at an appropriate level. This revised approach to benchmark setting provides the necessary operational latitude without the complexity introduced by the buffers.

Furthermore, the Agency believes that these buffers have overly complicated calculations and imposed increased administrative burden on both FHFA staff and the Enterprises. One of the objectives of instituting the buffers was to enhance transparency of Enterprise performance. However, the buffers have not achieved this objective, instead fueling uncertainty by requiring unnecessary additional computational steps. Consequently, FHFA believes these measurement buffers are not effective at enhancing performance transparency.

VI. Multifamily Housing Goals and Subgoal

A. Factors Considered in Setting the Multifamily Housing Goal Benchmark Levels

The Safety and Soundness Act requires FHFA to consider the following six factors in setting the multifamily housing goals:

1. National multifamily mortgage credit needs and the ability of the Enterprises to provide additional liquidity and stability for the multifamily mortgage market;

2. The performance and effort of the Enterprises in making mortgage credit available for multifamily housing in previous years;

¹¹⁷ See “2025–2027 Enterprise Housing Goals,” (Final Rule), 89 FR 106253 (Dec. 30, 2024), available at <https://www.federalregister.gov/documents/2024/12/30/2024-30793/2025-2027-enterprise-housing-goals>.

¹¹⁸ See “2025–2027 Enterprise Housing Goals,” (Final Rule), 89 FR 106253, 106270 (Dec. 30, 2024), available at <https://www.federalregister.gov/documents/2024/12/30/2024-30793/2025-2027-enterprise-housing-goals>.

¹¹⁹ As previously noted, the proposed rule referred to the measurement buffers as “Enforcement Factors.”

¹¹⁴ FHFA's tabulation of HMDA data.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

3. The size of the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size;

4. The ability of the Enterprises to lead the market in making multifamily mortgage credit available, especially for multifamily housing affordable to low-income and very low-income families;

5. The availability of public subsidies; and

6. The need to maintain the sound financial condition of the Enterprises.¹²⁰

Unlike the single-family housing goals, performance on the multifamily housing goals is measured solely against benchmark levels set by FHFA in the regulation, without any retrospective market measure. The absence of a retrospective market measure for the multifamily housing goals results, in part, from the lack of comprehensive data about the multifamily mortgage market. Unlike the single-family mortgage market, where HMDA provides a reasonably comprehensive dataset about single-family mortgage originations each year,¹²¹ the multifamily mortgage market (and the affordable multifamily mortgage market segment) has no comparable single, unified data source with coverage extending across many years. As a result, it is difficult to correlate different datasets that rely on different reporting metrics.

The lack of comprehensive data for the multifamily mortgage market is even more acute with respect to the segments of the market that are targeted to low-income families, defined as families with incomes at or below 80 percent of AMI, and very low-income families, defined as families with incomes at or below 50 percent of AMI.

Unlike the single-family housing goals, which set separate benchmark levels for home purchase and refinance mortgages, the multifamily housing goals include all Enterprise multifamily mortgage purchases, regardless of the purpose of the loan.

In consideration of public comments and to improve the responsiveness of the multifamily housing goals to market conditions, in 2023, FHFA revised the housing goals regulation to change the multifamily housing goals benchmark levels from a numeric benchmark level for units to a percentage of affordable units in multifamily properties financed

by mortgages purchased by the Enterprise each year. This ensures that the multifamily housing goals remain meaningful in different market conditions and enables the Enterprises to respond to those conditions while continuing to serve affordable segments.¹²²

The proposed rule would establish benchmark levels for the multifamily low-income housing goal, the multifamily very low-income housing goal, and the small multifamily low-income subgoal for 2026–2028 at the same levels that are currently in effect for 2025–2027. FHFA believes that these relatively conservative benchmark levels are appropriate for the multifamily housing goals given market uncertainty and a desire to avoid unintended consequences that may result if the multifamily goals are set at unrealistic levels. In proposing the benchmark levels for the multifamily housing goals, FHFA has considered each of the six statutory factors identified above. Five of the factors relate to the multifamily mortgage market and the Enterprises' role in that market. Those factors generally have similar impacts on each of the multifamily housing goals and have not changed significantly in the months since FHFA established the housing goals for 2025–2027. Each of those factors is discussed below. The past performance of the Enterprises is discussed separately for each of the multifamily housing goals.

Multifamily mortgage market. FHFA's consideration of the multifamily mortgage market credit needs addresses the size and competitiveness of the overall multifamily mortgage market. In February 2025, MBA forecasted that multifamily mortgage originations would increase from the \$312 billion estimated in 2024 to \$361 billion in 2025, and then to \$419 billion in 2026.¹²³ MBA noted that there is an abundance of capital ready to be deployed, though that deployment will depend on whether interest rates decline as they did at the end of 2024.¹²⁴

Affordability in the multifamily mortgage market. FHFA's consideration of the affordability in the multifamily mortgage market addresses the size of

the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily market for housing of a smaller or limited size. In *The State of the Nation's Housing 2025* report, Harvard University's Joint Center for Housing Studies (JCHS) found that rent growth for multifamily apartments remained modest through early 2025, even as rental demand increased, and vacancies declined. Asking rents rose 0.8 percent year-over-year in the first quarter of 2025, up slightly from 0.2 percent in 2024.¹²⁵ Such increases represent moderate growth compared with the same quarter in 2022 when rents rose by 15.3 percent year-over-year. Despite the continued slowdown in rent growth, the extended period of rising rents corresponds to the continued stress on renters, with the share of cost-burdened renters continuing to remain elevated.

For purposes of the Enterprise housing goals, the Safety and Soundness Act requires FHFA to evaluate housing goals performance based on whether rent levels are affordable. The Safety and Soundness Act defines a rent level as affordable if a family's rent and utility expenses do not exceed 30 percent of the maximum income level for each income category, with appropriate adjustments for unit size as measured by the number of bedrooms.¹²⁶ In *America's Rental Housing 2024* report, JCHS found that the share of cost-burdened renters, particularly among low-income and very low-income households, continues to grow.¹²⁷ A household is considered cost-burdened if it spends more than 30 percent of its income on housing, and severely cost-burdened if it spends more than 50 percent of its income on housing. The JCHS report shows that the share of cost-burdened renters across all income segments rose by 3.2 percentage points to 50 percent from 2019 to 2022.¹²⁸ The share of cost-burdened renters earning between \$45,000 and \$74,999 increased the most, rising by 5.4 percentage points.¹²⁹

¹²⁵ Joint Center for Housing Studies of Harvard University, "The State of the Nation's Housing 2025," (2025), p. 14, available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2025.pdf.

¹²⁶ 12 U.S.C. 4563(c).

¹²⁷ Joint Center for Housing Studies of Harvard University, "America's Rental Housing 2024," (2024), p. 2, available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf.

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*

¹²⁰ 12 U.S.C. 4563(a)(4).

¹²¹ Single family market performance is determined by FHFA through analyzing public HMDA data made available by the CFPB based on data that mortgage originators submit to the FFIEC.

¹²² 12 CFR 1282.13.

¹²³ MBA, "CREF Forecast: Commercial/Multifamily Borrowing and Lending Expected to Increase 16 Percent to \$583 Billion in 2025," (February 10, 2025), available at <https://www.mba.org/news-and-research/newsroom/news/2025/02/10/cref-forecast-commercial-multifamily-borrowing-and-lending-expected-to-increase-16-percent-to-583-billion-in-2025>.

¹²⁴ *Ibid.*

In *The State of the Nation's Housing 2025* report, JCHS noted the significant rise in new rental supply as 608,000 units were added in 2024, the highest number of completions in more than 30 years.¹³⁰ However, the growth in new rental supply is expected to slow down as multifamily starts fell by 25 percent in 2024, and this decline has accelerated.¹³¹ The JCHS report found that new rental units are primarily targeted towards the upper end of the market, with a median asking rent of \$1,830 in the first quarter of 2025, up 32 percent since 2019.¹³²

Ability of the Enterprises to lead the market. In adopting the multifamily housing goal benchmark levels for 2026–2028 in the proposed rule, FHFA has considered the ability of the Enterprises to lead the market in making multifamily mortgage credit available. The Enterprises' share of the overall multifamily mortgage market increased in the years immediately following the 2008 financial crisis but has declined more recently in response to growing private sector participation. The Enterprises' share of the multifamily market was over 70 percent in 2008 and 2009, compared to 36 percent in 2015.¹³³ 134 The total share was 40 percent or higher from 2016 to 2020. However, in 2021 and 2022, when multifamily origination volume was relatively robust, the combined Enterprise share was estimated to be below 30 percent before increasing to 41 percent in 2023.¹³⁵ In 2024, the combined Enterprise share is estimated to be 39 percent.¹³⁶

FHFA recognizes that the multifamily housing goals are just one measure of how the Enterprises contribute to and participate in the multifamily market.

¹³⁰ Joint Center for Housing Studies of Harvard University, "The State of the Nation's Housing 2025," (2024), p. 35, available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2025.pdf.

¹³¹ *Ibid.*

¹³² *Ibid.*, at 14.

¹³³ Urban Institute, "The GSE's Shrinking Role in the Multifamily Market," (April 2015), p. 4, available at <https://www.urban.org/sites/default/files/publication/48986/2000174-The-GSEs-Shrinking-Role-in-the-Multifamily-Market.pdf>.

¹³⁴ Fannie Mae, "Multifamily Business Information Presentation," (Updated August 2025), p. 3, available at <https://multifamily.fanniemae.com/media/37196/display>.

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

Other Enterprise multifamily activities include those under their Duty to Serve Plans for Underserved Markets and Low-Income Housing Tax Credit (LIHTC) equity investments.¹³⁷ Together with the housing goals, these programmatic activities provide support to renter households, including low-income families spending more than 30 percent of their income on housing. FHFA will continue to monitor these initiatives and priorities to maintain appropriate focus by the Enterprises, including compliance with the Enterprises' charter acts and safety and soundness considerations.

FHFA expects the Enterprises to continue to demonstrate leadership in supporting affordable housing in the multifamily market by providing liquidity for housing for tenants at different income levels in various geographies and market segments. This support should continue throughout the economic cycle, even as the overall size of the multifamily mortgage market fluctuates.

Availability of public subsidies. Multifamily housing assistance is primarily available in two forms: demand-side public subsidies that either directly assist low-income tenants (e.g., Housing Choice vouchers) or provide project-based rental assistance (e.g., Project-Based Vouchers and Project-Based Rental Assistance contracts), and supply-side public subsidies that support the creation and preservation of affordable housing (e.g., the housing trust fund and LIHTCs). The availability of public subsidies impacts the overall affordable multifamily housing market, and significant changes to long-standing public subsidy programs could impact the ability of the Enterprises to meet the housing goals. The Enterprises also provide liquidity to facilitate the preservation of public subsidies through their purchases of mortgages that finance the preservation of existing affordable housing units (especially for restructurings of older properties that reach the end of their initial 15-year LIHTC compliance periods) and for refinancing properties with expiring Project-Based Rental Assistance contracts.

¹³⁷ Since FHFA placed the Enterprises into conservatorship on September 6, 2008, it has issued a Conservatorship Scorecard periodically to communicate its priorities and expectations for Fannie Mae and Freddie Mac.

In 2026 and beyond, there will continue to be opportunities in the multifamily mortgage market to provide permanent financing for properties with LIHTCs and to preserve existing affordable units, as described above.

Maintaining the sound financial condition of the Enterprises. In establishing the 2026–2028 benchmark levels for multifamily housing goals in the proposed rule, FHFA must balance the role of the Enterprises in providing liquidity and supporting various multifamily mortgage market segments with the need to maintain the Enterprises' sound and solvent financial condition. The Enterprises have served as a stabilizing force in the multifamily mortgage market across economic cycles, and their loans on affordable multifamily properties have experienced low levels of delinquency and default that are similar to those of market rate properties.

FHFA continues to monitor the activities of the Enterprises in this market to ensure their continued safety and soundness.

B. Proposed Multifamily Housing Goals and Subgoal Benchmark Levels

Based on FHFA's consideration of the statutory factors described above and the past performance of the Enterprises under the multifamily housing goals and subgoal, the proposed rule would establish benchmark levels for the multifamily housing goals and subgoal as further discussed below. Before finalizing the benchmark levels for the multifamily housing goals and subgoal in the final rule, FHFA will review any additional data that becomes available about the Enterprises' performance related to these goals, developments in the multifamily mortgage market, and comments on the proposed benchmark levels.

1. Multifamily Low-Income Housing Goal

The multifamily low-income housing goal is the percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises that are affordable to low-income families in any given year. Low-income families are defined as those with incomes less than or equal to 80 percent of AMI.

Table 6—Multifamily Low-Income Housing Goal

	Historical Performance							
Year	2021	2022	2023	2024	2025	2026	2027	2028
Low-Income Multifamily Benchmark	315,000	415,000	61.0%	61.0%	61.0%	61.0%	61.0%	61.0%
Fannie Mae Performance								
Low-Income Multifamily Units	384,488	419,361	317,032	270,938				
Total Multifamily Units	557,152	542,347	415,513	398,661				
Low-Income % Total	69.0%	77.3%	76.3%	68.0%				
Freddie Mac Performance								
Low-Income Multifamily Units	373,225	420,107	231,968	302,324				
Total Multifamily Units	540,541	567,249	345,702	463,113				
Low-Income % of Total Units	69.0%	74.1%	67.1%	65.3%				

Table 6 shows the number and share of goal-qualifying low-income multifamily units in properties backing mortgages acquired by each Enterprise from 2021 through 2024.¹³⁸ In addition, the historical performance share average for the pre-pandemic years of 2017–2019 would have been 65.1 percent for Fannie Mae and 67.3 percent for Freddie Mac.¹³⁹ Starting in 2023, the benchmark metric for this goal changed from the number of low-income units to the share of low-income units.

Ongoing shortages in the supply of affordable rental housing continue to contribute to the growing share of cost-

burdened families in the United States.¹⁴⁰ There remains a liquidity need for Enterprise support in the multifamily affordable housing market due to evolving market conditions. These challenges are expected to persist in 2026–2028. In light of these factors, FHFA proposes to maintain the current benchmark level for this goal at 61.0 percent for both Enterprises in 2026–2028. The current benchmark for this goal enables the Enterprises to adequately support multifamily housing affordable to families with incomes at or below 80 percent of AMI. The proposed benchmark takes into account market

dynamics and safety and soundness considerations, without diminishing the Enterprises' focus on affordability.

2. Multifamily Very Low-Income Housing Goal

The multifamily very low-income housing goal is the percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises that are affordable to very low-income families in any given year. Very low-income families are defined as those with incomes less than or equal to 50 percent of AMI.

Table 7—Multifamily Very Low-Income Housing Goal

	Historical Performance							
Year	2021	2022	2023	2024	2025	2026	2027	2028
Very Low-Income Multifamily Benchmark	60,000	88,000	12.0%	12.0%	14.0%	14.0%	14.0%	14.0%
Fannie Mae Performance								
Very Low-Income Multifamily Units	83,459	127,905	77,509	58,000				
Total Multifamily Units	557,152	542,347	415,513	398,661				
Very Low-Income % of Total Units	15.0%	23.6%	18.7%	14.5%				
Freddie Mac Performance								
Very Low-Income Multifamily Units	87,854	127,733	71,217	70,795				
Total Multifamily Units	540,541	567,249	345,702	463,113				
Very Low-Income % of Total Units	16.3%	22.5%	20.6%	15.3%				

Table 7 shows the number and share of goal-qualifying very low-income

multifamily units as a percentage of the total goal-eligible units in properties

backing mortgages acquired by each Enterprise from 2021 through 2024. In

¹³⁸ 12 CFR 1282.16 (Special Counting Requirements).

¹³⁹ See “2023–2024 Multifamily Enterprise Housing Goals,” (Proposed Rule), 87 FR 50794,

50800 (Aug. 18, 2022), available at <https://www.federalregister.gov/documents/2022/08/18/2022-17868/2023-2024-multifamily-enterprise-housing-goals>.

¹⁴⁰ See Joint Center for Housing Studies of Harvard University, “The State of the Nation’s Housing 2024,” (June 2024), available at <https://www.jchs.harvard.edu/state-nations-housing-2024>.

addition, the historical performance share average for the pre-pandemic years of 2017-2019 would have been 13.1 percent for Fannie Mae and 15.6 percent for Freddie Mac.¹⁴¹ Starting in 2023, the benchmark metric for this goal changed from the number of very low-income units to the share of very low-income units.

In 2025, the benchmark for this goal was raised from 12.0 percent to 14.0 percent. FHFA set this benchmark at a higher level to ensure that the Enterprises continue to adequately serve

very low-income families. Considering the multifamily mortgage conditions described above and the continued need for affordable rental housing support, FHFA proposes to maintain the current benchmark level for this goal at 14.0 percent for both Enterprises in 2026-2028. The current benchmark for this goal enable the Enterprises to adequately support multifamily housing affordable to families with incomes at or below 50 percent of AMI. The proposed benchmark takes into account market dynamics and safety and soundness

consideration, without diminishing the Enterprises’ focus on affordability.

3. Small Multifamily Low-Income Housing Subgoal

The current Enterprise housing goals regulation defines a small multifamily property as having 5 to 50 units. The small multifamily low-income housing subgoal is based on the share of units in small multifamily properties financed by mortgages purchased by the Enterprise in a given year.

Table 8—Small (5-50 units) Multifamily Low-Income Subgoal

Year	Historical Performance							
	2021	2022	2023	2024	2025	2026	2027	2028
Fannie Mae Small Low-Income Multifamily Benchmark	10,000	17,000	2.5%	2.5%	2.0%	2.0%	2.0%	2.0%
Freddie Mac Small Low-Income Multifamily Benchmark	10,000	23,000	2.5%	2.5%	2.0%	2.0%	2.0%	2.0%
Fannie Mae Performance								
Small Low-Income Multifamily Units	14,409	21,436	13,241	11,182				
Total Multifamily Units	557,152	542,347	415,513	398,661				
Low-Income % of Total Multifamily Units	2.6%	4.0%	3.2%	2.8%				
Freddie Mac Performance								
Small Low-Income Multifamily Units	31,913	27,103	14,006	14,007				
Total Multifamily Units	540,541	567,249	345,702	463,113				
Low-Income % of Total Multifamily Units	5.9%	4.8%	4.1%	3.0%				

Table 8 shows Enterprise performance on this subgoal, including the previous numeric benchmark levels applicable through 2022 and the percentage-based metric that began in 2023. FHFA recognizes that the Enterprises have different business approaches to the small multifamily market segment, and that each Enterprise sets its own credit risk tolerance for these products. As a result, each Enterprise has performed very differently on this subgoal. Since 2021, Freddie Mac has exceeded Fannie Mae in terms of percentage share of total units and volume of low-income units in small (5–50) multifamily properties.

In 2025, FHFA lowered the benchmark for this goal from 2.5 percent to 2.0 percent due to increased availability of private sector financing for small multifamily properties in recent years. While FHFA continues to observe private sector participation in this market, the Enterprises provide an

important backstop for financing small multifamily properties affordable to low-income families. Taking these factors and the multifamily mortgage market conditions described above into account, FHFA proposes to maintain the current benchmark level for this subgoal at 2.0 percent for both Enterprises for 2026–2028. The current benchmark for this subgoal enables the Enterprises to adequately support this market when needed without crowding out other sources of financing for small multifamily properties.

VII. Notice of Determination of Compliance With Housing Goals

The 2025–2027 housing goals final rule made non-substantive changes to 12 CFR 1282.20 that describe the preliminary and final determinations of housing goals compliance issued by FHFA each year.¹⁴² FHFA has reviewed its current practices and is proposing a

regulatory change to streamline the housing goals compliance process.

This proposed rule seeks to simplify FHFA’s process by eliminating a requirement for preliminary determination letters when an Enterprise has met its goals. As revised, the rule would require only a single determination letter if FHFA determines that an Enterprise has met all housing goals, and FHFA will provide the Enterprise with an opportunity to comment on such determination during the 30-day period beginning upon receipt by the Enterprise. FHFA finds it unnecessary for the regulation to require two separate but substantially similar determination letters that provide notice to the Enterprise that it has met its housing goals obligations. Historically, the preliminary determination letters have provided an opportunity for the Enterprises to provide supplemental information for FHFA to consider when

¹⁴¹ See “2023-2024 Multifamily Enterprise Housing Goals,” (Proposed Rule), 87 FR 50794, 50801 (Aug. 18, 2022), available at <http://www.govinfo.gov/content/pkg/FR-2022-08-18/pdf/2022-17868.pdf>.

¹⁴² See 12 CFR part 1282, adopted at “2025–2027 Enterprise Housing Goals,” (Final Rule), 89 FR 106253, 106275 (Dec. 30, 2024) available at <https://www.federalregister.gov/documents/2024/12/30/2024-30793/2025-2027-enterprise-housing-goals>.

determining compliance, feasibility, and whether a housing plan is appropriate and necessary if an Enterprise fails to meet a housing goal or subgoal.

If an Enterprise has met the housing goals, it is not necessary for the Enterprise to provide additional information in order for FHFA to reach a determination. Whether an Enterprise has met a goal depends on whether its performance meets or exceeds the lower of the benchmark level and the market level, not on the degree by which an Enterprise's performance exceeds those levels. Preliminary determination letters that confirm an Enterprise is meeting a goal are an inefficient use of staff resources.

However, to comply with statutory requirements and ensure the Enterprises have an opportunity to provide information to the Director on their compliance and the feasibility of compliance, this proposed rule continues to require preliminary determination letters if an Enterprise has failed, or there is a substantial probability that an Enterprise will fail, to meet any housing goal or subgoal. In sum, the proposed rule would simplify existing procedures and ensure adequate transparency.

VIII. Required Adjustments To Maximum Civil Money Penalty Amounts

The Adjustment Improvements Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 by establishing a mechanism for regular adjustment for inflation of civil money penalties. To maintain their deterrent effect, this law requires FHFA to adjust the level of civil monetary penalties for inflation (including an initial catch-up adjustment and annual adjustments thereafter). The law also requires FHFA to report inflation adjustments annually in its Agency Financial Report as directed by OMB Circular A-136.

FHFA complies with the requirement by publishing a final rule each year to adjust the amount of the civil money penalties in FHFA's Rules of Practice and Procedure (12 CFR part 1209); FHFA's Flood Insurance regulation (12 CFR part 1250); and FHFA's Implementation of the Program Fraud Civil Remedies Act regulation (12 CFR part 1217). FHFA published its most recent final rule to make the required adjustments on January 16, 2025.¹⁴³

¹⁴³ See "Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustment," (Final Rule), 90 FR 4607 (Jan. 16, 2025), available at <https://www.federalregister.gov/documents/2025/01/16/2025-00775/rules-of-practice-and-procedure-civil-money-penalty-inflation-adjustment>.

This proposed rule would make explicit that the required inflation adjustments apply to civil money penalties described in section 1345 of the Safety and Soundness Act (12 U.S.C. 4585), including penalties applicable to the Enterprise and Federal Home Loan Bank housing goals.

A. Statutory Civil Money Penalties Related to Enterprise and Federal Home Loan Bank Housing Goals

The Safety and Soundness Act authorizes FHFA to seek civil money penalties to enforce several requirements related to the Enterprise and Bank housing goals. Civil money penalties and other remedies related to housing goals enforcement are subject to statutory procedural requirements in sections 1341 through 1348 of the Safety and Soundness Act (12 U.S.C. 4581–4588) (other remedies authorized by the Safety and Soundness Act are not discussed in this preamble because they are not relevant to inflation adjustment requirements). The civil money penalty amount for violations related to housing goals is determined by the Director after consideration of several statutory factors in section 1345(c)(2) (12 U.S.C. 4585(c)(2)). For most potential violations, the amount may not exceed \$50,000 for each day that the failure occurs.

Enterprise compliance with the housing goals is enforced under section 1336 of the Safety and Soundness Act (12 U.S.C. 4566). Under this provision, if an Enterprise fails to meet a housing goal, or has a substantial probability of failing to meet a goal, and FHFA determines that meeting the goal was or is feasible, the Director may, in his or her discretion, require the Enterprise to submit a housing plan describing the specific actions the Enterprise will take to achieve the goal. Section 1336 further provides that if an Enterprise fails to submit an acceptable housing plan or fails to comply with the plan, the Director may impose civil money penalties against the Enterprise in accordance with section 1345 (12 U.S.C. 4585) of the Safety and Soundness Act. In addition, section 1345(a)(2) provides that the Director may impose civil money penalties if an Enterprise fails to report information on its housing activities to FHFA or Congress as required by subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m) or (n)) or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e) or (f)).

The Banks are subject to housing goals requirements pursuant to section

10C(a) of the Federal Home Loan Bank Act (Bank Act), as amended by section 1205 of HERA (12 U.S.C. 1430c(a)). This provision requires the Director of FHFA to establish housing goals with respect to the purchase of mortgages, if any, by the Banks. Section 10C(d) of the Bank Act provides that the monitoring and enforcement requirements of section 1336 of the Safety and Soundness Act shall apply to the Banks in the same manner and to the same extent as they apply to the Enterprises. Thus, in accordance with section 1336, FHFA's Bank housing goals regulation includes housing plan provisions similar to those in FHFA's Enterprise housing goals regulation. If a Bank fails to submit or follow an acceptable housing plan, the Director may impose civil money penalties against the Bank.

B. Other Civil Money Penalties in Section 1345

Section 1345(b)(1) of the Safety and Soundness Act (12 U.S.C. 4585(b)(1)) authorizes the Director to impose civil money penalties of up to \$100,000 for each day of occurrence "for any failure described in paragraph (1), (5), or (6)" of section 1345(a). The cross references to paragraphs (1), (5), and (6) are not clear. Section 1345(a) does not include a paragraph (5) or (6). Section 1345(a)(1) describes a failure to "submit a report under section 1327 [of the Safety and Soundness Act] following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director." At the same time HERA added the current section 1345, it removed general reporting requirements in section 1327 and amended section 1314 of the Safety and Soundness Act to authorize the Director to issue general and specific reporting orders and penalties for violating those reporting orders.¹⁴⁴ Congress subsequently added a new section 1327 related to Enterprise guarantee fee requirements that provides for reporting by each Enterprise as part of its annual report submitted to Congress.¹⁴⁵

Regardless of whether Congress intended the civil money penalties provision in section 1345(b)(1) to apply to violations of reporting requirements under current section 1327, the statutory provision is subject to the

¹⁴⁴ HERA, Public Law 110–289, title I, subtitle A, sec. 1104(b), 122 Stat. 2667; 12 U.S.C. 4514, available at <https://www.congress.gov/110/plaws/publ289/PLAW-110publ289.pdf>.

¹⁴⁵ Temporary Payroll Tax Cut Continuation Act of 2011, Public Law 112–78, title IV, sec. 401, 125 Stat. 1287 (12 U.S.C. 4547(d)), (Dec. 23, 2011), available at <https://www.govinfo.gov/content/pkg/PLAW-112publ78/pdf/PLAW-112publ78.pdf>.

Adjustment Improvements Act requirements. Therefore, FHFA proposes to make explicit the mandatory inflation adjustments required by law.

C. Making Explicit Required Inflation Adjustments to Civil Money Penalties Authorized by Section 1345

FHFA's Rules of Practice and Procedure regulation in part 1209 sets forth procedures for any violation, practice, or breach addressed under sections 1371, 1372, or 1376 of the Safety and Soundness Act (12 U.S.C. 4631, 4632, 4636).

In 2013, FHFA published a final rule, "*Rules of Practice and Procedure: Enterprise and Federal Home Loan Bank Housing Goals Related Enforcement Amendment*,"¹⁴⁶ Section 1209.1(c)(4) of FHFA's Rules of Practice and Procedure, as amended by this 2013 final rule, provides that the rules of practice and procedure for hearings on the record in subpart C of part 1209 apply to any civil money penalty proceedings related to the housing goals, except where such rules are inconsistent with section 1345 of the Safety and Soundness Act (12 U.S.C. 4585), in which case the statutory provisions related to the housing goals apply.¹⁴⁷

Section 1209.80 states explicitly the maximum penalty amounts that apply for civil money penalty proceedings under section 1376 of the Safety and Soundness Act (12 U.S.C. 4636). However, the section does not state explicitly the corresponding maximum penalty amounts for civil money penalty proceedings under section 1345 (12 U.S.C. 4585). Similarly, FHFA's annual final rules for adjusting civil money penalties for inflation in 12 CFR part 1209 do not explicitly reference the civil money penalties described in section 1345 of the Safety and Soundness Act. In a recent review of its regulations, FHFA determined that 12 CFR part 1209 should be revised to explicitly state the maximum civil money penalty amounts

for violations related to housing goals that reflect the catch-up adjustment and annual adjustments required by the Adjustment Improvements Act. It is also prudent to amend the Bank Housing Goals regulation in 12 CFR part 1281 and the Enterprise Housing Goals regulation in 12 CFR part 1282 to cross reference the procedural requirements for housing goals enforcement in 12 CFR part 1209.

The proposed rule describes increases in maximum penalty amounts that would not dictate the amount of any penalty that FHFA may seek under section 1345. FHFA would calculate penalty amounts on a case-by-case basis based on its consideration of the statutory factors described in section 1345(c)(2). FHFA's final rules implementing Adjustment Improvements Act revisions of the maximum civil money penalty amounts that FHFA may assess in accordance with section 1376 have applied those required adjustments prospectively from the date of the final rule.¹⁴⁸ FHFA similarly proposes to apply the inflation adjusted maximum penalties prospectively to penalties sought after the effective date of a final rule implementing this proposed change. Prospective application is consistent with policy goals of fairness and transparency, since this is the first time that 12 CFR part 1209 would explicitly state the maximum civil money penalty amounts for section 1345.

The Adjustment Improvements Act provides that the mandatory initial catch-up adjustment must be implemented by an interim final rule. The changes described in this proposed rule are consistent with the statutory directive set forth in the Adjustment Improvements Act. As a result, FHFA could implement these changes by interim final rule as there are no issues of policy discretion about which to seek public comment. However, FHFA is proposing the amendments in a notice and comment rulemaking in this case because it is administratively expedient to include the changes in this proposed rule on related topics.

D. Calculation of Inflation Adjustments

To calculate inflation adjustments, FHFA follows the requirements of the Adjustment Improvements Act¹⁴⁹ and guidance provided by the Office of Management and Budget (OMB). OMB issued guidance on the catch-up adjustment in Memorandum M-16-06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*, published February 24, 2016. OMB subsequently issued guidance on the 2017-2025 annual inflation adjustments in Memorandums M-17-11, M-18-03, M-19-04, M-20-05, M-21-10, M-22-07, M-23-05, M-24-07, and M-25-02. OMB's guidance establishes multipliers used to calculate required adjustments.

The Adjustment Improvements Act provides that the initial catch-up adjustment will be based on the percent change between the Consumer Price Index for all Urban Consumers (CPI-U) for October 2015 and the CPI-U for the month of October in the year that the civil money penalty was established or adjusted under a provision of law other than the Inflation Adjustment Act. Previous inflation adjustments made under the Inflation Adjustment Act prior to the Adjustment Improvements Act are not considered in making the catch-up adjustment.

HERA amended section 1345 of the Safety and Soundness Act in calendar year 2008. Because FHFA has not published explicitly adjusted maximum civil money penalty amounts for section 1345 since it was amended, this proposed rule treats 2008 as the year that the maximum civil money penalty amounts were last set.

OMB established a multiplier of 1.09819 for catch-up adjustments to civil money penalties last set in 2008. For each maximum civil money penalty calculation, FHFA determined the catch-up adjusted maximum penalty amount by calculating the product of the inflation multiplier and the previous maximum penalty amount, and then rounded the product to the nearest whole dollar as required by the Adjustment Improvements Act.

The table below sets out the initial catch-up adjustments through 2016 accordingly.

¹⁴⁶ "Rules of Practice and Procedure: Enterprise and Federal Home Loan Bank Housing Goals Related Enforcement Amendment," (Final Rule), 78 FR 37101 (June 20, 2013), available at <https://www.federalregister.gov/documents/2013/06/20/2013-14676/rules-of-practice-and-procedure-enterprise-and-federal-home-loan-bank-housing-goals-related>.

¹⁴⁷ 12 CFR 1209.1(c)(4).

¹⁴⁸ See, e.g., "Rules of Practice and Procedure: Civil Money Penalty Inflation Adjustment," (Final Rule), 90 FR 4607 (Jan. 16, 2025), available at <https://www.federalregister.gov/documents/2025/01/16/2025-00775/rules-of-practice-and-procedure-civil-money-penalty-inflation-adjustment>.

¹⁴⁹ See 28 U.S.C. 2461 note, sec. 4(a), 5(b)(2).

INITIAL CATCH-UP ADJUSTMENTS REQUIRED BY THE ADJUSTMENT IMPROVEMENTS ACT

U.S. Code citation	Description	Previous maximum penalty amount	Rounded catch-up inflation increase	Catch-up adjusted maximum penalty amount
12 U.S.C. 4585(b)(1)	Maximum penalty for failure described in 1345(a)(1), for each day that the failure occurs.	\$100,000	\$9,819	\$109,819
12 U.S.C. 4585(b)(2)	Maximum penalty for failure described in 1345(a)(2), (3), or (4), for each day that the failure occurs.	50,000	4,910	54,910

The Adjustment Improvements Act directs federal agencies to calculate each annual civil money penalty adjustment as the percent change between the CPI-U for the previous October and the CPI-U for October of the calendar year before.¹⁵⁰ Each year, OMB establishes a multiplier that agencies can use to calculate the annual inflation adjustment. The table below shows the maximum civil money penalty amounts annually adjusted for each year from 2017 to 2025. The annual adjustments were calculated using inflation

multipliers identified in OMB guidance based on the percent change between the CPI-U for the previous October and the CPI-U for October of the calendar year before. For each maximum civil money penalty calculation, FHFA determined the annual adjusted maximum penalty amount by calculating the product of the inflation multiplier and the previous maximum penalty amount, and then rounded the product to the nearest whole dollar as required by the Adjustment Improvements Act.

Although the table below shows the maximum penalty amount in each year that the Adjustment Improvements Act required an adjustment, FHFA proposes to apply adjusted civil money penalty amounts prospectively from the effective date of a final rule. In the final rule, FHFA may include annual adjustments for 2026 when OMB issues guidance on the inflation multiplier to calculate the applicable adjustment required by January 15, 2026.

U.S. Code citation	Description	Year and OMB inflation multiplier	Previous maximum penalty amount	Rounded catch-up inflation increase	Adjusted maximum penalty amount
12 U.S.C. 4585(b)(1)	Maximum penalty for failure described in 1345(a)(1), for each day that the failure occurs.	2017; 1.01636	\$109,819	\$1,797	\$111,616
		2018; 1.02041	111,616	2,278	113,894
		2019; 1.02522	113,894	2,872	116,766
		2020; 1.01764	116,766	2,060	118,826
		2021; 1.01182	118,826	1,405	120,231
		2022; 1.06222	120,231	7,481	127,712
		2023; 1.07745	127,712	10,431	137,603
		2024; 1.03241	137,603	4,460	142,063
		2025; 1.02598	142,063	3,691	145,754
		2017; 1.01636	\$54,910	898	55,808
12 U.S.C. 4585(b)(2)	Maximum penalty for failure described in 1345(a)(2), (3), or (4), for each day that the failure occurs.	2018; 1.02041	55,808	1,139	56,947
		2019; 1.02522	56,947	1,436	58,383
		2020; 1.01764	58,383	1,030	59,413
		2021; 1.01182	59,413	702	60,115
		2022; 1.06222	60,115	3,740	63,855
		2023; 1.07745	63,855	4,946	68,801
		2024; 1.03241	68,801	2,230	71,031
		2025; 1.02598	71,031	1,845	72,876

IX. Technical Changes

A. Consistent Housing Goal and Subgoal Terminology

The current regulation refers to the single-family housing goals in 12 CFR 1282.12 as the “low-income families housing goal,” “very low-income families housing goal,” “low-income areas housing goal,” “low-income census tracts housing subgoal,” “minority census tracts housing subgoal,” and “refinancing housing goal.”

To distinguish the goals related to home purchase mortgages from the goal related to refinance mortgages, FHFA

often uses the terms “low-income home purchase goal” and “very low-income home purchase goal” to refer to the low-income families housing goal and the very low-income families housing goal, respectively, described in 12 CFR 1282.12(c) and (d). Similarly, FHFA uses the term “low-income areas home purchase goal” to refer to the low-income areas housing goal described in 12 CFR 1282.12(e). FHFA typically refers to the refinancing housing goal in 12 CFR 1282.12(h) as the “low-income refinance goal.”

This rule proposes to revise the current regulation to incorporate the terminology that it commonly uses for

the single-family housing goals. This change will promote the consistent use of terms and eliminate potential confusion by allowing the public and regulated entities to trace housing goals references to regulatory requirements.

B. Public Notice of Low-Income Areas Home Purchase Goal

Section 1282.12(e) of the Enterprise Housing Goals regulation currently provides that FHFA will set a low-income areas home purchase goal annually “by FHFA notice,” but does not specify the form of notice. Consistent with other notices provided for within the Enterprise Housing Goals

¹⁵⁰ 28 U.S.C. 2461 note.

regulation, FHFA's practice has been to provide this notice to the public on FHFA's website and to the Enterprises. FHFA is clarifying that this notice will be made available on its website.

X. Considerations of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Safety and Soundness Act requires the Director of FHFA to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. FHFA, in preparing this proposed rule, considered the differences between the Banks and the Enterprises as they relate to the above factors. FHFA also considered these differences in light of section 10C of the Bank Act, which requires that the Bank housing goals be consistent with the Enterprise housing goals, with consideration of the unique mission and ownership structure of the Banks. The public may comment on whether these differences should result in any revisions to the proposed amendments to 12 CFR parts 1209 and 1281 that relate to the civil money penalties that the Director may impose against a Bank that fails to submit or follow an acceptable housing plan.

XI. Regulatory Impact

A. Paperwork Reduction Act

The proposed rule would not contain any information collection requirement that would require the approval of the OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted the proposed rule to OMB for review for purposes of the Paperwork Reduction Act.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. FHFA certifies that the proposed

rule, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities because the rule applies to Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, which are not small entities for purposes of the Regulatory Flexibility Act.

C. Executive Order 12866, Regulatory Planning and Review

Executive Order 12866 requires agencies to submit "significant regulatory actions" to the Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined the proposed rule to be a significant regulatory action under section 3(f) of Executive Order 12866, and economically significant under section 3(f)(1) of Executive Order 12866. FHFA submitted a regulatory impact analysis to OIRA, which reviews the potential costs and benefits of this proposed rule. The analysis is available on FHFA's rulemaking website <https://www.fhfa.gov/regulation/rulemaking> and is part of the docket file for this proposed rule.

D. Executive Order 13563: Improving Regulation and Regulatory Review

Executive Order 13563 directs agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned." Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. FHFA has developed this proposed rule in a manner consistent with these requirements.

E. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 requires that for each new regulation issued, at least 10 existing regulations be identified for elimination. Executive Order 14192 also directs that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. FHFA's implementation of these requirements will be informed by M-25-20, Guidance Implementing Section 3 of Executive Order 14192, Titled "Unleashing Prosperity Through Deregulation" (March 26, 2025). This proposed rule is expected to be an

Executive Order 14192 deregulatory action given the associated cost savings.

XII. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as Regulations.gov). FHFA's proposed rule and the required summary can be found at <https://www.regulations.gov>.

XIII. Severability

The proposed rule would make explicit FHFA's intent that all provisions of the Enterprise housing goals regulation be severable by adding a severability clause, as new 12 CFR 1282.11(c). The regulation contains many thematically related but ultimately independent regulatory requirements, each of which can function independently. For example, FHFA establishes each goal and subgoal independently from one another, utilizing separate formulas and consideration of differing statutory factors. If one goal or subgoal is found to be invalid or unenforceable for any reason, it is FHFA's intention that the remaining goals continue in effect. Adding a severability clause to the regulation would ensure that each of the distinct policy objectives in the regulation would be realized to the greatest extent possible.

List of Subjects

12 CFR Part 1209

Administrative practice and procedure, Penalties.

12 CFR Part 1281

Credit, Federal home loan banks, Housing, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 1282

Mortgages, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 4526, FHFA proposes to amend parts 1209, 1281, and 1282 of title 12 of the Code of Federal Regulations, as follows:

SUBCHAPTER A—ORGANIZATION AND OPERATIONS**PART 1209—RULES OF PRACTICE AND PROCEDURE**

■ 1. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 554, 556, 557, and 701 *et seq.*; 12 U.S.C. 1430c(d); 12 U.S.C. 4501, 4502, 4503, 4511, 4513, 4513b, 4517, 4526, 4566(c)(1) and (c)(7), 4581–4588, 4631–4641; and 28 U.S.C. 2461 note.

■ 2. Revise § 1209.1(c)(4) to read as follows:

§ 1209.1 Scope.

* * * * *

(c) * * *

(4) Enforcement proceedings under sections 1341 through 1348 of the Safety and Soundness Act, as amended (12 U.S.C. 4581 through 4588), and section 10C of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1430c), except where the Rules of Practice and Procedure in subpart C are inconsistent

with such statutory provisions or with part 1281 or 1282 of this title, in which case the statutory or regulatory provisions shall apply.

■ 3. Revise § 1209.80 to read as follows:

§ 1209.80 Inflation adjustments.

The maximum amount of each civil money penalty within FHFA's jurisdiction, as set by the Safety and Soundness Act and thereafter adjusted in accordance with the Inflation Adjustment Act, is as follows:

TABLE 1 To § 1209.80

U.S. Code citation	Description	Catch-up adjusted maximum penalty amount
12 U.S.C. 4636(b)(1)	First Tier	\$14,575
12 U.S.C. 4636(b)(2)	Second Tier	72,876
12 U.S.C. 4636(b)(4)	Third Tier (Regulated Entity or Entity-Affiliated party)	2,915,057
12 U.S.C. 4585(b)(1)	Maximum penalty for failure described in section 1345(a)(1), for each day that the failure occurs.	145,754
12 U.S.C. 4585(b)(2)	Maximum penalty for failure described in section 1345(a)(2), (3), or (4), for each day that the failure occurs.	72,876

■ 4. Revise § 1209.81 to read as follows:

§ 1209.81 Applicability.

(a) *Applicability to penalties under 12 U.S.C. 4636.* The inflation adjustments set out in § 1209.80 for 12 U.S.C. 4636 shall apply to civil money penalties assessed in accordance with the provisions of the Safety and Soundness Act, 12 U.S.C. 4636, and subparts B and C of this part, for violations occurring on or after January 15, 2025. (b) *Applicability to penalties under 12 U.S.C. 4585.* The inflation adjustments set out in § 1209.80 for 12 U.S.C. 4585 shall apply to civil money penalties assessed under the provisions of the Safety and Soundness Act, 12 U.S.C. 4585 and subpart C of this part. The inflation adjusted maximum civil money penalty amounts shall apply to violations occurring on or after the effective date of this section.

SUBCHAPTER E—HOUSING GOALS AND MISSION**PART 1281—FEDERAL HOME LOAN BANK HOUSING GOALS**

■ 5. The authority citation for part 1281 continues to read as follows:

Authority: 12 U.S.C. 1430, 1430b, 1430c, 1431.

§ 1281.15 [Amended]

■ 6. In § 1281.15(f), add the phrase “and applicable provisions in part 1209 of this title” after “in 12 U.S.C. 4581 through 4588” in the last sentence.

PART 1282—ENTERPRISE HOUSING GOALS AND MISSION

■ 7. The authority citation for part 1282 continues to read as follows:

Authority: 12 U.S.C. 4501, 4502, 4511, 4513, 4526, 4561–4566.

■ 8. Amend § 1282.11 by:

■ a. Revising paragraph (a)(1); and

■ b. Adding paragraph (c).

The revision and addition read as follows:

§ 1282.11 General.

(a) * * *

(1) Three single-family owner-occupied purchase money mortgage housing goals, a single-family owner-occupied purchase money mortgage housing subgoal, a single-family refinancing mortgage housing goal, two multifamily housing goals, and a multifamily housing subgoal;

* * * * *

(c) *Severability.* FHFA intends the various provisions of this part to be separate and severable from one another. If any provision of this part, or any application of a provision, is stayed or determined to be invalid or unenforceable, the remaining provisions or applications will continue in effect.

■ 9. Amend § 1282.12 by:

■ a. Revising the heading to paragraphs (c), (d), and (e);

■ b. Revising paragraphs (c)(2), (d)(2), and (e)(2);

■ c. Removing paragraph (g);

■ e. Redesignating paragraph (h) as paragraph (g);

■ f. Revising paragraph (f); and

■ g. In newly redesignated paragraph (g), revising the heading and paragraph (g)(2). The revisions read as follows:

§ 1282.12 Single-family housing goals.

* * * * *

(c) *Low-income home purchase goal.*

* * *

(2) The benchmark level, which for 2026, 2027, and 2028 shall be 21 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(d) *Very low-income home purchase goal.* * * *

(2) The benchmark level, which for 2026, 2027, and 2028 shall be 3.5 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(e) *Low-income areas home purchase goal.* * * *

(2) A benchmark level which shall be set annually by FHFA by notice based on the benchmark level for the low-income areas home purchase subgoal, plus an adjustment factor reflecting the additional incremental share of mortgages for moderate-income families in designated disaster areas in the most recent year for which such data is available. FHFA will make the notice available on FHFA's website, www.fhfa.gov.

(f) *Low-income areas home purchase subgoal.* The percentage share of each

Enterprise's total purchases of purchase money mortgages on owner-occupied single-family housing that consists of mortgages for families in low-income census tracts or for moderate-income families in minority census tracts shall meet or exceed either:

(1) The share of such mortgages in the market as defined in paragraph (b) of this section in each year; or

(2) The benchmark level, which for 2026, 2027, and 2028 shall be 16 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(g) *Low-income refinance goal.* * * *

(2) The benchmark level, which for 2026, 2027, and 2028 shall be 26 percent of the total number of refinancing mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

* * * * *

§ 1282.13 [Amended]

■ 10. In § 1282.13(b), (c), and (d), remove the phrase “for 2025, 2026, and 2027” and add in its place the phrase “for 2026, 2027, and 2028”.

§ 1282.15 [Amended]

■ 11. In § 1282.15(b)(2), remove the word “subgoals” and add in its place the word “subgoal”.

■ 12. Revise § 1282.20 to read as follows:

§ 1282.20 Preliminary determination of compliance with housing goals; notice of preliminary determination.

(a) *Preliminary determination.* On an annual basis, the Director will evaluate each Enterprise's performance under each single-family housing goal and subgoal and each multifamily housing goal and subgoal.

(b) *Notice of preliminary determination.* If the Director preliminarily determines that an Enterprise has failed, or that there is a substantial probability that an Enterprise will fail, to meet any housing goal or subgoal, the Director will provide written notice to the Enterprise of the preliminary determination of its performance under each housing goal and subgoal established by this subpart, before public disclosure of the preliminary determination. The written notice will include the reasons for such determination, and the information on which the Director based the determination.

(c) *Response by Enterprise.* Any notification to an Enterprise of a preliminary determination under this

section will provide the Enterprise with an opportunity to respond in writing in accordance with the procedures at 12 U.S.C. 4566(b)(1) and (2). Relevant information in a timely written response from an Enterprise will be included in the information the Director considers when making a determination of housing goals compliance under § 1282.21.

■ 13. Revise § 1282.21 to read as follows:

§ 1282.21 Determination of compliance with housing goals, notice of determination.

(a) *Determination.* On an annual basis, the Director will make a final determination of each Enterprise's performance under each single-family housing goal and subgoal and each multifamily housing goal and subgoal. The determination will address whether an Enterprise has failed, or there is a substantial probability that an Enterprise will fail, to meet any housing goal or subgoal and whether the achievement of that housing goal or subgoal was or is feasible.

(b) *Notice of determination.* The Director will provide each Enterprise with written notification of the determination in accordance with the procedures at 12 U.S.C. 4562(f) and 12 U.S.C. 4566(b)(3). If the Enterprise has met each of the housing goals and subgoals, the notification will provide the Enterprise with an opportunity to comment on the determination during the 30-day period beginning upon receipt of the notification by the Enterprise. If the Enterprise has failed, or there is a substantial probability that an Enterprise will fail, to meet any housing goal or subgoal that FHFA determines was or is feasible, the notification will specify whether the Enterprise is required to submit a housing plan for approval under § 1282.22.

§ 1282.22 [Amended]

■ 14. Amend § 1282.22 by:

■ a. Removing paragraph (b);

■ b. Redesignating paragraphs (c), (d), (e), (f), (g) as paragraphs (b), (c), (d), (e), (f); and

■ c. Revising newly redesignated paragraph (f) to add the phrase “and applicable provisions in part 1209 of this title,” after “12 U.S.C. 4585,”.

* * * * *

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2025–19428 Filed 10–1–25; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1239, 1241, 1261, 1273, and 1277

RIN 2590–AB09, 2590–AB24, and 2590–AB41

Enterprise Liquidity Requirements; Federal Home Loan Bank System Boards of Directors and Executive Management; Federal Home Loan Bank Unsecured Credit Limits; Withdrawal

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Housing Finance Agency (FHFA or the Agency) is withdrawing notices of proposed rulemaking relating to liquidity requirements; boards of directors and executive management; and credit limits. If FHFA decides to pursue future regulatory action in any of these areas, it will issue a new proposed rule.

DATES: FHFA is withdrawing the proposed rules published at 86 FR 1306 (January 8, 2021), 89 FR 87730 (November 4, 2024), and 89 FR 80422 (October 3, 2024) as of October 2, 2025.

FOR FURTHER INFORMATION CONTACT:

James Jordan, Managing Associate General Counsel, Office of General Counsel, (202) 649–3075, James.Jordan@fhfa.gov. This is not a toll-free number. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to the contact number above.

SUPPLEMENTARY INFORMATION: FHFA is withdrawing the notices of proposed rulemaking described below. FHFA no longer intends to issue final rules with respect to these proposals. If FHFA decides to pursue future regulatory action in any of these areas, it will issue a new proposed rule.

Enterprise Liquidity Requirements (RIN 2590–AB09)

On January 8, 2021, FHFA published a proposed rule (*see* 86 FR 1306) that would have established minimum liquidity requirements sufficient for the Enterprises (Fannie Mae and Freddie Mac) to continue meeting their financial obligations in periods of short term and long-term debt market stress. The minimum liquidity requirements would have defined eligible assets that would qualify for liquidity and the metrics for determining compliance. The proposed rule would have also provided for supervisory and enforcement processes to address non-compliance with the minimum requirements.

Federal Home Loan Bank System Boards of Directors and Executive Management (RIN 2590–AB24)

On November 4, 2024, FHFA published a proposed rule (*see* 89 FR 87730) that would have amended FHFA's regulations on Responsibilities of Boards of Directors, Corporate Practices, and Corporate Governance, Federal Home Loan Bank Directors, and the Office of Finance to address a number of corporate governance-related issues. Primarily, the proposed rule would have updated and clarified regulatory requirements on: (1) FHFA's annual designation of Federal Home Loan Bank directorships; (2) Federal Home Loan Bank director eligibility and professional qualifications; (3) nomination, election, and removal of Federal Home Loan Bank directors; (4) the conduct of Federal Home Loan Bank System board and committee meetings; (5) Federal Home Loan Bank director compensation; (6) Federal Home Loan Bank employee conflicts of interest; and (7) the respective responsibilities of Federal Home Loan Bank System boards of directors and executive management.

Federal Home Loan Bank Unsecured Credit Limits (RIN 2590–AB41)

On October 3, 2024, FHFA published a proposed rule (*see* 89 FR 80422) that would have amended the provision of FHFA's regulation on Federal Home Loan Bank Capital Requirements establishing limits on unsecured extensions of credit to modify limits on Federal Home Loan Bank extensions of unsecured credit in their on- and off-balance sheet and derivative transactions. Currently, overnight federal funds are excluded from the more restrictive "general limit" on unsecured credit to a single counterparty and are limited only by the higher "overall limit." The proposed rule would have added interest bearing deposit accounts and other authorized overnight investments to that exclusion, which may have provided greater flexibility and improved cost to yield than overnight federal funds.

Withdrawal of Proposed Rules

FHFA is withdrawing these notices of proposed rulemaking because, as noted above, it no longer intends to issue final rules with respect to these proposals. If FHFA decides to pursue future regulatory action in any of these areas, it will do so by publishing a new proposed rule or other issuance consistent with the requirements of the

Administrative Procedure Act, as applicable.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2025–19429 Filed 10–1–25; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****21 CFR Part 1308**

[Docket No. DEA–1356]

Schedules of Controlled Substances: Placement of MDMB-4en-PINACA in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes placing methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1H-indazole-3-carboxamido)butanoate (other name: MDMB-4en-PINACA), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, in schedule I of the Controlled Substances Act. This action is being taken, in part, to enable the United States to meet its obligations under the 1971 Convention on Psychotropic Substances. If finalized, this action would make permanent the existing regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle MDMB-4en-PINACA.

DATES: Comments must be submitted electronically or postmarked on or before November 3, 2025.

Interested persons may file a request for a hearing or waiver of an opportunity for a hearing or to participate in a hearing pursuant to 21 CFR 1308.44 and in accordance with 21 CFR 1316.47 and 1316.49, as applicable, which must be received or postmarked on or before November 3, 2025.

ADDRESSES: Interested persons may file written comments on this proposal in accordance with 21 CFR 1308.43(g). The electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period. To ensure proper handling of comments, please reference "Docket No. DEA–1356" on

all electronic and written correspondence, including any attachments.

- **Electronic comments:** The Drug Enforcement Administration (DEA) encourages commenters to submit comments electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon completion of your comment submission, you will receive a Comment Tracking Number for your comment. If you have received a Comment Tracking Number, your comment has been successfully submitted, and there is no need to resubmit the same comment. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

- **Paper comments:** Paper comments that duplicate electronic submissions are not necessary. Should you wish to mail a paper comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

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

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

As required by 5 U.S.C. 553(b)(4), a summary of this proposed rule may be

found in the docket for this rulemaking at www.regulations.gov.

SUPPLEMENTARY INFORMATION: The Drug Enforcement Administration (DEA) intends to place methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamido)butanoate (other name: MDMB-4en-PINACA), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, in schedule I of the Controlled Substances Act (CSA).

Posting of Public Comments

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

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

For easy reference, an electronic copy of this document and supplemental information to this proposed scheduling action are available at <http://www.regulations.gov>.

Request for Hearing or Waiver of Participation in a Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5

U.S.C. 551–559.¹ Interested persons, as defined in 21 CFR 1300.01(b), may file requests for a hearing in conformity with the requirements of 21 CFR 1308.44(a) and 1316.47(a), and such requests must:

- (1) state with particularity the interest of the person in the proceeding;
- (2) state with particularity the objections or issues concerning which the person desires to be heard; and
- (3) state briefly the position of the person regarding the objections or issues.

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

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

In accordance with 21 U.S.C. 811 and 812, the purpose of a hearing would be to determine whether MDMB-4en-PINACA meets the statutory criteria for placement in schedule I, as proposed in this proposed rule.

Legal Authority

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General (delegated to the Administrator of DEA pursuant to 28 CFR 0.100) on her own motion, at the request of the Secretary of Health and Human Services (HHS), or on the petition of an interested party.⁴ This proposed action is initiated on the Administrator's own motion and supported by, *inter alia*, a

recommendation from the then-Assistant Secretary for Health of HHS.

In addition, the United States is a party to the 1971 United Nations Convention on Psychotropic Substances (1971 Convention), Feb. 21, 1971, 32 U.S.T. 543, 1019 U.N.T.S. 175, as amended. Procedures respecting changes in drug schedules under the 1971 Convention are governed domestically by 21 U.S.C. 811(d)(2)–(4). When the United States receives notification of a scheduling decision pursuant to Article 2 of the 1971 Convention indicating that a drug or other substance has been added to a schedule specified in the notification, the Secretary of HHS (Secretary),⁵ after consultation with the Attorney General, shall first determine whether existing legal controls under subchapter I of the CSA and the Federal Food, Drug, and Cosmetic Act meet the requirements of the schedule specified in the notification with respect to the specific drug or substance.⁶

In the event that the Secretary did not consult with the Attorney General, and the Attorney General did not issue a temporary order, as provided under 21 U.S.C. 811(d)(4), the procedures for permanent scheduling are set forth in 21 U.S.C. 811(a) and (b) control. Pursuant to 21 U.S.C. 811(a)(1) and (2), the Attorney General (as delegated to the Administrator of DEA) may, by rule, and upon the recommendation of the Secretary, add to such a schedule or transfer between such schedules any drug or other substance, if she finds that such drug or other substance has a potential for abuse, and makes with respect to such drug or other substance the findings prescribed by 21 U.S.C. 812(b) for the schedule in which such drug or other substance is to be placed.

Background

On June 10, 2021, the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs (CND) voted to place MDMB-4en-PINACA in Schedule II of the 1971 Convention during its 64th Session held on April 14, 2021.

As a signatory to this international treaty, the United States is required, by scheduling under the CSA, to place

⁵ As discussed in a memorandum of understanding entered into by the FDA and the National Institute on Drug Abuse (NIDA), FDA acts as the lead agency within HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518 (Mar. 8, 1985). The Secretary has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460 (July 1, 1993).

⁶ 21 U.S.C. 811(d)(3).

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

² 21 CFR 1316.49.

³ 21 CFR 1308.44(b), 1316.53.

⁴ 21 U.S.C. 811(a).

appropriate controls on MDMB-4en-PINACA to meet the minimum requirements of the treaty. Because the procedures in 21 U.S.C. 811(d)(3) and (4) for consultation and issuance of a temporary order, discussed in the above legal authority section, were not followed for MDMB-4en-PINACA, DEA is utilizing the procedures for permanent scheduling set forth in 21 U.S.C. 811(a) and (b) to control MDMB-4en-PINACA. Such scheduling would satisfy the United States' international obligations.

Article 2, paragraph 7(b), of the 1971 Convention sets forth the minimum requirements that the United States must meet when a substance has been added to Schedule II of the 1971 Convention. Pursuant to the 1971 Convention, the United States must require licenses for the manufacture, export and import, and distribution of MDMB-4en-PINACA. This license requirement is accomplished by the CSA's registration requirement as set forth in 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

In addition, the United States must adhere to specific export and import provisions set forth in the 1971 Convention. This requirement is accomplished by the CSA with the export and import provisions established in 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312. Likewise, under Article 13, paragraphs 1 and 2, of the 1971 Convention, a party to the 1971 Convention may notify through the UN Secretary-General another party that it prohibits the importation of a substance in Schedule II, III, or IV of the 1971 Convention. If such notice is presented to the United States, the United States shall take measures to ensure that the named substance is not exported to the notifying country. This requirement is also accomplished by the CSA's export provisions mentioned above.

Under Article 16, paragraph 4, of the 1971 Convention, the United States is required to provide annual statistical reports to the International Narcotics Control Board (INCB). Using INCB Form P, the United States shall provide the following information: (1) In regard to each substance in Schedule I and II of the 1971 Convention, quantities manufactured, exported to, and imported from each country or region as well as stocks held by manufacturers; (2) in regard to each substance in Schedule III and IV of the 1971 Convention, quantities manufactured, as well as quantities exported and imported; (3) in regard to each substance in Schedule II and III of the

1971 Convention, quantities used in the manufacture of exempt preparations; and (4) in regard to each substance in Schedule II–IV of the 1971 Convention, quantities used for the manufacture of non-psychotropic substances or products.

Lastly, under Article 2 of the 1971 Convention, the United States must adopt measures in accordance with Article 22 to address violations of any statutes or regulations that are adopted pursuant to its obligations under the 1971 Convention. Persons acting outside the legal framework established by the CSA are subject to administrative, civil, and/or criminal action; therefore, the United States complies with this provision.

DEA notes that there are differences between the schedules of substances in the 1971 Convention and the CSA. The CSA has five schedules (schedules I–V) with specific criteria set forth for each schedule. Schedule I is the only possible schedule in which a drug or other substance may be placed if it has high potential for abuse and no currently accepted medical use in treatment in the United States.⁷ In contrast, the 1971 Convention has four schedules (Schedules I–IV) but does not have specific criteria for each schedule. The 1971 Convention simply defines its four schedules, in Article 1, to mean the correspondingly numbered lists of psychotropic substances annexed to the Convention and altered in accordance with Article 2.

Proposed Determination to Schedule MDMB-4en-PINACA

Pursuant to 21 U.S.C. 811(b), DEA gathered the necessary data on MDMB-4en-PINACA and, on November 29, 2021, submitted it to the then-Assistant Secretary of Health of HHS with a request for a scientific and medical evaluation and scheduling recommendation for this substance. On September 29, 2023, HHS⁸ provided DEA with a scientific and medical evaluation entitled “Basis for the Recommendation to Control MDMB-4en-PINACA and Its Salts in Schedule I of the Controlled Substances Act” and a scheduling recommendation. Pursuant to 21 U.S.C. 811(b), following consideration of the eight-factors and findings related to the substance's abuse potential, legitimate medical use, and safety or dependence liability, HHS

recommended that MDMB-4en-PINACA, its salts, isomers, and salts of isomers be controlled in schedule I of the CSA.⁹ HHS noted that MDMB-4en-PINACA is a full agonist at the cannabinoid type 1 (CB1) receptor, has no known medical use in the United States, has no approved new drug applications, and is not known to be marketed anywhere in the world as an approved drug product. HHS also noted that health care practitioners and medical examiners have reported cases of severe clinical adverse events and even death when MDMB-4en-PINACA was used.

On December 12, 2023, the previous Administrator published a temporary scheduling order in the **Federal Register**¹⁰ temporarily placing six synthetic cannabinoids (SCs) in schedule I of the CSA upon finding that these substances pose an imminent threat to public safety. The six SCs temporarily controlled under the CSA were (1) MDMB-4en-PINACA; (2) methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate (other name: 4F-MDMB-BUTICA); (3) 4F-MDMB-BICA; N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamide (other name: ADB-4en-PINACA); (4) 5-pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-*b*]indol-1-one (other names: CUMYL-PEGACLONE; SGT-151); (5) ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate (other names: 5F-EDMB-PICA; 5F-EDMB-2201); and (6) methyl 2-(1-(4-fluorobenzyl)-1*H*-indole-3-carboxamido)-3-methyl butanoate (other name: MMB-FUBICA). These six SCs have not been investigated for medical use nor are they intended for human use.

As noted above, the Administrator, on his own motion, is now initiating proceedings under 21 U.S.C. 811(a)(1) to permanently schedule MDMB-4en-PINACA in schedule I of the CSA. Upon receipt of the scientific and medical evaluation and scheduling recommendation from HHS, DEA reviewed the documents and all other relevant data and conducted its own eight-factor analysis in accordance with 21 U.S.C. 811(c). Included below is a brief summary of each factor as analyzed by HHS and DEA, and as considered by DEA in its proposed scheduling action. Readers should refer to the full eight-factor analyses prepared by HHS and by DEA in support of this proposal, which are available in their entirety under the tab “Supporting

⁷ See 21 U.S.C. 812(b).

⁸ Administrative responsibilities for evaluating a substance for control under the CSA are performed for HHS by FDA, with the concurrence of the National Institute on Drug Abuse (NIDA), according to a Memorandum of Understanding. 50 FR 9518 (Mar. 8, 1985).

⁹ NIDA concurred with HHS's recommendation.

¹⁰ 88 FR 86040.

Documents” of the public docket of this rulemaking action at <https://www.regulations.gov>, under docket number “DEA-1356.”

1. The Drug’s Actual or Relative Potential for Abuse

In addition to considering the information HHS provided in its scientific and medical evaluation document for MDMB-4en-PINACA, DEA also considered all other relevant data regarding actual or relative potential for abuse of MDMB-4en-PINACA. The term “abuse” is not defined in the CSA; however, the legislative history of the CSA suggests that DEA consider the following criteria in determining whether a particular drug or substance has a potential for abuse:¹¹

(a) *There is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or to the community; or*

(b) *There is significant diversion of the drug or drugs containing such a substance from legitimate drug channels; or*

(c) *Individuals are taking the drug or drugs containing such a substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or*

(d) *The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse to make it likely that the drug will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.*

In its recommendation, HHS noted that the abuse of MDMB-4en-PINACA is creating a hazard to the health and safety of both the individual users and others within the community. According to HHS, MDMB-4en-PINACA has been associated with numerous reports of emergency department admission, severe intoxication, and death. HHS also noted that MDMB-4en-PINACA is not an FDA-approved drug product, MDMB-4en-PINACA is not approved as a drug in any country, and there is no legitimate source for MDMB-4en-PINACA as a marketed drug. Since 2019, the National Forensic Laboratory Information System (NFLIS)-Drug¹²

registered 14,801 reports pertaining to MDMB-4en-PINACA. These encounters of MDMB-4en-PINACA by law enforcement indicate that this substance is being trafficked in the United States.¹³

According to HHS, because MDMB-4en-PINACA is not approved for medical use, reports of human self-administration indicate that individuals are taking this substance of their own accord as opposed to under the direction of a medical professional. HHS also stated that the pharmacological action of MDMB-4en-PINACA is similar to other schedule I cannabinoids, such as Δ 9-tetrahydrocannabinol (Δ 9-THC), which all have high abuse potential. HHS concluded that MDMB-4en-PINACA has a substantial capability to be a hazard to the health of the user and to the safety of the community.

2. Scientific Evidence of the Drug’s Pharmacological Effects, if Known

In its recommendation, HHS stated that the neurochemical effects of MDMB-4en-PINACA occur primarily through cannabinoid receptor systems in the brain. HHS noted that MDMB-4en-PINACA binds to CB1 receptors and functions as a full agonist, and that the binding affinity and functional activity profile is similar to that of other schedule I cannabinoids, including Δ 9-THC. Studies were conducted to evaluate *in vitro* cannabinoid receptor binding and functional effects of MDMB-4en-PINACA. These results indicate that MDMB-4en-PINACA, similar to other schedule I SCs, binds to CB1 receptors and acts as an agonist at CB1 receptors. Drug discrimination studies were conducted in animals to evaluate whether MDMB-4en-PINACA has discriminative stimulus effects similar to those of other substances in schedule I of the CSA. MDMB-4en-PINACA was shown to fully substitute for the discriminative stimulus effects produced by Δ 9-THC.

3. The State of Current Scientific Knowledge Regarding the Drug or Other Substance

MDMB-4en-PINACA is a potent cannabinoid that is reported to be smoked for recreational purposes. MDMB-4en-PINACA is a CB1 receptor agonist that is pharmacologically similar to Δ 9-THC. Neither HHS nor DEA is aware of any currently accepted medical

use for MDMB-4en-PINACA in treatment in the United States.¹⁴

4. Its History and Current Pattern of Abuse

HHS reviewed the current literature and law enforcement data supplied by DEA within HHS’s recommendation for control of MDMB-4en-PINACA. HHS stated that, although law enforcement data are not direct evidence of abuse, it can be inferred that MDMB-4en-PINACA, like other SCs, has been consumed for the substance’s psychoactive and intoxicating effects. HHS also noted that in terms of the propensity of new SCs to emerge as new drugs of abuse, MDMB-4en-PINACA fits an established pattern. MDMB-4en-PINACA was reported in Slovenia in 2018 but didn’t appear in the United States until January 2019. Presentations at emergency departments that were directly linked to the abuse of MDMB-4en-PINACA have included violent seizures, body spasms, agitation,

¹⁴ To place a drug or other substance in schedule I under the CSA, DEA must consider whether the substance has a currently accepted medical use in treatment in the United States. 21 U.S.C. 812(b)(1)(B). There is no evidence suggesting that MDMB-4en-PINACA has a currently accepted medical use in treatment in the United States. To determine whether a drug or other substance has a currently accepted medical use, DEA has traditionally applied a five-part test to a drug or substance that has not been approved by the FDA: i. The drug’s chemistry must be known and reproducible; ii. there must be adequate safety studies; iii. there must be adequate and well-controlled studies proving efficacy; iv. the drug must be accepted by qualified experts; and v. the scientific evidence must be widely available. See *Marijuana Scheduling Petition; Denial of Petition; Remand*, 57 FR 10499 (Mar. 26, 1992), *pet. for rev. denied*, *Alliance for Cannabis Therapeutics v. Drug Enforcement Admin.*, 15 F.3d 1131, 1135 (D.C. Cir. 1994). DEA and HHS applied the traditional five-part test for currently accepted medical use in this matter. In a recent published letter in a different context, HHS applied an additional two-part test to determine currently accepted medical use for substances that do not satisfy the five-part test: (1) whether there exists widespread, current experience with medical use of the substance by licensed health care practitioners operating in accordance with implemented jurisdiction-authorized programs, where medical use is recognized by entities that regulate the practice of medicine, and, if so, (2) whether there exists some credible scientific support for at least one of the medical conditions for which part (1) is satisfied. On April 11, 2024, the Department of Justice’s Office of Legal Counsel (OLC) issued an opinion, which, among other things, concluded that HHS’s two-part test would be sufficient to establish that a drug has a currently accepted medical use. Office of Legal Counsel, Memorandum for Merrick B. Garland Attorney General Re: Questions Related to the Potential Rescheduling of Marijuana at 3 (April 11, 2024). For purposes of this proposal, there is no evidence that health care providers have widespread experience with medical use of MDMB-4en-PINACA or that the use of MDMB-4en-PINACA is recognized by entities that regulate the practice of medicine under either the traditional five-part test or the two-part test.

¹¹ Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. Rep. No. 91-1444, 91st Cong., Sess. 1 (1970); reprinted in 1970 U.S.C.C.A.N. 4566, 4603.

¹² NFLIS-Drug is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state

and local forensic laboratories in the United States. NFLIS-Drug data were queried February 1, 2024.

¹³ While law enforcement data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. See 76 FR 77330, 77332 (Dec. 12, 2011).

vomiting, tachycardia, and elevated blood pressure.

5. *The Scope, Duration, and Significance of Abuse*

According to HHS, SCs continue to be encountered in the illicit market despite scheduling actions that attempt to safeguard the public from the adverse effects and safety issues associated with these substances. Novel SCs continue to be encountered that differ only by small chemical structural modifications, intended to avoid prosecution while maintaining the pharmacological effects. Law enforcement and health care professionals continue to report the abuse of these substances and their associated products. Since 2019, NFLIS registered 20,620 reports pertaining to MDMB-4en-PINACA.

6. *What, If Any, Risk There is to the Public Health*

HHS and DEA documented multiple cases where MDMB-4en-PINACA was identified in overdoses and/or cases involving death attributed to its abuse in the United States and abroad. Full details of the overdose cases can be found under the tab “Supporting Documents” of the public docket of this action at <https://www.regulations.gov>, under Docket Number “DEA-1356.” Emergency medical intervention has been required, alongside reports of serious adverse health effects, from these incidents involving MDMB-4en-PINACA.

7. *Its Psychic or Physiological Dependence Liability*

There are no clinical studies evaluating dependence liabilities specific to MDMB-4en-PINACA. However, scientific data indicate that MDMB-4en-PINACA has a pharmacological profile that is similar to other schedule I SCs. HHS stated that based upon this similar pharmacological profile, it is reasonable to assume that MDMB-4en-PINACA would retain a physiological and psychological dependence liability that is similar to that of Δ9-THC (a schedule I drug) and other schedule I SCs, such as 1-pentyl-3-(1-naphthoyl)indole (JWH-018), [1-(5-fluoropentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (XLR11), and *N*-(1-adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide (AKB-48).

8. *Whether the Substance is an Immediate Precursor of a Substance Already Controlled Under the CSA*

As noted by HHS, MDMB-4en-PINACA is not an immediate precursor of any substance controlled under the CSA, as defined by 21 U.S.C. 802(23).

Conclusion

After considering the scientific and medical evaluation conducted by HHS, HHS’s scheduling recommendation, and DEA’s own eight-factor analysis, DEA finds that the facts and all relevant data constitute substantial evidence of the potential for abuse of MDMB-4en-PINACA. As such, DEA hereby proposes to permanently schedule MDMB-4en-PINACA as a schedule I controlled substance under the CSA. This action would enable the United States to meet its obligations under the 1971 Convention on Psychotropic Substances.

Proposed Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also outlines the findings required to place a drug or other substance in any particular schedule.¹⁵ After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all other available data, the Administrator of DEA, pursuant to 21 U.S.C. 811(a) and 812(b)(1), finds that:

1. MDMB-4en-PINACA has a high potential for abuse that is comparable to other schedule I substances such as Δ9-THC and JWH-018;

2. MDMB-4en-PINACA has no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of MDMB-4en-PINACA under medical supervision.

Based on these findings, the Administrator concludes that MDMB-4en-PINACA, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible, warrant control in schedule I of the CSA.

Requirements for Handling MDMB-4en-PINACA

If this proposed rule is finalized as proposed, MDMB-4en-PINACA would continue¹⁶ to be subject to the CSA’s schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, import, export, engagement in research, conduct of instructional activities or chemical analysis with, and possession

of schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) MDMB-4en-PINACA must be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

2. *Security.* MDMB-4en-PINACA is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, and in accordance with 21 CFR 1301.71 through 1301.76. Non-practitioners handling these three substances also must comply with the screening requirements of 21 CFR 1301.90 through 1301.93.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of MDMB-4en-PINACA must comply with 21 U.S.C. 825 and 958(e) and be in accordance with 21 CFR part 1302.

4. *Quota.* Only registered manufacturers would be permitted to manufacture MDMB-4en-PINACA in accordance with a quota assigned, pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303.

5. *Inventory.* Any person registered with DEA to handle MDMB-4en-PINACA must have an initial inventory of all stocks of controlled substances (including this substance) on hand on the date the registrant first engages in the handling of controlled substances pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take a new inventory of all stocks of controlled substances (including MDMB-4en-PINACA) on hand every two years pursuant to 21 U.S.C. 827 and 958(e) and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* Every DEA registrant must maintain records and submit reports with respect to MDMB-4en-PINACA, pursuant to 21 U.S.C. 827, 832(a), and 958(e), and in accordance with 21 CFR 1301.74(b) and (c) and 1301.76(b) and parts 1304, 1312, and 1317. Manufacturers and distributors would be required to submit reports regarding MDMB-4en-PINACA to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827, and in accordance with 21 CFR parts 1304 and 1312.

7. *Order Forms.* Every DEA registrant who distributes MDMB-4en-PINACA must comply with the order form

¹⁵ 21 U.S.C. 812(b).

¹⁶ MDMB-4en-PINACA is currently subject to schedule I controls on a temporary basis, pursuant to 21 U.S.C. 811(h). See 88 FR 86040 (Dec. 12, 2023).

requirements, pursuant to 21 U.S.C. 828 and 21 CFR part 1305.

8. *Importation and Exportation.* All importation and exportation of MDMB-4en-PINACA must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

9. *Liability.* Any activity involving MDMB-4en-PINACA not authorized by, or in violation of, the CSA or its implementing regulations would be unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866, 13563, 14192 and 14294 (Regulatory Review)

In accordance with 21 U.S.C. 811(a), this proposed scheduling action is subject to formal rulemaking procedures done “on the record after opportunity for a hearing,” which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563. DEA scheduling actions are not subject to either E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Fighting Overcriminalization in Federal Regulations.

Executive Order 12988, Civil Justice Reform

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

Executive Order 13132, Federalism

This proposed rulemaking does not have federalism implications warranting the application of E.O. 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act, 5

U.S.C. 601–612, has reviewed this proposed rule and by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities. DEA proposes placing the substance methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamido)butanoate (Other name: MDMB-4en-PINACA), including its salts, isomers, and salts of isomers, in schedule I of the CSA. This action is being taken to enable the United States to meet its obligations under the 1971 Convention on Psychotropic Substances. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess), or propose to handle, MDMB-4en-PINACA.

The entities affected by this proposed rule include the manufacturers, distributors, importers, exporters, and researchers of MDMB-4en-PINACA. DEA determines the North American Industry Classification System (NAICS) industries that best represent these business activities. Table 1 lists the business activities and corresponding NAICS industries.¹⁷

TABLE 1—BUSINESS ACTIVITY AND CORRESPONDING NAICS INDUSTRIES

Business activity	NAICS code	NAICS industry description
Manufacturer	325412	Pharmaceutical Preparation Manufacturing.
Distributor, Importer, Exporter ..	424210	Drugs and Druggists' Sundries Merchant Wholesalers.
	424690	Other Chemical and Allied Products Merchant Wholesalers.
Researcher	541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nano-technology and Biotechnology).
	611310	Colleges, Universities and Professional Schools.

From Statistics of U.S. Businesses (SUSB) data, DEA determined the number of firms and small firms for each of the affected industries, and by

comparing the number of affected small entities to the number of small entities for each industry, DEA determined whether a substantial number of small

entities are affected in any of the industries. Table 2 lists the number of firms, small firms, and percent small firms in each affected industry.

TABLE 2—PERCENT AFFECTED SMALL ENTITIES BY INDUSTRY

NAICS industry	Firms ¹⁸	SBA size standard ¹⁹	Small firms ²⁰	Percent small entities (%)
325412—Pharmaceutical Preparation Manufacturing	1,179	1,300 employees	1,099	93.2
424210—Drugs and Druggists' Sundries Merchant Wholesalers	7,012	250 employees	6,760	96.4
424690—Other Chemical and Allied Products Merchant Wholesalers	5,487	175 employees	5,197	94.7

¹⁷ Executive Office of the President Office of Management and Budget, North American Industry

Classification System, United States, 2022, [https://](https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf)

www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf. (Accessed 4/2/2024.)

TABLE 2—PERCENT AFFECTED SMALL ENTITIES BY INDUSTRY—Continued

NAICS industry	Firms ¹⁸	SBA size standard ¹⁹	Small firms ²⁰	Percent small entities (%)
541715—Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).	10,042	1,000 employees	9,599	95.6
611310—Colleges, Universities and Professional Schools	2,494	\$34.5 million	1,515	60.8

Based on the American Chemical Society's SciFinder database,²¹ DEA identified one entity supplying MDMA-4en-PINACA across the industries 325412, 424210, and 424690. This entity has already registered with DEA to handle controlled substances. Hence, DEA expects none of the entities in the 325412, 424210, and 424690 industries will be affected by this rule.

Additionally, DEA expects that the number of researchers working with MDMA-4en-PINACA is small, because MDMA-4en-PINACA is not approved for medical use and has a substantial capability to be a hazard to the health of the user and to the safety of the community. Also, DEA believes that the researchers working with MDMA-4en-PINACA may also work with other controlled substances; hence, these researchers are likely already registered with DEA and are qualified to handle controlled substances. For these reasons, DEA believes the number of affected researchers that are small entities is not a substantial number of small entities in 541715 and 611310 industries.

In summary, an insubstantial number of small entities will be affected by this proposed rule. As such, the proposed rule, if finalized, is not expected to result in a significant economic impact

on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, DEA has determined and certifies that this action would not result in any Federal mandate that may result "in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year" Therefore, neither a Small Government Agency Plan nor any other action is required under the UMRA of 1995.

Paperwork Reduction Act of 1995

This proposed rule would not impose a new collection or modify an existing collection of information under the Paperwork Reduction Act of 1995.²² Also, this proposed rule would not impose new or modify existing recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. However, this proposed rule would require compliance with the following existing OMB collections: 1117–0003, 1117–0004, 1117–0006, 1117–0008, 1117–0009, 1117–0010,

1117–0012, 1117–0014, 1117–0021, 1117–0023, 1117–0029, and 1117–0056. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects in 21 CFR Part 1308

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

For the reasons set out above, DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

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

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

■ 2. In § 1308.11,

■ a. Add new paragraph (d)(106); and
■ b. Remove and reserve paragraph (h)(62).

The addition to read as follows:

§ 1308.11 Schedule I.

* * * * *
(d) * * *

(106) MDMA-4en-PINACA (other name: methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamido)butanoate) 7090

Signing Authority

This document of the Drug Enforcement Administration was signed on September 30, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the

Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters

the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025–19348 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–09–P

¹⁸ Statistics of U.S. Businesses, 2022 SUSB Annual Data Tables by Establishment Industry, <https://www.census.gov/data/tables/2021/econ/susb/2021-susb-annual.html> (Accessed June 24, 2025).

¹⁹ U.S. Small Business Administration, Table of size standards, Version March 2023, Effective:

March 17, 2023, https://www.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards_Effective%20March%202017%2C%202023%20%282%29.pdf (Accessed 6/24/2025) Size standards are based on the number of employees or annual receipts depending on industry.

²⁰ Based on the estimated number of firms below the SBA size standard for each industry.

²¹ SciFinder; Chemical Abstracts Service: Columbus, OH; CAS 2504100–70–1; <https://scifinder.cas.org> (accessed May 14, 2024).

²² 44 U.S.C. 3501–3521.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–1395]

Designation of P2P Methyl Glycidic Acid as a List I Chemical

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration is proposing the control of the chemical 2-methyl-3-phenyloxirane-2-carboxylic acid (also known as P2P methyl glycidic acid and BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible, as a list I chemical under the Controlled Substances Act (CSA). P2P methyl glycidic acid is important to the manufacture of the schedule II controlled substances phenylacetone (also known as phenyl-2-propanone or P2P), methamphetamine, and amphetamine, and it is used in clandestine laboratories to illicitly manufacture these controlled substances. If finalized, this proposed rule would subject handlers of P2P methyl glycidic acid to the chemical regulatory provisions of the CSA and its implementing regulations. This rulemaking does not establish a threshold for domestic and international transactions of P2P methyl glycidic acid. As such, all transactions of P2P methyl glycidic acid, regardless of size, shall be regulated. In addition, chemical mixtures containing P2P methyl glycidic acid are not exempt from regulatory requirements at any concentration. Therefore, all transactions of chemical mixtures containing any quantity of P2P methyl glycidic acid shall be regulated pursuant to the CSA. However, manufacturers may submit an application for exemption for those mixtures that do not qualify for automatic exemption.

DATES: Comments must be submitted electronically or postmarked on or before November 3, 2025. Commenters should be aware that the electronic Federal Docket Management System will not accept any comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference “Docket No. DEA–1395” on all electronic and written correspondence, including any attachments.

• *Electronic comments:* The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

• *Paper comments:* Paper comments that duplicate electronic submissions are not necessary. Should you wish to mail a paper comment, in lieu of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

• *Paperwork Reduction Act comments:* All comments concerning collections of information under the Paperwork Reduction Act must be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for DOJ, Washington, DC 20503. Please state that your comment refers to Docket No. DEA–1395.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249. As required by 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found in the docket for this rulemaking at <http://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:**Posting of Public Comments**

Please note that all comments received in response to this docket are considered part of the public record. DEA generally will make comments available for public inspection online at <http://www.regulations.gov>. Such information includes personal or business identifiers (such as name, address, state or Federal identifiers, etc.) voluntarily submitted by the commenter. Generally, all information voluntarily submitted by the commenter, unless clearly marked as Confidential Information in the method described below, will be publicly posted. Comments may be submitted

anonymously. The Freedom of Information Act applies to all comments received.

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

For easy reference, an electronic copy of this document and supplemental information to this proposed scheduling action are available at <http://www.regulations.gov>.

Legal Authority

The Controlled Substances Act (CSA) gives the Attorney General the authority to specify, by regulation, chemicals as list I chemicals.¹ A “list I chemical” is defined as “a chemical that is used in manufacturing a controlled substance in violation of [the CSA] and is important to the manufacture of the controlled substances.”² The current list of all listed chemicals is published at 21 CFR 1310.02. Pursuant to 28 CFR 0.100(b), the Attorney General has delegated her authority to designate list I chemicals to the Administrator of DEA (Administrator). DEA regulations set forth the process by which DEA may add a chemical as a listed chemical. As set forth in 21 CFR 1310.02(c), the agency may do so by publishing a final rule in the **Federal Register** following a published notice of proposed rulemaking with at least 30 days for public comments.

In addition, the United States is a party to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Convention), Dec. 20, 1988, 1582 U.N.T.S. 95. Under Article 12 of the 1988 Convention, when the United States receives notification that a chemical has been added to Table I or

¹ 21 U.S.C. 802(34).

² *Id.*

Table II of the 1988 Convention, the United States is required to take measures it deems appropriate to monitor the manufacture and distribution of that chemical within the United States and to prevent its diversion, including measures related to international trade.

Background

By letter dated June 6, 2022, in accordance with Article 12, paragraph 6 of the 1988 Convention, the Secretary-General of the United Nations informed the United States that the chemicals P2P methyl glycidic acid and specific esters of P2P methyl glycidic acid, including their optical isomers, were added to Table I of the 1988 Convention. This letter was prompted by a decision of the United Nations Commission on Narcotic Drugs (CND) to add P2P methyl glycidic acid and specific esters of P2P methyl glycidic acid to Table I during its 67th Session on March 19, 2024. As discussed above, the United States is a party to the 1988 Convention and has certain obligations pursuant to Article 12. By designating P2P methyl glycidic acid, as well as its esters and their optical and geometric isomers, as list I chemicals, the United States will fulfill its obligations under the 1988 Convention.

P2P methyl glycidic acid is used in, and is important to, the manufacture of the schedule II substances phenylacetone (also known as phenyl-2-propanone, P2P, or benzyl methyl ketone), methamphetamine, and amphetamine. Throughout the 1970s, methamphetamine was illicitly produced in the United States, primarily with the precursor chemical P2P. In response to the illicit use of P2P, DEA controlled P2P as a schedule II controlled substance in 1980 pursuant to the “immediate precursor” provisions of the CSA, specifically 21 U.S.C. 811(e).³ Clandestine laboratory operators have circumvented this control by developing a variety of synthetic methods for producing P2P.

Congress and DEA responded by placing controls on certain chemicals used in the illicit production of P2P, such as phenylacetic acid (and its salts and esters), acetic anhydride, benzyl cyanide, benzaldehyde, and nitroethane.^{4,5} However, clandestine

laboratory operators circumvented these controls by using alternative chemicals that avoid the production of P2P—*i.e.*, ephedrine and pseudoephedrine for the production of methamphetamine, and phenylpropanolamine for the production of amphetamine. This led Congress and DEA to place stringent controls on the manufacture, distribution, importation, and exportation of ephedrine (its salts, optical isomers, and salts of optical isomers), pseudoephedrine, and phenylpropanolamine (controlled as list I chemicals), and pharmaceutical products containing these chemicals through the Combat Methamphetamine Epidemic Act of 2005 (Pub. L. 109–117), the Methamphetamine Production Prevention Act of 2008 (Pub. L. 110–415), and the Combat Methamphetamine Act of 2010 (Pub. L. 111–268).⁶

With the growing problem of illicit drug production and the issue of precursor chemical controls gaining global attention, the international community soon took similar measures. Article 12 of the 1988 Convention first established international controls on precursors. Article 12 established two categories of controlled illicit drug precursor substances: Table I and Table II.⁷ International efforts to prevent the illicit production of amphetamine-type stimulants (including amphetamine and methamphetamine), and international

(including its salts and esters) are list I chemicals. Under 21 CFR 1310.02(b), acetic anhydride is a list II chemical.

⁶ DEA implemented the Combat Methamphetamine Epidemic Act of 2005, the Methamphetamine Production Prevention Act of 2008, and the Combat Methamphetamine Enhancement Act of 2010 in a series of interim and final rules. See *Implementation of the Combat Methamphetamine Epidemic Act of 2005; Notice of Transfers Following Importation or Exportation*, 72 FR 17401 (Apr. 9, 2007); *Implementation of the Combat Methamphetamine Epidemic Act of 2005; Notice of Transfers Following Importation or Exportation; Temporary Stay of Certain Provisions*, 72 FR 28601 (May 22, 2007); *Import and Production Quotas for Certain List I Chemicals*, 73 FR 73549 (Dec. 3, 2008); *Combat Methamphetamine Epidemic Act of 2005: Fee for Self-Certification for Regulated Sellers of Scheduled Listed Chemical Products*, 73 FR 79318 (Dec. 29, 2008); *Registration Requirements for Importers and Manufacturers of Prescription Drug Products Containing Ephedrine, Pseudoephedrine, or Phenylpropanolamine*, 75 FR 4973 (Feb. 1, 2010); *Information on Foreign Chain of Distribution for Ephedrine, Pseudoephedrine, and Phenylpropanolamine*, 75 FR 10168 (Mar. 5, 2010); *Removal of Thresholds for the List I Chemicals Pseudoephedrine and Phenylpropanolamine*, 75 FR 38915 (July 7, 2010); *Self-Certification and Employee Training of Mail-Order Distributors of Scheduled Listed Chemical Products*, 76 FR 20518 (Apr. 13, 2011); *Implementation of the Methamphetamine Production Prevention Act of 2008*, 76 FR 74696 (Dec. 1, 2011).

⁷ Table I and Table II are annexed to the Convention.

control of precursors have since made significant progress.

Two international entities have played a crucial role in this effort—the CND and the International Narcotics Control Board (INCB). The CND meets annually to consider and adopt a range of decisions and resolutions related to international drug control treaties, including the 1988 Convention. The INCB is an independent quasi-judicial expert body for the implementation of the international drug control treaties, including the 1988 Convention. Previously, the CND has voted to include methamphetamine and amphetamine precursor chemicals, including *alpha*-phenylacetonitrile (APAAN),⁸ 3,4-MDP2P methyl glycidate, 3,4-MDP2P glycidic acid, *alpha*-phenylacetacetamide (APAA),⁹ and methyl *alpha*-phenylacetacetate (MAPA) under the 1988 Convention.¹⁰ The DEA subsequently added these chemicals as list I chemicals to the CSA.¹¹

In response to domestic and international controls on amphetamine and methamphetamine precursors, clandestine laboratory operators have continued to explore alternate methods of making these illicit drugs, including developing techniques to manufacture their own precursors and diverting other precursors to produce these precursors. The INCB noted the use of P2P methyl glycidic acid and its esters as precursors for the production of P2P.¹² The INCB began reporting the emergence of P2P methyl glycidic acid in 2012, the emergence of methyl ester of P2P methyl glycidic acid in 2016, and the emergence of ethyl ester of P2P methyl

⁸ APAAN was added to Table I of the 1988 Convention at the 57th Session of the CND, which took place in March 2014.

⁹ APAA, 3,4-MDP2P glycidic acid, and 3,4-MDP2P methyl glycidate were added to Table I of the 1988 Convention at the 62nd Session of the CND.

¹⁰ MAPA was added to Table I of the 1988 Convention at the 63rd Session of the CND.

¹¹ *Designation of Alpha-Phenylacetonitrile (APAAN), a Precursor Chemical Used in the Illicit Manufacture of Phenylacetone, Methamphetamine, and Amphetamine, as a List I Chemical*, 82 FR 32457 (July 14, 2017); *Designation of Methyl alpha-phenylacetacetate, a Precursor Chemical Used in the Illicit Manufacture of Phenylacetone, Methamphetamine, and Amphetamine, as a List I Chemical*, 86 FR 64362 (Nov. 18, 2021); *Designation of 3,4-MDP-2-P methyl glycidate (PMK glycidate), 3,4-MDP-2-P methyl glycidic acid (PMK glycidic acid), and alpha-phenylacetacetamide (APAA) as List I Chemicals*, 86 FR 24703 (May 10, 2021); *Designation of 3,4-MDP-2-P Methyl Glycidate (PMK Glycidate), 3,4-MDP-2-P Methyl Glycidic Acid (PMK Glycidic Acid), and Alpha-Phenylacetacetamide (APAA) as List I Chemicals; Correction*, 86 FR 30169 (June 7, 2021).

¹² Statement by Professor Jallal Toufiq, President, INCB, 67th Session of the, Mar. 19, 2024.

³ *Schedules of Controlled Substances; Schedule II Placement of Phenylacetone; (Phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone)*, 44 FR 71822 (Dec. 12, 1979).

⁴ On November 18, 1988, Congress enacted the Chemical Diversion and Trafficking Act (Subtitle A of Title VI of Pub. L. 100–690).

⁵ Under 21 CFR 1310.02(a), benzaldehyde, benzyl cyanide, nitroethane, and phenylacetic acid

glycidic acid in 2023.¹³ P2P methyl glycidic acid does not have any legitimate use, and it has not been widely traded through legitimate channels. Clandestine laboratory operators currently use P2P methyl glycidic acid to manufacture P2P, which they then convert to methamphetamine and amphetamine.

P2P Methyl Glycidic Acid

P2P methyl glycidic acid is known as 2-methyl-3-phenyloxirane-2-carboxylic acid; BMK glycidic acid; and CAS number: 25547–51–7. Since 2012, there have been 113 reports of the P2P methyl glycidic acid sodium salt and 117 reports of P2P methyl glycidic acid through the Precursors Incident Communication System (PICS).¹⁴ More than 47 metric tons of P2P methyl glycidic acid sodium salt and 51 metric tons of P2P methyl glycidic acid were seized. Reports identified China as the country of origin for 64 out of the 103 incidents (for example, seizures, stopped shipments, diversions, etc.) where country of origin was indicated in the incident report. The majority of the incidents were reported in the Netherlands. Since November 2012, through PICS, the INCB reported an increase in the frequency of seizures and amounts seized reported for the sodium salt of P2P methyl glycidic acid. Further, since 2022, INCB reported an increase in frequency and amounts of incidents for P2P methyl glycidic acid, from 35 incidents in 2022 to 68 incidents in 2023.¹⁵

The INCB notes that P2P methyl glycidic acid, including its salts, does not have any legitimate use.¹⁶ DEA has not identified any known legitimate use for P2P methyl glycidic acid, other than in small amounts for research, development, and laboratory analytical purposes. Due to the lack of industrial uses of P2P methyl glycidic acid, the chemical has not been widely available from legitimate chemical suppliers. Since 2012, however, there have been large international seizures of P2P methyl glycidic acid and its salts, primarily in Europe, which suggest there is a ready supply of P2P methyl glycidic acid from international chemical manufacturers. The only use

for a large quantity of P2P methyl glycidic acid of which DEA is aware is as a primary precursor for conversion to P2P, and subsequent conversion to amphetamine or methamphetamine.

DEA has determined that P2P methyl glycidic acid is now readily available from commercial chemical suppliers and has identified potential suppliers in the United States, China, Austria, Hong Kong, the Netherlands, Slovakia, Switzerland, and the United Kingdom.

Since 2016, there have been 12 reports through PICS of the methyl ester of P2P methyl glycidic acid and four reports of the ethyl ester of P2P methyl glycidic acid, totaling more than seven metric tons of the methyl ester of P2P methyl glycidic acid seized and 986 kg of the ethyl ester of P2P methyl glycidic acid seized.¹⁷ China was reported as the alleged origin country for all incidents where the origin country was reported. The majority of the incidents were reported in the Netherlands. The INCB reported an increase in the frequency of seizures and amounts seized reported through PICS since November 2016.¹⁸

DEA is concerned about the ease with which P2P methyl glycidic acid and its esters serve as precursor chemicals for illicit controlled substance production and with the international trafficking in this chemical. The international community shares this concern. The INCB found that P2P methyl glycidic acid and its esters are “highly suitable for the illicit manufacture of P2P.”¹⁹ Based in part on the findings of the INCB, and as noted above, the CND has added P2P methyl glycidic acid and select esters of P2P methyl glycidic acid to Table I of the 1988 Convention. Therefore, DEA is proposing the designation of P2P methyl glycidic acid, including its optical and geometric isomers, its esters, its salts, and salts of its optical and geometric isomers and its esters, and any combination thereof, as list I chemicals.

Proposed Designation of P2P Methyl Glycidic Acid and Its Esters, Its Optical and Geometric Isomers, Its Salts, Salts of Its Optical and Geometric Isomers and Its Esters, and Any Combination Thereof as List I Chemicals

For the reasons discussed above, the Administrator of DEA finds that P2P methyl glycidic acid is used in the manufacture of controlled substances (*i.e.*, schedule II substances P2P,

methamphetamine, and amphetamine) in violation of the CSA and is important to the manufacture of these controlled substances. Clandestine laboratory operators are using P2P methyl glycidic acid as a precursor material for the illicit manufacture of P2P, methamphetamine, and amphetamine. Therefore, the Administrator proposes the designation of P2P methyl glycidic acid as a list I chemical.

If finalized, handlers of P2P methyl glycidic acid would become subject to the chemical regulatory provisions of the CSA, including 21 CFR parts 1309, 1310, 1313, and 1316. Because there are no legitimate industrial uses for P2P methyl glycidic acid, this action does not propose the establishment of a threshold for domestic and import transactions of P2P methyl glycidic acid in accordance with the provisions of 21 CFR 1310.04(g). Therefore, DEA is proposing that all P2P methyl glycidic acid transactions, regardless of size, would be regulated transactions as defined in 21 CFR 1300.02(b). As such, if finalized, all P2P methyl glycidic acid transactions would be subject to recordkeeping, reporting, import and export controls, and other CSA chemical regulatory requirements. In addition, each regulated bulk manufacturer must submit manufacturing, inventory, and use data on an annual basis, in accordance with 21 CFR 1310.05(d).

Chemical Mixtures of P2P Methyl Glycidic Acid

This rulemaking also proposes that chemical mixtures containing P2P methyl glycidic acid would not be exempt from regulatory requirements at any concentration, unless a manufacturer submits to DEA an application for exemption of such chemical mixture, DEA accepts the application for filing, and DEA exempts the chemical mixture in accordance with 21 CFR 1310.13 (exemption of chemical mixtures by application). Because there are no legitimate industrial uses for P2P methyl glycidic acid, regulation of chemical mixtures containing any amount of P2P methyl glycidic acid is necessary to prevent the illicit extraction, isolation, and use of P2P methyl glycidic acid. Therefore, all chemical mixtures containing any quantity of P2P methyl glycidic acid would be subject to control under the CSA, unless a manufacturer of P2P methyl glycidic acid is granted an exemption by the application process in accordance with 21 CFR 1310.13. This rule proposes the modification of the “Table of Concentration Limits” in 21 CFR 1310.12(c) to reflect the fact that chemical mixtures containing any

¹³ *Id.*

¹⁴ PICS is a worldwide, real-time, on-line tool for communication and information sharing between national authorities on precursor incidents to include seizures, stopped shipments, diversion and diversion attempts, illicit laboratories and associated equipment. Queried July 1, 2024, <https://pics.incb.org/>.

¹⁵ *Id.*

¹⁶ Statement by Professor Jallal Toufiq, President, INCB, 67th Session of the CND (Mar. 19, 2024), at 2b.

¹⁷ PICS system queried July 1, 2024, <https://pics.incb.org/>.

¹⁸ *Id.*

¹⁹ Statement by Professor Jallal Toufiq, President, International Narcotics Control Board, 67th Session of the Commission on Narcotic Drugs, March 19, 2024, at 5.

amount of P2P methyl glycidic acid are subject to CSA chemical control provisions.

Application Process for Exemption of Chemical Mixtures

DEA has implemented an application process to exempt certain chemical mixtures from the requirements of the CSA and its implementing regulations.²⁰ Manufacturers may apply for an automatic exemption for those mixtures that do not meet the criteria set forth in 21 CFR 1310.12(d). Pursuant to 21 CFR 1310.13(a), DEA may grant an exemption of a chemical mixture, by publishing a final rule in the **Federal Register**, if DEA determines that: (1) the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and (2) the listed chemical or chemicals cannot be readily recovered.

Requirements for Handling List I Chemicals

If finalized as proposed, the designation of P2P methyl glycidic acid as a list I chemical would subject handlers (manufacturers, distributors, importers, and exporters) and proposed handlers to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importing, and exporting of a list I chemical. Upon the effective date of the final rule, persons potentially handling P2P methyl glycidic acid, including regulated chemical mixtures containing P2P methyl glycidic acid, would be required to comply with the following list I chemical regulations:

1. *Registration.* Any person who handles (manufactures, distributes, imports, or exports), or proposes to engage in such handling of, P2P methyl glycidic acid or a chemical mixture containing P2P methyl glycidic acid would be required to obtain a registration pursuant to 21 U.S.C. 822, 823, 957, and 958. Regulations describing registration for list I chemical handlers are set forth in 21 CFR part 1309. DEA regulations require separate registrations for manufacturing, distributing, importing, and exporting of P2P methyl glycidic acid.²¹ Further, a separate registration would be required for each principal place of business at one general physical location where list I chemicals are manufactured,

distributed, imported, or exported by a person.²²

DEA notes that under the CSA, “warehousemen” are not required to register and may lawfully possess list I chemicals, if the possession of those chemicals is in the usual course of business or employment.²³ Under DEA implementing regulations, the warehouse in question would need to receive the list I chemical from a DEA registrant and would only be able to distribute the list I chemical back to the DEA registrant and registered location from which it was received.²⁴ A warehouse that distributes list I chemicals to persons other than the registrant and registered location from which they were obtained would be conducting distribution activities and so would be required to register as such.

Upon publication of a final rule, any person manufacturing, distributing, importing, or exporting P2P methyl glycidic acid or a chemical mixture containing P2P methyl glycidic acid would become subject to the registration requirement under the CSA. DEA recognizes, however, that it is not possible for persons who are subject to the registration requirements to immediately complete and submit an application for registration and for DEA to immediately issue registrations for those activities. Therefore, to allow any continued legitimate commerce in P2P methyl glycidic acid, DEA is proposing to establish in 21 CFR 1310.09 a temporary exemption from the registration requirement for persons desiring to engage in activities with P2P methyl glycidic acid, provided that DEA receives a properly completed application for registration on or before 30 days after publication of a final rule implementing regulations regarding P2P methyl glycidic acid. The temporary exemption for such persons would remain in effect until DEA takes final action on their application for registration or application for exemption of a chemical mixture.

The temporary exemption would apply solely to the registration requirement; all other chemical control requirements, including recordkeeping and reporting, would be applicable as of the effective date of the final rule. Therefore, all transactions of P2P methyl glycidic acid and chemical mixtures containing P2P methyl glycidic acid would be regulated while an application for registration or

exemption is pending. This is necessary because a delay in regulating these transactions could result in increased diversion of chemicals desirable to drug traffickers.

Additionally, the temporary exemption for registration does not suspend applicable Federal criminal laws relating to P2P methyl glycidic acid, nor does it supersede State or local laws or regulations. All handlers of P2P methyl glycidic acid must comply with applicable State and local requirements in addition to the CSA regulatory controls.

2. *Records and Reports.* Every DEA registrant would be required to maintain records and submit reports to DEA with respect to P2P methyl glycidic acid pursuant to 21 U.S.C. 830(a) and (b)(1) and (2) and in accordance with 21 CFR 1310.04 and 1310.05. Pursuant to 21 CFR 1310.04, such a record must be made and maintained for two years after the date of a transaction involving a listed chemical, provided the transaction is a regulated transaction.

Each regulated bulk manufacturer of a listed chemical would be required to submit manufacturing, inventory, and use data on an annual basis.²⁵ Existing standard industry reports containing the required information would be acceptable, provided the information is separate or readily retrievable from the report.

Regulated persons would need to comply with the CSA and its implementing regulations requiring that each regulated person must report to DEA any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of subchapter I of the CSA. In addition, regulated persons would need to report any proposed regulated transaction with a person whose description or other identifying characteristics DEA has previously furnished to the regulated person, any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person, and any in-transit loss in which the regulated person is the supplier.²⁶

3. *Importation and Exportation.* All importation and exportation of P2P methyl glycidic acid would need to comply with 21 U.S.C. 957, 958, and 971 and be in accordance with 21 CFR part 1313.

4. *Security.* All applicants and registrants would be required to provide

²⁰ 21 CFR 1310.13 specifies that this chemical mixture is a chemical mixture consisting of two or more chemical components, at least one of which is a list I or list II chemical. See also 21 CFR 1300.02 (defining the term “chemical mixture”).

²¹ 21 CFR 1309.21.

²² 21 CFR 1309.23(a). See also 21 U.S.C. 822(e)(1) (separate registration requirements pertaining to manufacturing or distributing a list I chemical).

²³ 21 U.S.C. 822(c)(2), 957(b)(1)(B).

²⁴ See 21 CFR 1309.23(b)(1).

²⁵ 21 CFR 1310.05(d).

²⁶ 21 U.S.C. 830(b); 21 CFR 1310.05(a), (b).

effective controls against theft and diversion of list I chemicals in accordance with 21 CFR 1309.71–1309.73.

5. *Administrative Inspection.* Places, including factories, warehouses, or other establishments and conveyances, where registrants or other regulated persons may lawfully hold, manufacture, distribute, or otherwise dispose of a list I chemical or where records relating to those activities are maintained, would be controlled premises as defined in 21 U.S.C. 880(a) and 21 CFR 1316.02(c). The CSA allows for administrative inspections of these controlled premises as provided in 21 CFR part 1316, subpart A.²⁷

6. *Liability.* Any activity involving P2P methyl glycidic acid not authorized by, or in violation of, the CSA would be unlawful, and would subject the person to administrative, civil, and/or criminal action.

Regulatory Analyses

Executive Orders 12866, 13563, 14192, and 14294 (Regulatory Review)

This proposed rule was developed in accordance with the principles of Executive Orders (E.O.) 12866, 13563, and 14192. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. DEA scheduling actions are not subject to E.O. 14192, *Unleashing Prosperity Through Deregulation*.

Executive Order 14294 specifies that all notices of proposed rulemaking (NPRMs) and final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule or proposed rule is a criminal regulatory offense, the authorizing statute, and the mens rea requirement for each element of the offense. This final rule does not involve a criminal regulatory offense and thus E.O. 14294 does not apply.

DEA has determined that this proposed rule is not a “significant regulatory action” under E.O. 12866, section 3(f). Accordingly, this rule was not reviewed by the Office of Information and Regulatory Affairs.

If finalized as proposed, P2P methyl glycidic acid would be subject to all of

the regulatory controls as well as the administrative, civil, and criminal sanctions applicable to the manufacturing, distributing, importing, and exporting of list I chemicals. As discussed in this notice, P2P methyl glycidic acid is used in, and is important to, the illicit manufacture of the schedule II-controlled substances P2P, methamphetamine, and amphetamine.

DEA has searched information in the public domain for any legitimate uses of this chemical. Other than the small amounts for research, development, and laboratory analytical purposes, DEA has not documented any industrial use for P2P methyl glycidic acid except for it being a chemical intermediate in the production of the schedule II substances P2P, methamphetamine, and amphetamine. Based on the review of the established aggregate production quota for P2P (100 grams for 2024), legal conversion of P2P methyl glycidic acid to P2P in the United States, if it takes place at all, is limited to small, gram quantities. Therefore, DEA concludes the vast majority of, if not all, P2P methyl glycidic acid is used for the illicit manufacturing of P2P, methamphetamine, and amphetamine.

DEA cannot rule out the possibility that minimal quantities of P2P methyl glycidic acid are used for the manufacturing of legitimate P2P. However, if there are any quantities of P2P methyl glycidic acid used for the manufacturing of legitimate P2P, the quantities are believed to be minimal. DEA welcomes any public comment on these quantities and their economic significance.

DEA evaluated the costs and benefits of this proposed action.

Costs

DEA believes the market for P2P methyl glycidic acid for the legitimate manufacturing of pharmaceutical amphetamine or methamphetamine is minimal. As stated above, the only use for P2P methyl glycidic acid of which DEA is aware is as a chemical intermediate for the manufacture of P2P, methamphetamine, and amphetamine. Any manufacturer, distributor, importer, or exporter of P2P methyl glycidic acid for the production of legitimate P2P, methamphetamine, and amphetamine, if they exist at all, would incur costs if this proposed rule were finalized. The primary costs associated with this proposed rule would be the annual registration fees for manufacturers (\$3,699) and for distributors, importers, and exporters (\$1,850). However, any manufacturer that uses P2P methyl glycidic acid for legitimate P2P,

methamphetamine, and amphetamine production would already be registered with DEA and have all security and other handling processes established because of the controls already in place on P2P, methamphetamine, and amphetamine, resulting in minimal cost to those entities. As there are different forms of handling the scheduled substances versus the list I chemical (distribution of P2P, methamphetamine, and amphetamine versus exporting P2P methyl glycidic acid), this could require a separate registration for the different handling of the substances. If an entity is already registered to handle, manufacture, import, or export a scheduled substance, the entity would not need an additional registration for the list I chemical, provided it is handling the list I chemical in the same manner that it is registered for the scheduled substance, or as a coincident activity permitted by § 1309.21(c). Even with the possibility of these additional registrations, DEA believes that the cost would be minimal.

DEA has identified nine domestic suppliers of P2P methyl glycidic acid. It is difficult to estimate the quantity of P2P methyl glycidic acid these suppliers distribute. Chemical distributors often have items in their catalog while not actually having any material level of sales. If this proposed rule is finalized, suppliers for the legitimate use of P2P methyl glycidic acid, if any, are expected to choose the least-cost option, which might include stopping the selling of minimal quantities of P2P methyl glycidic acid, rather than incurring the registration cost. Because DEA believes the quantities of P2P methyl glycidic acid supplied for the legitimate manufacturing of P2P, methamphetamine, and amphetamine are minimal, DEA estimates that the cost of foregone sales is minimal; and thus, the cost of this proposed rule is minimal. DEA welcomes any public comment regarding this estimate.

This analysis excludes consideration of any economic impact to those businesses that facilitate the manufacture and distribution of P2P methyl glycidic acid for the production of manufacturing illicit P2P, methamphetamine, and amphetamine. As a law enforcement organization and as a matter of principle, DEA believes considering the economic utility of facilitating the manufacture of illicit P2P, methamphetamine, and amphetamine would be improper.

Benefits

Controlling P2P methyl glycidic acid is expected to prevent, curtail, and limit the unlawful manufacturing and

²⁷ 21 U.S.C. 880.

distribution of the controlled substances P2P, methamphetamine, and amphetamine. As a list I chemical, handling of P2P methyl glycidic acid would require registration with DEA, various controls, and monitoring as required by the CSA. This proposed rule is also expected to assist in preventing the possible theft or diversion of P2P methyl glycidic acid from any legitimate firms. DEA also believes control is necessary to prevent unscrupulous chemists from synthesizing P2P methyl glycidic acid and selling it (as unregulated material) through the internet and other channels, to individuals who may wish to acquire unregulated chemical intermediates for the purpose of manufacturing illicit P2P, methamphetamine, and amphetamine.

In summary, DEA conducted a qualitative analysis of costs and benefits. DEA believes this proposed action, if finalized, would minimize the diversion of P2P methyl glycidic acid. DEA believes the market for P2P methyl glycidic acid for the legitimate manufacturing of P2P, methamphetamine, and amphetamine is minimal. Therefore, any potential cost as a result of this regulation is minimal.

Executive Order 12988, Civil Justice Reform

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

Executive Order 13132, Federalism

This proposed rulemaking does not have federalism implications warranting the application of E.O. 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (RFA),²⁸ has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. As discussed above, if this rule is finalized as proposed, P2P methyl glycidic acid would be subject to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importation, and exportation of list I chemicals. P2P methyl glycidic acid is used in, and is important to, the illicit manufacture of the schedule II-controlled substances P2P, methamphetamine, and amphetamine. DEA has not identified any legitimate industrial use for P2P methyl glycidic acid, other than its role as a chemical intermediate in the production of P2P, methamphetamine, and amphetamine. Based on the review of established aggregate production quota for P2P, 100 grams for 2024, legal conversion of P2P methyl glycidic acid in the United States, if it takes place at all, is limited to small, gram quantities. Therefore, DEA believes the vast majority, if not all, of P2P methyl glycidic acid is used for the illicit manufacturing of P2P, methamphetamine, and amphetamine. The primary costs associated with this proposed rule would be the annual registration fees (\$3,699 for manufacturers and \$1,850 for distributors, importers, and exporters), but those registration fees would only be applicable if they choose as part of their business plan to continue to handle P2P methyl glycidic acid and that may not be economically worthwhile if they only had been handling small amounts. Additionally, any manufacturer that does use P2P methyl glycidic acid for legitimate P2P, methamphetamine, and amphetamine production would already be registered with DEA and have all security and other handling processes in place, resulting in minimal cost.

DEA has identified nine domestic suppliers of P2P methyl glycidic acid. It is difficult to estimate the quantity of P2P methyl glycidic acid these suppliers distribute. Chemical distributors often have items in their catalog while not actually having any material level of sales. Based on the review of established aggregate production quota for P2P (100 grams for 2024), legal conversion of P2P methyl glycidic acid to P2P in the United States is limited to small gram quantities. DEA believes any quantity of

sales of P2P methyl glycidic acid from these distributors for legitimate P2P manufacturing is minimal. Therefore, DEA estimates the cost of this rule on any affected small entity is minimal. DEA welcomes any public comment regarding this estimate. Based on these factors, DEA projects that this rule, if promulgated, will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

On the basis of information contained in the RFA section above, DEA has determined and certifies pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.*, that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year” Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

Paperwork Reduction Act

This proposed action does not impose a new collection of information requirement under the Paperwork Reduction Act, 44 U.S.C. 3501–3521. This proposed action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

List of Subjects in 21 CFR Part 1310

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

Accordingly, for the reasons set forth in the preamble, DEA proposes to amend 21 CFR part 1310 as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES; IMPORTATION AND EXPORTATION OF CERTAIN MACHINES

■ 1. The authority citation for 21 CFR part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

■ 2. In § 1310.02 add paragraph (a)(41) to read as follows:

§ 1310.02 Substances covered.

*	*	*	*	*
(a)	*	*	*	*
*	*	*	*	*

²⁸ 5 U.S.C. 601–612.

TABLE OF CONCENTRATION LIMITS—Continued

	DEA chemical code No.	Concentration	Special conditions
* * * * *			
Signing Authority			
This document of the Drug Enforcement Administration was signed on September 30, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.			
Heather Achbach, Federal Register Liaison Officer, Drug Enforcement Administration. [FR Doc. 2025–19384 Filed 10–1–25; 8:45 am] BILLING CODE 4410–09–P			
ENVIRONMENTAL PROTECTION AGENCY			
40 CFR Part 51			
[EPA–HQ–OAR–2025–1477; FRL–6714–04–OAR]			
RIN 2060–AU01			
Visibility Protection: Regional Haze State Plan Requirements Rule Revision			
AGENCY: Environmental Protection Agency (EPA). ACTION: Advance notice of proposed rulemaking.			
SUMMARY: The Environmental Protection Agency (EPA or Agency) is soliciting information and requesting comment to assist in the development of regulatory changes pertaining to the restructuring of the Regional Haze Rule (RHR). Under the current RHR, states must submit state implementation plans (SIPs) to protect visibility in mandatory Class I Federal areas (Class I areas) to demonstrate reasonable progress towards the national visibility goal. The Agency is seeking input regarding how the EPA can meaningfully revise the RHR to streamline regulatory requirements impacting states' visibility improvement obligations under the Clean Air Act (CAA).			
DATES: Comments must be received on or before December 1, 2025.			
ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2025–1477, by any of the following methods: <i>Federal eRulemaking Portal:</i> https://www.regulations.gov/ (our preferred method). Follow the online instructions for submitting comments. <i>Instructions:</i> All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to https://www.regulations.gov/, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.			
FOR FURTHER INFORMATION CONTACT: Ms. Paige Wantlin, Air Quality Policy Division, Office of Air Quality Planning and Standards (Mail code C539–01), Environmental Protection Agency, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541–5670; email address: Wantlin.Paige@epa.gov.			
SUPPLEMENTARY INFORMATION:			
Table of Contents			
I. Public Participation			
<i>Written Comments</i>			
Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2025–1477, at https://www.regulations.gov/ (our preferred method), or the other methods identified in the ADDRESSES section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. The EPA requests that reviewers and commenters number their responses, for example, if responding to Topic 1, Question 1.a., please use the Topic and Question within a header before providing a response. Do not submit to EPA's docket at https://www.regulations.gov/ any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the			
official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (<i>i.e.</i>, on the web, cloud, or other file sharing system). Please visit https://www.epa.gov/dockets/commenting-epa-dockets for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.			
II. General Information			
<i>A. Preamble Glossary of Terms and Acronyms</i>			
The following are abbreviations of terms used in this document.			
ANPRM Advance notice of proposed rulemaking NH₃ Ammonia BACT Best available control technology BART Best available retrofit technology CAA Clean Air Act CBI Confidential business information CFR Code of Federal Regulations Class I areas Class I Federal areas EPA Environmental Protection Agency FIP Federal implementation plan FLM Federal land manager LAER Lowest achievable emissions rate NAAQS National Ambient Air Quality Standards NO_x Nitrogen oxide OMB Office of Management and Budget PM Particulate matter PM_{2.5} Particulate matter equal to or less than 2.5 microns in diameter (fine particulate matter) PM₁₀ Particulate matter equal to or less than 10 microns in diameter PSD Prevention of significant deterioration PBI Proprietary business information RACT Reasonable available control technology RAVI Reasonably attributable visibility impairment RPG Reasonable progress goal RHR Regional Haze Rule SIP State implementation plan SO₂ Sulfur dioxide URP Uniform rate of progress U.S. United States VOC Volatile organic compound			
<i>B. How is this Federal Register document organized?</i>			
The information presented in this document is organized as follows:			
I. Public Participation II. General Information			

- A. Preamble Glossary of Terms and Acronyms
- B. How is this **Federal Register** document organized?
- C. Executive Summary
- D. What is the purpose of this ANPRM?
- E. Does this action apply to me?
- III. What is the background for the EPA's proposed action?
 - A. Regional Haze
 - B. Requirements for Regional Haze SIPs for the First Planning Period
 - C. Requirements for Regional Haze SIPs for the Second Planning Period
 - D. EPA's 2024 Non-Regulatory Docket
- IV. Request for Comments and Feedback
 - A. Overview and Introduction
 - B. Topic 1: Development and Implementation of a Reasonable Progress Metric and Consideration of the Four Statutory Factors
 - C. Topic 2: Development of Criteria Used To Determine When a SIP Revision Is Necessary
 - D. Topic 3: Determining SIP Content Requirements
- V. Request for Comment and Additional Information
- VI. What are the next steps EPA will take?
- VII. Statutory and Executive Orders Reviews

C. Executive Summary

The Regional Haze program, established under Clean Air Act sections 169A and 169B, pertains to addressing visibility impairment in the 156 mandatory class I Federal areas, which includes specific national parks and wilderness areas. The program targets visibility impairment caused by manmade air pollution, primarily from industrial sources, vehicles, and other human activities. Emissions of pollutants such as sulfur dioxide (SO₂), nitrogen oxides (NO_x), and particulate matter contribute significantly to Regional Haze. The goals of the program are to prevent future, and remedy existing, impairment of visibility in identified Class I areas from manmade air pollution. A key statutory component of the program is the requirement for states to develop state implementation plans (SIPs), which outline strategies for achieving reasonable progress toward the national visibility goal articulated under CAA section 169A(a)(1).¹ States are also tasked with monitoring visibility conditions and reporting progress to the EPA, including tracking emissions reductions and visibility improvements at Class I areas.²

Throughout the implementation of the second planning period, we received feedback from different stakeholder

groups regarding the unclear and resource intensive requirements of the Regional Haze program. For example, some stakeholders (including various state air agencies and regional planning organizations) commented that the process of developing a Haze SIP revision is burdensome to both the states and the EPA and that the EPA should provide regulatory clarity regarding states' SIP revision obligations.³ In response to this feedback, on March 12, 2025, the EPA announced that a priority would be restructuring the Regional Haze program.⁴ Consistent with this announcement, the EPA is reviewing its regulations implementing the Regional Haze program to ensure the regulations fulfill Congressional intent, are based on current scientific information, and reflect recent improvements in air quality at the 156 Class I areas.⁵

D. What is the purpose of this ANPRM?

The EPA last revised the RHR in 2017 to clarify the relationship between long-term strategies and reasonable progress goals (RPGs) in SIPs and the long-term strategy obligation of all states; clarify and modify the requirements for periodic comprehensive revisions of SIPs; modify the set of days used to track progress towards natural visibility conditions to account for events such as wildfires; provide states with additional flexibility to account for impacts on visibility from anthropogenic sources outside the United States (U.S.) and from certain types of prescribed fires; modify certain requirements related to the timing and form of progress reports; and update, simplify, and extend to all states the provisions for reasonably attributable visibility impairment, while revoking most existing reasonably attributable visibility impairment Federal implementation plans (FIPs).⁶ In the same action, the EPA also finalized an extension to the due date for second planning period SIP revisions from 2018 to 2021.⁷ The EPA also proposed to extend the deadline for third planning period SIP revisions from

2028 to 2031, but has not yet finalized this proposal.⁸

The current RHR requirements governing the second planning period are contained under 40 CFR 51.308(f), (g), (h), and (i). However, based on SIP development and processing experiences during implementation of the Regional Haze program's second planning period (2018 to 2028), the EPA has identified a need to streamline and clarify the program's requirements for the third planning period (2028 to 2038), and onward. Further, commenters expressed concerns regarding what constitutes an approvable SIP revision under the current RHR in the second and subsequent planning periods.⁹

Therefore, the EPA is now seeking comment and input in restructuring existing regulations in a manner consistent with applicable requirements in CAA sections 169A and 169B pertaining to the protection of visibility at the 156 Class I areas addressed under the Regional Haze program. The EPA has identified several topics that are particularly relevant to the forthcoming RHR revisions and is soliciting feedback on ways to streamline and clarify certain requirements governing the Regional Haze program going forward. The EPA is issuing this ANPRM as an efficient means for gaining the information needed to inform EPA's decision-making, and to potentially aid in the development of proposed revisions to the RHR. The EPA encourages the public to participate in the regulatory process and provide specific suggestions regarding potential regulatory changes. Following the public comment period associated with this ANPRM, the Agency will move forward with fundamentally revising the Regional Haze program.

E. Does this action apply to me?

Entities that may be interested in this ANPRM include state, local, and Tribal governments, as well as Federal Land Managers (FLMs) responsible for protection of visibility in mandatory Federal Class I areas. This ANPRM may also be of interest to owners and operators of sources that emit particulate matter equal to or less than 10 microns in diameter (PM₁₀), particulate matter equal to or less than 2.5 microns in diameter (PM_{2.5} or fine PM), SO₂, NO_x, volatile organic compounds (VOC), ammonia (NH₃), and other pollutants that may cause or contribute to visibility impairment.

¹ "Congress hereby declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution."

² See 40 CFR 51.308(f)(6).

³ For example, see the following comments submitted to the 2024-nonregulatory docket (EPA-HQ-OAR-2023-0262) by SESARM/VISTAS, the Alaska Department of Environmental Quality, CenSARA, Minnesota Pollution Control Agency, and California Air Resources Board.

⁴ See <https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history>.

⁵ See <https://www.epa.gov/newsreleases/administrator-zeldin-begins-restructuring-regional-haze-program>.

⁶ See "Protection of Visibility: Amendments to Requirements for State Plans". 82 FR 3078 (January 10, 2017).

⁷ Id.

⁸ See 89 FR 104471 (December 23, 2024).

⁹ See comments in EPA's non-regulatory docket (EPA-HQ-OAR-2023-0262).

Others potentially interested in this ANPRM may include members of the general public who live, work, or recreate near or in mandatory Class I areas affected by visibility impairment. Additionally, members of the general public may be interested in this ANPRM because emissions sources that contribute to visibility impairment in Class I areas also may contribute to air pollution in other areas.

III. What is the background for the EPA's proposed action?

A. Regional Haze

Regional haze is visibility impairment that is produced by a multitude of sources and activities that are located across a broad geographic area and directly emit PM₁₀, PM_{2.5} (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and/or their precursors (e.g., SO₂, NO_x, and, in some cases, NH₃ and VOC). Fine particle precursors react in the atmosphere to form PM_{2.5}, which impairs visibility by scattering and absorbing light. This light scattering and absorbing reduces the clarity, color, and visible distance that one can see. Particulate matter can also cause serious health effects in humans and contribute to environmental effects such as acid deposition and eutrophication.

B. Requirements for Regional Haze SIPs for the First Planning Period

Pursuant to a CAA directive to issue regulations, the EPA first promulgated a rule to address regional haze in 1999, which established the regulatory requirements for the first planning period Haze SIPs.¹⁰ The 1999 RHR established a visibility protection program for Class I areas consistent with CAA section 169A. The requirements for the 1999 RHR and first planning period SIPs are found at 40 CFR 51.308(d) and (e), and 40 CFR 51.309. The initial Haze SIPs under the 1999 RHR were due to the EPA no later than December 17, 2007.¹¹ Under 40 CFR 51.308(e), and the CAA, states were required to submit SIPs evaluating the use of the best available retrofit technology (BART) at certain larger, often uncontrolled, older stationary sources in order to address visibility impairment from these sources.¹² In addition to the BART requirements, the 1999 RHR also required states under 40 CFR 51.308(d) to establish two distinct RPGs for the most impaired and least

impaired visibility days for each Class I area and a long-term strategy for making progress towards achieving the national visibility goal.

Since the RHR was finalized in 1999, Class I areas in all regions of the contiguous U.S. have experienced measurable improvements in visibility impairment.¹³ Over the 2000–2019 period, there was an observed improvement in regional average visibility impairment at Class I areas, ranging from 0.5%/year to as much as 2.5%/year.¹⁵ These visibility improvements were greatest in the eastern U.S., driven by strong decreases in sulfate impairment.

C. Requirements for Regional Haze SIPs for the Second Planning Period

In 2017, the EPA revised the Regional Haze Rule (2017 RHR) to clarify states' obligations and streamline certain Regional Haze requirements for the second planning period.¹⁶ Whereas the 1999 RHR set the requirements for the first planning period, the 2017 RHR rule revisions contained requirements for the second planning period (and onward) relating to the requirement for SIPs to contain long-term strategies for making reasonable progress towards the national visibility goal. The requirements for the 2017 RHR are codified at 40 CFR 51.308(f), (g), (h), and (i). Among other changes, the 2017 RHR adjusted the deadline for states to submit their second planning period SIPs, clarified the order of analysis and the relationship between the RPGs and the long-term strategy, and focused on making visibility improvements on the days with the most manmade (or anthropogenic) visibility impairment, as opposed to the days with the most visibility impairment overall. In 2017, the EPA also revised requirements related to periodic progress reports and FLM consultation.

Currently, 40 CFR 51.308(f) requires states to submit periodic comprehensive revisions of implementation plans (referred to in this document as periodic comprehensive SIP revisions) addressing regional haze visibility impairment by no later than July 31, 2021, July 31, 2028, and every 10 years thereafter. All 50 states, the District of Columbia, and the U.S. Virgin Islands

are required to submit SIPs satisfying the applicable requirements of the 2017 RHR. Each SIP must contain a long-term strategy for making reasonable progress toward meeting the national goal of remedying any existing, and preventing any future, anthropogenic visibility impairment in Class I areas. To this end, 40 CFR 51.308(f) lays out the process by which states determine what constitutes their long-term strategies, with the requirements in 40 CFR 51.308(f)(1) through (3) establishing the process for evaluating previous and current visibility conditions at Class I areas, the development of a state's long-term strategy, and the establishment of Class I areas' RPGs.¹⁷ Additionally, related requirements for SIP development are located at 40 CFR 51.308(f)(4) through (6). In addition to satisfying the requirements at 40 CFR 51.308(f) related to reasonable progress, SIP revisions must address the requirements in 40 CFR 51.308(g)(1) through (5) pertaining to periodic reports describing progress towards the RPGs, as well as requirements for FLM consultation in 40 CFR 51.308(i) that apply to all visibility protection SIPs and SIP revisions.

For additional background on the EPA's Regional Haze program and the 2017 RHR revisions, please refer to Section III: Overview of Visibility Protection Statutory Authority, Regulation, and Implementation of "Protection of Visibility: Amendments to Requirements for State Plans" of the 2017 RHR.¹⁸

D. EPA's 2024 Non-Regulatory Docket

In Spring 2024, the EPA opened a non-regulatory docket (EPA–HQ–OAR–2023–0262–0001) to solicit feedback on a specific list of topics related to how the EPA could improve the implementation of the RHR in potential future rule revisions. The docket was open for public comment from March 28, 2024, to December 31, 2024, and the

¹⁷ We note that RPGs are a regulatory construct that the EPA developed to address the statutory mandate in CAA section 169B(e)(1), which required our regulations to include "criteria for measuring 'reasonable progress' toward the national goal." The RPGs are different than the statutory requirement under CAA section 169A(a)(4) to make reasonable progress towards the national visibility goal under CAA section 169A(a)(1). In the current regulatory construct, RPGs measure the progress that is projected to be achieved by the control measures a state has determined are necessary to make reasonable progress. 40 CFR 51.308(f)(3)(ii). However, consistent with both the 1999 RHR and 2017 RHR, the RPGs are unenforceable, though they create a benchmark that allows for analytical comparisons to the uniform rate of progress (URP) and mid-implementation-period course corrections if necessary. 82 FR 3078, 3091–3092 (January 10, 2017).

¹⁸ See <https://www.federalregister.gov/d/2017-00268/p-94>.

¹³ The observed improvement was smaller in the Class I areas in Alaska and Hawaii, with an observed increase in visibility impairment in the Virgin Islands.

¹⁴ See 64 FR 35714 (July 1, 1999).

¹⁵ See Figure 7.9.5, IMPROVE Spatial and Seasonal Patterns and Temporal Variability of Haze and Its Constituents in the United States, Report VI, 2023.

¹⁶ See 82 FR 3078 (January 10, 2017).

¹⁰ See 64 FR 35714 (July 1, 1999).

¹¹ See 70 FR 39104 (July 6, 2005).

¹² The set of "major stationary sources" potentially subject to BART is listed in CAA section 169A(g)(7).

EPA received 34 comments. Copies of the comments received and the EPA's webinar presentation materials (docket ID: EPA-HQ-OAR-2023-0262-0002) are available at [regulations.gov](https://www.regulations.gov).

In preparing this ANPRM, the EPA reviewed the feedback received on the 2024 non-regulatory docket as well as comments received on individual second planning period SIP actions. In reviewing this feedback, the EPA observed concerns with the trajectory of the Regional Haze program, implementation difficulties with the program, and suggestions for changes to the current regulatory structure of the program. With this information, the EPA developed a set of updated questions regarding potential revisions to the regulatory framework of the Regional Haze program. Specifically, the EPA is issuing this ANPRM to solicit input on more specific and larger scale restructuring concepts that are intended to respond to the feedback received in the past several years.

A key goal of the forthcoming RHR revisions is to ensure clarity regarding what is needed to develop a fully approvable Regional Haze SIP revision, consistent with CAA requirements. The EPA is issuing this ANPRM with the intent of ensuring that any potential revisions align with the statutory goal of ensuring reasonable progress towards natural visibility conditions, while also providing the public the opportunity to submit additional ideas and reactions to the EPA in advance of our forthcoming rulemaking.

IV. Request for Comments and Feedback

A. Overview and Introduction

The EPA is requesting feedback on a restructuring of the Regional Haze program. To help guide feedback, the EPA is including background and an overview of priority topics in this ANPRM, including questions relating to how key aspects of the program could be implemented in future planning periods. Notably, the questions the EPA is highlighting, as well as the corresponding example solutions, do not represent the full universe of topics that could be addressed in a future rulemaking. Further, these questions should not be perceived as identifying the EPA's position on a given topic. Rather, they are intended to help reviewers consider different or new approaches for the Regional Haze program. To that end, this ANPRM focuses on three key topic areas that would serve to outline how the EPA might restructure the Regional Haze program. These topic areas are: (1)

development/use of a reasonable progress metrics and consideration of the four statutory reasonable progress factors in CAA section 169A(g)(1), (2) development of SIP obligation criteria (*i.e.*, criteria used to determine when a SIP revision is required), and (3) determining SIP requirements for states that are required to submit a SIP revision.

In identifying these key topic areas, the EPA observes that a restructuring of the program would likely necessarily address these topic areas, which are foundational parts of the current Regional Haze program. The EPA observes that a program informed by current visibility conditions at Class I areas in determining when SIP revisions are required, as well as the content that SIP revisions must include, is aligned with at least some of the feedback received by the public. For example, rather than requiring every state (and territory) to submit a SIP every planning period, a targeted, data-driven approach that determines when SIP revisions are appropriate could be a way to manage the program moving forward in light of the progress to date in improving visibility conditions at the 156 Class I areas addressed under the Regional Haze program. The topic areas, questions, and concepts identified in this ANPRM are intended to support consideration of a programmatic restructuring based on a fundamental concept of a program that is data driven and recognizes both the current status of remaining visibility impairment at mandatory Class I areas and the measured improvement in visibility over the past 25 years of implementing the Regional Haze program.

Feedback on the Regional Haze program need not be limited to the material covered in this ANPRM and the three key topic areas. The EPA has provided an initial set of questions and issues to facilitate feedback. However, input is welcome on all aspects of the Regional Haze program and applicable requirements under the CAA. The EPA encourages reviewers and commenters to think broadly in their feedback and not limit feedback to specific requirements or aspects of the current 2017 RHR. In submitting comments in response to this ANPRM, the EPA encourages commenters to provide specific suggestions on program restructuring and revisions along with a legal rationale and policy objective. The EPA requests that reviewers and commenters number their responses, for example, if responding to Topic 1, Question 1.a., please use the Topic and Question within a header before providing a response. Finally, in

providing feedback on the questions discussed below, the EPA welcomes commenters, where relevant, to provide redline-strikeout edits to the current regulatory text of 40 CFR 51.308(f), (g), (h), and (i) demonstrating how the EPA might incorporate commenters' suggested changes. Alternatively, where commenters foresee a need for new regulatory text to incorporate revisions to the Regional Haze program, commenters are encouraged to provide potential new regulatory text and an explanation of how commenters would implement the described changes.

B. Topic 1: Development and Implementation of a Reasonable Progress Metric and Consideration of the Four Statutory Factors

In the 2017 RHR, the EPA interpreted CAA section 169A(b)(2) to require states to substantively evaluate and determine potential emissions reductions by considering the four statutory factors in CAA section 169A(g)(1) after a state identified and selected sources that contribute to visibility impairment at Class I areas.^{19 20} The EPA received feedback in its 2024 non-regulatory docket that the Agency should consider developing an objective and numerically-based reasonable progress metric (frequently referred to as a "safe harbor" in the comments received) that informs which, if any, additional measures may be necessary to make reasonable progress. Commenters also suggested that the reasonable progress metric could potentially be used to determine when a SIP revision is required. Comments to the 2024 non-regulatory docket also suggested that so long as reasonable progress towards the national goal continues to be made at Class I areas, states should not need to develop a SIP submission assessing additional measures that may be necessary to achieve reasonable progress. Therefore, by utilizing the concept of a "safe harbor" the EPA could develop an objective, numerical metric to inform how much progress a Class I area must make towards the national goal at any specific point in time. If the metric is met (visibility impairment is at or below the numerical metric at a certain point in time), the Class I area would be making reasonable progress towards the national goal.

¹⁹ See 82 FR 3078, January 10, 2017.

²⁰ CAA section 169A(g)(1) states "in determining reasonable progress there shall be taken into consideration the costs of compliance, the time necessary for compliance, and the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements."

This approach would be aligned with the CAA's direction in section 169B(e)(1) to include "criteria for measuring reasonable progress towards the national goal." A reasonable progress metric would provide an objective way to determine the progress of the program and provide certainty to states regarding the amount of visibility improvement that is needed to meet the requirements of the Regional Haze program at specific points in time, and if/when further analysis of emissions control measures is needed. To the extent such a metric is used as the exclusive method for determining whether a Class I area is making reasonable progress, the EPA anticipates a need to explain the relationship between the metric and consideration of the four statutory factors. The CAA does not specify how or when the four statutory factors must be taken into consideration when evaluating the measures necessary for reasonable progress.²¹ These criteria and/or metrics would also establish a framework that specifies when additional analysis is necessary to ensure that "reasonable progress" is being made, thereby dictating which specific actions (such as selecting sources for consideration of emissions control measures) a state must take during each planning period.

The EPA is considering whether to propose revising the rule to include a reasonable progress metric that would serve to identify when reasonable progress is being made towards the national visibility goal under CAA section 169A(a)(1). This concept would be aligned with stakeholder feedback that any metric used in this program should be a definitive metric that indicates if or when states have specific obligations to consider additional measures as may be necessary to make reasonable progress at one or more Class I areas. In order to explore these concepts further, the EPA solicits additional feedback on this idea. To assist in development of feedback, the EPA encourages consideration of the following questions.

1. Are there alternative approaches through which the EPA and/or states can meet the CAA section 169A(g)(1) requirement to consider the four factors in determining reasonable progress? Currently, this is achieved by requiring all states contributing to visibility impairment at a Class I area to evaluate and determine the emissions reduction measures that are necessary to make reasonable progress by considering the four statutory factors on a set of sources or group of sources identified at the

state's discretion. Potential alternative approaches may include:

a. The EPA could develop a reasonable progress metric, consistent with CAA section 169B(e)(1), considering the four factors. If a Class I area does not achieve reasonable progress with measures already in the regulatory portion of the SIP for a particular time period, the rule could establish a process by which states would conduct more detailed analyses. These analyses would be consistent with CAA section 169A(g)(1) and would be used to identify additional controls or demonstrate that no additional controls are reasonable. For examples of what form the reasonable progress metric could take, please see Question 2 of Topic 1.

i. How could the EPA take the four factors under CAA section 169A(g)(1) into account when developing a reasonable progress metric? For example, the EPA could anticipate current measures to be considered into the reasonable progress metric. Here, control measures already in place may have been developed through requirements such as reasonable available control technology (RACT), best available control technology (BACT), or lowest achievable emissions rate (LAER), which have similar considerations to those of the four statutory factors.

b. The EPA could develop a reasonable progress metric, consistent with CAA section 169B(e)(1). If a Class I area does not achieve reasonable progress with existing measures previously incorporated into the SIP, states would need to further consider the four factors to either identify necessary controls or demonstrate that the EPA reasonable progress metric is too ambitious. For example, so long as the applicable Class I area(s) continue to make reasonable progress consistent with the metric, the EPA could determine that no additional consideration of the four factors is necessary to make reasonable progress at that specific point in time. In that case, states' existing, previously incorporated SIP measures would be all that is needed to make reasonable progress. In this format, the four factors serve as a "backstop" to ensure the Regional Haze program requirements are not overly burdensome or costly.

i. In this scenario, how must the EPA take the four factors under CAA section 169A(g)(1) into account when developing a reasonable progress metric?

c. Another potential approach could be for the EPA to complete a more comprehensive analysis of the projected

visibility impacts of current measures, as well as potentially available additional measures, at Class I areas. In this analysis, the EPA would consider the four factors and identify potential available emissions reductions, calculate a projection of emissions to a future year (*i.e.*, project emissions), and conduct photochemical modeling to assess expected improvement in visibility impairment. The visibility improvements projected from the future year modeling would become the reasonable progress target that each Class I area must meet. Commenters are welcome to suggest inputs for this potential approach.

2. What form could a reasonable progress metric take? The EPA encourages commenters to provide feedback on how and when the four statutory factors would be taken into account within a reasonable progress metric, and who (*e.g.*, the EPA, states) should complete the analytical work needed to determine a reasonable progress metric for each Class I area. Potential approaches include:

a. Keep the current approach (perhaps with some minor adjustments). In this scenario, the currently defined 2017 RHR uniform rate of progress (URP) framework would apply (with adjustments for international anthropogenic and prescribed fires,²² but no change to the currently calculated 2064 end date).²³ Being at or below the URP line indicates the reasonable progress requirement has been met, so long as the state has adequately considered the four statutory factors in developing its SIP submission. This scenario would rely on states to perform the four factor analysis on a set of selected sources, much like the second planning period analysis.²⁴ If this approach were retained, restructuring could focus in on other aspects of the rule such as how a SIP is developed and when it is required.

b. Revise the technical considerations that were the basis of the URP framework. Potential revisions could include, but are not limited to, the following ideas (noting that some of these ideas are not mutually exclusive).

²² Any reasonable progress metric that relies on natural conditions as an endpoint, and/or is adjusted for international anthropogenic and prescribed fire contributions should use revised estimates based on updated photochemical modeling or a combination of photochemical modeling and observational data.

²³ Note that the URP's 2064 end date does not represent the end date of the Regional Haze program. Rather, it purely serves as an end point for calculating a "glidepath" towards natural conditions over a 60-year time frame.

²⁴ See 90 FR 16478, April 18, 2025 and 90 FR 29737, July 7, 2025.

²¹ *Id.*

i. The EPA could change the end date to a year other than 2064, presumably a later year. This would change the reasonable progress requirement for any particular year and provide a longer glidepath (and changing the angle of the glidepath), with less progress needed over time to stay below the metric.

ii. The EPA could recalculate the URP every planning period (adjusting for international anthropogenic impairment and international and U.S. prescribed fire), which would be intended to ensure continuous visibility improvement based on current visibility conditions at Class I areas at the end of a planning period. Such a regularly occurring adjustment would ensure that progress is being made in each planning period at each Class I area. More progress would be required (steeper slope) for areas that are above the current URP, and less progress (gentler slope) would be required for areas that are below the current URP.

iii. Develop a completely new concept such as a percent improvement per planning period metric that is not based on the current URP. In this type of scenario, reasonable progress would be defined as achieving “X%” of remaining visibility improvement (with adjusted natural conditions or other end goal as the end point) per planning period that could be based on a required fixed percent progress every planning period, or photochemical modeling of future available emissions reductions, or other technical analyses.

3. Should the EPA revise the rule to include a concept akin to a “safe harbor” and what methods should the EPA use to track visibility conditions and determine reasonable progress? While stakeholders have long requested a “safe harbor” concept, the EPA is now soliciting specific information from the public on how CAA requirements can be embedded in such considerations. In this scenario, it is possible that the EPA’s reasonable progress metric could serve as a regulatory “safe harbor” to better inform when a SIP revision is necessary. However, the EPA recognizes that data is needed to track visibility conditions at Class I areas to inform any kind of regulatory “safe harbor” implemented under the RHR. Potential approaches to track visibility conditions at Class I areas include:

a. Using the ambient data collected through the IMPROVE network.

i. How should the EPA balance the accuracy of ambient data, the associated time delay in collecting the data, and the time it takes between ambient data collection and the SIP revision development process?

b. Modeled estimates of U.S. anthropogenic impairment, tracked over time through periodic updated modeling.

c. A combination of ambient data and future projections, which is the current method employed under the 2017 RHR.

4. Are there recommended alternative metrics to the 20% clearest days and 20% most impaired days to track visibility impairment? Potential alternative approaches include:

a. Annual average of ambient visibility impairment (rather than only considering the most impaired and clearest days).

b. A different distribution of days (e.g., the middle quintile—40th to 60th percentile—of deciviews).²⁵

5. Should the EPA continue to track visibility impairment using IMPROVE ambient data in deciviews? Potential alternative approaches to track impairment include:

a. Only extinction values (e.g., inverse megameters).

b. Trends in anthropogenic emissions of visibility impairing precursors.

C. Topic 2: Development of Criteria Used To Determine When a SIP Revision Is Necessary

The EPA received feedback in the 2024 non-regulatory docket that the effort states undertake in preparing a SIP should be commensurate with visibility improvements to date, as well as the resulting obligation for further visibility improvement, at impacted Class I areas.²⁶ Likewise, air agency and industry stakeholders indicated that there may be situations where additional evaluation or implementation of further emissions controls are not necessary where Class I areas have made “enough” reasonable progress for the planning period at issue or where Class I areas are dominated by natural sources of visibility impairment (e.g., wildfires or biogenics).²⁷ In this scenario, stakeholders suggested that states should not be required to submit a SIP revision if reasonable progress is being made for that planning period. Implementation of such an approach would likely require significant changes and restructuring of the Regional Haze program. Concepts that would support such an approach are described below

²⁵ A “deciview” is a unit of measurement for quantifying in a standard manner human perceptions of visibility. The deciview index is derived from calculated or measured light extinction, such that uniform increments of the index correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to very obscured.

²⁶ See comments received in the EPA’s 2024 non-regulatory docket (EPA-HQ-OAR-2023-0262).

²⁷ Id.

along with a broad solicitation for comment on these and any other concepts throughout this topic.

For example, the EPA could develop SIP obligation criteria that, when applied, would give states definitive information about whether or not a SIP revision is required. Further, such criteria would also inform the content of any SIP that might be required to be submitted. More specifically, in order to function this way, these criteria would need to identify Class I areas where sufficient visibility progress is being made at that specific point in time.

For this analysis, criteria could include (but are not limited to) consideration of a Class I area that is sufficiently “close to” natural visibility conditions and/or Class I areas that are below a reasonable progress metric for a particular time period. Further, the EPA could also identify states whose sources do not, or no longer, meaningfully contribute to visibility impairment in Class I areas for that point in time. With these two key technical pieces of information, the rule structure could essentially inform that if a state’s contributions are so small as to not cause or contribute to visibility impairment at one or more Class I areas, the state is relieved of its obligations to conduct additional analysis of emissions control measures and revise its SIP for a specific planning period or point in time, so long as its current SIP-approved long-term strategy for addressing anthropogenic impairment is sufficient. This approach would also need to ensure that the statutory requirement for preventing future visibility impairment is also addressed.

The EPA also recognizes that until Class I areas meet the national goal under CAA section 169A(a)(1), some level of continued future planning is necessary in order to make reasonable progress and comply with the statute. Under CAA section 169A(a)(1), Congress established the national goal of “the prevention of any future, and the remedying of any existing impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.” Notably, this section of the CAA calls for “remedying of any existing impairment of visibility . . . which impairment results from manmade air pollution.” As visibility conditions at Class I areas continue to improve from reductions in anthropogenic impairment and get “close to” natural visibility conditions, the EPA observes that visibility impairment could reach a level below which it is not practical or feasible to further control. This could be viewed as a “*de minimis*” level of visibility

impairment. A revised RHR could recognize this reality (where it exists) and seek to establish a “preservation” category for Class I areas where the EPA would determine that because a Class I area was so close to achieving natural conditions, additional measures would be unlikely to result in practical or feasible reductions in visibility impairing pollutants, including any perceptible improvement in visibility conditions. Therefore, just as the reasonable progress metric discussed in Topic 1 could identify when a Class I area has achieved reasonable progress for a specific point in time, Topic 2’s “preservation” category could be used to identify Class I areas where anthropogenic visibility impairment is sufficiently minimal, suggesting that these areas have effectively achieved the national goal of the Regional Haze program, as outlined in CAA section 169A(a)(1). The 2017 RHR does not account for this, and thus this portion of the ANPRM is intended to solicit comment and identify potential approaches to address this fact.

For example, the EPA could establish a “preservation” category of Class I areas that are at or near achieving the national visibility goal. In the BART Guidelines, the EPA has generally identified a one deciview change as a small but noticeable change in visibility impairment.²⁸ Additionally, for the purpose of identifying BART-eligible sources that caused or contributed to any impairment of visibility in a Class I area, the BART Guidelines identified 0.5 deciviews as a contribution to visibility impairment and one deciview as causing visibility impairment.²⁹ Potentially informed by those concepts, the EPA could identify criteria based on deciview differences from natural conditions for when a Class I area could be in a “preservation” status. If a Class I area were to be placed into “preservation” status, nothing more would be needed to address impairment at that Class I area for an identified time period and/or planning period. However, this would not mean that the Regional Haze requirements have been fully met into perpetuity or that the respective Class I area(s) have reached natural conditions. At present, there are numerous remaining sources of anthropogenic emissions that contribute to visibility impairment, and such emissions may increase or change in scope over time. Therefore, this approach would still require a periodic evaluation of some sort (even if no SIP revision is ultimately required). The

CAA also does not require the national goal (as articulated under CAA section 169A(a)(1)) to be achieved by a certain date.³⁰ Therefore, “preservation” status for a Class I area could be considered as a temporary status (for the current planning period or point in time), and the EPA (and/or the state) would continue to track emissions and ambient data to ensure visibility has not degraded at those Class I areas. Under this concept, the EPA would specify options for remedying an increase in anthropogenic impairment if visibility were to degrade. Such options might include the trigger for a SIP revision, and/or parameters for the EPA to consider exercising its SIP call authority, under CAA section 110(k)(5), for certain states to evaluate emissions reduction measures through consideration of the four statutory factors.

Notably, the EPA does not intend for the potential establishment of a “preservation” category to affect the determination that visibility is an important value at the Class I area(s). Rather, it would serve as a regulatory tool for the EPA and states to track visibility improvement towards the national visibility goal and ensure states’ SIP obligations reflect current visibility conditions at Class I areas. The statutory and regulatory Regional Haze requirements would remain for any state that may reasonably be anticipated to cause or contribute to any visibility impairment at any Class I area.

This topic identifies potential new regulatory approaches and associated criteria that may be applied to determine which mandatory Class I areas are currently making “sufficient reasonable progress” and/or are “close to” achieving natural conditions such that consideration of further emissions measures would not be necessary during a specific planning period or at a given point in time. To inform the EPA’s decision on this issue, the EPA solicits feedback on the following questions:

6. Does the national visibility goal articulated under CAA section 169A(a)(1)³¹ require Class I areas to be at natural visibility conditions (*i.e.*, elimination of all U.S. anthropogenic visibility impairment) or does the goal refer to something less stringent than

natural visibility conditions (*e.g.*, achieving a level of impairment that is consistent with no perceptible U.S. anthropogenic impairment)?

7. The national goal articulated under CAA section 169A(a)(1) requires both “the prevention of any future and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.” Congress adopted the visibility program in CAA section 169A to address existing visibility impairment and the Prevention of Significant Deterioration (PSD) program (CAA section 165) was intended to address (among other things) the prevention of future visibility impairment.³²

a. What is necessary to address future anthropogenic visibility impairment? For example, is the PSD program sufficient to address the prevention of any future anthropogenic visibility impairment?

8. Should the EPA develop a numerical threshold to identify when Class I areas have achieved the national visibility goal? Potential approaches include but are not limited to:

a. Total estimated anthropogenic impairment of 0 deciviews (ambient data and/or model-based).

b. Total estimated anthropogenic impairment of 1 deciview or some other indicator of perceptible impairment (ambient data and/or model-based).

c. Estimated U.S. anthropogenic impairment of 0 deciviews (model-based).

d. Estimated U.S. anthropogenic impairment of <less than 1 deciview or some other indicator of perceptible impairment (model-based).

9. What types of criteria could the EPA describe to identify Class I areas where sufficient visibility progress is being made during a planning period such that states contributing to those areas would not have any SIP revision, or substantive SIP revision obligations related to those Class I areas (*i.e.*, not account for those areas in their SIP demonstration for that specific point in time)? Potential approaches include:

a. The EPA could determine that a Class I area is achieving reasonable progress based on reasonable progress

³⁰ See CAA section 169A(f), which states: “. . . the meeting of the national goal specified in subsection (a)(1) of this section by any specific date or dates shall not be considered a ‘nondiscretionary duty’ of the Administrator.”

³¹ “Congress hereby declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.”

³² The 1977 House Conference Report states: “A major concern which prompted the House to adopt the visibility protection provision was the need to remedy existing pollution in Federal mandatory class I areas from existing sources. Issues with respect to visibility as an air quality value in application to new sources are to be resolved within the procedures for prevention of significant deterioration.” See Legislative History of the Clean Air Act Amendments of 1977 Public Law 95–95 91 Stat. 685 (1977).

²⁸ See 64 FR 35725–35727, July 1, 1999.

²⁹ See 70 FR 39104, July 6, 2005.

metric discussed under Topic 1 of this ANPRM.

i. Compare recent ambient data or projected visibility to an identified reasonable progress metric to determine if criteria apply to that Class I area.

b. The EPA could develop a “preservation” category that would be defined as a Class I area being at or near natural visibility conditions.

ii. In establishing a “preservation” category, the EPA could compare recent ambient data or projected visibility data to estimated (adjusted) natural conditions to determine if the identified criteria apply to that Class I area. The EPA could strictly compare or establish a threshold that defines “close to” natural conditions.

c. The EPA could determine that states with “very small” anthropogenic contributions to any Class I areas meet the statutory and regulatory Regional Haze requirements and no new SIP revision would be required unless visibility in those Class I areas degrades or is projected to degrade.

iii. This would require the EPA to establish a *de minimis* contribution threshold. Considering the statutory language in CAA section 169A(b)(2), which states “the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area,” how might the EPA establish and justify a threshold for emissions that cause or contribute to “any” visibility impairment at one or more Class I areas?

iv. In developing such an approach, are there lessons learned from other programmatic areas of the CAA where thresholds are used to identify SIP requirements (e.g., PSD, interstate transport and national ambient air quality standards (NAAQS) planning, etc.)? The EPA solicits comments on the functionality of such approaches and implementation experiences associated with those programs and ways in which such programs might inform a similar style program in the Regional Haze context.

10. What technical analyses and data are needed to inform implementation of potential criteria; who is responsible for developing and analyzing such data; and can commenters identify updated available information from literature and/or recent studies? Potential approaches:

a. Updated estimates of natural conditions and international/prescribed fire adjustments.

b. Ambient data and/or photochemical modeling of visibility impairment at Class I areas.

c. Reduced form tools based on photochemical modeling, similar to

those the EPA has developed for other CAA programs, such as PSD permitting.³³

11. The EPA observes significant differences across the U.S. in visibility improvement made since the baseline period (2000–2004) and in existing impairment. For example, while the eastern states have made considerable progress towards reducing visibility impairing pollutants, Class I areas in the Eastern U.S. generally remain more impaired than western Class I areas. Given the significant difference in visibility conditions and progress across Class I areas (e.g., East versus West), how can the EPA ensure reasonable progress is being made at all Class I areas?

D. Topic 3: Determining SIP Content Requirements

The EPA anticipates that even with a significant restructuring of the Regional Haze program some states (now and/or in the future) would still be required to submit a full Haze SIP revision. Many air agency comments to the 2024 non-regulatory docket expressed frustration with the workload necessary to achieve a fully approvable Haze SIP revision, as well as concerns with the lack of clarity associated with the 2017 RHR’s regulatory and administrative requirements.³⁴ Therefore, where the EPA determines a SIP revision to address visibility impairment at one or more Class I areas is necessary, the EPA recognizes a need to revise the Regional Haze program to ensure states have a clear understanding and pathway for achieving a fully approvable Haze SIP revision.

In response, the EPA is soliciting more targeted feedback to identify specific revisions that would serve to streamline the perceived or actual SIP development burdens on states when a SIP revision is required. To inform the EPA’s decision on what regulatory changes would best support states when preparing a fully approvable Haze SIP revision, the EPA requests feedback on the following questions:

12. Should the EPA maintain the current approach under 40 CFR 51.308(f) to have “planning periods” every 10 years? Potential alternative approaches include:

a. Extend the 10-year planning periods to 15-year planning periods.

³³ For an example of the methodologies behind reduced form tools, please see the Modeled Emission Rates Precursors (MERPs) Guidance: <https://www.epa.gov/nsr/guidance-development-modeled-emission-rates-precursors-merps-tier-1-demonstration-tool-ozone>.

³⁴ See comments in EPA’s 2024 non-regulatory docket (EPA-HQ-OAR–2023–0262).

CAA section 169A(b)(2)(B) states that all states must submit a SIP containing a 10-to-15-year long strategy for making reasonable progress towards the national goal articulated under CAA section 169A(a)(1). Under the 1999 and 2017 RHRs, the EPA has established that states must submit periodic comprehensive SIP revisions containing a 10-year long-term strategy for addressing anthropogenic impairment over the course of successive 10-year planning periods.³⁵ However, the RHR could be revised so that planning periods occur in 15-year increments, as permitted by the statute. Under this scenario, states’ long-term strategies would cover the 15-year period leading up to the next SIP revision compliance deadline for the next planning period.

b. Shift to requiring SIP revisions on an “as needed” basis. As mentioned under the previous bullet (1a), CAA section 169A(b)(2)(B) calls for states to submit a SIP containing “a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal.” Furthermore, CAA section 169A(b)(2) requires each implementation plan “to contain such emission limits, schedules of compliance, other measures as may be necessary to make reasonable progress toward meeting the national goal.” If the measures incorporated into the states’ long-term strategy continue to make reasonable progress towards the national goal, states would not be required to submit a SIP revision. Instead, states would be required to update their long-term strategies when sufficient reasonable progress is not being made towards the national goal, thereby fulfilling Congress’s mandate for long-term strategies to contain “the measures as may be necessary” to achieve the national goal and potentially fulfill the statutory requirement to have a 10-to-15-year long-term strategy under CAA section 169A(b)(2)(B). In this approach, and if the EPA were to implement one or more of the metrics and criteria discussed under Topics 1 and 2 to determine when Haze SIP revisions are necessary, the EPA could issue a SIP call informed by the EPA’s current understanding of visibility conditions at the 156 Class I areas. The RHR could also be revised to include a mechanism for the EPA to periodically report on visibility conditions at Class I areas to inform this decision, consistent with CAA section 169B(b).

13. The 2017 RHR allows states to include the impacts of other CAA regulatory programs when developing

³⁵ See 82 FR 3078, January 10, 2017.

their Regional Haze SIPs (e.g., NAAQS implementation). However, there is some ambiguity to what extent states must make these other CAA regulatory programs federally enforceable within the Regional Haze SIP (i.e., the long-term strategy for Regional Haze). Therefore, how or when should states consider and/or rely upon emissions reductions from other CAA regulatory programs for Regional Haze purposes?

14. To what extent should states be required to incorporate sources' current emissions measures into their Regional Haze SIP revisions, consistent with the requirements of CAA section 169A(b)(2), in order to obtain "credit" for such reductions as part of their Regional Haze SIP and reasonable progress requirements?

a. What are potential pathways for making existing measures (e.g., permit limitations, statewide emissions management strategies, source-specific consent agreements) federally enforceable in a SIP such that they can be relied upon for the reasonable progress determination under the Regional Haze program?

15. The purpose of the Regional Haze program, as outlined in CAA section 169A(a)(1), is to remedy any existing and prevent any future visibility impairment. How should visibility be considered as a regulatory factor to ensure Regional Haze SIP revisions are evaluated based on visibility improvement at Class I areas?

16. What would the benefits or drawbacks from removing states' requirements under the 2017 RHR to submit a 5-year progress report between SIP revision submittals under 40 CFR 51.308(g)?

17. In what way should the EPA consider revising the Reasonably Attributable Visibility Impairment (RAVI) provisions under 40 CFR 51.302 to ensure CAA objectives are met? Examples of potential revisions are:

a. Removing the RAVI provisions entirely from the RHR at 40 CFR 51.302, 40 CFR 51.304, and 40 CFR 51.305.

b. Restructuring RAVI by revising the process of FLMs certifying a RAVI for a source (or sources), and what happens after a RAVI is identified.

18. The EPA has observed in its implementation of the second planning period that there is disagreement between states and FLMs on the implementation of FLM consultation requirements. The CAA provides for consultation with FLMs (see CAA section 169A(d)). The EPA also recognizes the unique and important role served by the FLMs as it pertains to mandatory Class I areas. The EPA solicits feedback on specific revisions to

FLM consultation provisions in 40 CFR 51.308(i), consistent with the CAA, that ensures adequate FLM consultation but does not unnecessarily delay or cause undue burden on states and others engaged in the Regional Haze process. For example, in some instances, the EPA observed that FLMs received portions of draft SIPs prior to a public comment period on a SIP submittal at the state level. In other instances, there were disagreements about whether the "consultation" met the statutory and regulatory requirements.

a. The EPA solicits specific feedback regarding the level of consultation and materials that are needed to fulfill the statutory obligations under CAA section 169A(d). Similarly, the EPA solicits feedback regarding challenges states faced in submitting materials to FLMs to fulfill the consultation requirements. Examples of feedback the EPA would find most helpful include, but are not limited to:

i. In order to meet the statutory "consultation" requirements, which SIP materials/content, if any, must be offered to the FLMs during their opportunity for consultation?

ii. How can the EPA establish regulatory guidelines to clarify when a Haze SIP revision must undergo FLM consultation? For example, does a Haze SIP revision that addressed minor edits (e.g., spelling or citation correction or revisions that are administrative in nature that do not modify SIP requirements) need to undergo FLM consultation? Or is FLM consultation only required when a state is proposing to substantively revise its long-term strategy or underlying analysis?

b. The 2017 RHR requires states to provide FLMs a minimum of 60 days to review Haze SIPs.³⁶ How much time should states need to provide the FLMs during the opportunity for consultation?

c. How far in advance of the state public comment process should FLM consultation occur?

19. The 2017 RHR currently includes an interstate consultation process; however, the CAA itself does not mandate such a consultation.³⁷ Throughout implementation of the program, the EPA observes that this provision brought states together to discuss impairment at Class I areas in ways that all parties could find beneficial. However, the interstate consultation process requires states to allocate additional resources and extend the SIP development timeline in a way that may not always result in a productive consultation. Given this

context, the EPA solicits feedback regarding how the EPA could revise or clarify the interstate consultation process (40 CFR 51.308(f)(2)(ii)) states must undergo before submitting a SIP revision to the EPA.

a. Furthermore, what role should the regional planning organizations play in interstate consultation and overall SIP development?

V. Request for Comment and Additional Information

The EPA is seeking comment on all questions and topics described in this ANPRM and welcomes submission of any other information, including information which may not be specifically mentioned in this document. The EPA requests that commenters make specific recommendations and include supporting documentation where appropriate. In addition, the EPA is seeking comment on how the agency could consider the valuation of potential benefits from reducing regional haze. Please identify any relevant peer reviewed studies and the appropriateness of applying those studies within the context of potential regional haze regulatory changes. Instructions for providing written comments are provided under **ADDRESSES**, including how to submit any comments that contain CBI.

VI. What are the next steps EPA will take?

The EPA intends to use the information submitted in response to this ANPRM to inform a forthcoming proposed rulemaking to revise the RHR.

VII. Statutory and Executive Orders Reviews

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this is a "significant regulatory action". Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to Executive Order 12866 review have been documented in the docket for this action. Because this action does not propose or impose any requirements, other statutory and executive order reviews that apply to rulemaking do not apply. Should the EPA subsequently determine to pursue a rulemaking, the EPA will address the statutes and executive orders as applicable to that rulemaking.

Additional information about statutes and executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

³⁶ See 40 CFR 51.308(i)(2).

³⁷ See 40 CFR 51.308(f)(2)(ii).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Nitrogen dioxide, Particulate matter, Sulfur oxides, Transportation, Volatile organic compounds.

Lee Zeldin,

Administrator.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[EPA–R05–OAR–2025–0165; FRL–12974–01–R5]

Air Plan Approval; Ohio; Muskingum River 2010 Sulfur Dioxide Redesignation and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate the Muskingum River sulfur dioxide (SO₂) nonattainment area, located in Center Township in Morgan County and Waterford Township in Washington County, Ohio, to attainment for the 2010 SO₂ National Ambient Air Quality Standard (NAAQS). EPA is also proposing to approve Ohio's maintenance plan for the area and Ohio's Director's Final Findings and Orders (DFFOs), issued March 26, 2025. Ohio submitted the request for approval on March 31, 2025.

DATES: Comments must be received on or before November 3, 2025.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2025–0165 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider

comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Gina Harrison, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6956, harrison.gina@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures.

SUPPLEMENTARY INFORMATION:**I. What is EPA proposing?**

EPA is proposing to determine that the Muskingum River SO₂ nonattainment area, located in Center Township in Morgan County and Waterford Township in Washington County, Ohio, is attaining the 2010 SO₂ NAAQS, based on quality-assured and certified monitoring data for the period 2015–2024, in accordance with Ohio's March 31, 2025, request. EPA has determined that the area is attaining the 2010 SO₂ NAAQS and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the area. Therefore, EPA is proposing to change the legal designation of the Muskingum River SO₂ nonattainment area to attainment for the 2010 SO₂ NAAQS. EPA is also proposing to approve Ohio's maintenance plan into the Ohio State Implementation Plan (SIP), which is designed to ensure that the area will continue to meet the SO₂ NAAQS. Finally, EPA is proposing to approve the site-specific DFFOs which were issued on March 26, 2025, into the SIP. Ohio's submittal, which includes the maintenance plan and DFFOs, will be available for public review as part of the rulemaking docket for this action.

II. What is the background for these actions?

On June 22, 2010 (75 FR 35520), EPA revised the primary SO₂ NAAQS, establishing a new 1-hour standard of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-

hour average concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. 40 CFR 50.17(a)–(b). EPA promulgated designations for this standard in four rounds.

On June 3, 2011, Ohio submitted its recommendations to EPA to designate certain areas of the State as attaining, not attaining, or unclassifiable for attaining the SO₂ NAAQS. Ohio recommended that the area located in southeastern Ohio that includes Center Township in Morgan County and Waterford Township in Washington County be designated as nonattainment for the 2010 SO₂ NAAQS. EPA concurred with Ohio's analysis and, on August 15, 2013, published a final action designating the area as nonattainment of the 2010 SO₂ NAAQS, effective October 4, 2013 (78 FR 47191).

Under section 192(a) of the Clean Air Act (CAA), States are also required to submit attainment plans to demonstrate that the respective areas will attain the NAAQS as expeditiously as practicable, but no later than five years from the effective date of designation. Ohio submitted statewide nonattainment area SIPs to EPA on April 3, 2015, and October 13, 2015, and submitted supplemental attainment plans for the Muskingum River SO₂ nonattainment area on June 24, 2020, July 28, 2022, and May 23, 2023.

Ohio's fully approved attainment plan included modeling for the Globe Metallurgical, Inc., facility (Globe) and the State's DFFOs, which set forth emission limits at Globe and monitoring and testing requirements to confirm the source modeling characterization (September 8, 2023, 88 FR 61969). Ohio's modeled emissions for this area showed the DFFO-required emission limits for Globe, in conjunction with the SO₂ reductions from the permanent retirement of the Muskingum River Power Plant in 2015, provide for attainment of the SO₂ standard throughout the area. In addition, the DFFOs required the installation and operation of an ambient air monitor downwind of Globe for a period of three years.

On March 31, 2025, Ohio submitted a redesignation request and maintenance plan to EPA for the Muskingum River SO₂ nonattainment area for the 2010 SO₂ NAAQS. The submitted redesignation request and maintenance plan include complete quality-assured ambient air quality monitoring data meeting the 2010 SO₂ standard from 2015 to 2024. These NAAQS attainment monitoring demonstrations, in addition to decreases in emission levels attributable to the shutdown of the

Muskingum River Power Plant and the promulgation of emission limits and other measures set forth in Ohio's DFFOs to Globe, provide the framework for Ohio's request for redesignation to attainment for the Muskingum River SO₂ nonattainment area. In addition, Ohio is requesting that EPA approve the March 26, 2025, revised DFFOs that replace emission limits established in the 2020 DFFOs for Globe to provide for maintenance in the area. The 2020 DFFOs contain emission limits that are currently in Ohio's approved SIP. Ohio is also requesting that EPA approve the new emission limits from the March 26, 2025, revised DFFOs into the SIP.

Under section 107(d)(3)(E) of the CAA, EPA may not promulgate a redesignation of a nonattainment area (or portion thereof) unless:

1. EPA has determined that the area has attained the NAAQS;
2. EPA has fully approved the applicable implementation plan for the area under section 110(k) of the CAA;
3. EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollution control regulations and other permanent and enforceable reductions;
4. EPA has fully approved a maintenance plan for the area under section 175A of the CAA; and
5. The State containing such area has met all requirements applicable to the area under section 110 of the CAA and part D.

On April 16, 1992 (57 FR 13498), EPA provided guidance on redesignations in the "General Preamble for the Implementation of Title I of the CAA Amendments of 1990" and supplemented this guidance on April

28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in policy memoranda.

III. What is EPA's analysis of Ohio's redesignation request and maintenance plan?

On October 2, 2023, Ohio submitted a request that EPA redesignate the Muskingum River SO₂ nonattainment area to attainment and a SIP revision containing a maintenance plan for the area. EPA's evaluation of Ohio's redesignation request and maintenance plan was based on consideration of the five redesignation criteria provided under CAA section 107(d)(3)(E).

Criterion (1)—The Muskingum River SO₂ Nonattainment Area has Attained the 2010 SO₂ NAAQS.

In accordance with CAA section 107(d)(3)(E)(i), for redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. In accordance with 40 CFR 50.17 and appendix T of part 50, an area is attaining the 1-hour primary SO₂ standard at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum 1-hour average concentrations is less than or equal to 75 ppb. As stated in EPA's April 23, 2014 "Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions" (April 2014 SO₂ Guidance), there are two components needed to support an attainment determination: (1) a review of representative air quality monitoring data located in the area of maximum concentration; and (2) a further analysis, where there are no monitors, using air quality dispersion modeling, which will generally be needed to estimate SO₂ concentrations throughout the nonattainment area to demonstrate that

the entire area is attaining the applicable NAAQS, based on current actual emissions or the fully implemented control strategy.¹ The April 2014 SO₂ Guidance further states that dispersion modeling should be conducted to estimate SO₂ concentrations throughout the nonattainment area using actual emissions and meteorological information for the most recent three calendar years.

EPA has reviewed the available SO₂ monitoring data from Ohio's two monitoring sites in the Muskingum River SO₂ nonattainment area for the 2015–2024 period—the Hackney monitor (site 39–115–004), and the Globe monitor (site 39–167–0011). On December 18, 2023, Ohio EPA requested to discontinue the Hackney monitor (39–115–0004) due to the consistently low SO₂ values following the permanent shutdown of the Muskingum River Power Plant in 2015. On January 1, 2021, Ohio began operating the Globe monitor near the Globe Metallurgical facility in an area of maximum concentration to monitor emissions from this facility. These data have been quality assured in accordance with 40 CFR 58.10, are recorded in the EPA Air Quality System (AQS), and were certified in advance of EPA's publication of this proposal. Data from both monitors demonstrate that the Muskingum River SO₂ nonattainment area is attaining the 2010 SO₂ NAAQS. Since 2011, the highest three-year average of the annual 99th percentile of 1-hour daily maximum concentrations was 42 ppb for the Hackney monitor and 24 ppb for the Globe monitor. Data for all monitoring sites and three-year design values are summarized in Tables 1 and 2, respectively.

TABLE 1—ANNUAL 99TH PERCENTILE MONITORING DATA FOR THE MUSKINGUM RIVER NONATTAINMENT AREA (SITE 39–115–004, HACKNEY, AND SITE 39–167–0011, GLOBE) FOR 2011–2024

Site	County	Year (ppb)													
		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Hackney	Morgan	175	142	124	148	91	17	17	* 18	15	13	* 18	13	24	N/A
Globe	Morgan .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	* 17	24	26	22

* Less than 75% data capture in at least one quarter.

¹ EPA's "Guidance for 1-Hour Sulfur Dioxide (SO₂) Nonattainment Area State Implementation

Plans (SIP) Submissions" can be found at [https://www.epa.gov/so2-pollution/guidance-1-hour-sulfur-](https://www.epa.gov/so2-pollution/guidance-1-hour-sulfur-dioxide-so2-nonattainment-area-state-implementation-plans-sip)

[dioxide-so2-nonattainment-area-state-implementation-plans-sip](https://www.epa.gov/so2-pollution/guidance-1-hour-sulfur-dioxide-so2-nonattainment-area-state-implementation-plans-sip).

TABLE 2—THREE-YEAR DESIGN VALUES FOR THE MUSKINGUM RIVER NONATTAINMENT AREA (SITE 39–115–004, HACKNEY, AND SITE 39–167–0011, GLOBE) FOR 2011–2024

Site	County	Year (ppb)											
		2011– 2013	2012– 2014	2013– 2015	2014– 2016	2015– 2017	2016– 2018	2017– 2019	2018– 2020	2019– 2021	2020– 2022	2021– 2023	2022– 2024
Hackney	Morgan	147	138	121	85	42	* 17	* 17	* 15	15	15	18	N/A
Globe	Morgan .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	* 22	24

* Less than 75% data capture in at least one quarter.

The Muskingum River SO₂ nonattainment area's 3-year SO₂ design value at the Hackney monitor² first began attaining in the 2015–2017 design period with a value of 42 ppb,³ which meets the 2010 SO₂ NAAQS. In addition, the highest 3-year design value at the Globe monitor is 24 ppb. Therefore, EPA proposes to determine that the Muskingum River SO₂ nonattainment area is attaining the 2010 SO₂ NAAQS.

EPA also considered Ohio's air quality modeling analyses submitted in the State's attainment plan SIP revision. On June 23, 2020, Ohio submitted a supplement to the attainment demonstration and control strategy for the Muskingum River SO₂ nonattainment area, which included twenty-six sets of SO₂ emission limits for Globe along with air quality modeling. These emission limit sets were based on modeled values demonstrating attainment and maintenance of the standard. Ohio's air quality modeling submitted in its

attainment demonstration used the emission limit sets and yielded design values below the 2010 SO₂ NAAQS for the Muskingum River area. The April 2014 SO₂ Guidance provides an extensive discussion of EPA's view that appropriately set comparably stringent limits based on averaging times as long as 30 days can be found to provide for attainment of the 2010 SO₂ NAAQS. The April 2014 SO₂ Guidance also offers specific recommendations for determining an appropriate longer-term average limit.

Based on the limits and other information submitted in the June 23, 2020, supplement, Ohio EPA issued DFFOs that set forth the 26 sets of 1-hour emission limits, monitoring requirements, and testing and compliance plans for the Globe facility. EPA approved the emission limits on January 18, 2022 (87 FR 2555), and on September 8, 2023 (88 FR 61969), as a part of Ohio's attainment demonstration SIP. Ohio's plan applies 1-hour emission rate combination emission

limits as a 24-hour average to Globe's two baghouses. More detail on EPA's analysis of the attainment plan for the Muskingum River SO₂ nonattainment area can be found in the September 8, 2023 (88 FR 61969), attainment plan approval.

The attainment plan required that Globe perform further source testing to verify the accuracy of the previously modeled parameters. Globe performed these additional tests in June 2024 and updated the attainment strategy modeling to revise two of the emission limit sets—specifically, to revise one and remove one of the sets. These changes better align the limits with expected production scenarios. On March 26, 2025, Ohio revised its DFFOs and issued new DFFOs reflecting these changes. The final emission limit sets are summarized in Table 3 with the modeled rate and adjusted limit with a 24-hour averaging rate. For more information on the modeling, emission limit sets, and averaging rate, see EPA's proposed attainment plan for this area.⁴

TABLE 3—GLOBE'S MODELED ATTAINMENT RATES AND FINAL ATTAINMENT SO₂ EMISSION LIMITS INCLUDED IN OHIO'S MARCH 26, 2025, DFFOs

Emission limit set	Modeled 1-hour emission rate combinations (lb/hr)		Modeled design value (µg/m ³) *	Final attainment 24-hour average SO ₂ emission limit combinations (lb/hr)	
	Shop 1 Baghouse: P902 (EAF 1) P903 (EAF 2) P904 (EAF 3)	Shop 2 Baghouse: P907 (EAF 5) P908 (EAF 7)		Shop 1 Baghouse: P902 (EAF 1) P903 (EAF 2) P904 (EAF 3)	Shop 2 Baghouse: P907 (EAF 5) P908 (EAF 7)
1	210.0	0.0	149.6	195.3	0.0
2	205.0	60.0	150	190.6	55.8
3	200.0	80.0	146.8	186.0	74.4
4	195.0	110.0	149.5	181.3	102.3
5	190.0	125.0	150.6	176.7	116.2
6	185.0	140.0	152.2	172.0	130.2
7	180.0	155.0	153.8	167.4	144.1
8	175.0	170.0	155.6	162.7	158.1
9	170.0	180.0	157.9	158.1	167.4
10	165.0	190.0	159.2	153.4	176.7
11	160.0	200.0	162.8	148.8	186.0
12	155.0	205.0	163.8	144.1	190.6
13	150.0	210.0	165.4	139.5	195.3

² On December 8, 2023, Ohio requested to discontinue the Hackney monitor due to the shutdown of the Muskingum River Power Plant and the subsequent low levels of SO₂ measured at that monitor.

³ The SO₂ design value for the Hackney monitor with the highest 3-year averaged concentration following the 2015 shutdown of the Muskingum River Power Plant.

⁴ See EPA's proposed attainment plan approval for the Muskingum River SO₂ nonattainment area. 88 FR 40726 (June 22, 2023).

TABLE 3—GLOBE'S MODELED ATTAINMENT RATES AND FINAL ATTAINMENT SO₂ EMISSION LIMITS INCLUDED IN OHIO'S MARCH 26, 2025, DFFOS—Continued

Emission limit set	Modeled 1-hour emission rate combinations (lb/hr)		Modeled design value (µg/m ³) *	Final attainment 24-hour average SO ₂ emission limit combinations (lb/hr)	
	Shop 1 Baghouse: P902 (EAF 1) P903 (EAF 2) P904 (EAF 3)	Shop 2 Baghouse: P907 (EAF 5) P908 (EAF 7)		Shop 1 Baghouse: P902 (EAF 1) P903 (EAF 2) P904 (EAF 3)	Shop 2 Baghouse: P907 (EAF 5) P908 (EAF 7)
14	145.0	215.0	168.5	134.8	199.9
15	140.0	220.0	171.6	130.2	204.6
16	135.0	230.0	178.2	125.5	213.9
17	130.0	235.0	181.3	120.9	218.5
18	125.0	240.0	183.9	116.2	223.2
19	120.0	240.0	184.4	111.6	223.2
20	115.0	245.0	187	106.9	227.8
21	95.0	250.0	188.9	88.3	232.5
22	80.0	255.0	191.1	74.4	237.1
23	65.0	260.0	193.4	60.4	241.8
24	45.0	265.0	195.2	41.8	246.4
25	0.0	270.0	194.7	0.0	251.1

* Converting from µg/m³ to ppb into Concentration (ppb) = 24.45 × concentration (µg/m³) ÷ molecular weight of SO₂ (64.07 g/mol). The 75 ppb standard is equivalent to 196.5 µg/m³.

Ohio's modeled demonstration of attainment for EPA's modeling demonstrated a maximum design value of 194.7 µg/m³, or 74.3 ppb, with the revised SO₂ emission limits that will provide for attainment based on the new requirements for Globe, which are both permanently and federally enforceable. EPA concluded that Ohio's modeling is a suitable demonstration that its requirements in the DFFOs for Globe were properly addressed in the attainment plan. EPA's supplemental modeling demonstrated that the updated limits for Globe provide for attainment and, along with monitoring data showing the area is attaining the standard, is the secondary basis to conclude that the area is attaining the 2010 SO₂ NAAQS. Ohio's redesignation request for the Muskingum River SO₂ nonattainment area relied upon the demonstration of attainment based on the permanent shutdown of the Muskingum River Power Plant, the revised emission limits for Globe, and monitoring data from the nearest AQS monitors.

In this action, EPA is proposing to find that the Muskingum River SO₂ nonattainment area has attained and will continue to attain the 2010 SO₂ NAAQS with respect to the redesignation criteria under CAA section 107(d)(3)(E)(i).

Criterion (2) and Criterion (5)—Ohio has met all applicable requirements under CAA section 110 and part D of the CAA, and EPA has fully approved the applicable implementation plan under CAA section 110(k).

For redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the State has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the State has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). Part D is comprised of the general nonattainment area plan requirements in subpart 1 (section 172) as well as pollutant specific subparts, including section 191 (or subpart 5), which applies to areas designated nonattainment for SO₂, nitrogen dioxide, or lead. While some nonattainment planning requirements are not applicable for purposes of CAA section 107(d)(3)(E)(ii) and (v) for areas that are attaining the NAAQS, Ohio has in any case submitted a complete attainment plan and EPA has fully approved that plan, including emissions inventories, Reasonably Available Control Technology/Reasonably Available Control Measures, Reasonable Further Progress, and contingency measures.

On April 3, 2015, and supplemented on October 13, 2015, March 13, 2017, June 25, 2019, June 23, 2020, June 24, 2022, and May 24, 2023, Ohio submitted its attainment demonstration SIP for the Muskingum River SO₂ nonattainment area. EPA approved Ohio's attainment plan SIP effective October 10, 2023 (88 FR 61969). EPA has reviewed Ohio's SIP submittals and proposes to find that that by these submittals Ohio meets the general SIP requirements under section

110 of the CAA for the 2010 SO₂ standard. Therefore, EPA proposes to find that Ohio has satisfied the requirements in section 110 and part D, and that Ohio has met all applicable SIP requirements for purposes of redesignation under section 119 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2010 SO₂ NAAQS).

Additionally, EPA proposes to find that Ohio has a fully approved SIP under section 110(k) of the CAA. Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the State after reasonable public notice and hearing, and that, among other things, it must: (1) include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and (7) provide for public and local agency participation in planning and emission control rule development.

In Ohio's June 7, 2013, infrastructure SIP submission, Ohio verified that the State fulfills the requirements of section 110(a)(1) and section 110(a)(2) of the CAA with respect to the 2010 SO₂ NAAQS. Ohio's June 7, 2013, infrastructure SIP for the 2010 SO₂ standard contains SIP approved Ohio Administrative Code Chapter 3745–18, through which SO₂ emissions are directly regulated. As discussed in "Criterion 4," below, EPA already approved Ohio's base year emissions inventory and emission statement program as meeting the requirements of sections 110 and part D, and section 110(k), respectively, as they relate to the 2010 SO₂ NAAQS.⁵ EPA has determined which requirements are applicable for purposes of redesignation, and whether

the required Ohio SIP elements are fully approved under section 110(k) and part D of the CAA. Therefore, EPA proposes to find that Ohio has met all applicable requirements under CAA section 110 and part D, including CAA section 110(k).

Criterion (3)—The Air Quality Improvement in the Muskingum River SO₂ Nonattainment Area Is Due to Permanent and Enforceable Emission Reductions.

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and

applicable Federal air pollution control regulations and other permanent and enforceable emission reductions.

Ohio's attainment plan incorporates confirmation of the permanent shutdown of the Muskingum River Power Plant. In 2011, Muskingum River Power Plant accounted for approximately 99% of SO₂ emissions in the area—emitting 104,138.03 tons of SO₂ of the entire 2011 EGU and non-EGU inventory of 105,341.03 tons of SO₂. The last coal fired boiler at the Muskingum River Power Plant ceased operations on May 15, 2015, and all coal fired boilers at the facility were permanently retired on May 31, 2015. Emissions of SO₂, by unit and for the entire facility, from 2011 through 2016 are shown in Table 4 below.

TABLE 4—MUSKINGUM RIVER POWER PLANT SO₂ EMISSIONS 2011–2016
[tpy]

Unit	2011	2012	2013	2014	2015	2016
B001	16.33	0.28	0.25	0.38	0.00	0.00
B002	18190.00	2644.61	0.00	0.00	0.00	0.00
B003	17420.30	2887.61	0.00	0.00	0.00	0.00
B004	24684.50	15309.30	16273.40	13961.90	0.00	0.00
B005	24314.00	9431.73	3831.13	4337.55	1927.51	0.00
B006	19512.90	5864.48	12919.80	31276.80	13734.30	0.00
Facility	104138.03	36138.01	33024.58	49576.63	15661.81	0.00

As explained in further detail under "Criterion 1," above, EPA approved Globe's limits into Ohio's SIP on January 18, 2022 (87 FR 2555), and on September 8, 2023 (88 FR 61969), which renders them federally enforceable. Any new sources of SO₂ are limited by new source performance standards under sections 111 and 129 of the CAA; and the national emission standards for hazardous air pollutants under section 112 of the CAA.

EPA is proposing to find, consistent with its approval of Ohio's attainment plan, that the combination of the Globe emission modeling results and the lack of emissions from other sources in the area demonstrates attainment and continued maintenance of the 2010 SO₂ NAAQS, and that the air quality improvement in the Muskingum River SO₂ nonattainment area is due to permanent and enforceable reductions in emissions.

Criterion (4)—The Muskingum River SO₂ Nonattainment Area Has a Fully

Approved Maintenance Plan Pursuant to Section 175A.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to ensure prompt correction of any future one-hour violations.

Specifically, the maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration,

monitoring, verification of continued attainment, and a contingency plan. EPA is proposing to determine that Ohio's March 31, 2025, redesignation request contains its maintenance plan and all the necessary components, which Ohio has committed to review eight years after the redesignation.

1. Attainment Emissions Inventory

As a part of a State's maintenance plan, the air agency should develop an attainment emissions inventory to identify the level of emissions in the affected area which is sufficient to attain and maintain the SO₂ NAAQS.⁶ Ohio submitted its 2011 base year inventory and 2018 future year inventory as a part of Ohio's October 13, 2015, attainment demonstration SIP. In its redesignation request, Ohio provided an emissions inventory for SO₂ in the nonattainment area for 2015, which is one of the years in the design value where attainment was first achieved. See Table 5, below.

⁵ Ohio submitted its 2011 base year inventory and 2018 future year inventory as a part of Ohio's October 13, 2015, attainment demonstration SIP,

which was approved by EPA on October 11, 2018 (83 FR 51361).

⁶ See April 2014 SO₂ Guidance, page 66.

TABLE 5—MUSKINGUM RIVER, OHIO (WATERFORD TOWNSHIP, WASHINGTON COUNTY, PLUS CENTER TOWNSHIP, MORGAN COUNTY) SO₂ EMISSION INVENTORY TOTALS FOR 2011 BASE, 2015 ATTAINMENT, 2026 PROJECTED INTERIM, AND 2038 PROJECTED MAINTENANCE (tpy), AND SAFETY MARGIN COMPARING 2015 ATTAINMENT TO 2038 PROJECTED MAINTENANCE

Sector	2011 Base	2015 Attainment	2026 Projected interim	2038 Projected maintenance	Safety margin
EGU Point	104148.62	15687.43	22.98	0.01	15687.42
Non-EGU	1192.41	1013.74	1842.84	1752.14	– 738.40
Non-road	0.06	0.05	0.01	0.01	0.04
On-road	0.26	0.27	0.07	0.05	0.22
Other	4.66	4.33	2.53	2.55	1.78
Total	105346.01	16705.82	1868.43	1754.76	17951.06

Total actual emissions in the Muskingum River SO₂ nonattainment area for the 2015 attainment year were 16,705.82 tons. This level of emissions, in combination with emission limits set forth at the Globe facility, are sufficient to maintain the NAAQS. In its redesignation request, Ohio reported that total actual SO₂ emissions for the Muskingum River SO₂ nonattainment area from 2011, a year during which the area was not attaining the NAAQS, were 105,346.01 tons. The permanent shutdown of the Muskingum River Power Plant in 2015 led to decreases in actual SO₂ emissions by over 88,641 tons in the Muskingum River SO₂ nonattainment area when comparing the years 2011 and 2015. These data satisfy the attainment emissions inventory requirement for the Muskingum River

SO₂ nonattainment area maintenance plan.

2. Maintenance Demonstration

EPA's "Procedures for Processing Requests to Redesignate Areas to Attainment" (Calcagni Memo)⁷ describes two ways for a State to demonstrate maintenance of the NAAQS following the redesignation of the area: (1) the State can show that future emissions of a pollutant will not exceed the level of the attainment inventory, or (2) the State can model to show that the future mix of sources and emission rate will not cause a violation of the standard. In both instances, the demonstration should be for a period of 10 years following the redesignation. Furthermore, the plan should contain a summary of air quality concentrations resulting from control measures

implemented where modeling is relied upon to demonstrate maintenance. Ohio's maintenance demonstration consists of the attainment SIP air quality modeling analysis showing that the emission reductions now in effect in the Muskingum River SO₂ nonattainment area will provide for attainment of the 2010 SO₂ NAAQS for the 2026 projected interim date and will also be below the 2015 attainment year totals by the year 2038 projected maintenance date. The permanent and enforceable SO₂ emission reductions described above ensure that the area emissions will be equal to or less than the emission levels that were evaluated in the air quality modeling analysis, and Ohio's enforceable emission requirements will ensure that the Muskingum River area SO₂ emission limits are met continuously.

TABLE 6—MUSKINGUM RIVER, OHIO (WATERFORD TOWNSHIP, WASHINGTON COUNTY, PLUS CENTER TOWNSHIP, MORGAN COUNTY) EMISSION ESTIMATES (tpy) COMPARING THE 2015 ATTAINMENT YEAR TO PROJECTED MAINTENANCE DATES

	2015 Attainment	2026 Projected interim	2026 Projected interim decrease	2038 Projected maintenance	2038 Projected maintenance decrease
SO ₂	16705.82	1868.43	14837.69	1754.76	14951.06

As demonstrated in Table 6, SO₂ emissions in the area are projected to decrease by almost 15,000 tpy in 2026 and 2038 from 2015 attainment levels, which demonstrates maintenance.

3. Monitoring

By providing actual monitoring data from the national emissions inventory and State inventory databases (e.g., Ohio's Emission Inventory System), for non-road EGU and non-EGU point sources of SO₂, from time periods including when the area was not meeting the NAAQS (2011) and when the area was attaining the NAAQS (2015), Ohio has demonstrated a 99

percent reduction in actual annual SO₂ emissions in the area. Ohio's monitoring, described above, shows the combination of the 2015 Muskingum River Power Plant shutdown and the newly imposed and federally enforceable DFFOs SO₂ limits for Globe result in the area maintaining attainment of the SO₂ NAAQS.

4. Verification of Continued Attainment

For continuing verification, Ohio will track the emissions and compliance status of the Globe facility in the Muskingum River SO₂ nonattainment area so that future emissions will not exceed the allowable emissions-based

attainment inventory. All major sources in Ohio are required to submit annual emissions data, which the State uses to update its emission inventories as required by the CAA. The Globe facility must submit annual compliance certifications to ensure the facility is meeting its SIP limits and the facility must submit a semi-annual Monitoring Report to Ohio, summarizing required monitoring results and identifying all instances of deviation from the permit and other regulations.

Ohio will also continue operating its air quality monitoring network to verify maintenance of the attainment status of the Muskingum River SO₂

⁷ Calcagni, John, Director, Air Quality Management Division, EPA Office of Air Quality

Planning and Standards, "Procedures for Processing

Requests to Redesignate Areas to Attainment," September 4, 1992.

nonattainment area. The closest monitor to the Muskingum River SO₂ nonattainment area is the Globe monitor (AQS ID: 39-167-0011). Ohio will provide EPA with annual emissions reports as part of Ohio's annual network plan submittal to provide ongoing verification of attainment and will consult with EPA prior to discontinuing

5. Contingency Plan

Section 175A(d) of the CAA provides that a maintenance plan must contain contingency provisions that will promptly correct any violation of the SO₂ NAAQS after the area is redesignated to attainment.⁸ The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the State.

A State should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must also include a requirement that a State will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d). Unlike CAA section 172(c)(9), section 175A of the CAA does not explicitly require that contingency measures must take effect without further action by the air agency in order for the maintenance plan to be approved. However, the maintenance plan's contingency plan would become an enforceable part of the SIP and should ensure that contingency measures are adopted and implemented as expeditiously as practicable once they are triggered.⁹ In the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," published on April 16, 1992 (57 FR 13498), EPA provides further discussion of contingency measures for SO₂. This guidance states that in many cases, attainment revolves around compliance of a single source or a small set of sources with emission limits shown to provide for attainment. Although this guidance applies to contingency measures under section 172(c)(9), EPA applies a similar policy with respect to contingency measures for SO₂ required in maintenance plans under section 175A(d). The requirement to submit contingency measures in accordance with section 175A of the CAA can be adequately addressed for SO₂ by the operation of a comprehensive enforcement program,¹⁰

which can quickly identify and address sources that might be causing exceedances of the NAAQS.

Ohio's enforcement program is active and capable of prompt action to remedy compliance issues. Ohio commits to ongoing compliance and enforcement of the control measures contained in the DFFOs issued to Globe that were approved and incorporated into the Ohio SIP (88 FR 61969), and the newly issued March 26, 2025, DFFOs proposed for approval in this action. In its redesignation request, Ohio commits to review its maintenance plan eight years after redesignation, as required by section 175A of the CAA. Ohio also has the necessary resources in the event of violations to enforce its permit provisions and rules. Ohio has the authority to expeditiously adopt, implement, and enforce any subsequent emission control measures deemed necessary to correct any future SO₂ violations. Ohio commits to adopting and implementing such corrective actions as necessary to address violations of the SO₂ NAAQS. Another contingency measure option is the implementation of a PSD program for new or modified existing sources of SO₂, which includes requirements for Best Available Control Technology, in the Muskingum River SO₂ nonattainment area once redesignated to attainment. The Globe DFFOs have been adopted into the Ohio SIP and include emission limits, monitoring, recordkeeping, compliance testing and reporting requirements that will be used to confirm ongoing compliance. Based on the foregoing, EPA proposes to find that Ohio has addressed the contingency measure requirement.

EPA is proposing to find that Ohio's maintenance plan adequately addresses the five basic components of a maintenance plan necessary to maintain the SO₂ NAAQS in the Muskingum River SO₂ nonattainment area. Therefore, EPA proposes to find that the redesignation and maintenance plan SIP revision submitted by Ohio for the Muskingum River SO₂ nonattainment area meets the requirements of section 175A of the CAA and proposes to approve this plan.

IV. What action is EPA taking?

EPA is proposing to redesignate the Muskingum River SO₂ nonattainment area from nonattainment to attainment for the 2010 SO₂ NAAQS in accordance with Ohio's March 31, 2025, request. EPA has determined that the area is attaining the 2010 SO₂ NAAQS and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the area. EPA is

also proposing to approve Ohio's maintenance plan, which is designed to ensure that the area will continue to maintain attainment of the 2010 SO₂ NAAQS. Finally, EPA is proposing to approve Ohio's DFFOs issued to Globe on March 26, 2025, which set forth emission limits and other requirements that will provide for attainment of the 2010 SO₂ NAAQS in this area.

V. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Ohio's DFFOs issued to Globe, effective March 26, 2025, discussed in section II. of this preamble. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For these reasons, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions

⁸ See also Calcagni Memo.

⁹ See April 2014 SO₂ Guidance, page 74.

¹⁰ See April 2014 SO₂ Guidance, page 41–42

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 23, 2025.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2025–19278 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 423

[EPA–HQ–OW–2009–0819; FRL–8794.3–01–OW]

RIN 2040–AG48

Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category—Deadline Extensions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (the EPA or Agency) is proposing a Clean Water Act (CWA) rule to extend deadlines, promulgated in the 2024 “Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category” (2024 rule), update the transfer provisions to allow facilities to switch between compliance alternatives, and create authority for an alternative applicability dates and paperwork submission dates, based on site-specific factors. The EPA is also seeking comment on several issues relevant to a separate, future rulemaking on the underlying standards.

DATES: Comments must be received on or before November 3, 2025.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2009–0819, by any of the following methods:

Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.

Mail: U.S. Environmental Protection Agency, EPA Docket Center, Office of Water, Office of Science and Technology, Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

Hand Delivery or Courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center’s hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to https://www.regulations.gov, including personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Public hearing: If requested, the EPA may conduct an online public hearing on this proposed rule on October 14, 2025. After a brief presentation by EPA personnel, the Agency will accept oral comments that will be limited to three (3) minutes per commenter. The hearing will be recorded and transcribed, and the EPA will consider all the oral comments provided, along with the written public comments submitted via the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Richard Benware, Engineering and

Analysis Division Office of Water (Mail Code 4303T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–566–1369; email address: benware.richard@epa.gov. Information about the Steam Electric Effluent Limitations Guidelines and Standards (ELGs) is available online at: <https://www.epa.gov/eg/steam-electric-power-generating-effluent-guidelines>.

SUPPLEMENTARY INFORMATION:

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E. Unfunded Mandates Reform Act (UMRA)	I. Executive Summary The EPA is proposing regulations that apply to wastewater discharges from steam electric power plants, particularly coal-fired power plants. In 2024, the EPA finalized a CWA regulation that revised the technology-based effluent limitations guidelines and standards (ELGs) for the steam electric power generating point source category applicable to flue gas desulfurization (FGD), bottom ash (BA) transport water, and legacy wastewater at existing sources, and combustion residual leachate (CRL) at new and existing sources. 89 FR 40198 (May 9, 2024). In the last year, the EPA has observed extraordinary increases in energy demand across the U.S., decreases in energy reserves, difficulties in transmission across the electricity grid, and decreased energy reliability. This proposal, if finalized, would revise the compliance deadlines for existing sources subject to the 2024 rule, as seen in the following table, at a time of growing energy crisis. These compliance deadline extensions would give utilities flexibilities needed to provide affordable and reliable power.
F. Executive Order 13132: Federalism	
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments	
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks	
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use	
J. National Technology Transfer and Advancement Act (NTTAA)	

TABLE 1—SUMMARY OF PROPOSED DEADLINE EXTENSIONS

Rule	Wastestream/submission	Current deadline	Proposed deadline	Extendable by 40 CFR 423.18?
2020 Rule	BA Transport Water (Generally Applicable BAT).	December 31, 2025	December 31, 2025	Yes
	FGD Wastewater (Generally Applicable BAT).	December 31, 2025	December 31, 2025.	
2024 Rule	FGD Wastewater (VIP limitations)	December 31, 2028	December 31, 2028.	
	NOPP for the Permanent Cessation of Coal Combustion by 2034 Sub-category.	December 31, 2025	December 31, 2031	X
	BA Transport Water (Generally Applicable PSES).	May 9, 2027	Promulgation Date Plus Three Years and One Day-or-Site-Specific Date for BAT.	X
	FGD Wastewater (Generally Applicable PSES).			
	CRL (Generally Applicable PSES)			
	BA Transport Water (Generally Applicable BAT).	No later than December 31, 2029.	No later than December 31, 2034	Yes
	FGD Wastewater (Generally Applicable BAT).			
	CRL (Generally Applicable BAT)			

The revised deadlines would also extend the date for existing steam electric power plants that would seek to achieve permanent cessation of coal combustion by December 31, 2034, to submit a notice of planned participation (NOPP), allowing utilities additional time to assess evolving power demand needed to inform operational planning and decision making. In addition to specific extensions to regulatory deadlines, this proposal would also update the existing transfer provisions at 40 CFR 423.13(o) to allow facilities to switch between compliance alternatives and would create authority in 40 CFR

423.18 for alternative applicability dates and paperwork submission dates, based on site-specific factors. This proposed rule would further establish tiered pretreatment standards for existing sources (PSES). In so doing, it would create a compliance pathway for indirect dischargers that plan to become direct dischargers and, furthermore, would change the compliance deadlines to provide consistency between the compliance deadlines proposed for direct dischargers meeting best available technology economically achievable (BAT) limitations. This proposal would not change the underlying technology

bases for the effluent limitations based on BAT. However, this proposal solicits comment on new pilot plant studies and other data on technological availability; new engineering analysis, bids, and actual costs data; and reliability changes in the previous integrated resource planning cycle. The EPA intends to reconsider the 2024 BAT requirements in a subsequent notice of proposed rulemaking.

II. Does this action apply to me?

Entities potentially regulated by this action include:

Category	Example of regulated entity	North American Industry Classification System (NAICS) code
Industry ..	Electric Power Generation Facilities—Electric Power Generation	22111
	Electric Power Generation Facilities—Fossil Fuel Electric Power Generation	221112

This table is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be regulated by this action. This table includes the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not included could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR 423.10 (Applicability). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. What is the Agency's authority for taking this action?

The authority for this rule is the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, including CWA sections 301, 304(b), 304(g), 307, and 501(a); 33 U.S.C. 1311, 1314(b), 1314(g), 1317, and 1361(a).

Unless otherwise provided by law, agencies may reconsider past decisions and revise, replace or repeal a decision so long as the agency provides a reasoned explanation and considers significant reliance interests. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29, 42 (1983); *see also Nat'l Ass'n of Home Builders v. EPA*, 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012) (a revised rulemaking based "on a reevaluation of which policy would be better in light of the facts" is "well within an agency's discretion," and "[a] change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency's reappraisal" of its policy choices) (citations omitted).

IV. Background

A. Clean Water Act

Congress passed the Federal Water Pollution Control Act Amendments of 1972, also known as the Clean Water Act (CWA), to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. 1251(a). The CWA establishes a comprehensive program for protecting our nation's waters. Among its core provisions, the CWA prohibits the direct discharge of pollutants from a point source to waters of the United States (WOTUS), except as authorized under the CWA. Under CWA section 402, discharges may be authorized through a National Pollutant Discharge Elimination System (NPDES) permit. 33 U.S.C. 1342. The CWA also authorizes

the EPA to establish nationally applicable, technology-based ELGs for discharges from different categories of point sources, such as industrial, commercial, and public sources. 33 U.S.C. 1311, 1314.

Furthermore, the CWA authorizes the EPA to promulgate nationally applicable pretreatment standards that restrict pollutant discharges from facilities that discharge wastewater to WOTUS indirectly through sewers flowing to publicly owned treatment works (POTWs), as outlined in CWA sections 307(b) and (c). 33 U.S.C. 1317(b)–(c). The EPA establishes national pretreatment standards for those pollutants in wastewater from indirect dischargers that may pass through, interfere with, or are otherwise incompatible with POTW operations. Pretreatment standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment. *See* CWA section 301(b), 33 U.S.C. 1311(b). In addition, the EPA has by regulation required POTWs to implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements. *See* 40 CFR 403.5.

Direct dischargers (*i.e.*, those discharging directly to WOTUS rather than through POTWs) must comply with effluent limitations in NPDES permits. Indirect dischargers that discharge through POTWs must comply with pretreatment standards. Technology-based effluent limitations (TBELs) in NPDES permits are derived from effluent limitations guidelines (CWA sections 301 and 304, 33 U.S.C. 1311 and 1314) and new source performance standards (CWA section 306, 33 U.S.C. 1316) promulgated by the EPA, or based on best professional judgment (BPJ) where the EPA has not promulgated an applicable effluent guideline or new source performance standard. CWA section 402(a)(1)(B), 33 U.S.C. 1342(a)(1)(B); 40 CFR 125.3(c). Additional limitations based on water quality standards are also included in the permit in certain circumstances. CWA section 301(b)(1)(C), 33 U.S.C. 1311(b)(1)(C); 40 CFR 122.44(d).

The EPA establishes ELGs by regulation for categories of point source dischargers that are based on the degree of control that can be achieved using various levels of pollution control technology. The EPA promulgates national ELGs for major industrial categories for three classes of pollutants: (1) conventional pollutants (*i.e.*, total suspended solids or TSS, oil and grease, biochemical oxygen demand or BOD₅, fecal coliform, and pH), as outlined in

CWA section 304(a)(4) and 40 CFR 401.16; (2) toxic pollutants (*e.g.*, toxic metals such as arsenic, mercury, selenium, and chromium; toxic organic pollutants such as benzene, benzo-a-pyrene, phenol, and naphthalene), as outlined in CWA section 307(a), 40 CFR 401.15 and 40 CFR part 423 appendix A; and (3) nonconventional pollutants, which are those pollutants that are not categorized as conventional or toxic (*e.g.*, ammonia-N, phosphorus, and total dissolved solids or TDS).

B. Relevant Effluent Guidelines

The EPA develops effluent guidelines that are technology-based regulations for a category of dischargers. The EPA bases these regulations on the performance of control and treatment technologies. *See, e.g., Sw. Elec. Power Co. v. EPA*, 920 F.3d 999, 1005 (5th Cir. 2019) ("[T]he Administrator must require industry, regardless of a discharge's effect on water quality, to employ defined levels of technology to meet effluent limitations.") (citations and internal quotations omitted).

There are several TBELs that may apply to a given discharger under the CWA: four types of standards applicable to direct dischargers, two types of standards applicable to indirect dischargers, and a default site-specific approach. The TBELs relevant to this rulemaking are described in detail below.

1. Best Practicable Control Technology Currently Available

Traditionally, the EPA defines best practicable control technology (BPT) effluent limitations based on the average of the best performances of facilities within the industry, grouped to reflect various ages, sizes, processes, or other common characteristics. The EPA may promulgate BPT effluent limitations for conventional, toxic, and nonconventional pollutants. In specifying BPT, the EPA looks at a number of factors. The EPA first considers the cost of achieving effluent reductions in relation to the effluent reduction benefits. The Agency also considers the age of equipment and facilities, the processes employed, engineering aspects of the control technologies, any required process changes, non-water quality environmental impacts (NWQEI), including energy requirements), and such other factors as the Administrator deems appropriate. *See* CWA section 304(b)(1)(B), 33 U.S.C. 1314(b)(1)(B). If, however, existing performance is uniformly inadequate, the EPA may establish limitations based on higher levels of control than what is currently

in place in an industrial category, when based on an Agency determination that the technology is available in another category or subcategory and can be practicably applied.

2. Best Available Technology Economically Achievable

BAT represents the second level of stringency for controlling direct discharge of toxic and nonconventional pollutants, after BPT. Courts have referred to this as the CWA's "gold standard" for controlling discharges from existing sources. *See, e.g., Sw. Elec. Power Co.*, 920 F.3d at 1003. In general, BAT represents the best available, economically achievable performance of facilities in the industrial subcategory or category. Consistent with the statutory language, the EPA considers technological availability and economic achievability in determining what level of control represents BAT. CWA section 301(b)(2)(A), 33 U.S.C. 1311(b)(2)(A). Other statutory factors that the EPA considers in assessing BAT are the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, NWQELs (including energy requirements), and such other factors as the Administrator deems appropriate. CWA section 304(b)(2)(B), 33 U.S.C. 1314(b)(2)(B). The Agency retains considerable discretion in assigning the weight to be accorded each factor. *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1045 (D.C. Cir. 1978). This is especially true for EPA's consideration of NWQELs. *BP Expl. & Oil, Inc. v. EPA*, 66 F.3d 784, 801–02 (6th Cir. 1995). Historically, the EPA has generally determined economic achievability on the basis of the effect of the cost of compliance with BAT limitations on overall industry and subcategory financial conditions. BAT reflects the highest performance in the industry and may reflect a higher level of performance than is currently being achieved in the industry. *See, e.g., Sw. Elec. Power Co.*, 920 F.3d at 1006; *Am. Paper Inst. v. Train*, 543 F.2d 328, 353 (D.C. Cir. 1976); *Am. Frozen Food Inst. v. Train*, 539 F.2d 107, 132 (D.C. Cir. 1976). Under this approach, BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice. *See Am. Frozen Food*, 539 F.2d at 132, 140; *Reynolds Metals Co. v. EPA*, 760 F.2d 549, 562 (4th Cir. 1985); *Cal. & Hawaiian Sugar Co. v. EPA*, 553 F.2d 280, 285–88 (2nd Cir. 1977). Courts have previously endorsed this approach. *Kennecott v. EPA*, 780 F.2d 445, 448

(4th Cir. 1985); *see also Sw. Elec. Power Co.*, 920 F.3d at 1031.

3. Pretreatment Standards for Existing Sources

Section 307(b), 33 U.S.C. 1317(b), of the CWA calls for the EPA to issue pretreatment standards for discharges of pollutants to POTWs (*i.e.*, indirect discharges). PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. Categorical pretreatment standards are technology-based and are analogous to BAT effluent limitations guidelines, and thus the Agency typically considers the same factors in promulgating PSES as it considers in promulgating BAT. *See, e.g., Reynolds Metals Co.*, 760 F.2d at 553; *Chem. Mfrs. Ass'n v. EPA*, 870 F.2d 177, 244 (5th Cir. 1989). The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR part 403. These regulations establish pretreatment standards that apply to all non-domestic dischargers. *See* 52 FR 1586 (January 14, 1987).

4. Best Professional Judgment

CWA section 301 and the EPA's implementing regulation at 40 CFR 125.3(a) indicate that technology-based treatment requirements under section 301(b) represent the minimum level of control that must be included in an NPDES permit. *See* 33 U.S.C. 1311. Where EPA-promulgated effluent guidelines are not applicable to a non-POTW discharge, or where such EPA-promulgated guidelines have been vacated by a court, the EPA has provided by regulation that such treatment requirements are established on a case-by-case basis using the permit writer's BPJ. Under the EPA's regulations, case-by-case TBELs are developed by permit writers on the theory that CWA section 402(a)(1) authorizes the EPA Administrator to issue a permit that will meet either: all applicable requirements developed under the authority of other sections of the CWA (*e.g.*, technology-based treatment standards, water quality standards, ocean discharge criteria) or, before taking the necessary implementing actions related to those requirements, "such conditions as the Administrator determines are necessary to carry out the provisions of this Act." 33 U.S.C. 1342(a)(1). The regulation at 40 CFR 125.3(c)(2) cites this section of the CWA, stating that technology-based treatment requirements may be imposed in a permit "on a case-by-case basis

under section 402(a)(1) of the Act, to the extent that EPA-promulgated effluent limitations are inapplicable." Furthermore, 40 CFR 125.3(c)(3) states that "[w]here promulgated effluent limitations guidelines only apply to certain aspects of the discharger's operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the Act." The factors considered by the permit writer are the same as those that the EPA considers when establishing effluent guidelines. *See* 40 CFR 125.3(d)(1) through (3).

C. 2015 Steam Electric Rule

1. Summary of the 2015 Rule

On November 3, 2015, the EPA promulgated a rule revising the regulations for the steam electric power generating point source category at 40 CFR part 423. 80 FR 67838 (2015 rule). The 2015 rule set the first Federal limitations on the levels of toxic pollutants (*e.g.*, arsenic) and nutrients (*e.g.*, nitrogen) that can be discharged in the steam electric power generating industry's largest sources of wastewater, based on technology improvements in the industry over the preceding three decades. Before the 2015 rule, regulations for the industry were last updated in 1982 and, for the industry's wastestreams with the largest pollutant loadings, contained only limitations on TSS and oil and grease.

The 2015 rule addressed effluent limitations and standards for multiple wastestreams generated by new and existing steam electric facilities: BA transport water, CRL, FGD wastewater, flue gas mercury control wastewater, fly ash transport water, gasification wastewater, and legacy wastewater. The 2015 rule required most steam electric facilities to comply with the effluent limitations "as soon as possible" after November 1, 2018, but no later than December 31, 2023. Permitting authorities established particular applicability date(s) within that range for each plant (except for indirect discharges, which discharge to POTWs) at the time they issued the plant's NPDES permit. For plants that opted into the 2015 rule's voluntary incentives program (VIP), which gave plants the certainty of more time to meet more stringent FGD wastewater limits, the compliance deadline was December 31, 2023.

2. Vacatur of Limitations Applicable to CRL and Legacy Wastewater

Electric utilities, environmental groups, and drinking water utilities filed

seven petitions for review of the 2015 rule in various circuit courts. The petitions were consolidated in the U.S. Court of Appeals for the Fifth Circuit as *Southwestern Electric Power Co. v. EPA*, Case No. 15–60821. In early 2017, the EPA received two administrative petitions to reconsider the 2015 rule: one from the Utility Water Act Group (UWAG) and one from the Small Business Administration.

On August 11, 2017, the EPA announced a rulemaking to potentially revise the new, more stringent BAT effluent limitations and PSES in the 2015 rule that apply to FGD wastewater and BA transport water. The Fifth Circuit subsequently granted the EPA's request to sever and hold in abeyance petitioners' claims related to those limitations and standards, and those claims are still in abeyance. With respect to the remaining claims related to limitations applicable to legacy wastewater and CRL, the court issued a decision in 2019 vacating those limitations as arbitrary and capricious under the Administrative Procedure Act and unlawful under the CWA, respectively. *Sw. Elec. Power Co.*, 920 F.3d at 1033. In particular, the court rejected the EPA's BAT limitations for each wastestream set equal to previously promulgated BPT limitations based on surface impoundments. In the case of legacy wastewater, the court held that the EPA's record did not support BAT limitations based on surface impoundments. *Id.* at 1015. In the case of CRL, the court held that the EPA's setting of BAT limitations equal to BPT limitations was an impermissible conflation of the two standards, which are supposed to be progressively more stringent, and that the EPA's rationale was not authorized by the statutory factors for determining BAT. *Id.* at 1026. After the court's decision, the EPA announced plans to address the vacated limitations in a later action.

D. 2020 Steam Electric Reconsideration Rule

1. Summary of the 2020 Rule

On October 13, 2020, the EPA promulgated the Steam Electric Reconsideration Rule, 85 FR 64650 (2020 rule). The 2020 rule revised requirements applicable to existing sources for FGD wastewater and BA transport water. Specifically, the 2020 rule made four changes to the 2015 rule. First, the rule changed the technology basis for control of FGD wastewater and BA transport water. For FGD wastewater, the technology basis was changed from chemical precipitation plus high hydraulic residence time

biological reduction to chemical precipitation plus low hydraulic residence time biological reduction. This change in the technology basis resulted in less stringent selenium limitations and more stringent mercury and nitrogen limitations. For BA transport water, the technology basis was changed from dry-handling or closed-loop systems to high recycle rate systems, allowing for a site-specific purge not to exceed 10 percent of the BA transport system's volume. Second, the 2020 rule revised the technology basis for the VIP for FGD wastewater from vapor compression evaporation to chemical precipitation plus membrane filtration. Third, the 2020 rule created three new subcategories for high-flow facilities, low utilization electric generating units (EGUs), and EGUs permanently ceasing coal combustion by 2028. Facilities or units in these subcategories were subject to less stringent limitations: high-flow facilities were subject to FGD wastewater limitations based on chemical precipitation; low utilization EGUs were subject to FGD wastewater limitations based on chemical precipitation and BA transport water limitations based on surface impoundments and a best management plan; and EGUs permanently ceasing coal combustion by 2028 were subject to FGD wastewater and BA transport water limitations based on surface impoundments. Finally, the 2020 rule required most steam electric facilities to comply with the revised effluent limitations "as soon as possible" after October 13, 2021, but no later than December 31, 2025. NPDES permitting authorities established the particular applicability date(s) of the new limitations within that range for each facility (except for indirect dischargers) at the time they issued the facility's NPDES permit. Facilities opting into the VIP were given until December 31, 2028, to meet the revised FGD wastewater limitations.

2. 2020 Rule Litigation

Environmental groups filed two petitions for review of the 2020 rule, which were consolidated in the U.S. Court of Appeals for the Fourth Circuit on November 19, 2020, as *Appalachian Voices, et al. v. EPA*, No. 20–2187. An industry trade group and certain energy companies moved to intervene in the litigation, which the court authorized on December 3, 2020. On April 8, 2022, the court granted the EPA's motion to place the case into abeyance as a result of a new rulemaking announced in July 2021. The case is still in abeyance.

E. 2024 Supplemental Steam Electric Rule

1. Summary of 2024 Rule

On May 9, 2024, as part of a "suite of final rules" imposing new requirements on the power generation sector, the EPA promulgated the Steam Electric Supplemental Rule (89 FR 40198) (2024 rule). This revision of the regulations at 40 CFR part 423 established a zero-discharge limitation for three wastewaters generated at steam electric power plants: FGD wastewater, BA transport water, and managed CRL. The 2024 rule also established non-zero numeric discharge limitations on mercury and arsenic on discharges of CRL that the permitting authority determines are the functional equivalent of a direct discharge to a WOTUS through groundwater or discharges of CRL that have leached from a waste management unit into the subsurface and mixed with groundwater before being captured and pumped to the surface for discharge directly to a WOTUS (*i.e.*, "unmanaged" CRL). These mercury and arsenic limitations also apply to a fourth wastestream called legacy wastewater, which is typically discharged from surface impoundments during the closure process, where those surface impoundments have not commenced closure under the EPA's coal combustion residuals regulations under the Resource Conservation and Recovery Act as of the effective date of the 2024 rule. The 2024 rule eliminated the 2020 rule's separate standards applicable to two subcategories of facilities or units (high flow facilities and low utilization EGUs), while retaining the 2020 rule's subcategory for EGUs permanently ceasing combustion of coal by 2028. The 2024 rule also established a new subcategory for EGUs permanently ceasing combustion of coal by December 2034, as well as a requirement for dischargers to post reporting and recordkeeping documentation to a publicly available website. For indirect discharges, the 2024 rule established PSES that are the same as the BAT limitations. Pretreatment standards are directly enforceable and apply no later than May 9, 2027.

For the 2024 rule, the EPA also conducted a variety of analyses on costs, benefits, electricity market impacts, pollutant loadings, and environmental impacts. The EPA is not proposing in this action to change the underlying BAT bases in the 2024 rule, and thus the annual pollutant loadings and environmental impacts of the fully implemented rule are not expected to change if this proposed rule were to be

finalized, although they would occur later. Due to the postponement of these loadings and impacts, the EPA has conducted an analysis showing the changes in costs and benefits due to discounting, but has not otherwise updated any of its analyses from 2024. The EPA solicits comment on any other information, particularly new information, on relevant aspects of these prior analyses, to the extent they bear on factors that the EPA is authorized to consider under relevant provisions of the CWA.

2. 2024 Rule Litigation

A number of parties challenged the 2024 rule in various petitions that were consolidated before the U.S. Court of Appeals for the Eighth Circuit as *Southwestern Electric Power Co. v. EPA*, No. 24–2123. On August 27, 2025, the court granted the EPA's request for an abeyance and ordered the Agency to file a motion to govern further proceedings within 30 days after publication in the **Federal Register** of a final deadline-extension rule.

3. Administrative Petitions for Reconsideration of the 2024 Rule

The EPA has received two petitions for reconsideration, one from the Edison Electric Institute (EEI) and one from UWAG.

EEI is a trade association that represents U.S. investor-owned electric companies. On November 13, 2024, EEI sent a petition to the EPA, which included recommendations primarily related to CRL applicability (DCN: SE11943). This petition was updated with a supplemental letter of EEI priorities on May 8, 2025, which reiterated recommendations for CRL, and which also included discussion of extending the deadlines in the 2020 and 2024 rules (DCN: SE11948). With respect to the 2024 rule's 2034 cessation of coal combustion subcategory, EEI recommended extending the NOPP deadline from December 31, 2025, to December 31, 2029, to provide more time to address load growth challenges. EEI also recommended extending the zero-discharge compliance dates of the 2024 rule. Finally, EEI recommended that the EPA extend the generally applicable 2020 rule deadlines for BA transport water and FGD wastewater to at least December 2027 to allow units to transfer out of the 2028 cessation of coal combustion subcategory and instead install technologies to meet the 2020 rule's requirements, and thereby continue to operate and produce power past 2025.

UWAG is a voluntary non-profit group comprised of individual energy

companies and two national trade associations of energy companies: the National Rural Electric Cooperative Association (NRECA) and the American Public Power Association (APPA). NRECA represents nearly 900 local electric cooperatives across the U.S., serving 42 million people and covering 56 percent of the nation's land area. APPA is the national service organization that represents not-for-profit local, State, or other government-owned electric utilities. On February 21, 2025, UWAG sent the Agency a petition for rulemaking to reconsider and repeal the 2024 rule, as well as administratively stay the 2024 rule while it is in litigation (DCN: SE11944). The petition requests several reviews of the determinations underlying the 2024 rule, including the 2024 rule's determination that zero-discharge technology is available and economically achievable to treat FGD wastewater and CRL. The UWAG petition correspondingly advocates for postponement of all compliance dates in the 2024 rule.

In addition to these two petitions, on April 25, 2025, the EPA received a request from America's Power, a national trade association representing the U.S. steam electric power plants and its supply chain. The letter notes an estimated 29 coal-fired EGUs have committed to retire by 2028 and, in light of emerging challenges to grid reliability, urges the EPA to release these units from their retirement commitments as quickly as possible (DCN: SE11903, SE11903A1). America's Power also makes recommendations for revisions to the 2020 and 2024 rules.

While the EPA was aware of the general subjects raised in these petitions when finalizing the 2024 rule, as discussed below, load growth and power demands are much higher than predicted just one year ago, and reliability and resource adequacy concerns have only intensified. Forecasts not available at the time of the 2024 rule, and certainly not available for the 2020 rule, warrant additional consideration with respect to the various deadlines discussed in section VII of this preamble. These factors and new information have been evidenced and recognized through numerous reports from and actions by the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), grid operators, grid reliability experts, the power industry, utility groups, and regulatory agencies, as described in greater detail in section V of this preamble.

4. NOPP Submission Extension Requests

Stakeholders, including grid operators, grid reliability experts, trade associations, and utilities, have raised concerns that a significant number of facilities need more time to understand how their operations fit within a changing landscape of local and regional demand that is untethered from rapidly approaching compliance timelines crafted under different demand assumptions used in the 2024 rule. This includes, among other decisions, whether to avail themselves of the compliance pathway for EGUs seeking to retire or convert to alternative fuel sources by December 31, 2034, by the current NOPP submission deadline of December 31, 2025.

Under these circumstances, the existing December 2025 NOPP submission deadline appears to conflict with the Administration's priorities of ensuring reliable and sustainable domestic sources of energy to meet demand, as outlined in the Executive Orders section below.

F. Executive Order Summary

Upon taking office, President Trump issued key executive orders to unleash America's affordable and reliable energy and natural resources, including to support the ongoing adoption and development of cutting-edge technologies. These executive orders took steps to encourage the increase of coal generation to expand domestic energy and avoid shutting down steam electric power plants, which could place the electricity grid at risk, to the extent permitted by law. In accordance with these orders, the EPA is reviewing the relevant issues and information referenced previously relating to the burden of existing compliance deadlines and other issues as part of this rulemaking.

Executive Order 14156, Declaring a National Energy Emergency, invokes emergency authorities to accelerate domestic fossil fuel production and infrastructure expansion, citing energy reliability, affordability, and national security concerns. 90 FR 8433 (January 29, 2025).

Executive Order 14154, Unleashing American Energy, directs Federal agencies to review and remove, as appropriate and to the extent permitted by law, regulatory roadblocks to energy development within the U.S., including by streamlining permitting processes and reconsidering previous mandates related to climate and renewable energy. 90 FR 8353 (January 29, 2025). It also directs agencies to review and revise, as

appropriate and to the extent permitted by law, existing regulations to identify those that impose undue burdens on development or use of domestic energy resources. *Id.*

Executive Order 14261, Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241, affirms that clean coal resources will be critical to meeting the rise in electricity demand due to the resurgence of domestic manufacturing and the construction of artificial intelligence (AI) data processing centers, and encourages the utilization of coal to meet growing domestic energy demands while ensuring Federal policy does not discriminate against coal production or coal-fired electricity generation. 90 FR 15517 (April 8, 2025).

Executive Order 14179, Removing Barriers to American Leadership in Artificial Intelligence, seeks to ensure the rapid pace of U.S. adoption and development necessary to maintain American dominance and global leadership in AI. 90 FR 8741 (January 31, 2025).

V. New Information

A. National Energy Crisis

As described in section IV of this preamble, one factor the EPA considers when setting limitations based on BAT is NWQELs, which the statute notes include "energy requirements." 33 U.S.C. 1314(b)(2)(B). Most notable with this industry is the impact of environmental regulations, including the steam electric ELGs, on the U.S. electricity grid. Since the promulgation of the 2024 rule, Federal agencies, States, grid operators, and grid reliability experts have identified an impending energy crisis resulting from increased load and the premature retirement of critical steam electric and other baseload power plants. The NERC has consistently warned of resource adequacy and reliability shortfalls that could occur if coal-fleet retirements occurred faster than the system could respond to by constructing replacement baseload power (DCN: SE11931). This is consistent with previous testimony that the EPA was aware of as of the 2024 rule.¹

On October 16, 2024, the FERC held a Commissioner-led Reliability

Technical Conference to discuss policy issues related to the reliability and security of the North American bulk power system (BPS). Commissioners and witnesses expressed serious concerns about the anticipated retirement of existing generating resources, the addition of significant volumes of variable energy resources, and rapid anticipated electric load growth (DCN: SE11933).

More recently, on June 4 and 5, 2025, the FERC held another Commissioner-led Technical Conference titled "Meeting the Challenge of Resource Adequacy in Regional Transmission Organization and Independent System Operator Regions." The technical conference addressed how resource retirements, load growth, and the changing resource mix have contributed to resource adequacy challenges across the nation. The NERC testified that "growth projections of electric demand have reached heights unseen in decades, disrupting resource adequacy plans across North America" (DCN: SE11950).

Other Federal agencies have also taken action to address the energy crisis. For example, the Department of Energy (DOE) has issued an emergency order to delay the closure of Consumers Energy's 1,560-megawatt (MW) J.H. Campbell steam electric power plant in West Olive, Michigan, citing urgent reliability concerns for the Midcontinent Independent System Operator (MISO) grid, as the Midwest braces for peak summer electricity demand (DCN: SE11953). The three-unit steam electric 1,560 MW J.H. Campbell plant, built between 1962 and 1980, was slated to go "cold and dark" by June 2025 as part of Consumers Energy's transition to renewables. Similarly, the DOE also recently issued an emergency order under section 202(c) of the Federal Power Act directing PJM Interconnection (PJM),² in coordination with Constellation Energy, to operate specified generation units at the Eddystone, Pennsylvania Generation Station past their planned retirement. The order follows recent statements from PJM warning that its system faces a "growing resource adequacy concern" due to load growth, the retirement of dispatchable resources, and other factors. (DCN: SE11922). In May 2025, the FERC also approved a reliability must-run contract between PJM and Talen Energy to keep the Brandon Shores two-unit, 1,280 MW coal-fired

power plant in Anne Arundel County, Maryland, online past its anticipated retirement date to ensure reliability.³

Similar actions are occurring at the State level, causing utilities to rapidly change planning activities. In its 2022 integrated resource plan (IRP) final order, Southern Company subsidiary Georgia Power had slated Plant Bowen for retirement by 2027. More recently, Georgia Power announced plans to extend the life of several existing coal and natural gas-fired power plants into the late 2030s, including proposals to extend operations at the 3.2-gigawatt (GW) Plant Bowen—one of the world's largest coal plants—beyond 2034, according to their 2023 IRP update (DCN SE 11947).

According to NERC, regions across the North American BPS are generally positioned to meet peak demand under *normal* summer conditions, although elevated risks of electricity supply shortfalls could persist under extreme heat events, surging demand, and resource variability. However, the increased worldwide demand has already amplified competition for materials and parts, contributing to the U.S. backlog for microchips, resistors, transformers, and other key components as discussed later in this section. The following recent situation exemplifies how these several factors are converging to create a national energy crisis.

In June 2025, a severe heat wave impacted the eastern U.S., significantly increasing energy demand beyond predictions. The National Weather Service issued extreme heat warnings of triple digit temperatures ranging from south of St. Louis to north of Boston. To put the strain on the grid in context, PJM stated that demand reached about 161,000 MWs on June 23, the highest level recorded since 2011. According to the FERC, PJM had only about 10 GW remaining to spare at the period of peak load. The FERC chairman Mark Christie noted that grid operators' ability to just narrowly sustain power supplies through the extreme heat and humidity without blackouts reflects significant and growing resource adequacy challenges, stating at a June 26 briefing, "We're simply not building generation fast enough, and we're not keeping generation that we need to keep."⁴

³ For more information, see the certification statement available online at: <https://tln-environmental.s3.us-east-1.amazonaws.com/Brandon+Shores+ELG/Ft.+Smallwood+NPDES+ELG+Qualifying+Event+Certification+Statement+FEB-26-2025.pdf>. (DCN: SE11961).

⁴ Howland, E. 2025. FERC's Christie Calls for Dispatchable Resources After Grid Operators Come "Close to the Edge." June 27. Available online at:

¹ On May 4, 2023, bipartisan commissioners of FERC testified before the Senate Energy and Natural Resources Committee about the very real crisis facing the Nation's grid. Commissioners warned of a "looming reliability crisis in our electricity markets," "a very catastrophic situation in terms of reliability," and "unprecedented challenges to the reliability of our nation's electric system" (DCN: SE11932).

² PJM Interconnection is the regional transmission organization that manages all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia.

More broadly, this heat wave also resulted in a June 24 power outage that left more than 71,000 customers without electricity in Michigan, Pennsylvania, New York, and Massachusetts, according to [Poweroutage.us](https://www.poweroutage.us). The heat wave impacted other regions as well. On June 24, 2025, the DOE issued an emergency order to Duke Energy Carolina under Section 202(c) of the Federal Power Act to address potential grid shortfall issues in the Southeast.⁵ We Energies in Wisconsin had planned closures of its Oak Creek Units 5 and 6 in 2024 and Units 7 and 8 in 2025, but it recently announced postponement of retiring Units 7 and 8, citing tightened energy supply requirements in the Midwest power market and the need to maintain reliable service during peak-demand periods, such as those experienced during the June heatwave.⁶ In San Antonio, ERCOT deployed 400 MW of mobile generation units to help reduce the risk of energy shortages during heat waves.⁷

B. Regional Energy Reliability and Resource Adequacy Concerns

The NERC mission is to ensure the reliability, resiliency, and security of the North American BPS. The BPS is made up of six regional entities⁸ that provide the NERC with data, narratives, and assessments to independently evaluate long-term reliability, recognize trends, and identify emerging issues and potential risks for the upcoming 10-year period. The NERC develops a long-term reliability assessment (LTRA) annually based on known system changes as of

July of the current year. The NERC is subject to oversight by the FERC.

Resource adequacy refers to the ability of an electricity system to meet the power demand of customers at all times, even during peak usage and potential outages. In the December 2024 LTRA, the NERC identified increasing resource adequacy challenges for the upcoming 10 years as demand growth surges and power generators announce retirement plans (DCN: SE11905). The NERC also identified a substantial number of the replacement generation resources as weather dependent and, thus, more variable and less reliable than the resources they would replace. This includes ensuring sufficient generation capacity and reserves to maintain a stable power supply. The MISO recently affirmed the importance of these resources in its 2024 Reliability Imperative report, in which it identified significant challenges associated with new, weather-dependent resources that “do not provide the same critical reliability attributes as the conventional dispatchable coal and natural gas resources that are being retired” (DCN: SE11929).

Furthermore, the NERC categorized the MISO area as “High-Risk” and five other areas in the U.S. as “Elevated-Risk.” Areas categorized as High Risk fall below established resource adequacy criteria in the next five years, and they are identified by the NERC as likely to experience a shortfall in electricity supplies at the peak of an average summer or winter season. Extreme weather, producing wide-area heat waves or deep-freeze events, poses an even greater threat to reliability. Elevated-Risk areas meet resource adequacy criteria, but extreme weather conditions are likely to cause a shortfall in area reserves. The 2024 LTRA identified PJM as Elevated-Risk due to resource additions not keeping up with expected generator retirements and projected demand growth. Here, winter seasons replace summer as the higher risk periods due to generator performance and fuel supply issues. PJM’s 2023 study (DCN: SE11847) and 2024 study (DCN: SE11901) highlight several trends that increase reliability risks: the growth rate of electricity demand, retirements are at risk of outpacing the construction of new resources due to a combination of factors including siting and supply chain, and PJM’s interconnection queue is composed primarily of intermittent and limited-duration resources, which need multiple MWs to reliably replace 1 MW of thermal generation (e.g., coal, natural gas, nuclear). Compared to 2023, the 2024 PJM report shows increased

wholesale power costs of almost 5 percent and significant rises in capacity prices, such as 20 percent in New Jersey. The 2024 report also highlights PJM concern about load growth, particularly from data centers and electrification, as a significant driver of increased demand and capacity needs, as well as the slow pace of new generation coming online to replace retiring resources.

IRPs are one way that stakeholders plan for the longer-term issues discussed in the NERC LTRA because IRPs show how a utility intends to meet future energy needs of its customers 10 to 20 years in the future. Most States require utilities to have IRPs with a 20-year horizon and commonly require a detailed plan for the first few years of the forecasted energy demand. An update is typically required every two or three years. As discussed in the 2024 rule, utilities plan and budget for plant closures as part of the normal IRP process. The interaction between these timelines and the ELG deadlines is addressed in section VI of this preamble.

In deregulated electricity markets, capacity auctions are used to send signals monetarily that would lead to similar planning as the IRP process. PJM capacity auctions are generally held three years in advance of the capacity delivery year and are designed to ensure sufficient generating capacity to meet electricity demand and grid reliability at lowest cost. PJM uses capacity market auctions to accept offers to provide power at lowest cost first, but recent delays in auctions due to regulatory issues and litigation have led to higher prices. This can be seen with the results of PJM’s recent capacity auction for the 2026–2027 delivery year. On July 22, 2025, PJM announced that it had completed its auction and that the clearing price was the settlement cap of \$329.17/MW-day, a 22 percent increase over the previous year’s clearing price, which was already an increase over the \$28.92/MW-day that cleared the auction two years ago. This clearance price achieved adequate capacity, including reserve margins, but cleared by only 139 MW, approximately the amount generated by a single small- to mid-sized EGU. This reflects the tightening margins between supply and demand in the PJM service area, demonstrating that in the short-term, the loss of even a single coal-fired EGU (which can often be several hundred MW capacity) could lead to resource adequacy issues.⁹

⁹ Further information about the recent PJM auction results are available online at: <https://www.pjm.com/markets-and-operations/rpm.aspx>

<https://www.utilitydive.com/news/ferc-christie-dispatchable-resources-heat-wave-pjm-miso-iso-ne-751821/> (DCN: SE11949).

⁵ U.S. DOE (Department of Energy). 2025. Secretary Wright Issues Emergency Order to Secure Southeast Power Grid Amid Heat Wave. June 24. Available online at: <https://www.energy.gov/articles/secretary-wright-issues-emergency-order-secure-southeast-power-grid-amid-heat-wave> (DCN: SE11962).

⁶ We Energies. 2025. We Energies Announces Updated Timeline for Oak Creek Plant Retirements. June 25. Available online at: <https://news.we-energies.com/we-energies-announces-updated-timeline-for-oak-creek-plant-retirements/> (DCN: SE11963).

⁷ Guo, K. 2025. ERCOT Approves \$54 Million Plan to Move CenterPoint’s Mobile Generators to San Antonio. February 25. Available online at: <https://www.texastribune.org/2025/02/25/texas-power-grid-ercot-mobile-generators-centerpoint-energy-san-antoni/> (DCN: SE11964).

⁸ The six regional entities (REs) overseen by NERC that monitor and enforce reliability standards for the BPS are: Midwest Reliability Organization (MRO), Northeast Power Coordinating Council (NPCC), ReliabilityFirst (RF), SERC Reliability Corporation (SERC), Texas Reliability Entity (Texas RE), and Western Electricity Coordinating Council (WECC).

Additionally, the 2024 PJM report states, “The demand in each scenario reflects growth from end-use electrification, electric vehicles and data centers. Recent history of this anticipated growth has proven unprecedented and dynamic. Average growth estimates for PJM’s summer peak, for example, have increased by 375 percent between the 2022 and 2024 load forecasts, from 0.4 percent per year to 1.6 percent per year. This trend adds to the complexity of ensuring reliability through the energy transition.”¹⁰ This report identifies a drastic increase in energy demand, significantly higher than was anticipated in formulating the 2024 rule.

Finally, another important aspect of the LTRA is the interconnection queue. The LTRA reports the interconnection queue has a backlog for the huge variety of replacement sources and storage projects seeking to connect to the grid, such as the ERCOT example above. In summary, the 2024 LTRA identified “critical reliability challenges facing the industry: satisfying escalating energy growth, managing generator retirements, and accelerating resource and transmission development.” (DCN: SE11905).

C. Data Center Expansion

A data center is a building or group of buildings that holds computer systems and equipment to power every day digital services. These facilities provide space, power, cooling, and security for servers and network hardware. Data centers power almost everything online, from websites to banking and video streaming. Consumers and companies worldwide depend on services that run through data centers every hour. Many industries, such as healthcare, retail, manufacturing, and government, rely on data centers for secure storage and quick access to information. The demand for cloud computing, e-commerce, streaming, AI programming, and social media makes these sites more important each year. Data centers use a large amount of electricity, making reliable and affordable power one of the most important factors to U.S. economic development and national security.

According to the DOE, from 2014 to 2016 the annual energy consumption of

data centers in the U.S. remained stable at approximately 60 terawatt-hours (TWh) (DCN: SE11906). By 2018, this figure had increased to around 76 TWh, accounting for 1.9 percent of the country’s total electricity consumption. Recent forecasts expect total power demand for data centers to be between 74 and 132 GW in 2028, corresponding to 6.7 and 12 percent of total U.S. electricity consumption. The adoption and growth of AI has been cited as a leading driver of surging data center demand in the U.S., with the technology requiring immense computing power. The National Renewable Energy Center’s “Data Center Infrastructure for 2025” shows transmission network and new data center demand capacity coinciding geospatially with large cities, highlighting the challenges demand growth is already placing on the grid (DCN: SE11922). The EPA notes that consultants, investors, and ratings firms such as S&P and Moody’s identify the U.S. technology sector as one that can initiate, develop, and complete projects relatively quickly, with new data centers operational in as little as two to three years. Meanwhile, the energy sector requires longer lead times to schedule and build infrastructure as a result of extensive planning requirements and significant capital investment. Natural gas and coal are forecast to meet over 40 percent of the electricity demand from data centers until at least 2030.¹¹

Moreover, as described in the President’s July 2025 strategy titled ‘Winning the Arms Race: America’s AI Action Plan’ (DCN: SE11954), AI systems may pose novel national security risks in areas such as cyberattacks and the development of chemical, biological, radiological, nuclear, or explosive weapons. Ensuring America is at the forefront of AI development is vital for national defense and homeland security. The President issued Executive Order 14179, Removing Barriers to American Leadership in Artificial Intelligence, making it possible for America to retain global leadership in AI. 90 FR 8741 (January 31, 2025). Executive Order 14179 will ensure that AI adoption and development is progressing at the rapid pace necessary to maintain American dominance, which would further expand the need for upgrades to the U.S. electrical grid to support data centers as identified in the AI Action Plan (DCN: SE11954).

D. Supply Chain Risks

In addition to the documented increase in energy demand, another issue facing the power sector is challenges in obtaining equipment to maintain and upgrade steam electric power plants, including in some instances, components of the control technologies (e.g. microchips) that are beginning to experience increased global demand from other industries and, therefore, could be a rate-limiting factor for the installation of new wastewater treatment technologies necessary to comply with wastewater limits. The power industry is currently experiencing a significant turbine backlog, primarily for natural gas turbines, leading to a further reliance on existing steam electric power plants. A combination of factors, including increasing electricity demand, particularly from data centers, ongoing natural gas plant development using combustion turbines, and airline industry manufacturing has led to a substantial increase in orders for gas turbines. Three major original equipment manufacturers—GE Vernova, Siemens Energy, and Mitsubishi Power—have reported backlogs stretching into 2029 and beyond. The Electric Power Research Institute reports a five-year-plus wait for new turbine installations (DCN SE11930).

Additionally, critical grid components, like transformers, are also facing longer lead times, further impacting project timelines.¹² According to the U.S. Department of Commerce, the average U.S. electricity grid transformer is 38 years old, fast approaching the 40-year life expectancy of a transformer. The National Renewable Energy Laboratory notes utilities needing to add or replace transformers are currently facing high prices and long wait times due to supply chain shortages (DCN: SE11969). The National Infrastructure Advisory Council reports Hitachi has a waitlist of 2 to 4 years for transformers, and supply issues and uncertainty continue to affect development with lead times for transformers averaging 120 weeks and large transformer lead times averaging 80–210 weeks, and at least one other U.S. company has a backlog of 5 years (DCN: SE11968). The list of U.S. infrastructure that depends on transformers includes new housing developments, a growing electric vehicle charging station market, and renewable energy projects. For instance, in Texas, companies planned to build

and a summary of the auction is available online at: <https://insidelines.pjm.com/pjm-auction-procures-134311-mw-of-generation-resources-supply-responds-to-price-signal/>.

¹⁰ PJM. 2024. Energy Transition in PJM: Flexibility for the Future. June 24. Available online at: <https://www.pjm.com/-/media/DotCom/library/reports-notices/special-reports/2024/20240624-energy-transition-in-pjm-flexibility-for-the-future.ashx>. (DCN: SE11901).

¹¹ IEA (International Energy Agency). 2025. Energy Supply for AI. Available online at: <https://www.iea.org/reports/energy-and-ai/energy-supply-for-ai> (DCN: SE11967).

¹² Other critical grid components such as conduit, smart meters, switchgear, and high voltage circuit breakers are in short supply (DCN: SE11968).

108 new gas-fired power plants and 17 expansions in the next few years to power AI and other heavy industries. In just one example, however, the developer Engie withdrew from two projects in Texas in February 2025 citing “equipment procurement constraints” (DCN SE:11951). With the high uncertainty surrounding resource adequacy over the next decade, the need to maintain baseload capacity from existing steam electric power plants will remain for the foreseeable future.

Demand for all major fuels and energy related technologies jumped in 2024 worldwide, and coal remains a crucial fuel source in addressing potential demand spikes in several countries besides the U.S., notably China, India, and Pakistan. A May 2025 International Energy Agency report stated that peak demand is slated to grow even faster than overall power demand, and potentially 80 percent faster in emerging markets and developing economies by 2035 (DCN: SE11915). These findings highlight that supply chain issues will likely continue to increase as the demand and the competition for components escalates across the world.

E. Other Pressures on Retirement

The EPA notes that there are additional legal pressures leading to generator retirements that are not within the considerations above and which are outside the EPA’s CWA authority. These include State or regional laws that may either provide incentives toward retiring steam electric power generation or specifically provide timelines for retirements. An example of the former is the Regional Greenhouse Gas Initiative, which 10 States have joined to cap and reduce carbon emissions. An example of the latter is that, in 2021, Illinois passed the Climate and Equitable Jobs Act which, with certain exceptions, required the phase out of coal-fired power plants by 2030 and natural gas-fired power plants by 2045.¹³

Some steam electric power plants have also entered into settlements with States, the Federal Government, and/or local community groups to retire a plant or EGUs. For example, in 2015, American Electric Power (AEP) announced a settlement with the Sierra Club and other parties to cease coal-combustion at Cardinal Unit 1 by 2030.¹⁴ More recently, in 2024, the EPA

and two environmental groups entered into a settlement that results in the closure of the Merrimack Station.¹⁵ These are just some examples of the settlements that continue to influence steam electric power plants’ operations.

VI. Proposed Rule

The EPA is proposing to extend seven deadlines in the 2024 rule, update the 2024 rule’s transfer provisions to allow facilities to switch between compliance alternatives, and create authority for limited additional timing flexibility for both 2020 and 2024 rule deadlines based on site-specific factors. First, the EPA is proposing to extend the date for existing steam electric power plants to submit a NOPP for the permanent cessation of coal combustion by 2034 subcategory. In addition to this deadline extension, the EPA is proposing to expand the transfer flexibilities in 40 CFR 423.13(o) by including a new transfer provision for facilities wishing to switch between requirements for zero-discharge and requirements applicable to the permanent cessation of coal combustion by 2034 subcategory. Second, the EPA is proposing to extend the latest compliance dates for zero-discharge limitations applicable to discharges of FGD wastewater, BA transport water, and CRL. The third set of deadline extensions would apply to standards for the same wastewaters from indirect dischargers. Specifically, the EPA is proposing a set of tiered standards for indirect dischargers that would allow for the flexibility to achieve zero discharge on the same timelines as direct dischargers. Fourth, the Agency is proposing to provide authority for additional site-specific extensions of paperwork submission dates and deadlines in the 2020 or 2024 rules when necessary to address unexpected circumstances. Finally, the EPA is soliciting comment on whether certain limited clarifying changes to the text of 40 CFR 423.18(a) or 40 CFR 423.19(i) are warranted.

A. NOPP Submission Date Extension

Stakeholders, including trade associations and utilities, have raised concerns that certain facilities need more time to decide whether to avail

themselves of the compliance pathway for EGUs seeking to retire or convert to alternative fuel sources by December 31, 2034. Based on recent forecasts projecting a surge in energy demand and this Administration’s prioritization of ensuring a reliable and sustainable domestic source of energy to meet those demands, the existing December 2025 deadline may unreasonably force facilities to decide to retire when they may still be needed to meet local or regional resource adequacy and grid reliability needs. Such premature retirements may result in unforeseen impacts on the ability of the U.S. to ensure that energy remains abundant, affordable, and reliable for Americans. Furthermore, the EPA is committed to ensuring these coal plants have the option to remain in operation to increase the Nation’s energy supply, meet surging demand (e.g., from data centers), support regional grid reliability, and grow domestic manufacturing, jobs, and wages.

Since promulgation of the 2024 rule, the EPA has continued to discuss electric reliability issues with the DOE, the NERC, and other stakeholders under the framework established in the *Joint Memorandum on Interagency Communication and Consultation on Electric Reliability* (EPA–DOE MOU) (DCN: SE11904). At a recent EPA–DOE MOU meeting, the NERC presented findings from its LTRA (DCN: SE11905). In the 2024 LTRA, the NERC finds that electric reliability will face unanticipated challenges in the coming decade due to “surging demand growth” at the same time many generators are anticipating retiring, decisions being forced, in part, by the adoption of a regulatory regime that was informed by significantly lower demand forecasts. One key aspect identified in the 2024 LTRA is the surging demand growth needs of data centers. In its *2024 U.S. Data Center Energy Usage Report*, the DOE found that “U.S. data center energy use has continued to grow at an increasing rate . . .” (DCN: SE11906). The EPA has also received additional reports indicating that surging demand will introduce resource adequacy issues to a greater extent than the EPA anticipated during the 2024 rule proceedings (see Section V).

As previously explained, in the 2024 rule, the EPA established a subcategory for EGUs permanently ceasing coal combustion by December 31, 2034. For these EGUs, less stringent limitations and standards apply to discharges of pollutants. These less stringent limitations and standards are the same as the limitations and standards previously applicable under the 2020

¹³ Illinois Drives Electric. 2025. CEJA and Climate Action. Available online at: <https://ev.illinois.gov/illinois-commitment/ceja-and-climate-action.html> (DCN: SE11970).

¹⁴ American Electric Power. 2015. AEP Ohio Files Settlement Agreement on Expanded PPA Agreement Provides Price Stability, Supports Economic Development, Adds Significant

Environmental Commitments. December 14. Available online at: <https://www.aep.com/news/stories/view/1421/AEP-Ohio-Files-Settlement-Agreement-On-Expanded-PPA-smallAgreement-provides-price-stability-supports-economic-development-adds-significant-environmental-commitmentssmall/> (DCN: SE11971).

¹⁵ The text of the settlement is available online at: <https://npr.brightspotcdn.com/45/79/e642a320432d841506cfed80ee9b/final-agreement-signed-by-allparties-reschiller-merrimack-3-27-24.pdf> (DCN: SE11972).

rule. As there were no nationally applicable limitations and standards for CRL prior to 2024, the subcategory left in place the requirement for permitting authorities to develop case-by-case TBELs using their BPJ, and it established mercury and arsenic limitations based on chemical precipitation after the retirement of the plant. In order to participate in this subcategory, facilities must submit a NOPP to their permitting authority or control authority by December 31, 2025, and subsequently submit annual progress reports on the steps taken to achieve permanent cessation of coal combustion. The NOPP notifies the permitting authority or control authority of the plant's intent to opt into the 2024 rule's subcategory for sources that anticipate closure or repowering.

At the time of the 2024 rule, the EPA estimated there were "around 50" EGUs whose retirement dates had been announced between 2030 and 2034. While the flexibilities in the new permanent cessation of coal combustion subcategory were also applicable to retirements prior to 2030 (especially with regard to CRL), these post-2030 retirements would have been subject to the full suite of zero-discharge limitations but for the subcategory. Utilities and trade associations have extensively communicated to the Agency that facilities need additional time to decide about ceasing coal combustion in light of surging electricity demand, especially in areas where data centers may be constructed in the near future.

To address these concerns, the EPA is proposing to extend the NOPP date in 40 CFR 423.19(h) from December 31, 2025, to December 31, 2031. The rationale for the subcategory for the permanent cessation of coal combustion by 2034 was set forth in the 2024 rule and is based on the statutory factors in CWA sections 301 and 304. The NOPP provides the mechanism for facilities to make use of that subcategory, and thus the date for the NOPP submission is authorized under CWA section 501(a), which allows the Administrator to prescribe such regulations as are necessary to carry out his functions, including establishment of ELGs, pursuant to sections 301 and 304 of the CWA. The proposed December 31, 2031 NOPP submission date is three years prior to the required permanent cessation of coal combustion and thus would allow for the most accurate three-year capacity auctions in deregulated regions (e.g., PJM) or the typical two- to three-year IRP cycle to conclude prior to a plant opting into the subcategory with a NOPP. The EPA solicits comment on

alternative deadlines for submitting the NOPP. For example, December 31, 2029, would be one full permit cycle before the 2034 permanent cessation of coal combustion date and would also align with some longer IRP timeframes (e.g., Michigan requires IRPs every five years) (DCN: SE11945). Although the EPA does not expect this to be the case, the Agency also solicits comment on whether there are any significant reliance interests related to the existing deadline and, if so, how the Agency should take this into account when considering whether to take final action on the proposal.

Should commenters wish these provisions to go into effect via the companion direct final rule, commenters may refrain from responding to this solicitation or explicitly state that comments filed are to be applied solely with respect to this proposal and not the NOPP companion direct final rule.

B. NOPP Companion Direct Final Rule

Contemporaneously with this notice of proposed rulemaking, the EPA is publishing a direct final rule to extend the NOPP submission date because the Agency views this specific change as a noncontroversial action in which notice-and-comment proceedings are unnecessary. The EPA anticipates no adverse comment because the rule merely extends the date (from December 31, 2025, to December 31, 2031) for existing steam electric power plants to submit a NOPP in the 2024 rule's subcategory for EGUs permanently ceasing coal combustion by December 31, 2034. The direct final rule does not otherwise amend the 2024 rule codified at 40 CFR part 423 in any way or change the substantive requirements applicable to regulated entities. If adverse comments are received, however, the EPA will consider them as part of the proposal to extend the NOPP date in this rulemaking. The EPA will not institute a second comment period on the NOPP extension issue. Any parties interested in commenting must do so at this time. For further information about commenting on this proposed rule, see the **ADDRESSES** section of this document.

If the EPA receives no adverse comment on the direct final rule, it will not take further action on this proposed rule to the extent it addresses the NOPP submission date. If the EPA receives adverse comment on the companion direct final rule, it will publish a timely withdrawal in the **Federal Register** informing the public that the direct final rule will not take effect. The EPA would then address any public comments

received in any subsequent final rule based on this proposed rule.

C. New Transfer Provision

The EPA is proposing to establish a set of new transfer provisions in 40 CFR 423.13(o) to enhance flexibility to choose among compliance alternatives. As described in the 2020 rule, even where facilities have provided a NOPP and publicly announced retirement or repowering plans, actually ceasing coal combustion may "require local or state regulatory approval prior to reducing its utilization or planning to retire. . . ." 85 FR at 64709. Such procedural steps continue to exist, and in light of energy demand concerns and commitments, may not be ultimately fulfilled. Thus, a plant fully intending to retire steam electric power generation under a previous announcement could be subject to unanticipated demand growth or other circumstances that lead a regulatory authority to reject the retirement decision. In such cases, it is reasonable and consistent with the statutory and regulatory framework to permit a plant to transfer back into a compliance pathway that applies the generally applicable zero-discharge limitations. Similarly, it is possible that a plant intending to remain in operation may not clear a capacity auction or may be required by a State regulatory body to retire. In such cases, it would contradict the intent of the subcategory to treat these facilities differently from those that were carrying out planned retirements. Thus, the EPA is proposing to create a new transfer provision in 40 CFR 423.13(o)(1)(3) to allow transfers in either direction up until the 2034 deadline for the permanent cessation of coal combustion, to ensure that facilities facing unexpected changes in operations are not unfairly penalized as compared to the rest of the industrial sector. While 40 CFR 423.19(l) already requires notice to the permitting authority to initiate a transfer, the EPA solicits comment on whether such transfers warrant any unique informational supplements beyond what is already required. The EPA also solicits comment on whether transfers in either direction should have alternative cutoff dates to ensure a plant can remain in compliance. Finally, although the EPA does not expect this to be the case, the Agency solicits comment on whether there are any significant reliance interests related to the existing deadline and, if so, how the Agency should take them into account when deciding whether to take final action on the proposal.

D. Extended BAT Applicability Timing for Zero-Discharge Limitations

The 2024 rule's zero-discharge limitations must be met as soon as possible, but "no later than" December 31, 2029. 89 FR at 40256. As part of its rationale for establishing this latest date, the EPA stated that this date created "a level playing field" for facilities regardless of where they were in their five-year permit cycle. *Id.* For the reasons discussed below, the EPA is proposing to extend the "no later than" dates for zero-discharge limitations to December 31, 2034 (*i.e.*, one additional permit cycle).

The EPA finds that postponing the "no later than" dates is warranted for three primary reasons, supported by the statutory factors of availability, cost, NWQELs (including energy requirements), and such other factors as the Administrator deems appropriate. In particular, first, the December 31, 2029, date for meeting the limitations may not be achievable for all facilities under the current circumstances due to availability of the control technologies or their component parts. Second, delaying the "no later than" date allows facilities that recently invested in technologies to meet the 2020 rule a longer period to amortize the costs of those technologies, which could improve their ability to undertake additional investments towards compliance with the 2024 rule with less impact on customer rates. Finally, postponing the "no later than" date until December 31, 2034, better effectuates the ability of facilities to transfer out of the permanent cessation of coal combustion by 2034 pathway and continue to generate electricity using coal resources as necessitated by local or regional resource adequacy and reliability needs and to mitigate an impending national energy emergency, as discussed previously.

With respect to the first basis for the postponement, the 2024 rule became effective on July 8, 2024, at which time some utilities began engineering, pilot testing, requests for proposal, and other concrete steps towards complying with the 2024 rule. However, continued steps towards implementation have been delayed for a variety of reasons. Ongoing uncertainty in global supply chains has resulted in disruptions in the flow of goods and products, increasing the cost and difficulty of procurement of technologies needed to meet BAT requirements. Geopolitical competition for AI and other technologies of the future has also influenced rising demand-driven delays for fulfillment of specific components, like

semiconductor chips and other electrical components, which create challenges for facilities to timely meet the 2024 rule where these components are also used in the wastewater treatment system. These global market changes would be "other factors" the Administrator proposes are appropriate to consider for their effect on plants being able, as a practical matter, to procure relevant technologies on a nationwide basis on the timelines required under the 2024 rule. After considering these changes, it is likely that, for at least some facilities, the BAT technologies are no longer "available" on the timeframes provided in the 2024 rule, and therefore expecting compliance by 2029 may no longer be reasonable. *See Am. Frozen Food Inst.*, 539 F.2d at 132 (endorsing the view that, although the best available standard does not mean that the technology must be in actual routine use somewhere, it does mean that the technology "must be available at a cost and at a time which the Administrator determines to be reasonable") (citation omitted); *see also CPC Int'l, Inc. v. Train*, 515 F.2d 1032, 1048 (8th Cir. 1975) (same). The EPA solicits comment on information about specific instances where supply chain uncertainty has resulted in such delays.

With respect to the second basis for the postponement, the 2020 and 2024 rules discussed how facilities incur greater capital costs when amortized over fewer and fewer years. Specifically, the Agency found a greater cost on a MW basis for facilities in the low utilization EGU subcategory in the 2020 rule, compared to facilities that did not have low-utilization EGUs. That record demonstrated that annualized capital costs approximately double when amortization shrinks from the typical 20-year period to eight years. 84 FR 64640. In some cases, under the 2024 rule, facilities completing installation of a biological treatment system by the end of 2025 would be required to turn around and install zero-discharge systems by 2029. While the CWA does contemplate technological advancement, the Act also requires the EPA to consider the "cost" of achieving effluent reduction, as well as "other factors as the Administrator deems appropriate." 33 U.S.C. 1314(b)(2)(B). In the 2024 rule, the EPA's analysis showed that these cumulative costs were economically achievable within the previously projected electricity market supply and demand; however, these supply and demand assumptions have proven inaccurate, as discussed previously. Back-to-back amortization of

costs incurred by some of the larger plants to meet the 2020 and 2024 rules could mean steep rises in costs to utilities. This cost is often passed on, leading to similarly steep rises in residential electricity prices, a relevant "other factor," at a time where there are significant concerns related to the grid demand and reliability. These prices have already seen unprecedented growth due to rising demand, particularly where data centers are located. For example, in New Jersey, prices rose by about 20 percent in 2025 (DCN: SE11952).¹⁶ Costs to industry that were previously found to be economically achievable may no longer be, and providing facilities more time to amortize the costs of the previous 2020 rule helps reduce short-term price pressures on American families and domestic manufacturers.

Finally, with respect to the third basis for the postponement, as discussed in the prior subsection, the EPA is proposing to establish a transfer provision for facilities to opt out of the permanent cessation of coal combustion subcategory and instead be subject to the generally applicable limitations. By extending the "no later than" dates to 2034, this proposed rule would allow facilities the maximum flexibility to respond to changing local and regional energy demand—thereby ensuring the energy requirements of the nation are met—without risking noncompliance.

While in some cases generator retirements have already been announced, planned for, and (in a subset of such cases) already approved by State and regional utility commissions or grid operators, these conditions are quickly changing, with utilities revising retirement dates to meet recent increases in demand detailed previously in this preamble. Even in instances where a new power source is available to fill this increase in demand, these sources must be connected to the grid. These new connections require transformers, inverters, AC/DC couplers, voltage regulators, frequency monitoring, cabling, resistors for fault protection, and other components just to get the power to a substation. In some cases, the components required to tie in the new energy source are backordered and simply are not available. Therefore, it is essential to keep existing steam-electric plants that are connected to the grid in operation until such time as new energy sources can be tied in. The Agency proposes to find that, given these

¹⁶ <https://penncapital-star.com/energy-environment/pjm-capacity-price-hits-cap-as-clean-energy-projects-remain-stalled/>. (DCN: SE11973).

uncertainties and the corresponding public interest in affordable, reliable energy, allowing the longest possible timeframe for coal-fired EGUs to transfer between compliance alternatives and still install technologies to meet requirements by their deadline is the best solution to ensure grid reliability and resource adequacy.¹⁷ These are non-water quality environmental impacts (including energy requirements) or other factors the Administrator proposes are appropriate to consider in accordance with 33 U.S.C. 1314(b)(2)(B), and they provide additional support for extending the latest zero-discharge limitations deadlines, and specifically for extending those deadlines to 2034.

In contrast to the “no later than” dates, the EPA is not proposing to postpone the earliest compliance dates associated with the 2024 rule. Instead, by postponing the latest compliance dates, the Agency intends to allow State permitting authorities more flexibility in determining the “as soon as possible” date under 40 CFR 423.11(t). The Agency is requesting comment in this proposal to help determine the scope of any subsequent reconsideration to give utilities, industry, and State permitting authorities additional certainty.

The EPA solicits comment on the proposed “no later than” dates of December 31, 2034. The EPA solicits comment on alternative dates and their justifications (e.g., in previous rules the EPA has used one five-year permit cycle). The EPA also solicits comment on whether all three compliance dates warrant the same extension. In the 2024 rule record, the EPA explained how facilities will often co-treat different wastestreams or may send BA transport water to the FGD absorber as make-up water. The EPA solicits comment on whether such considerations support extending all compliance dates equally or whether more or less time might be warranted for particular wastestreams. Finally, while the Agency is not aware of circumstances in which any entity has detrimentally relied on the parts of the 2024 rule that the Agency is considering revising, the Agency solicits comment on any legitimate reliance interests that may be implicated by this proposed action, which the Agency should consider in the rulemaking process.

E. Tiered PSES

While the majority of steam electric power plants directly discharge the

three wastestreams for which the EPA established zero-discharge limitations in the 2024 rule, there are still one or more indirect dischargers of each of these wastewaters. The EPA finds that many of the considerations discussed in this preamble that warrant longer applicability timing for zero-discharge requirements on direct dischargers also may hold true for indirect dischargers. Thus, the EPA is proposing a new tiered standard for indirect dischargers that would conform with the Act and allow an indirect discharging plant to choose to be subject to direct discharge limits with the same timeframes available to existing direct dischargers.

Section 307(b)(1) of the CWA requires that pretreatment standards “shall specify a time for compliance not to exceed three years from the date of promulgation.” 33 U.S.C. 1317(b)(1). This three-year period is similar to the three years stated in section 301(b)(2)(C), (D), and (F), which apply to BAT limitations. 33 U.S.C. 1311(b)(2)(C), (D), and (F). Section 301(b)(2)(C) states that “there shall be achieved . . . compliance with [BAT] effluent limitations . . . as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated . . . and in no case later than March 31, 1989.” 33 U.S.C. 1311(b)(2)(C). The EPA reads those provisions as requiring that the EPA’s original BAT limitations be met no later than three years after the date that effluent limitations guidelines are promulgated, with a back-end deadline of March 31, 1989. Furthermore, the Act is silent as to any required timeframe for compliance with revised effluent limitations after March 31, 1989. *See Clean Water Action v. EPA*, 936 F.3d 308, 316–17 (5th Cir. 2019) (“EPA’s reading of the text accords the language its natural meaning: the initial BAT effluent limitations were to be complied with as expeditiously as practicable, but in no case later than three years after promulgation, with a final compliance date of March 31, 1989—which ever came first. This reading is supported by section 1311(d), which requires the EPA periodically to review BAT limitations, including after 1989, but contains no such compliance deadline.”) (citation omitted).

Given that BAT limitations and PSES are intended to be analogous, as previously described, it would make sense that the three-year requirement in CWA section 307 also applies only to

the EPA’s initial pretreatment standards for an industry. This is supported both by CWA section 307(b)(1)’s language stating that the three-year time for compliance applies to pretreatment standards “under this subsection,” as well as by section 307(b)(2), which includes language stating that the Administrator shall “from time to time” revise its pretreatment standards and *does not* include language directing compliance with revised standards under that subsection by any particular date. Nonetheless, even assuming that the three-year requirement applies to revisions of those standards, the EPA’s proposed pretreatment standards would meet that requirement because they represent a phased-in standard beginning three years from promulgation that reflects when more stringent technologies are available, achievable, and have acceptable NWQELs, as required by the Act.

In the first tier of the standard, indirect dischargers would be required, by October 2, 2028, to meet pre-2024 standards for FGD wastewater, BA transport water, and CRL. These standards (which are based, respectively, on biological treatment plus chemical precipitation, high recycle rate systems, and the permitting authority’s BPJ) are available and achievable, as supported by the record in the EPA’s prior rules. In the second tier of the standard, facilities opting to file a permit application with their permitting authority to directly discharge these wastewaters, and upon certifying that they would complete the conversion to direct discharge, would then be allowed to continue indirectly discharging until the compliance date determined by the permitting authority, but no later than December 31, 2034. In the second tier of the standard for facilities that do not opt to become direct dischargers, the tiered standard would change to zero-discharge by October 2, 2028.

In either case, this pretreatment standard is one standard that tightens over time, and so it conforms to the requirement of the Act that pretreatment standards specify a time for compliance not to exceed 3 years from the date of promulgation. The EPA expects that this approach will provide equity across a range of permitted facilities regardless of their discharge circumstance—i.e., direct or indirect.

The EPA solicits comment on the proposed tiered standards and underlying rationale. The EPA solicits comment on alternative approaches for extending standards (e.g., merely setting the second tier to the latest dates in 2034) or achieving parity between direct

¹⁷ The EPA also notes that during this transition, facilities would continue to meet the 2020 limitations which achieve significantly more pollutant removals than the TSS standards in the 1980s regulations.

¹⁸ CWA section 301(b)(2)(D) and section 301(F) contain similar language. 33 U.S.C. 1311(b)(2)(D) and (F).

and indirect dischargers and their justifications. The EPA also solicits comment on whether all three compliance dates warrant the same extension. In the 2024 rule record, the EPA explained how facilities will often co-treat different wastestreams or may send BA transport water to the FGD absorber as make-up water. The EPA solicits comment on whether such considerations support extending all compliance dates equally or whether more or less time might be warranted for particular wastestreams. Finally, while the Agency is not aware of circumstances in which any entity has detrimentally relied on the parts of the 2024 rule that the Agency is considering revising, the Agency solicits comment on any legitimate reliance interests that may be implicated by this proposed action, which the Agency should consider in the rulemaking process.

F. Alternative Applicability Timing and Notice of Planned Participation Submission Timing Flexibility

The EPA is proposing a site-specific timeline flexibility to be incorporated in the permit conditions set forth in 40 CFR 423.18(d). Several of the challenges described in the prior sections that support aspects of this proposed rule may result in a plant, or even a single EGU at a plant, pivoting too quickly or too late into an alternative compliance pathway to ensure compliance with the applicable requirements. The EPA is proposing that such a flexibility is warranted based on the statutory factors of “availability” (timing of when a technology is available at a specific plant) and “NWQELs” (including energy requirements) (*i.e.*, sudden changes in resource adequacy needs for a particular service area). *See* 33 U.S.C. 1311(b)(2)(A), 1314(b)(2)(B).

While the EPA is aware that several utilities have already pushed back plans to retire coal units by 2028 in order to support regional resource adequacy, trade associations and regional transmission organizations have discussed further scenarios with the EPA that could lead to impractical timeframes for the installation of technologies needed to meet applicable limits. In one case, a utility may have announced that one or more EGUs at a plant would retire by 2028 (making it eligible for the 2020 rule’s subcategory for the permanent cessation of coal combustion by 2028), while the remainder would continue generation. If the IRP process or capacity auctions indicate that future needs may not be met, these EGUs may need to back out of previous retirement decisions. However, the plant may have combined

wastewaters, such as combined FGD wastewaters from a joint FGD unit that treats flue gas from the entire plant. In the case that the plant was properly developing a treatment system that could treat wastewater from the EGUs it had intended to continue operating, the continued operation of one or more additional EGU(s) could lead to more wastewater than the system can treat. In such circumstances, the plant would be forced to choose between noncompliance or retiring an EGU needed for local resource adequacy. The EPA agrees that a plant in such a situation should be given the time to build out treatment systems and comply with the 2020 rule.

In another scenario, a plant that had submitted a NOPP for permanent cessation of coal combustion by 2028 may learn through the IRP process or capacity auctions that its continued operation is necessary to support local resource adequacy. Such facilities can still use the transfer flexibilities in 40 CFR 423.13(o) to transfer to the VIP limitations for FGD wastewater and the generally applicable limitations for BA transport water by December 31, 2025. However, if a plant had not taken significant steps to design, bid, and procure these technologies prior to the transfer deadline, it would not be practicable for the plant to do so by the deadlines in the 2020 rule, particularly where the generally applicable BA transport water limitations have the same deadline as the transfer itself. In such circumstances, a plant could be forced into deciding whether to risk noncompliance or retire a plant needed for local resource adequacy. Furthermore, requirements to first notify or gain approval of a state public utility commission might make formally submitting a transfer notice by December 31, 2025, impracticable.¹⁹ As with the previous example, the EPA agrees that, in such circumstances, the plant should be given time to both get approvals needed to submit a transfer notice and build out treatment systems to comply with the 2020 rule.

Finally, stakeholders have expressed concerns with supply chains. Furthermore, the rapid growth of data centers, in some cases, takes materials and components that might otherwise have been used in an ELG compliance technology. Thus, it is possible that facilities may have to wait on parts that are available on the market, but not on

the timelines originally believed or agreed to in a contract. In such cases, it is reasonable and consistent with the statutory and regulatory scheme that a plant should have sufficient time to construct its compliance technologies and should not be penalized for factors outside of its control.

After considering the above scenarios, the EPA is proposing a requirement for permitting authorities to extend the NOPP submission dates or applicability timing for any compliance date in the 2020 or 2024 rules (including the VIP limitations for FGD wastewater) due to these or any other unexpected and uncontrollable circumstances.²⁰ Such a flexibility would be included as a new permit condition via 40 CFR 423.18(d). As proposed, this would allow an alternative applicability date and, where appropriate, associated schedule of milestones, to be included in a permit, notwithstanding the existing applicability timing in the regulatory text. The EPA solicits comment on this proposed permit condition, including on whether there should be a minimum or maximum duration for the alternative applicability date permitting authorities can use, as well as what that minimum or maximum should be (*e.g.*, an additional year, an additional permit cycle of five years, etc.). The EPA also solicits comment on the circumstances that qualify for an alternative applicability date under this timing flexibility, including any alternative circumstances that should be explicitly listed in the regulation. Further, the EPA solicits comment on whether and how this provision should be modified or integrated with other potential alternatives to the extensions and transfer provisions being proposed, or on which the Agency has solicited comment in this notice of proposed rulemaking. Finally, while the Agency is not aware of circumstances in which any entity has a significant reliance interest in the parts of the 2024 rule that the Agency is considering revising, the Agency solicits comment on whether there are any significant reliance interests that may be implicated by this proposed timing flexibility and, if so, how the Agency should take this into account when considering whether to take final action on the proposal.

The EPA is also proposing that a plant wishing to make use of this proposed provision must submit an initial request letter and regular progress reports to

¹⁹ Some utilities may also be required to conduct environmental reviews of such decisions under state or Federal law, further delaying the date by which a notice to transfer could be filed.

²⁰ For the purposes of the above, these issues are unexpected to the extent that documentation shows the previously established projections for demand growth, market prices, or equipment/component procurement timing are no longer reflective of actual circumstances.

their permitting authority. The initial request letter must include the circumstance under which it is requesting alternative applicability timing. The letter must also include detailed engineering dependency charts that would allow the permitting authority to establish an alternative applicability date and, where appropriate, associated schedule of milestones in the permit, as well as determine the frequency of regular progress reports. For instance, if a plant needed only an extra six months to install relevant technologies, then monthly progress reports might be warranted; however, if the same plant needed an extra six years to install relevant technologies, then annual or bi-annual progress reports might be sufficient.²¹ Furthermore, the engineering dependency charts should identify contingencies, especially for uncertain or critical path steps, so that any associated schedule can be sufficiently flexible to avoid the potential for permit modifications upon a predictable delay. Finally, the letter must be accompanied by any missing NOPPs or progress reports. While the EPA is intending this flexibility to be used only when necessary, the Agency is proposing it in a way that allows the maximum flexibility in terms of time and need. Facilities and permitting authorities should continue to plan for compliance through normal pathways to the extent possible. The EPA solicits comment on the appropriate level of paperwork required or any additional information that should be included.

G. Clarifications to Sections 423.18(a) or 423.19(i)

In the 2020 rule, the EPA discussed how changed circumstances in a plant's operations could affect compliance with the ELG. This discussion distinguished voluntary versus involuntary changes in operations. As examples of involuntary changes, the EPA noted that electric utilities are regulated by a variety of agencies that can legally require continued generation at a plant (*e.g.*, section 202(c) of the Federal Power Act). For these types of reliability-related issues, the EPA established permit conditions that would ensure non-interference with resource adequacy and reliability when such orders were issued.²² After this provision was

established, stakeholders raised questions as to the applicability of the section to energy emergency alerts (EEAs). In response to these stakeholder concerns, when finalizing the 2024 rule, the EPA reinforced its commitment to not interfering with the provision of reliable power by amending 40 CFR 423.18(a) to expressly include EEAs as a valid trigger for the protections therein.

Since the 2024 rule, stakeholders have questioned whether 40 CFR 423.18(a) can be read to include other types of actions not explicitly listed. Specifically, four scenarios were raised for which stakeholders wish further clarification from the EPA. These include the following:

- Whether 40 CFR 423.18(a)(2) is interpreted to include the FERC's acceptance of a reliability must-run agreement as being a reliability must-run agreement issued by a Public Utility Commission as contemplated within this subsection;
- Whether 40 CFR 423.18(a)(3) is interpreted to include the following as a qualifying event: where an EGU(s) has certified it would cease combustion of coal, and an appropriate Balancing Authority projects, pursuant to its authority, that doing so would cause a resource adequacy shortfall for an upcoming delivery year;
- Whether 40 CFR 423.19(i)(1)(ii) is interpreted to include the 30-day submission applicability to any findings made pursuant to 40 CFR 423.18(a)(3); and
- Whether 40 CFR 423.19(i)(3) is interpreted such that the termination of need statement submission is also triggered 30 days from when the source is no longer subject to extended production (which is increased production) resulting from the qualifying event.

With respect to the first issue, the EPA intended for any reliability must-run agreement or similar order to be covered. The EPA believes that, between 40 CFR 423.18(a)(2) and 423.18(a)(3), there is sufficient flexibility that either or both provisions could apply to such orders depending on the entity making or receiving the filing. Nevertheless, the EPA solicits comment on whether the removal of the term "public utility commission" is warranted, or whether the term should be replaced by a list of potential agencies that could file or accept such an order.

With respect to the second issue, the EPA received a similar question from the Tennessee Valley Authority (TVA) at the time of the 2023 proposal. There, the EPA pointed out that the TVA was certified by the NERC as the reliability

coordinator for itself and several other utilities. Therefore, the record supported that the TVA had the authority to issue operating instructions and emergency operating instructions with which any utilities (including itself) must comply, making the TVA a competent electricity regulator. Since 40 CFR 423.18 refers broadly to "a competent electricity regulator (*e.g.*, an independent system operator)," the EPA concluded that this broad definition allowed for load balancing authorities to be included and thus made no textual changes. However, since the issue is in front of the EPA, the Agency again solicits comment on whether removing the examples or adding a more comprehensive list of regulators is warranted.

With respect to the third issue, the EPA notes that 40 CFR 423.19(i)(2)(ii) refers back to (i)(2)(i), which in turn refers back to any qualifying event in 40 CFR 423.18(a). Since the reference does not limit qualifying events to any subparagraph in 40 CFR 423.18(a), the EPA agrees that any event under (a)(3) would trigger the reporting and recordkeeping requirement. The EPA solicits comment on whether additional clarity in the regulatory text is necessary. The EPA recommends that, where a plant subject to this requirement has missed the deadline, it make any appropriate submission as soon as possible.

With respect to the final issue, the EPA again agrees that extended production is increased production. The EPA solicits comment on whether the text of this section should explicitly list extended production or any other scenario that may not be as obvious an "increase" and, if so, examples of settings where there might be confusion.

For these, and any other clarification to 40 CFR 423.18(a), the EPA solicits comment on whether explicit changes to the regulatory text of 40 CFR 423.18(a) are warranted in light of the text, purpose, and history of these provisions. Specifically, the EPA solicits comment on whether the existing regulatory text is already sufficiently broad to cover the scenarios of concern raised by stakeholders. Finally, although the EPA does not expect this to be the case, the Agency also solicits comment on whether there are any significant reliance interests related to the existing text of 40 CFR 423.18 and, if so, how the Agency should take this into account when considering whether to take final action on the proposal.

H. Economic Achievability

In the 2024 rule, the EPA estimated that the cost to industry of zero

²¹ Note that nothing in this requirement prevents a permitting authority from requesting additional information or information at additional times, consistent with applicable law.

²² In contrast, the EPA noted that a plant voluntarily changing operations needed to "carefully plan its implementation." 85 FR 64650, 64709 (October 13, 2020).

discharge of FGD wastewater would be \$179 million per year, the cost to industry of zero discharge of BA transport water would be \$19 million per year, and the cost to industry of zero discharge of CRL would be \$225 million per year in annualized costs at a three percent discount rate. Combined, this led to a total cost estimate of \$423 million per year at a three percent discount rate. The EPA determined that these costs were economically achievable. Under the timing flexibilities and transfer provisions proposed above, individual facilities could see the timing of costs delayed by anywhere from zero to six years (five plus an additional year that the permitting authority may deem them in compliance), based on site-specific circumstances and the permitting authority's discretion. Thus, assuming facilities, on average, would have their compliance extended in that range, and discounting by zero to six years (*i.e.*, an average of three years) at a 3 percent discount rate, the EPA estimates that this rule would save utilities approximately \$30 million per year. At a 7 percent discount rate, the EPA estimates savings of \$79 million. The EPA proposes that, with these cost savings, the rule would continue to be economically achievable for this proposed action. To the extent that the EPA heard from utilities asserting costs are higher than those estimated in the 2024 rule, the Agency is soliciting comment on costs in the following data request section.

I. Severability

The purpose of this section is to clarify the Agency's intent with respect to the severability of provisions of any final rule based on this proposed rule. In the event of a stay or invalidation of part of any final rule based on this proposed rule, the Agency's intent is to preserve the remaining portions of the rule to the fullest extent possible. The EPA notes the following existing regulatory text at 40 CFR 423.10(b) that would not be altered by this proposed rule: "The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall continue in effect." Moreover, to dispel any doubt regarding the EPA's intent and to inform how any final regulation would operate if severed, the Agency proposes to find that it would adopt each portion of this proposed rule independent of the other portions. As explained below, the Agency carefully crafted this proposed rule so that each provision or element of the rule can operate independently.

Moreover, the Agency has organized the proposed rule so that if any provision or element of a final rule based on this proposal is determined by judicial review or operation of law to be invalid, that partial invalidation would not render the remainder of the rule invalid.

This proposed rule would extend certain compliance dates associated with zero-discharge limitations and standards for discharges of pollutants found in three steam electric wastestreams. The proposed rule would provide extended dates for limitations and standards associated with each wastestream in separate sections that do not rely on one another. Although the proposed decision to extend deadlines applicable to each wastestream rests on overlapping facts, the proposal to extend the compliance dates for limitations for each wastestream was made independently of the proposed decisions to extend the other compliance dates.

This proposed rule would also provide flexibility for steam electric facilities to opt into different compliance pathways that exist in the rule, for example, due to changed circumstances. This proposed flexibility to transfer to a different compliance pathway is unrelated to other provisions in the proposed rule, and EPA's proposed decision to allow for such transfers is unrelated to other aspects of the proposal.

Finally, this proposed rule would create authority for alternative applicability dates for limitations promulgated in the 2020 or 2024 rules, based on site-specific factors. This proposed authority is independent from other changes being proposed, and the EPA's proposed decision to provide for such authority is unrelated to other aspects of the proposal. For example, in the event of a stay or invalidation of any extended compliance dates for the zero-discharge limitations or standards, the EPA anticipates that there is continued authority for alternative applicability dates, as discussed in this paragraph, and such authority could continue to be implemented.

These examples are illustrative, rather than exhaustive, and the EPA intends for each portion of the proposed rule to be independent and severable. Furthermore, if application of any portion of a final rule based on this proposal to a particular circumstance is determined to be invalid, the Agency intends that the rule remain applicable to all other circumstances. The Agency solicits comment on these proposed severability findings.

VII. Data Request

Subsequent to this rulemaking effort, the EPA intends to undertake a further reconsideration of certain aspects of the existing regulations. EPA has heard from some segments of the mining industry that existing subcategories providing compliance pathways for EGUs seeking to retire or convert to alternative fuel sources establish an inadequately supported "offramp" to the continued utilization of domestic coal resources for energy production in the U.S. EPA solicits comment on repealing those subcategories that would require the permanent cessation of coal combustion by 2028 and 2034, respectively.

Additionally, the EPA is seeking to define the scope of this subsequent rulemaking to potentially revise the underlying technology bases for certain limitations and standards in the 2024 rule. In its March 12, 2025, press release, the EPA stated that it would be reconsidering the 2024 rule's TBELs, including those for CRL (DCN: SE11918). Environmental groups, electric utilities, and States challenged the unmanaged CRL provisions in litigation over the 2024 rule. In further discussions between the EPA and electric utilities, industry has also consistently reiterated its position that the final limitations for unmanaged CRL are inappropriate. Thus, the EPA intends to reconsider the mercury and arsenic limitations for this wastestream and will evaluate all potential technology options, including zero discharge, as part of that reconsideration. The EPA solicits comment on any pilot or full-scale treatment data for unmanaged CRL. The EPA also solicits comment on any engineering cost estimates, bids, vendor quotes, or other cost information regarding treatment of unmanaged CRL.

The Agency has also continued to hear from segments of the electric utility industry that the zero-discharge technologies used to establish BAT limitations for FGD wastewater and CRL (other than unmanaged CRL) in the 2024 rule are not available to all facilities, are not economically achievable, and are a primary cause of many announced steam electric power plant retirements. Utilities and trade associations have also pointed out that the availability of zero-discharge technologies can be dependent on plant-specific characteristics that are unrelated to the technology itself (*e.g.*, the plant is located in a geographic area with a hot, arid climate that allows for increased evaporation to meet zero-discharge limits, or the plant uses a particular type

of fuel). For example, a June 18, 2025 letter to the Agency from UWAG describes that, based on its analysis, most of the plants the Agency previously identified as meeting zero-discharge for FGD wastewater have unique characteristics not actually related to the technologies that allow them to achieve zero discharge. UWAG's letter further identifies specific challenges its members have encountered when attempting to install and operate zero-discharge technologies. The EPA solicits comment on all relevant data and information relating to these statements. Specifically, the EPA is soliciting information on availability, economic achievability, and resource adequacy and reliability impacts as further described below.

Pilot Study and Bench Test Information (Technological Availability). The EPA has learned that facilities have continued to successfully pilot test zero-discharge technologies on FGD wastewater and CRL since the 2024 rule. While the EPA cannot know for certain how many of these pilot tests have been conducted, based on conversations with utilities and vendors, the EPA estimates that there may be a dozen or more successful pilots with thermal and/or crystallization technologies and perhaps twice as many successful new pilot studies on membrane filtration technologies. The EPA solicits comment on new pilot study or bench test data, particularly where these technologies failed to perform in the manner described in the 2024 rule record. Where contractors, consultants, or vendors have provided reports, the EPA is soliciting comment that provide these reports in full (rather than select excerpts) to allow the Agency the ability to understand the underlying volumes, influent and effluent characteristics, run times, maintenance, and challenges experienced with the relevant systems in proper context. The EPA is also explicitly requesting any such data on potential VIP technologies for FGD wastewater where the elimination of expensive pretreatment steps would yield similar pollutant removals but nevertheless be unable to meet the VIP limitations established in the 2020 rule.

Cost Projection Information (Economic Achievability). The EPA has learned that many facilities have asked for, and received, formal engineering cost estimates or quotes for zero-discharge systems from engineering, procurement, and construction firms, consultants, and/or vendors. In some cases, facilities have also received firm bids in response to requests for proposal or, alternatively, have received cost-

escalation figures for previous quotes or bids. The EPA solicits this information in full and unredacted. Full access to this information is important to assess the design specifications, the precise line-items that are included in the cost projections, the expected manner of operation, etc. As the EPA has described in previous iterations of this rule, estimates of costs without reasonably detailed underlying assumptions cannot be assessed by the EPA with the level of rigor necessary to support an ELG. The EPA must have a reasonable understanding of the underlying assumptions for the costs to be able to properly evaluate them. Furthermore, the EPA is aware that some facilities have done analyses of internal processes or operational changes at their plants that would be made as part of achieving zero discharge. The EPA solicits comment providing this information.

Newly Installed Systems (Technological Availability and Economic Achievability). The EPA is aware that facilities have continued to contract for, fabricate, and install zero-discharge systems in furtherance of State requirements and/or the Steam Electric ELGs. The EPA solicits comment on final cost information for these systems, as well as the specifications that the systems were designed for. The EPA also solicits comment on any performance data associated with systems that may be in operation.

Resource Adequacy and Reliability Information. As previously raised in this preamble, the EPA is aware that data centers, population growth, manufacturing, and other changes have increased, and are expected to continue increasing, demand for electricity. The EPA solicits comment on specific examples of where demand has spiked disproportionately in local or regional electricity markets. The EPA also solicits comment on facilities which would not be retiring but for the Steam Electric ELGs, including financials for the impacted facilities that project costs and revenues both with and without the rule. The EPA solicits comment on any other short- and medium-term resource adequacy or reliability-related impacts that would result under the ELGs and any recommendations for how to avoid adverse impacts to resource adequacy and reliability.

The EPA is aware some plants planning on cessation of coal combustion may choose to delay cessation of coal combustion or may be pushed to delay planned closures or repowering. At this time, the EPA is unable to quantify the costs of the proposed measures. However, as

discussed above, amortization of investments in upgrades and wastewater treatment equipment spread out over additional years or pushed out further results in lower annual costs and thus may improve long-term affordability. It is the EPA's expectation that the proposed changes in this Notice would reduce industry compliance costs. The EPA may, if new and relevant data are received, quantify the costs of any final rule using the same models and methodologies used in the 2020 and 2024 rules.

VIII. Statutory and Executive Order Reviews

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

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

This proposed action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. From a 2024 rule baseline, the EPA estimated that the proposed action would result in annualized cost savings of \$30 million to \$87 million and forgone benefits of \$46 million to \$110 million at a three percent discount rate. At a 7 percent discount rate, the estimated annualized cost savings are \$79 million to \$215 million and forgone benefits are \$99 million to \$240 million.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. If finalized, this proposed rule would reduce regulatory burdens by providing additional time for the regulated community associated with their decision making.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 7814.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The EPA is proposing several new reporting and recordkeeping requirements or changes as part of the proposed rule. First, to implement the final rule's expanded transfer flexibilities, under CWA sections 304(i) and 308, this proposed rule includes expanded reporting and recordkeeping

requirements in 40 CFR 423.19(l). Second, to implement the proposed rule's new tiered PSES for facilities that wish to receive applicability dates as a direct discharger from a permitting authority the rule includes a new reporting and recordkeeping requirement in 40 CFR 423.19(p). Finally, to implement the proposed rule's new flexibility for alternative applicability dates, the rule includes two new reporting and recordkeeping requirements in 40 CFR 423.19(q). Specifically, the proposed rule includes requirements for an initial request letter and regular progress reports. The EPA also notes that with these additional reporting and recordkeeping requirements, the proposed rule also expands the filings required to be posted to each plant's public-facing website.

Respondents/affected entities: steam electric facilities.

Respondent's obligation to respond: Mandatory (40 CFR 423.19).

Estimated number of respondents: 60.

Frequency of response: Annually.

Total estimated burden: 2,880 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$308,400 (per year), includes \$0 annualized capital or operations & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. The EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. OMB must receive comments no later than November 3, 2025.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on

small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This action consists of a compliance date extension for the steam electric industry, including small entities, which will allow for greater flexibility for compliance. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities. Additionally, the EPA previously certified that the 2024 rule, which had a higher cost burden than is anticipated for this action, will not have a significant economic impact on a substantial number of small entities under the RFA (89 FR 40198).

As small entities were estimated to incur an estimated 19 percent of the annualized compliance costs for meeting bottom ash, FGD, and managed CRL limits in the 2024 rule analysis, the EPA expects that they may see a corresponding share of the estimated cost savings from the compliance date extension (*i.e.*, total savings of \$6 million to \$16 million at a three percent discount and \$15 million to \$40 million at a seven percent discount rate).

E. Unfunded Mandates Reform Act (UMRA)

This proposed action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The proposed action imposes no enforceable duty on any State, local or Tribal governments or the private sector.

F. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This proposed action would not have tribal implications as specified in Executive Order 13175. It does not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes as specified in Executive Order 13175. The EPA's analyses show that no plant

subject to the final ELGs is owned by Tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. Therefore, this proposed action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this proposed action does not concern human health, the EPA's Policy on Children's Health also does not apply.

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

This proposed action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The proposed compliance date extensions would allow EGUs to continue operations with additional time for decision-making and will not adversely impact supply, distribution, or use.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

List of Subjects in 40 CFR Part 423

Environmental protection, Electric power generation, Power facilities, Waste treatment and disposal, Water pollution control.

Lee Zeldin,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 423 as follows:

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

■ 1. The authority citation for part 423 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 1311; 1314(b), (c), (e), (g), and (i)(A) and (B); 1316; 1317; 1318 and 1361.

■ 2. Amend § 423.13 by:

- a. Revising paragraphs (g)(4)(i)(A), (k)(4)(i), and (l)(1)(i)(A); and
- b. Adding paragraph (o)(1)(iii).

The revisions and additions read as follows:

§ 423.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

- (g) * * *
- (4) * * *
- (i) * * *

(A) Dischargers must meet the effluent limitations for FGD wastewater in this paragraph (g)(4)(i) by a date determined by the permitting authority that is as soon as possible beginning July 8, 2024, but no later than December 31, 2034. These effluent limitations apply to the discharge of FGD wastewater generated on and after the date determined by the permitting authority for meeting the effluent limitations, as specified in this paragraph (g)(4)(i).

* * * * *

- (k) * * *
- (4) * * *

(i) Except for those discharges to which paragraphs (k)(4)(ii) through (iv) of this section applies, or when the bottom ash transport water is used in the FGD scrubber, there shall be no discharge of pollutants in bottom ash transport water. Dischargers must meet the discharge limitation in this paragraph (k)(4)(i) by a date determined by the permitting authority that is as soon as possible beginning July 8, 2024, but no later than December 31, 2034. The limitation in this paragraph (k)(4)(i) applies to the discharge of bottom ash transport water generated on and after the date determined by the permitting authority for meeting the discharge limitation, as specified in this paragraph (k)(4)(i).

* * * * *

- (l) * * *
- (1) * * *
- (i) * * *

(A) Dischargers must meet the effluent limitations for combustion residual leachate in this paragraph (l)(1)(i) by a date determined by the permitting authority that is as soon as possible beginning July 8, 2024, but no later than December 31, 2034. The effluent limitations in this paragraph (l)(1)(i) apply to the discharge of combustion residual leachate generated on and after the date determined by the permitting authority for meeting the effluent limitations, as specified in this paragraph (l)(1)(i).

* * * * *

- (o) * * *

(1) * * *

(iii) On or before December 31, 2034, a facility may convert:

(A) From the generally applicable zero discharge limitations under paragraphs (g)(4)(i), (k)(4)(i), or (l)(1)(i) of this section to limitations for electric generating units permanently ceasing coal combustion under paragraphs (g)(4)(iii), (k)(4)(iii), or (l)(2)(i) of this section; or

(B) From limitations for electric generating units permanently ceasing coal combustion under paragraphs (g)(4)(iii), (k)(4)(iii), or (l)(2)(i) of this section to the generally applicable zero discharge limitations under paragraphs (g)(4)(i), (k)(4)(i), or (l)(1)(i) of this section.

■ 3. Amend § 423.16 by revising paragraphs (e)(3), (g)(3), and (j)(1) to read as follows:

§ 423.16 Pretreatment standards for existing sources (PSES).

* * * * *

(e) * * *

(3) **2024 PSES.** Except as provided for in paragraph (e)(4) of this section, for any electric generating unit with a total nameplate generating capacity of more than 50 megawatts and that is not an oil-fired unit:

(i) Dischargers must meet the standards in paragraph (e)(1) of this section by [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]. The standards in paragraph (e)(1) of this section apply to the discharge of FGD wastewater generated on and after [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(ii) By the dates in paragraph (e)(3)(ii)(A) or (B) of this section there shall be no discharge of pollutants in FGD wastewater:

(A) [DATE 3 YEARS PLUS ONE DAY AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]; or

(B) Where a certification statement has been submitted pursuant to § 423.19(p), December 31, 2034.

* * * * *

(g) * * *

(3) **2024 PSES.** Except as provided for in paragraph (g)(4) of this section, for any electric generating unit with a total nameplate generating capacity of more than 50 megawatts and that is not an oil-fired unit:

(i) Dischargers must meet the standards in paragraph (g)(1) of this section by [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]. The standards in paragraph (g)(1) of this section apply to the discharge of bottom

ash transport water generated on and after [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(ii) By the dates in paragraph (g)(3)(ii)(A) or (B) of this section, there shall be no discharge of pollutants in bottom ash transport water:

(A) [DATE 3 YEARS PLUS ONE DAY AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]; or

(B) Where a certification statement has been submitted pursuant to § 423.19(p), December 31, 2034.

* * * * *

(j) * * *

(1) **2024 PSES.** Until and including the dates specified in paragraphs (j)(1)(i) and (ii), or paragraph (j)(2) of this section, the EPA is declining to establish PSES for combustion residual leachate and is reserving such standards to be established by the control authority on a case-by-case.

(i) Except for those discharges to which paragraph (j)(1)(ii) of this section applies, by the dates in paragraph (j)(1)(i)(A) or (B) of this section, there shall be no discharge of pollutants in combustion residual leachate:

(A) [DATE 3 YEARS PLUS ONE DAY AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]; or

(B) Where a certification statement has been submitted pursuant to section 423.19(p), December 31, 2034.

(ii) After the retirement of all units at a facility, the quantity of pollutants in CRL shall not exceed the quantity determined by multiplying the flow of CRL permeate times the concentrations listed in the table 7 to § 423.13(g)(3)(i) or the flow of CRL distillate times the concentrations listed in the table in § 423.15(b)(13).

■ 4. Amend § 423.18 by adding paragraph (d) to read as follows:

§ 423.18 Permit conditions.

* * * * *

(d)(1) Notwithstanding the dates associated with any limitations in § 423.13(g), (k), or (l), a permitting authority shall establish, in a facility's permit, an alternative applicability date and, where appropriate, an associated schedule of milestones, for achieving the required limitations when the facility meets one of the circumstances in paragraph (3), provided that the facility submits an initial request letter pursuant to section 423.19(q) and the permitting authority finds that request factually supported in the letter and attachments provided.

(2) Notwithstanding the dates associated with any notice of planned participation required to be submitted under sections 423.19(g), (j), or (l), a

permitting authority may accept a late notice of planned participation provided that the facility meets one of the circumstances in paragraph (d)(3) of this section, submits an initial request letter pursuant to § 423.19(q), and the permitting authority finds that request factually supported in the letter and attachments provided. Transfers pursuant to § 423.13(o)(1)(ii) but receiving alternative § 423.19(l) submission dates in this paragraph (d)(2) shall be deemed timely. In no case may a late notice of planned participation be accepted pursuant to this paragraph (d)(2) after December 31, 2028.

(3) Circumstances which a permitting authority shall find warrant an alternative applicability date or later notice of planned participation submission date based on factual support under paragraphs (d)(1) or (2) of this section include:

(i) Where a facility needs an alternative applicability date upon making a permissible transfer between limitations prior to the deadlines in § 423.13(o) due to:

(A) An unexpected change in regional capacity market prices; or

(B) An unexpected change in local demand which materially exceeds projections made in the most recent iterations of integrated resource plans or other planning documents;

(ii) Where a facility has one or more electric generating units using a wastewater treatment system treating combined wastewater (e.g., wastewater from a single flue gas desulfurization system servicing different units) and needs an alternative applicability date after making a decision to back out of a commitment to permanently cease coal combustion at one or more different electric generating units at the same plant due to:

(A) An unexpected change in regional capacity market prices; or

(B) An unexpected change in local demand which materially exceeds projections made in the most recent iterations of integrated resource plans or other planning documents;

(iii) Where a facility needs an alternative applicability date because it faces an unexpected supply chain issue that delays a necessary component (not merely a preferred component where there are reasonable substitutes) at a key stage of fabrication or installation such that the timeline for reaching steady-state treatment is delayed; or

(iv) Where a facility faces any other circumstance that requires additional time and is wholly outside both the facility's control and the facility's ability to plan for.

(4) A facility availing itself of this paragraph may consider the alternative applicability dates or alternative notice of planned participation submission dates when evaluating compliance for purposes of § 423.13(o)(2).

■ 5. Amend § 423.19 by:

■ a. Revising paragraphs (c)(1), (h)(1), (l) introductory paragraph, and (l)(1); and

■ b. Adding paragraphs (p) and (q).

The revisions and additions read as follows:

§ 423.19 Reporting and recordkeeping requirements.

* * * * *

(c) * * *

(1) Except as provided in paragraph (c)(2) of this section, each facility subject to one or more of the reporting requirements in paragraphs (d) through (q) of this section must maintain a publicly accessible internet site (ELG website) containing the information specified in paragraphs (d) through (q) of this section, if applicable. This website shall be titled "ELG Rule Compliance Data and Information." The facility must ensure that all information required to be posted is immediately available to anyone visiting the site, without requiring any prerequisite, such as registration or a requirement to submit a document request. All required information must be clearly identifiable and must be able to be immediately downloaded by anyone accessing the site in a format that enables additional analysis (e.g., comma-separated values text file format). When the facility initially creates, or later changes, the web address (i.e., Uniform Resource Locator (URL)) at any point, they must notify the EPA via the "contact us" form on EPA's Effluent Guidelines website and the permitting authority or control authority within 14 days of creating the website or making the change. The facility's ELG website must also have a "contact us" form or a specific email address posted on the website for the public to use to submit questions and issues relating to the availability of information on the website.

* * * * *

(h) * * *

(1) *Notice of Planned Participation.* For sources seeking to qualify as an electric generating unit that will achieve permanent cessation of coal combustion by December 31, 2034, under this part, a Notice of Planned Participation shall be made to the permitting authority, or to the control authority in the case of an indirect discharger, no later than December 31, 2031.

* * * * *

(l) *Requirements for facilities seeking protections under this part—*

(1) *Notice of Planned Participation.*

For sources which intend to make changes that would qualify them for a different set of requirements under § 423.13(o), a Notice of Planned Participation shall be made to the permitting authority, or to the control authority in the case of an indirect discharger, no later than the dates stated in § 423.13(o)(1).

* * * * *

(p) *Requirements for facilities subject to zero discharge pretreatment standards for existing sources by 2034.* For sources seeking to be subject to the second tier of the tiered standards in § 423.16(e)(3)(ii)(B), (g)(3)(ii)(B), or (j)(2)(i)(B), a certification statement shall be submitted to the control authority by [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**] stating that the facility has submitted a permit application, permit renewal application, or permit modification request to its permitting authority seeking an as soon as possible date for achieving the corresponding generally applicable zero discharge limitations in § 423.13(g)(4)(i), (k)(4)(i), or (l)(1)(i), subject to the considerations in § 423.11(t). Furthermore, the certification statement will include an affirmative statement that the facility will also cease its indirect discharge by the as soon as possible date determined in this permitting action.

(q) *Requirements for facilities seeking an alternative applicability date under this part.*

(1) *Initial request letter.* A facility may submit a letter to its permitting authority requesting that it receive an alternative applicability date pursuant to § 423.18(d).

(2) *Contents and Timing.* The initial request letter must detail the significant unexpected circumstance in § 423.18(d)(2) and a compelling narrative that explains why these unexpected circumstances warrant an alternative applicability date by the permitting authority in light of the facility's plans and execution of those plans. The letter must also contain a proposed schedule of compliance to be incorporated into the permit, supported by detailed engineering dependency chart that clearly shows the milestones leading to compliance as soon as possible given the unexpected circumstances described in the letter, including contingencies for critical path steps. In the case of a missed notice of planned participation, annual progress report, or other reporting or recordkeeping requirement that should have been submitted prior to [DATE 60

DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], the letter must also attach such reporting requirements. Such submissions shall be deemed timely by the permitting authority. The facility shall submit an initial request letter within 60 days of the significant unexpected circumstance detailed in the letter or by [DATE 60 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], whichever is later.

(3) *Progress Reports*. A facility that submits an initial request letter pursuant to paragraph (q)(1) of this section must submit regular progress reports with its permitting authority at a frequency determined in paragraph (q)(4) of this section.

(4) *Contents and Timing*. Progress reports must include a description of tasks and sub-tasks completed towards each of the milestones listed in the initial request letter, any changes to the expected dates of milestones, and any contingencies from the initial request letter which have been effectuated. The permitting authority shall establish the timing of regular progress reports based on the following considerations:

- (i) The estimated duration of the alternative applicability timing;
- (ii) The timeframes of various milestones, tasks, and sub-tasks;
- (iii) The number and magnitude of contingencies; and
- (iv) Any other appropriate and relevant factor.

(5) *Request letter*. A facility may submit a single initial request letter under this paragraph (q)(5) to provide factual support for circumstances specified in § 423.18(d)(3) that would support of one or more requests for alternative dates in § 423.18(d)(1) or (2).

[FR Doc. 2025–19268 Filed 10–1–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 250923–0159]

RIN 0648–BN62

Fishery Management Plans of St. Croix and St. Thomas and St. John; Queen Triggerfish Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Framework Action 3 under both the St. Croix Fishery Management Plan (FMP) and the St. Thomas and St. John FMP (collectively Framework Action 3), as prepared by the Caribbean Fishery Management Council (Council). If implemented, this proposed rule would modify the annual catch limits (ACLs) for queen triggerfish in Federal waters around St. Croix and in Federal waters around St. Thomas and St. John. The purpose of this proposed rule and Framework Action 3 is to update management reference points for queen triggerfish under the St. Croix FMP and the St. Thomas and St. John FMP consistent with the most recent stock assessments to prevent overfishing and achieve optimum yield (OY).

DATES: Written comments must be received by November 3, 2025.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-0032>. You may submit comments on this document, identified by “NOAA–NMFS–2025–0032” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and enter “NOAA–NMFS–2025–0032” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Sarah Stephenson, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Framework Action 3, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional

Office website at <https://www.fisheries.noaa.gov/action/framework-action-3-under-st-croix-and-st-thomas-and-st-john-fishery-management-plans>.

FOR FURTHER INFORMATION CONTACT:

Sarah Stephenson, 727–824–5305, sarah.stephenson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS, with the advice of the Council, manages the St. Croix fishery and St. Thomas and St. John fishery under the St. Croix FMP and the St. Thomas and St. John FMP. Queen triggerfish is managed as an individual stock under each FMP. NMFS implements the St. Croix FMP and the St. Thomas and St. John FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS to prevent overfishing and to achieve, on a continuing basis, the OY from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

This action is taken under the statutory authority of the Magnuson-Stevens Act section 303(a)(1) as necessary and appropriate for the conservation and management of the fishery to prevent overfishing and to promote the long-term health and stability of the fishery.

The St. Croix FMP and St. Thomas and St. John FMP were approved by the Secretary of Commerce on September 22, 2020, along with the Puerto Rico FMP, under section 304(a)(3) of the Magnuson-Stevens Act. NMFS published the final rule to implement the FMPs on September 13, 2022 (87 FR 56204), which took effect on October 13, 2022. Each FMP contains management measures applicable for Federal waters off the respective island management area, including the current ACL values for the St. Croix and the St. Thomas and St. John queen triggerfish stocks. Federal regulations at 50 CFR part 622 subparts T and U describe management measures for St. Croix and for St. Thomas and St. John, respectively. Federal waters around St. Croix, St. Thomas, and St. John extend seaward from 3 nautical miles (5.6 kilometers) from shore of each island district to the offshore boundary of the U.S. Caribbean exclusive economic zone (EEZ).

The St. Croix FMP and St. Thomas and St. John FMP established status

determination criteria (SDC) and other management reference points for queen triggerfish in Federal waters around each management area.

Each FMP applies a four-tiered acceptable biological catch (ABC) control rule depending on differing levels of data availability. Each tier specifies SDC, such as the maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), and overfishing limit (OFL), or OFL proxy, and other reference points such as the maximum sustainable yield (MSY), or MSY proxy, and ABC. Under the ABC control rule, tier 1 applies to stocks with the most data available, and each subsequent tier operates with less available data than the preceding tier. Tier 4, the final tier, is the most data limited and applies when no accepted quantitative assessment is available. Tier 4 contains two sub-tiers, tier 4a and tier 4b, which are based on an understanding of the stock's vulnerability to fishing pressure. Tier 4a applies when the stock's vulnerability to fishing pressure is relatively low or moderate, while tier 4b applies to stocks with a high vulnerability to fishing pressure.

In both the St. Croix FMP and St. Thomas and St. John FMP, queen triggerfish is considered a tier 4a stock and the MSY proxy, MFMT, and MSST were defined, but as a result of data limitations, were not quantified. Similarly, the OFL for each stock could not be quantified. As such, a new reference point, the sustainable yield level (SYL), was quantified and used as the OFL proxy. The SYL is a level of landings that can be sustained by a stock over the long-term. For queen triggerfish in each FMP, the Council's Scientific and Statistical Committee (SSC) derived the ABC from the SYL, and the Council recommended the ACL for the stock be equal to 95 percent of the SSC's recommended ABC. The ACL was set equal to OY.

All weights described in this proposed rule are in round weight.

For the St. Croix queen triggerfish stock, the ACL is 21,450 pounds (lb; 9,729.5 kilograms [kg]). For the St. Thomas and St. John queen triggerfish stock, the ACL is 97,670 lb (44,302.3 kg).

In 2024, the Southeast Data, Assessment, and Review (SEDAR) stock assessments were completed for queen triggerfish in St. Croix and in St. Thomas and St. John (SEDAR 80). The Council's SSC reviewed results from SEDAR 80 in April 2024, and determined that the stock assessments were suitable for short-term (*i.e.*, <5 years) management advice. The SSC

recommended ABCs for the St. Croix and St. Thomas and St. John queen triggerfish stocks using Tier 3b of the ABC control rule in each FMP. Under Tier 3b, the ABC is derived from the OFL by applying a buffer to account for scientific uncertainty ($ABC = \text{buffer} * \text{OFL}$), where the buffer must be less than or equal to 0.9. The OFL values projected by the SEDAR 80 models used a fishing mortality rate at MSY (F_{MSY}) proxy based on a spawning potential ratio of 0.4. The constant catch at the F_{MSY} proxy was used to establish the ABC. The OFL values and buffers used to set the ABC from the OFL varied for years 2024 through 2027. The ABC values recommended for queen triggerfish in St. Croix and in St. Thomas and St. John for years 2024 through 2027 were a constant value.

NMFS notes that Framework Action 3 includes recommended OFLs and ABCs for fishing year 2024. However, due to delays in development of the action and implementation of the proposed rule, the SYL and ABC for queen triggerfish specified under the St. Croix FMP and the St. Thomas and St. John FMP were the OFL proxy and ABC effective for fishing year 2024.

Under tier 3, if the biomass of the stock goes below MSST, the stock would be determined to be overfished and the Council would need to develop a rebuilding plan capable of returning the stock to a level that allows the stock to achieve MSY on a continuing basis. Additionally, under tier 3, in years when there is a stock assessment, the stock would be considered to be undergoing overfishing if fishing mortality exceeds the MFMT. This level of fishing mortality, if continued, would reduce the stock biomass to an overfished condition. In years in which there is no assessment, the stock complex would be considered to be undergoing overfishing if landings exceed the OFL.

The SSC presented its ABC recommendations for St. Croix queen triggerfish and St. Thomas and St. John queen triggerfish at the April 2024 Council meeting. The Council accepted those recommendations and developed Framework Action 3 to update management reference points for queen triggerfish under each FMP to prevent overfishing and achieve OY, consistent with the requirements of the Magnuson-Stevens Act. In Framework Action 3, the Council recommended no management uncertainty buffer be applied for the St. Croix queen triggerfish stock (*i.e.*, the ACL equals the ABC) and a 5 percent management uncertainty buffer for the St. Thomas and St. John queen

triggerfish stock (*i.e.*, the ACL equals 95 percent of the ABC).

The Council recommended that the queen triggerfish ACL should be set equal to the ABC for St. Croix because of the low demand for the species and the harvest methods used by the fishery to collect reef fish (*e.g.*, mainly by spearfishing). The Council acknowledged that the demand for queen triggerfish in St. Thomas and St. John is greater than in St. Croix, and the gear used by fishermen who target the species (*i.e.*, trap gear) is less selective than spearfishing. Therefore, they decided to set the queen triggerfish ACL equal to 95 percent of the ABC to account for differences in how the fishery operates, which would result in some management uncertainty.

Management Measures Contained in This Proposed Rule

If implemented, this proposed rule would revise the ACLs for queen triggerfish in Federal waters around St. Croix and St. Thomas and St. John based on the results of SEDAR 80. The queen triggerfish ACL in St. Croix would decrease from 21,450 lb (9,729.5 kg) to 18,808 lb (8,531 kg). The queen triggerfish ACL in St. Thomas and St. John would decrease from 97,670 lb (44,302.3 kg) to 92,919 lb (42,147 kg).

The updated ACLs, which are based upon the best scientific information available, are expected to better protect against the risk of overfishing the stock in relation to the current ACLs, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

Measures in Framework Action 3 Not Codified in This Proposed Rule

For both the St. Croix FMP and the St. Thomas and St. John FMP, estimates of the long-term recruitment for queen triggerfish in SEDAR 80 are unknown, so values for the MSY and MSST were not able to be quantified by the assessment. Consequently, in accordance with both FMPs, the MSY proxy equals 40 percent of the spawning potential ratio, and the MSST equals 75 percent of the spawning stock biomass produced when fishing at MSY or MSY proxy.

In addition to the ACL revisions described in this proposed rule and consistent with SEDAR 80, Framework Action 3 revises the MFMT, OFL, and ABC values for queen triggerfish under the St. Croix FMP and the St. Thomas and St. John FMP.

The MFMT, previously not quantified, would be 0.14 for St. Croix queen triggerfish and 0.16 for St. Thomas and St. John queen triggerfish.

For St. Croix, the OFL for queen triggerfish would vary for years 2025 to 2027. The OFL for 2025 (22,773 lb; 10,330 kg), 2026 (22,316 lb; 10,122 kg), and 2027 (22,025 lb; 9,990 kg) would decrease from the current SYL (OFL proxy) of 45,158 lb (20,483 kg). The queen triggerfish ABC would be set at a constant value, and would decrease from 22,579 lb (10,242 kg) to 18,808 lb (8,531 kg).

For St. Thomas and St. John, the OFL for queen triggerfish would vary for years 2025 to 2027. The OFL for 2025 (193,378 lb; 87,715 kg), 2026 (166,220 lb; 75,396 kg), and 2027 (148,223 lb; 67,233 kg) would decrease from the current SYL (OFL proxy) of 205,641 lb (93,268 kg). The queen triggerfish ABC would be set at a constant value, and would decrease from 102,810 lb (46,634 kg) to 97,809 lb (44,365 kg).

Consistent with SEDAR 80, the updated management reference points are expected to better protect against the risk of overfishing of the stock complex in relation to the current reference points, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

Classification

A description of this proposed rule, why it is being considered, and the legal basis for this proposed rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this proposed rule.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting or record keeping compliance requirements are introduced in this proposed rule. All monetary figures in the following analysis are in 2022 dollars, consistent with the RFA analysis included in Framework Action 3.

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Framework Action 3, the St. Croix FMP and the St. Thomas and St. John FMP, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the

Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows. A copy of the full analysis is available from NMFS (see **ADDRESSES**).

This proposed rule directly impacts recreational and commercial fishing for queen triggerfish in the EEZ off St. Croix, USVI, and St. Thomas and St. John, USVI. Recreational fishers (anglers) are not considered small entities as that term is defined in 5 U.S.C. 601(6), whether fishing from charter (for-hire) fishing, private, or leased vessels. Therefore, estimates of the number of anglers directly affected by this proposed rule and any impacts on them are neither required nor assessed here.

For-hire fishing businesses sell services to anglers. The proposed changes to the ACLs for queen triggerfish in St. Croix and in St. Thomas and St. John would not directly alter the services sold by for-hire fishing businesses. Any change in demand for these fishing services, and associated economic effects, as a result of this proposed rule would be a consequence of a change in anglers' behavior, secondary to any direct effect on anglers. Therefore, any impact on for-hire fishing businesses would be an indirect effect of this proposed rule.

The most recent 5-year landings data by weight for use with the best available science are from 2015 through 2022. However, prices and revenues data are not available for the USVI after 2019. Consequently, estimates of the number of small commercial fishing businesses directly affected and any impacts on them are based on landings from 2015 through 2019, although landings by weight from 2020 through 2022 are used when further evaluating the potential impact.

From 2015 through 2019, an annual average of 126 USVI commercial fishermen collectively reported 3,750 trips with combined landings of marine resources of about 3.54 million lb (1.61 million kg) from all waters with a value of about \$4.71 million. Maximum annual revenue for any of the USVI fishermen was \$605,000.

For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing. A business primarily involved in the commercial fishing industry (North American Industrial Classification Code 11411) is classified as a small business if it is independently owned and operated, is

not dominant in its field of operation (including its affiliates) and its combined annual receipts are no more than \$11 million for all of its affiliated operations worldwide. The combined revenues of all active USVI commercial fishermen were less than that figure. NMFS therefore concluded that all commercial fishing businesses in the USVI (St. Croix and St. Thomas and St. John) are small.

Every USVI commercial fisherman is assumed to represent a unique small business. From 2015 through 2019, an annual average of 39 (31 percent) of the USVI's 126 active small commercial fishing businesses harvested 29,135 lb (13,215 kg) of queen triggerfish with a value of \$199,483 from the EEZ and unknown waters. Thirteen (one-third) of the 39 small businesses landed queen triggerfish in St. Croix and the other 26 (two-thirds) landed queen triggerfish in St. Thomas and St. John. The 13 small businesses in St. Croix accounted for 12 percent of annual landings of queen triggerfish harvested from Federal and unknown waters by weight and 11 percent by value, while the 26 small businesses in St. Thomas and St. John accounted for 88 percent of the USVI's queen triggerfish landings harvested from Federal and unknown waters by weight and 89 percent by value.

This proposed rule would reduce the ACL for queen triggerfish in St. Croix from 21,450 lb (9,729.5 kg) to 18,808 lb (8,531.1 kg). It would also reduce the ACL for queen triggerfish in St. Thomas and St. John from 97,670 lb (44,302.3 kg) to 92,919 lb (42,147.3 kg).

No single year or multi-year average of landings of queen triggerfish harvested from all waters in St. Croix from 2015 through 2019 reached or exceeded the current or proposed ACL in St. Croix. Moreover, from 2020 through 2022, St. Croix's total queen triggerfish landings ranged from 4,476 lb (2,030.3 kg) to 10,066 lb (4,565.9 kg), never reaching or exceeding the current ACL or proposed ACL. As such, there would be no impact on small businesses in St. Croix from the change to the ACL.

No single year or multi-year average of landings of queen triggerfish harvested from all waters in St. Thomas and St. John from 2015 through 2019 reached or exceeded the current or proposed ACL in St. Thomas and St. John. Moreover, from 2020 through 2022, total queen triggerfish landings in St. Thomas and St. John ranged from 29,633 lb (13,441.3 kg) to 39,395 lb (17,869.3 kg), never reaching or exceeding the current or proposed commercial ACL. As such, there would be no impact on small businesses in St.

Thomas and St. John from the change to the ACL.

Therefore, NMFS concluded that the proposed rule would not have a significant impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Caribbean, Fisheries, Fishing, Reef fish, Triggerfish.

Dated: September 24, 2025.

Samuel D. Rauch, III,
*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 622 as follows:

**PART 622—FISHERIES OF THE
CARIBBEAN, GULF OF AMERICA, AND
SOUTH ATLANTIC**

■ 1. The authority citation for part 622 continues to read as follows:

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

TABLE 1 TO PARAGRAPH (a)(1)

Family	Stock or stock complex and species composition	ACL
* * * * *	* * * * *	* * * * *
Triggerfishes	Triggerfish—queen triggerfish	18,808 lb (8,531 kg).

* * * * *

■ 3. In § 622.515, amend paragraph (a)(1) by revising the table heading and the entry for Triggerfishes for Table 1 to

§ 622.515(a)(1). The revisions read as follows:

■ 2. In § 622.480, amend paragraph (a)(1) by revising the table heading and the entry for Triggerfishes for Table 1 to § 622.480(a)(1). The revisions read as follows:

**§ 622.480 Annual catch limits (ACLs),
annual catch targets (ACTs), and
accountability measures (AMs).**

(a) * * *
(1) * * *

**§ 622.515 Annual catch limits (ACLs),
annual catch targets (ACTs), and
accountability measures (AMs).**

(a) * * *
(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Family	Stock or stock complex and species composition	ACL
* * * * *	* * * * *	* * * * *
Triggerfishes	Triggerfish—queen triggerfish	92,919 lb (42,147 kg).
* * * * *	* * * * *	* * * * *

* * * * *

[FR Doc. 2025–19363 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric
Administration**

50 CFR Part 679

[Docket No. 250915–0155]

RIN 0648–BL49

**Fisheries of the Exclusive Economic
Zone Off Alaska; Modify the Timing of
Haul Designation for Trawl Catcher
Processors in the Gulf of Alaska and
Bering Sea and Aleutian Islands
Groundfish Fisheries**

AGENCY: National Marine Fisheries
Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA),
Commerce.

ACTION: Proposed rule; request for
comments.

SUMMARY: NMFS proposes to revise regulations to standardize the time limit in which trawl catcher/processors (C/Ps) participating in the groundfish fisheries in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) management areas must assign a management program to each haul. This proposed rule is necessary to improve consistency for when trawl C/Ps are required to assign a specific management program to a haul. It would also allow additional time for vessel operators participating in the Western Alaska Community Development Quota (CDQ) and non-CDQ fisheries on the same trip to determine which management program to assign to a haul. This rule is intended to promote

the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plans (FMPs) for Groundfish of the GOA and BSAI Management Areas, and other applicable laws.

DATES: Submit comments on or before November 3, 2025.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0154>. You may submit comments on this document, identified by NOAA–NMFS–2024–0154, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2024–0154 in the Search box. Click on the “Comment” icon,

complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the draft Regulatory Impact Review (referred to as the “Analysis”) and categorical exclusion prepared for this proposed rule may be obtained from <https://www.regulations.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:
Caleb Taylor, caleb.taylor@noaa.gov, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone under the GOA FMP and under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared and recommended these FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs for groundfish of the GOA and BSAI appear at 50 CFR parts 600 and 679. This action is implemented under Magnuson-Stevens Act section 305(d) and is necessary to carry out Section 3.9.1 of both the BSAI FMP and GOA FMP, which describes the Council’s recommended approach to recordkeeping and reporting requirements. This section of both FMPs

states that in consultation with the Council, the Secretary of Commerce may require recordkeeping that is necessary and appropriate to determine catch, production, effort, price, and other information necessary for conservation and management of the fisheries. The FMPs also state that the Secretary should amend regulations as necessary to accomplish the goals and objectives of the FMPs, the Magnuson-Stevens Act, and other applicable laws, consistent with Magnuson-Stevens Act section 305(d) (16 U.S.C. 1855(d)). This action modifies recordkeeping and reporting requirements that are necessary to attribute catch to specific fishery management programs implemented under the BSAI and GOA FMPs.

Background

Trawl C/Ps are large vessels, ranging in length from 90 ft (27.43 meters (m)) to over 350 ft (106.68 m) length overall (LOA) that use trawl gear to harvest catch and then process that catch at sea. In 2024, 30 trawl C/Ps fished for groundfish in the Exclusive Economic Zone off Alaska, participating in the Amendment 80 Program, American Fisheries Act Program (AFA), Central GOA Rockfish Program (Rockfish Program), Aleutian Islands Pollock Program (AIP), open access fisheries, and the CDQ Program. Recordkeeping and reporting requirements necessary to attribute catch to specific fishery management programs are specified at § 679.5 and summarized in Section 2.1.1 of the Analysis (See **ADDRESSES**).

Logbook requirements for trawl C/Ps have evolved over time, beginning with the use of a paper daily cumulative production logbook (DCPL) followed by development and use of a NMFS-approved electronic logbook (ELB) (§ 679.5(f)). If active, the operator of a trawl C/P using a NMFS-approved ELB must enter all information into its NMFS-approved ELB that is required be entered into a DCPL (§ 679.5(c)(4), (c)(6)), subject to the same recording time limits for DCPLs (§ 679.5(f)(2)(iii)(B)(1)).

The CDQ Program was established to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the BSAI, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska (16 U.S.C. 1855(i)). The Council and NMFS have implemented additional amendments over time to provide flexibility and

better meet the objectives of the CDQ Program.

The regulatory text at § 679.5(c)(4)(ii)(B)(2) was changed in the final rule to implement amendment 91 to the BSAI FMP (75 FR 53026, August 30, 2010). As part of that final rule, the time limit for recording the CDQ number (§ 679.2 “CDQ number”) to a haul was changed for operators of C/Ps, catcher vessels delivering to motherships, and motherships. Namely, operators were required to record the CDQ number within 2 hours after completion of weighing on the scale all catch in the haul (§ 679.5(c)(4)(ii)(B)(2)). By contrast, under current regulations at § 679.5(c)(4)(ii)(B)(1), trawl C/P’s time limit for assigning a management program to each non-CDQ program haul is within 2 hours after completion of gear retrieval.

As a result, under current regulations, the CDQ Program hauls and non-CDQ program hauls have separate time limits for when the management program code needs to be reported. This timing discrepancy creates potential confusion for trawl C/P vessel operators participating in both CDQ Program and non-CDQ program fishing on the same fishing trip, and does not allow trawl C/Ps adequate time to assess haul species composition before assigning a haul to a non-CDQ program. This action would revise § 679.5(c)(4)(ii)(B)(1) and (2) to state that a trawl C/P haul must be assigned to a management program, including the CDQ Program (specifying CDQ number if applicable), no later than 2 hours after all catch in the haul has been weighed.

The requirement at § 679.5(c)(4)(ii)(B)(1) to record the management program for non-CDQ program hauls within 2 hours after completion of gear retrieval means that, if this logbook field is left blank after that time passes, the haul could be interpreted as assigned to a CDQ Program by default. Although § 679.5(c)(4)(ii)(B)(2) allows more time for the vessel operator to record the CDQ number, a default assignment of hauls to the CDQ Program after 2 hours of gear retrieval does not provide the CDQ groups and their industry partners the additional time needed to assess haul species composition to determine whether a haul should be assigned to the CDQ Program or to a non-CDQ management program.

In April 2019, the Council requested that NMFS review reporting time limits for trawl C/Ps and clarify that trawl C/Ps must designate the management program and/or CDQ number within 2 hours after all catch in the net has been weighed. As a result of this review,

NMFS is now proceeding with this proposed rule.

Proposed Rule

This proposed rule would do the following: (1) modify when a management program must be reported for each trawl C/P haul; and (2) align the timing requirements for reporting a management program for each haul across all management programs.

To accomplish this, this proposed rule would revise § 679.5(c)(4)(ii)(B) to allow trawl C/P operators to assign hauls to any management program in the GOA and BSAI management areas at the same time. Language on when a haul must be designated to a non-CDQ management program would be removed from § 679.5(c)(4)(ii)(B)(1). Language would be removed from § 679.5(c)(4)(ii)(B)(2) regarding CDQ number, as it is duplicative given that § 679.5(a)(1)(iii) requires that the CDQ number must be recorded where harvest under the CDQ program occurs. Language would be added to § 679.5(c)(4)(ii)(B)(2) applying the same haul designation reporting timing requirement to all management programs. This action would shift the timing of when a non-CDQ management program code must be reported from within 2 hours after completion of gear retrieval to within 2 hours after completion of weighing all catch in the haul. This change would apply to all trawl C/P fishing activity in all applicable fishery management programs off Alaska. This proposed rule does not modify regulations governing the required reporting method or other reporting requirements specified at § 679.5.

The Expected Effects of and Need for This Action

This action is a technical change to reporting requirements that is intended to revise and standardize when all trawl C/Ps must assign a management program to each haul. This would remove any ambiguity as to when a haul is considered to be assigned to the CDQ Program versus other management programs, and would align regulations to apply the same time limit for assigning a haul to a specific management program across all management programs.

Impacts of this proposed rule are expected to be neutral or minimally beneficial because all trawl C/P operators would be subject to the same time limit for assigning a haul to a specific management program across all management programs and because all trawl C/P operators would have more time to report the management program

for each haul. This proposed action does not place any new regulatory burden on groundfish fishery participants and would only change when reporting must be completed, not the required reporting method.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson-Stevens Act. Following previous actions taken by the Council and transmitted to NMFS under section 304(b), the FMP authorizes NMFS to take this action pursuant to section 305(d) of the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the GOA and BSAI FMPs and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

Regulatory Impact Review (RIR)

An RIR was prepared to assess costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). NMFS is recommending the regulatory revisions in this proposed rule based on those measures that maximized net benefits to the Nation.

Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. NMFS requests comments on this certification for this proposed rule. The factual basis for this determination is as follows.

This proposed rule would revise and standardize the time limit for assigning a management program to each haul for trawl C/Ps. Entities that would be directly regulated by this proposed rule include open access fisheries participants and participants of the following limited access programs: AFA, AIP, Amendment 80, CDQ Program, and the Rockfish Program. Within these programs, there was an average of 34 active vessels participating as trawl C/Ps from 2016 to 2024, of which one is considered a small entity. The owners and operators of these vessels would be directly regulated by this proposed rule, however there

would only be one directly regulated small entity.

The proposed provisions would create standardized haul reporting time limits while increasing the time period for assigning a haul to a management program, providing increased flexibility to all directly-regulated entities. Therefore, no directly-regulated entities are expected to be adversely impacted by the proposed action. Potential impacts of this proposed rule are expected to be neutral or minimally beneficial as the time to assign hauls to a management program would be consistent across all management programs and more time would be allowed to assign hauls to a management program. As described above, this action would not place any new regulatory burden on groundfish fishery participants. Instead, this action would increase consistency and flexibility for C/P trawl participants by allowing them to assign hauls to any management program in the GOA and BSAI FMP management areas in the same reporting time limit: within 2 hours after completion of weighing all catch in the haul. For the reasons described above, this proposed action is not expected to have a significant economic impact on a substantial number of the small entities directly regulated by this proposed action. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This proposed rule revises the existing requirements for the collection of information for OMB Control Number 0648-0515 (Alaska Interagency Electronic Reporting System).

This information collection would be revised because this proposed rule would change the reporting time limit for when the operator of a C/P using trawl gear must report the management program to within 2 hours after completion of weighing all catch in the haul. This rule does not change the data required to be collected submitted in the ELB. The timing change does not change the number of respondents or responses for this logbook and is not expected to change its time or cost burdens. Therefore, subject to public comment, no change is made to the estimated reporting or cost burdens for the C/P eLogbook.

Public reporting burden per individual response for the C/P eLogbook is estimated to average 15 minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public Comment on Collection-of-Information Requirements

Public comment is sought regarding the following: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or

other forms of information technology. Submit comments on these or any other aspects of the collection of information at <https://www.reginfo.gov/public/do/PRAMain>.

Notwithstanding any other provisions of law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 15, 2025.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.5, revise paragraphs (c)(4)(ii)(B)(1) and (2) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(B) *Catcher/processor.* The operator of a catcher/processor using trawl gear must record in the DCPL or submit via eLandings the information in the following table for each haul within the specified time limit:

REPORTING TIME LIMITS, CATCHER/PROCESSOR TRAWL GEAR

Required information	Record in DCPL	Submit via eLandings	Time limit for recording
(1) Haul number, time and date gear set, time and date gear hauled, begin and end positions of gear, and, if not required to weigh catch on a scale approved by NMFS, total estimated haul weight for each haul.	X	.....	Within 2 hours after completion of gear retrieval.
(2) Management program and, if required to weigh catch on a scale approved by NMFS, the scale weight of total catch for each haul.	X		Within 2 hours after completion of weighing all catch in the haul.
* * * * *	*	*	*

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[FR Doc. 2025–19385 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 90, No. 189

Thursday, October 2, 2025

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2025–0018]

Notice of Request To Renew an Approved Information Collection: Marking, Labeling and Packaging

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to request renewal of the approved information collection regarding the regulatory requirements for marking, labeling, and packaging of meat, poultry, and egg products. This collection covers the certification of marking devices. This collection also covers the labeling approval process through which establishments are to submit their labels to FSIS for approval and maintain related files. There are no changes to the information collection. The approval for this information collection will expire on February 28, 2026.

DATES: Submit comments on or before December 1, 2025.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety

and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.

- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2025–0018. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, call 202–720–5046 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; 202–720–5046.

SUPPLEMENTARY INFORMATION:

Title: Marking, Labeling, and Packaging of Meat, Poultry, and Egg Products.

OMB Number: 0583–0092.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, and properly labeled.

FSIS is requesting renewal of an approved information collection regarding the regulatory requirements for marking, labeling, and packaging of meat, poultry, and egg products. This collection covers the certification of marking devices. This collection also covers the labeling approval process through which establishments are to submit their labels to FSIS for approval and maintain related files. The approval for this information collection will

expire on February 28, 2026. FSIS is making no changes to the existing information collection.

To control the manufacture of marking devices bearing official marks, FSIS requires official meat and poultry establishments and the manufacturers of such devices to submit an Authorization Certificate to the Agency (FSIS Form 5200–7). Such certification is necessary to help prevent the manufacture and use of counterfeit marks of inspection (9 CFR 312.1, 317.3, 381.96, and 381.131).

Meat and poultry establishments and egg products plants must develop labels in accordance with FSIS regulations (9 CFR 317.1, 381.115, 590.410, and 412.2). Unless labels are generically approved (meaning, they do not need to be submitted to FSIS prior to use on product in commerce), establishments must complete an application for approval (“Application for Approval of Labels, Marking or Device,” FSIS Form 7234–1)(9 CFR 412.1). Respondents must submit duplicate copies of the labels when submitting the applications by paper. Establishments may also submit labels through the Label Submission and Approval System (LSAS), which is an internet-based application that allows respondents to gain label approval through a secure website. The establishment must maintain a copy of all the labeling used, along with product formulation and processing procedures and any additional documentation needed to support that the labels are consistent with FSIS regulations and policies on labeling (9 CFR 320.1(b)(11) and 381.175(b)(6)). Additionally, establishments requesting reconsideration of a label application that the Agency has modified or rejected under 9 CFR 500.8 submit their request using the “Request for Label Reconsideration,” FSIS Form 8822–4.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of 4 minutes per response related to marking; 75 minutes per response related to labeling applications and recordkeeping; 120 minutes per response related to labeling reconsideration requests; 15 minutes per response related to generically approved labeling recordkeeping; and 2 minutes

per response related to packaging materials recordkeeping.

Respondents: Official meat and poultry establishments, official egg plants, and foreign establishments.

Estimated No. of Respondents: 5,735 related to marking; 3,461 related to labeling applications and recordkeeping; 74 related to labeling reconsideration requests; 6,333 related to generically approved labeling recordkeeping; and 5,735 related to packaging materials recordkeeping.

Estimated No. of Annual Responses per Respondent: 1 related to marking; 20 related to labeling applications and recordkeeping; 2 related to labeling reconsideration requests; 20 related to generically approved labeling recordkeeping; and 2 related to packaging materials recordkeeping.

Estimated Total Annual Burden on Respondents: 121,867 hours. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250-3700; 202-720-5046.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: <https://www.fsis.usda.gov/federal-register>.

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service that provides automatic and customized access to selected food safety news and information. This service is available at: <https://www.fsis.usda.gov/subscribe>. The available information ranges from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to

USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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Justin Ransom,

Administrator.

[FR Doc. 2025-19221 Filed 10-1-25; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2025-0019]

Notice of Request To Renew an Approved Information Collection: Interstate Shipment of Meat and Poultry Products

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to renew an approved information collection regarding the voluntary cooperative interstate shipment program. The approval for this information collection will expire on March 31, 2026. FSIS is making no changes to the existing information collection.

DATES: Submit comments on or before December 1, 2025.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- **Federal eRulemaking Portal:** This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- **Mail:** Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250-3700.

- **Hand- or courier-delivered submittals:** Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350-E, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2025–0019. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, call 202–720–5046 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; 202–720–5046.

SUPPLEMENTARY INFORMATION:

Title: Interstate Shipment of Meat and Poultry Products.

OMB Number: 0583–0143.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat and poultry products are safe, wholesome, and properly labeled.

FSIS administers a voluntary cooperative inspection program under which State-inspected establishments with 25 or fewer employees in states that have a cooperative agreement with FSIS are eligible to ship meat and poultry products in interstate commerce (21 U.S.C. 683 and U.S.C. 472) (9 CFR 321.3, 9 CFR part 332, 9 CFR 381.187, and 9 CFR part 381 subpart Z). In participating States, State-inspected establishments selected for this program are required to comply with all Federal standards under the FMIA and the PPIA.

Meat and poultry products produced under the program that have been inspected and passed by designated State personnel bear an official Federal mark of inspection and may be distributed in interstate commerce. FSIS provides oversight and enforcement of the program.

States that are interested in participating in the cooperative interstate shipment program need to submit a request for an agreement to establish such a program through the appropriate FSIS District Office (9 CFR

332.4 and 9 CFR 381.514). In its request, a State must agree to comply with certain conditions to qualify for the interstate shipment program. The State must also: (1) identify establishments in the State that the State recommends for initial selection into the program, if any; and (2) include documentation to demonstrate that the State is able to provide necessary inspection services that are the same FSIS inspection to selected establishments in the State and conduct any related activities that would be required under a cooperative interstate shipment program. FSIS reviews the State's request to determine whether to approve the State to participate in the cooperative interstate shipment program.

If a State determines that an establishment qualifies to participate in the cooperative interstate shipment program, and the State is able, and willing, to provide the necessary inspection services at the establishment, the State is to submit its evaluation of the establishment to the FSIS District Office that covers the State (76 FR 24714, 24729).

FSIS, in coordination with the State, will then decide whether to select the establishments for the program. Establishments that qualify for this program must meet all requirements under the FMIA or PPIA, and implementing regulations, including FSIS requirements for recordkeeping (9 CFR 332.5 and 9 CFR 381.515). Most State-inspected establishments will already have met these recordkeeping requirements, but some establishments may need to make minor adjustments to comply.

The FSIS selected establishment coordinator (SEC) is responsible for overseeing a State's cooperative inspection program. The SEC visits each selected establishment in the State on a regular basis to verify that the establishment is operating in a manner that is consistent with the FMIA or PPIA and the implementing regulations (9 CFR 332.7 and 9 CFR 381.517).

The approval for this information collection will expire on March 31, 2026. FSIS is making no changes to the information collection. FSIS has made the following estimates based on an information collection assessment:

Estimate of Burden: FSIS estimates that it will take each new State an average of 40 hours to prepare and submit a request to establish a cooperative interstate shipment program.

FSIS estimates that it will take each State 24 hours to prepare and submit an evaluation for each new establishment entering the program. FSIS estimates

that States will submit approximately 3 evaluations per year.

FSIS estimates that 15 establishments per year, out of the current 60 participating establishments, will spend 16 hours to modify their recordkeeping procedures to comply with Federal standards and 5 minutes per establishment to file these records. The State will need to provide these records during the initial verification visit when the FSIS SEC verifies the State nomination to select the establishment into the program. FSIS estimates 15 minutes per establishment to provide the records for the verification assessment.

Respondents: States and establishments.

Estimated No. of Respondents: 7 states and 60 establishments.

Estimated No. of Annual Responses per Respondent: FSIS estimates there will be one request per each new State to establish a cooperative interstate shipment program per year. There will be a one-time modification of records for each newly selected establishment whose recordkeeping does not comply with all Federal standards. The total number of estimated annual responses is 777.

Estimated Total Annual Burden on Respondents: 733 hours. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; 202–720–5046.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of

Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: <https://www.fsis.usda.gov/federal-register>.

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USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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Justin Ransom,
Administrator.

[FR Doc. 2025-19222 Filed 10-1-25; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS-25-ELECTRIC-0200]

Notice of Request for Revision of a Currently Approved Information Collection; Comments Requested

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by December 1, 2025.

FOR FURTHER INFORMATION CONTACT:

Crystal Pemberton, Management Analyst, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250-1522. Telephone: (202) 260-8621. Email Crystal.Pemberton@usda.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see, 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for revision.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to <https://www.regulations.gov> and, in the "Search" box, type in the "RUS-25-ELECTRIC-0200." A link to the Notice will appear. You may submit a comment here by selecting the "Comment" button or you can access the "Docket" tab, select the "Notice," and go to the "Browse & Comment on Documents" Tab. Here you may view comments that have been submitted as well as submit a comment. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "FAQ" link at the bottom. Comments on this information collection must be received by December 1, 2025.

Title: Substantially Underserved Trust Areas.

OMB Control Number: 0572-0147.

Expiration Date of Approval: April 30, 2026.

Type of Request: Revision of a currently approved information collection.

Abstract: The RUS provides loan, loan guarantee, and grant programs for rural electric, water and waste, and telecommunications and broadband infrastructure. The SUTA initiative gives the Secretary of Agriculture certain discretionary authorities relating to financial assistance terms and conditions that can enhance the financing possibilities in areas that are underserved by certain RUS electric, water and waste, and telecommunications and broadband programs.

The Water and Environmental Programs (WEP), division of RUS, provides low-income communities that face significant health risks, access to safe, reliable drinking water and waste disposal facilities services. Safe

drinking water and sanitary waste disposal systems are vital not only to public health, but also to the economic vitality of rural America. Rural Development is a leader in helping rural America improve the quality of life and increase the economic opportunities for rural people. Under 7 CFR 1777, Section 306C, WEP provides funding for the construction of water and waste facilities in rural communities and is proud to be the only Federal program exclusively focused on rural water and waste infrastructure needs of rural communities with populations of 10,000 or less. WEP also provides funding to organizations that provide technical assistance and training to rural communities in relation to their water and waste activities, and is administered through National Office staff in Washington, DC, and a network of field staff in each State.

The Electric Program provides loans and grants to nonprofit and cooperative associations, public bodies, and other utilities. Insured loans primarily finance the construction of electric distribution facilities in rural areas. The guaranteed loan program has been expanded and is now available to finance generation, transmission, and distribution facilities. The loans and loan guarantees finance the construction of electric distribution, transmission, and generation facilities, including system improvements and replacement required to furnish and improve electric service in rural areas, as well as demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. Loans are made to cooperatives as well as to corporations, states, territories and subdivisions and agencies such as municipalities, people's utility districts, and nonprofit, limited-dividend, or mutual associations that provide retail electric service needs to rural areas or supply the power needs of distribution borrowers in rural areas.

The Telecom Program provides funding for the deployment of rural telecommunications infrastructure. Funding includes loans and loan guarantees as well as grants to eligible for-profit and non-profit entities, tribes, municipalities, and cooperatives. Funds are available through several different programs to help rural communities extend access where broadband service is least likely to be commercially available. Each program has different applicant and project eligibility requirements and program objectives. Once funds are awarded, Rural Development monitors the projects to make sure they are completed, meet all program requirements, and are making

efficient use of federal resources. The Telecom Program maintains staff of General Field Representatives (GFRs) locally for any technical assistance which may be required nationwide. GFRs are an integral part of our outreach delivery system. GFRs meet regularly with awardees at the awardee's locations. GFRs serve as the local information resources for the awardees and headquarters staff. They keep awardees current on issues that profoundly impact their business.

The data covered by this collection of information are those materials necessary to allow the agency to determine applicant and community eligibility and an explanation and documentation of the high need for the benefits of the SUTA provisions. Program specific application materials, which funds are being applied for, are covered by the information collection package for the specific RUS program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 hours per response.

Estimated Number of Respondents: 46.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,380.

Copies of this information collection can be obtained from Crystal Pemberton, Innovation Center—Regulations Management Division, at Telephone: (202) 260-8621. Email Crystal.Pemberton@usda.gov.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Karl Elmshaeuser,

Administrator, Rural Utilities Service.

[FR Doc. 2025-19267 Filed 10-1-25; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF248]

Gulf Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf Fishery Management Council (Gulf Council) will hold a half-day virtual meeting of its Ecosystem Technical Committee (ETC).

DATES: The meeting will take place Tuesday, October 21, 2025, from 12:30 p.m. to 4 p.m., EDT.

ADDRESSES: This will be a virtual (webinar) meeting only. Registration information will be available on the Council's website by visiting www.gulfcouncil.org and clicking on the ETC meeting on the calendar.

Council address: Gulf Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

FOR FURTHER INFORMATION CONTACT: Dr. Verena Wang, Ecosystem Analyst, Gulf Council; verena.wang@gulfcouncil.org, telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION:

Tuesday, October 21, 2025, 12:30 p.m.–4 p.m., EDT

The meeting will begin with Introductions of Members, Adoption of Agenda, and Scope of Work. The Committee will review and discuss Ecosystem and climate readiness project updates, including Inflation Reduction Act projects and the Gulf Ecosystem Status Report. The Committee will discuss the draft Gulf Fishery Ecosystem Plan (FEP), including a presentation, draft document, and background materials.

Lastly, the committee will receive Public Comment and discuss any Other Business items.

Meeting Adjourns

The meeting will also be broadcast via webinar. You may register for the webinar by visiting www.gulfcouncil.org and clicking on the Technical Committee meeting on the calendar. The agenda is subject to change, and the latest version along with other meeting materials will be posted on www.gulfcouncil.org as they become available.

Although other non-emergency issues not on the agenda may come before the Technical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Technical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025-19243 Filed 10-1-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF270]

Gulf Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting open to the public offering both in-person and virtual options for participation.

SUMMARY: The Gulf Fishery Management Council (Council) will hold a 4 day meeting to consider actions affecting the Gulf of America fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will convene Monday, November 3 through Thursday, November 6, 2025, 8:30 a.m.–5 p.m., CST daily.

ADDRESSES: The meeting will take place at the Golden Nugget Hotel and Casino, located at 151 Beach Boulevard, Biloxi, MS 39530. If you prefer to “listen in”, you may access the log-on information by visiting our website at www.gulfcouncil.org.

Council address: Gulf Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION:

Monday, November 3, 2025; 8:30 a.m.–5 p.m., CST

The meeting will begin in Full Council to review and adopt proposed and current Council Committee Assignments for November 2025 through August 2026. Committee Sessions will follow beginning with Habitat Protection & Restoration Committee receiving an update on Essential Fish Habitat (EFH) Generic Amendment 5 and Scientific and Statistical Committee (SSC) Recommendations.

Sustainable Fisheries Committee will review Regulatory Streamlining Report from Contractors and SSC Feedback,

Ecosystem Committee will discuss draft Fishery Ecosystem Plan and Ecosystem Technical Committee recommendations, and the Shrimp Committee will review and discuss Final Action: Shrimp Amendment 19: Shrimp Permit Moratorium Draft, SSC Summary of SEDAR 87 Gulf Penaeid Shrimp Stock Assessment Reviews and receive a Working Group update on Shrimp Bycatch Methodologies for Finfish.

The Data Collection Committee will receive a report from the SSC on Recreational Data Collection discussions and update on Commercial Electronic Logbook implementation.

Tuesday, November 4, 2025; 8:30 a.m.–5 p.m., CST

The meeting will begin with a Litigation update. The Reef Fish Committee will convene to discuss Public Hearing Drafts for Reef Fish Amendment 58A: Shallow-water Grouper Complex Management considerations Reef Fish Amendment 62: Modifications to Gulf Red Grouper Management Measures. The committee will review draft options Reef Fish Amendment 63: Modifications to Gulf Red Grouper IFQ Program and Reef Fish Amendment 55/Snapper Grouper Amendment 44: Modifications to Mutton Snapper and Yellowtail Snapper Management Measures. The committee will review and discuss Final Action: Abbreviated Framework Action: Continuation of DESCEND Act Management Measures in the Gulf.

Wednesday, November 5, 2025; 8:30 a.m.–5 p.m., CST

The Reef Fish Committee will reconvene with a review of Reef Fish and Individual Fishing Quota (IFQ) Program Landings and State Program Landings for Red Snapper and Greater Amberjack and receive a presentation on Delegation of Management of Federal For-Hire Vessels to the Gulf States for Red Snapper.

The Council will reconvene at approximately 1:30 p.m., CST with a Call to Order, Announcements and Introductions, Adoption of Agenda and Approval of Minutes. The Council will hold public testimony beginning at 1:40 p.m. to 5 p.m., CST on Final Action Items: Shrimp Amendment 19: Shrimp Permit Moratorium draft and Abbreviated Framework Action: Continuation of DESCEND Act Management Measures in the Gulf; and open testimony on other fishery issues or concerns. Public comment may begin earlier than 1:40 p.m. CST but will not conclude before that time. Persons wishing to give public testimony in-person must register at the registration

kiosk in the meeting room. Persons wishing to give public testimony virtually must sign up on the Council website on the day of public testimony. Registration for virtual testimony closes one hour (12:40 p.m. CST) before public testimony begins.

Thursday, November 6, 2025; 8:30 a.m.–5 p.m., CST

The Council will receive Committee reports from Habitat Protection & Restoration, Sustainable Fisheries, Ecosystem, Shrimp, Data Collection, and Reef Fish Committees. The Council will receive updates from the following supporting agencies: South Atlantic Fishery Management Council Liaison; Mississippi Law Enforcement Efforts; NOAA Office of Law Enforcement (OLE); Gulf States Marine Fisheries Commission; U.S. Coast Guard; U.S. Fish and Wildlife Service; and Department of State.

Lastly, the Council will hear an update on documents transmitted for rule making and hold a discussion on Council Planning and Primary Activities and any Other Business items.

Meeting Adjourns

The meeting will be a hybrid meeting; both in-person and virtual participation available. You may register for the webinar to listen-in only by visiting www.gulfcouncil.org and click on the Council meeting on the calendar.

The timing and order in which agenda items are addressed may change as required to effectively address the issue, and the latest version along with other meeting materials will be posted on the website as they become available.

Although other non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meeting. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid or accommodations should be directed to Kathy Pereira, (813) 348-1630, at least 15 days prior to the meeting date.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19360 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF264]

South Atlantic Fishery Management Council—Public Meetings

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

ACTION: Notice of a meeting of the South Atlantic Fishery Management Council's Scientific and Statistical Committee.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Scientific and Statistical Committee (SSC) from October 21–23, 2025.

DATES: The SSC meeting will be held from 8:30 a.m. until 5 p.m. EDT on October 21, from 8:30 a.m. until 5 p.m. on October 22, and from 8:30 a.m. until 12 p.m. on October 23, 2025.

ADDRESSES:

Council Address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

Meeting Address: The meetings will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; phone: 843–571–1000. The meetings will also be available via webinar. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meetings at: <https://safmc.net/scientific-and-statistical-committee-meeting/>.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone 843/571–4366 or toll free 866/SAFMC–10; FAX 843/769–4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: The SSC meeting agenda includes: review of Revised SEDAR (Southeast Data, Assessment, and Review) 89 for South Atlantic Tilefish; the Dolphinfish Management Strategy Evaluation; the Wreckfish Operating Model for the Management Procedure; Black Sea Bass

genetics and stock structure report; and the terms of reference for upcoming 2026–2027 stock assessments. The SSC will receive presentations on the Marine Recreational Information Program Fishing Effort Survey (MRIP–FES) research and improvements, SEDAR process changes and the SSC's role, and Maximum Sustainable Yield Proxies. The SSC will receive updates on the Council's response to Executive Order 14276 on Restoring American Seafood Competitiveness, fishery management plan amendments, ongoing and upcoming SSC workgroup progress, and conduct other business as needed.

Special Accommodations:

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19369 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF226]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public hybrid meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, October 21, 2025 at 9 a.m. Webinar registration URL information: <https://nefmc-org.zoom.us/j/9K2ifpLyVI3hw>.

ADDRESSES: This meeting will be held at Merrill's on the Waterfront, 36 Homer's Wharf, New Bedford, MA 02740, Phone: (508) 997–7010.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Advisory Panel will meet to discuss Framework Adjustment 40: Receive an update on Plan Development Team tasking and provide input on the range of potential access area and days-at-sea (DAS) allocations for the 2026 and 2027 fishing years. Framework 40 will set specifications including Acceptable Biological Catch/Annual Catch Limits, DAS access area allocations, total allowable landings for the Northern Gulf of Maine management area, targets for General Category incidental catch, General Category access area trips, and set-asides for the observer and research programs for fishing year 2026 and default specifications for fishing year 2027. They will also receive an update on ongoing 2025 scallop work priorities. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19204 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[RTID 0648–XF252]****Pacific Fishery Management Council; Public Meeting**

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Marine Planning Committee (MPC) will hold an online public meeting.

DATES: The online meeting will be held Friday, October 31, 2025, from 9:30 a.m. to 12:30 p.m. Pacific Time or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including a proposed agenda and directions on how to attend the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@pcouncil.org) or contact him at 503–820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the MPC to consider NOAA Aquaculture Opportunity Areas (AOAs) Final Programmatic Environmental Impact Statement (PEIS) for Southern California AOAs. The MPC may consider other marine planning-related topics as well and may develop a supplemental report for the Pacific Council's November meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of

the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (kris.kleinschmidt@pcouncil.org; 503–820–2412) at least 10 days prior to the meeting date.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19239 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[RTID 0648–XF224]****New England Fishery Management Council; Public Meeting**

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public hybrid meeting of its Scientific and Statistical Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, October 21 and Wednesday, October 22, 2025, at 9 a.m. Webinar registration URL information: <https://nefmc-org.zoom.us/j/9876543210>.

ADDRESSES: This meeting will take place at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; Phone: (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:**Agenda**

The Scientific and Statistical Committee will meet to consider the information provided by the Council's Groundfish Development Team (PDT),

including stock assessment or data update information where appropriate; recommend the overfishing limits (OFL) and acceptable biological catches (ABC) for: U.S./Canada multispecies stocks for fishing year (FY) 2026, Georges Bank cod, Georges Bank haddock, Georges Bank yellowtail flounder and other Northeast multispecies stocks for FY 2026–2030, Yellowtail flounder: Cape Cod/Gulf of Maine and Southern New England/Mid-Atlantic, Winter flounder: Gulf of Maine, Georges Bank, Southern New England/Mid-Atlantic, Acadian redfish, White hake. Other business will be discussed if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19219 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[RTID 0648–XF205]****Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting**

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Mackerel, Squid,

and Butterfish Monitoring Committee will hold two public meetings.

DATES: The first meeting will be held on Friday, November 7, 2025, from 11 a.m.–1 p.m. The second meeting will be held on Wednesday, November 12, 2025, from 9 a.m.–11 a.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meetings will be held via webinar. Connection information will be posted to the Council's calendar prior to the meeting at www.mafmc.org.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; www.mafmc.org.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Monitoring Committee will meet via webinar Friday, November 7, 2025, from 11 a.m. until 1 p.m. and on Wednesday, November 12, 2025, from 9 a.m. until 11 a.m. The purpose of these meetings is for the Monitoring Committee to provide advice regarding the framework adjustment action on Atlantic mackerel that would set 2026–2027 specifications/management measures and may adjust the stock's rebuilding approach.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden, (302) 526–5251 at least 5 days prior to the meeting date.

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

Dated: September 30, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19368 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF269]

Gulf Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf Fishery Management Council will hold a meeting of its Law Enforcement Technical Committee (LETC), in conjunction with the Gulf States Marine Fisheries Commission's Law Enforcement Committee (LEC).

DATES: The meeting will convene on Wednesday, October 29, 2025; beginning at 7:30 a.m.–12 p.m., CDT. The Committees will be in a closed session from 7:30 a.m. until 8:15 a.m. CDT.

ADDRESSES: The meeting will be held at Golden Nugget Biloxi Hotel & Casino, located at 151 Beach Blvd.; (228) 435–5400. Please visit the Gulf Council website (www.gulfcouncil.org) for agenda and meeting materials information.

Council address: Gulf Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist, Gulf Fishery Management Council; Assane.diagne@gulfcouncil.org, telephone: (813) 348–1630, and Mr. Steve VanderKooy, Inter-jurisdictional Fisheries (IJF) Coordinator, Gulf States Marine Fisheries Commission; svanderkooy@gsafc.org, telephone: (228) 875–5912.

SUPPLEMENTARY INFORMATION: The following items of discussion are on the agenda, though agenda items may be addressed out of order and any changes will be noted on the Council's website when possible.

Joint Gulf Council's Law Enforcement Technical Committee (LETC) and Gulf States Marine Fisheries Commission's Law Enforcement Committee (LEC) Meeting Agenda, Wednesday, October 29, 2025; beginning at 8:30 a.m.–12 p.m., CDT.

The joint meeting will begin in a closed session from 7:30 a.m.–8:15 a.m., CDT with introductions, case work discussions and any other business.

General session will begin at approximately 8:30 a.m., CDT with introductions and adoption of agenda, and approval of minutes from the Joint LEC/LETC meeting from October 2023.

The Gulf Council LETC will hold a review and discuss additional Tier of ID Number Size for Federally permitted Vessels between 25 and 65 ft., receive an update on 20-fathom boundary line and State waters boundary lines, and Nomination Process for Officer/Team of the Year.

The GSMFC LEC will review and discuss Future Joint OLE/Enforcement JEA Meetings and GSMFC/ASMFC Joint LE Committees Meetings, the IJF Program Activity for *Gray (Mangrove)*

Snapper Profile Status, Black Drum Profile and Commission Pubs.

The committee will present the State Report Highlights from Florida, Alabama, Mississippi, Louisiana, Texas, USCG, NOAA OLE, and USFWS; and will discuss any Other Business items.

Meeting Adjourns

The agenda is subject to change, and the latest version along with other meeting materials will be posted on www.gulfcouncil.org.

The Law Enforcement Technical Committee consists of principal law enforcement officers in each of the Gulf States, as well as the NOAA Office of Law Enforcement, U.S. Fish and Wildlife Service, the U.S. Coast Guard, and the NOAA Office of General Counsel for Law Enforcement.

Although other non-emergency issues not on the agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19367 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF256]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council's) Summer Flounder, Scup, and Black Sea Bass and Bluefish Advisory Panels will hold a public meeting, jointly with the Atlantic States Marine Fisheries

Commission's (Commission's) Summer Flounder, Scup and Black Sea Bass and Bluefish Advisory Panels.

DATES: The meeting will be held on Monday, November 3, 2025, from 4 p.m. to 5:30 p.m. EST. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Webinar connection information will be available at www.mafmc.org/council-events.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331 or on their website at www.mafmc.org.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Advisory Panels to provide input on the development of options for the ongoing Recreational Sector Separation Amendment to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan and the Bluefish Fishery Management Plan. This amendment considers options for managing for-hire recreational fisheries separately from other recreational fishing modes (referred to as sector separation or mode management), as well as options related to for-hire permit and reporting requirements for these four species. Input from the Advisory Panels will be considered by the Fishery Management Action Team/Plan Development Team (FMAT/PDT) for this action as they further develop relevant management approaches. The Advisory Panels' comments will also be communicated to the Council and the Commission's Policy Board when they meet to consider a range of alternatives in December 2025. Additional information about this action and the issues under consideration can be found on the action page at: <https://www.mafmc.org/actions/recreational-sector-separation-amendment>.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden at the Council Office, (302) 526-5251, at least 5 days prior to the meeting date.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025-19240 Filed 10-1-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF242]

Fisheries of the Gulf of America; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 98 Assessment Webinar V for Gulf of America Red Snapper.

SUMMARY: The SEDAR 98 assessment process for Gulf red snapper will consist of a Data Workshop, a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 98 Assessment Webinar V will be held October 31, 2025, from 10 a.m. until 1 p.m., Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NMFS and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates

potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and NMFS Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGOs; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar V are as follows: participants will review the assessment modelling work to date.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

On January 20, 2025, President Trump issued Executive Order 14172 to rename the Gulf of Mexico as the Gulf of America. Any reference to Gulf of America red snapper in SEDAR reports and other documents refers to the same species of red snapper listed in 50 CFR part 622, Appendix A, Table I (Gulf Reef Fish).

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19242 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF266]

South Atlantic Fishery Management Council—Public Meeting

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

ACTION: Notice of meeting of the South Atlantic Fishery Management Council's Snapper Grouper Advisory Panel.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Snapper Grouper Advisory Panel (AP) October 27–29, 2025 in Charleston, SC.

DATES: The Snapper Grouper AP will meet October 27, 2025, from 1 p.m. until 5 p.m.; October 28, 2025, from 8:30 a.m. until 5 p.m.; and October 29, 2025, 8:30 a.m. until 12 p.m.

ADDRESSES: *Meeting address:* Drury Plaza Hotel North Charleston, 2934 West Montague, North Charleston, SC 29418; Phone 843/938–1503.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone 843/571–4366 or toll free 866/SAFMC–10; FAX 843/769–4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: Meeting information, including the agenda, overview, briefing book materials, and an online public comment form will be posted on the Council's website at: <https://safmc.net/advisory-panel-meetings/> 2 weeks prior to the meeting. The meeting is open to the public and available via webinar as it occurs. The webinar registration link will be available from the Council's website. Public comment will also be taken during the meeting.

The agenda for the Snapper Grouper AP meeting includes discussions of developing amendments to the Fishery Management Plan (FMP) for the Snapper Grouper Fishery of the South Atlantic Region: Regulatory Amendment 37 (black sea bass), Amendment 44 (yellowtail snapper and mutton snapper), Amendment 61 (fishery management unit revision), and Abbreviated Framework 5 (blue line

tilefish catch levels). The AP will provide input and recommendations these amendments for the Council's consideration. The AP will also discuss current regulatory language defining commercial trips and impacts to the retention and sale of daily trip limits, and potential commercial trip limit changes for blue line tilefish. The AP will receive a progress update on the Snapper Grouper Management Strategy Evaluation and provide feedback to continue its development. The AP will also receive updates on other ongoing Council projects and initiatives, elect a chair and vice chair, and address other items as needed.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19364 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF236]

Gulf Fishery Management Council; Public Meetings

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

ACTION: Notice; public hearing.

SUMMARY: The Gulf Fishery Management Council (Gulf Council) will hold a virtual public hearing to solicit public comments on *Shrimp* Amendment 19: Federal *Shrimp* Permit Moratorium in the Gulf.

DATES: The virtual public hearing will take place Tuesday, October 21, 2025 at 6 p.m. EDT at <https://attendee.gotowebinar.com/register/5866573382741401696>. Written public comments must be received on or before 5 p.m. EDT on October 22, 2025.

ADDRESSES: Please visit the Gulf Council website at www.gulfcouncil.org for meeting materials and webinar registration information.

Meeting addresses: The public hearing will be held virtually.

Council address: Gulf Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Matt Freeman; Economist; matt.freeman@gulfcouncil.org, Gulf Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The agenda for the virtual public hearing is as follows: Council staff will begin with a brief presentation on Shrimp Amendment 19 that addresses the expiration of the Federal shrimp permit moratorium in the Gulf. Staff and a Council member will be available to answer any questions, and the public will have the opportunity to provide testimony on the amendment and other related testimony.

Virtual Public Hearing

Tuesday, October 21, 2025, at 6 p.m., EDT; via webinar at <https://attendee.gotowebinar.com/register/5866573382741401696>.

Visit www.gulfcouncil.org website and click on the “meetings and public hearings” tab for registration information. After registering, you will receive a confirmation email containing information about joining the webinar.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19205 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF267]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Economic Subcommittee of the Scientific and Statistical Committee (SSC) will hold an online meeting. This meeting is open to the public.

DATES: The online meeting will be held Friday, November 7, 2025, 12 p.m. to 4

p.m., Pacific Time (PT) or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@pcouncil.org) or contact him at (503) 820-2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Ms. Jessi Waller, Staff Officer, Pacific Council; telephone: (503) 820-2415; email: jessi.waller@pcouncil.org.

SUPPLEMENTARY INFORMATION: The Subcommittee will review the Trawl Program Catch Share Review, including reviewing the diagnosis conclusions and providing feedback. Specifically, the Subcommittee should discuss what factors impacting the fishery not achieving their economic goals and objectives are related to the catch share program design versus outside factors (*i.e.*, markets). Additionally, the Subcommittee should consider any recommendations for any research and data needs. At its November 2025 meeting, the Pacific Council is scheduled to adopt the Program Review.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (kris.kleinschmidt@pcouncil.org; (503) 820-2412) at least 10 days prior to the meeting date.

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

Dated: September 30, 2025.

Becky J. Curtis,

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

[FR Doc. 2025-19362 Filed 10-1-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF229]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Charter Halibut Management Committee will meet October 23, 2025.

DATES: The meeting will be held on Thursday, October 23, 2025, from 8:30 a.m. to 3 p.m., Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at <https://meetings.npfmc.org/Meeting/Details/3103>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave, Suite 400, Anchorage, AK 99501-2252; telephone: 907-271-2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sarah Marrinan, Council staff; phone: 907-271-2809; email: smarrinan@npfmc.org. For technical support please contact our admin Council staff, 907-271-2809; email: support@npfmc.org.

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, October 23, 2025

The Charter Halibut Management Committee will meet to make recommendations on management measures to analyze for the 2026 season. First, the Alaska Department of Fish and Game (ADF&G) will go over the final charter halibut harvest and effort numbers for 2024 and preliminary harvest and effort numbers for 2025. Then the committee will discuss development of the 2026 management measures for ADF&G analysis. The committee will also consider whether to recommend other charter halibut proposals to the Council. The meeting will conclude with any other business. The agenda is subject to change, and the latest version will be posted <https://meetings.npfmc.org/Meeting/Details/3103> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart

phone; or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/3103>.

Public Comment

Public comment letters will be accepted prior to the meeting and should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/3103>.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025-19217 Filed 10-1-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF243]

Fisheries of the Gulf of America and South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 94 pre-assessment webinar for Florida Hogfish.

SUMMARY: The SEDAR 94 assessment process of Florida hogfish will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 94 Pre-Assessment webinar will be held October 27, 2025, from 10 a.m.-12 p.m. Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571-4366. Email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction

with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) A series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGOs; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Pre-Assessment webinar are as follows: participants will review the data recommendations and the assessment modelling work to date.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19241 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF227]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, October 22, 2025 at 9 a.m. Webinar registration URL information: https://nefmc-org.zoom.us/meeting/register/cuM0_wK-RmGgIKowakxOdg.

ADDRESSES: This meeting will be held at Merrill's on the Waterfront, 36 Homer's Wharf, New Bedford, MA 02740, Phone: (508) 997–7010.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Committee will meet to discuss Framework Adjustment 40: Receive an update on Plan Development Team tasking and provide input on the range of potential access area and days-at-sea (DAS) allocations for the 2026 and 2027 fishing years. Framework 40 will set specifications including Acceptable Biological Catch/Annual Catch Limits, DAS access area allocations, total allowable landings for the Northern Gulf of Maine management area, targets for General Category

incidental catch, General Category access area trips, and set-asides for the observer and research programs for fishing year 2026 and default specifications for fishing year 2027. They will also receive an update on ongoing 2025 scallop work priorities. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: September 29, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19218 Filed 10–1–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Patent and PTAB Pro Bono Programs

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0082 (Patent and PTAB Pro Bono Programs). The purpose of this notice is to allow 60

days for public comments preceding submission of the information collection to the Office of Management and Budget (OMB).

DATES: To ensure consideration, you must submit comments regarding this information collection on or before December 1, 2025.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- **Email:** InformationCollection@uspto.gov. Include "0651-0082 comment" in the subject line of the message.
- **Federal eRulemaking Portal:** <http://www.regulations.gov>.
- **Mail:** Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to:

Patents: Grant Corboy, Staff Attorney, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; 571-270-3102; or Grant.Corboy@uspto.gov.

PTAB: Stacey G. White, Lead Administrative Patent Judge, Patent Trial and Appeal Board, Texas Regional Office, 207 S Houston St, Dallas, TX 75202; 469-295-9061; or Stacey.White@uspto.gov.

Include "0651-0082 comment" in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION:

I. Abstract

The Leahy-Smith America Invents Act (AIA), Public Law 112-29 § 32 (2011) directs the USPTO to work with and support intellectual property law associations across the country in the establishment of *pro bono* programs designed to assist financially under-resourced independent inventors and small businesses (also referred to as "regional hubs"). To support this, the USPTO works with and supports

various non-profit organizations to operate a series of autonomous regional hubs that endeavor to match under-resourced inventors with volunteer patent practitioners across the United States. The regional hubs comprise law schools, bar associations, innovation/entrepreneurial organizations, and arts-focused lawyer referral services that are strategically located to provide access to patent *pro bono* services across all fifty states, the District of Columbia, and Puerto Rico.

To support the purposes described above, the Patent Pro Bono Survey collects information regarding the activity of the regional hubs. The USPTO works with the Pro Bono Advisory Council (PBAC) to determine what information is necessary to evaluate the effectiveness of each regional hub's operations. The PBAC is a well-established group of patent practitioners and thought leaders in intellectual property who provide support and guidance to the regional hubs across the country. The collected data provides the USPTO with valuable information, including the number of inventor inquiries, referral sources, number of *pro bono* applicants successfully matched with patent practitioners, and types of patent filings. The USPTO, PBAC, and the regional hubs, are responsible for the quarterly collection of this data.

The USPTO's Patent Trial and Appeal Board (PTAB), collaborates with the PTAB Bar Association (PTAB Bar Assoc.), a non-profit organization that has taken up the task of helping secure the just, speedy, and inexpensive resolution of PTAB proceedings and serves the public by coordinating *pro bono* opportunities. The PTAB Bar Assoc. established a national clearinghouse that acts as a matchmaker connecting under-resourced inventors with volunteer patent practitioners across the United States for assistance in preparing and arguing *ex parte* appeals before the PTAB. The PTAB Bar Assoc.'s national clearinghouse provides nationwide access to legal representation for *pro bono ex parte* appeal services. The PTAB Pro Bono Program supports the purposes described above by facilitating the availability of *pro bono* services for proceedings before the PTAB, which the

USPTO believes can help reduce the financial burden on under-resourced inventors seeking *ex parte* appeal assistance.

This information collection covers the surveys used in the Patent and PTAB Pro Bono Programs. The surveys gather information about the effectiveness of the programs and how participants utilize the programs' resources. The information, at its highest level, allows the USPTO to determine whether the regional hubs and national clearinghouse are matching qualified under-resourced inventors with volunteer patent practitioners and help estimate the total economic benefit derived by under-resourced inventors in the form of donated legal services. This information also helps the USPTO determine if the regional hubs and clearinghouse are effectively serving under-resourced inventors and whether they need additional support.

II. Method of Collection

The items in this information collection are submitted electronically.

III. Data

OMB Control Number: 0651-0082.

Forms:

- USPTO/550 (Patent Pro Bono Survey)
- USPTO/552 (PTAB Pro Bono Survey)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: Quarterly; annually.

Estimated Number of Annual Respondents: 22 respondents.

Estimated Number of Annual Responses: 85 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 1.75 hours (105 minutes) to complete. This includes the time to gather the necessary information, create the document, and submit the completed item to the USPTO.

Estimated Total Annual Respondent Burden Hours: 149 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$9,536.

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Patent Pro Bono Survey (USPTO/550).	21	4	84	1.75 (105 minutes)	147	\$64	\$9,408
2	PTAB Pro Bono Survey (USPTO/552).	1	1	1	1.75 (105 minutes)	2	\$64	\$128
Totals	.....	22	.....	85	.....	149	.....	\$9,536

Estimated Total Annual Respondent Non-hourly Cost Burden: \$0. There are no capital start-up costs, maintenance costs, recordkeeping costs, filing fees, or postage costs associated with this information collection.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agency’s estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. The USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, the

¹ The USPTO uses the mean hourly wage (\$64) for administrators according to the data from the Bureau of Labor Statistics’ May 2024 Occupational Employment Statistics Profile (occupation code 11–1021); <https://www.bls.gov/oes/tables.htm>.

USPTO cannot guarantee that it will be able to do so.

Justin Isaac,
Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.
[FR Doc. 2025–19357 Filed 10–1–25; 8:45 am]
BILLING CODE 3510–16–P

COUNCIL ON ENVIRONMENTAL QUALITY

Implementation of the National Environmental Policy Act Guidance

AGENCY: Council on Environmental Quality.

ACTION: Notice of availability.

SUMMARY: On September 29, 2025, the Council on Environmental Quality (CEQ) issued a memorandum to the heads of Federal departments and agencies (agencies) to assist agencies with compliance with the National Environmental Policy Act (NEPA) and with establishing or revising agency NEPA implementing procedures. This guidance updates and replaces initial guidance issued on February 19, 2025.

DATES: This guidance was issued on September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Jomar Maldonado, Director for NEPA, 202–395–5750, Jomar.MaldonadoVazquez@ceq.eop.gov. The guidance is available for viewing online at www.nepa.gov.

SUPPLEMENTARY INFORMATION: On September 29, 2025, CEQ issued a memorandum entitled Implementation of the National Environmental Policy Act to provide guidance to Federal agencies regarding implementation of NEPA. This guidance updates and replaces guidance issued on February 19, 2025, also entitled Implementation of the National Environmental Policy Act, which CEQ published at www.nepa.gov. The updated memorandum includes an overview of NEPA, including a discussion of recent amendments to the statute and recent

case law as relevant to agency implementation of NEPA. The memorandum also provides guidance for agencies to use when establishing or revising agency-specific NEPA implementing procedures. As an appendix to the memorandum, CEQ has included a template that agencies are encouraged to use as an initial framework for establishing or revising their NEPA implementing procedures, to the extent consistent with agency authorities and applicable law. CEQ developed this template with the assistance of a Federal agency working group established pursuant to Executive Order 14154, *Unleashing American Energy* (90 FR 8353, Jan. 20, 2025).

The guidance and the associated template are not mandatory or binding on Federal agencies. Rather, they are intended to expedite and simplify the permitting process and promote consistency as to NEPA’s implementation consistent with Section 5 of Executive Order 14154.

The guidance and template are available at www.nepa.gov.

Katherine R. Scarlett,
Chairman.
[FR Doc. 2025–19236 Filed 10–1–25; 8:45 am]
BILLING CODE 3325–FC–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24–49]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6523, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a

copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-49, Policy Justification, and Sensitivity of Technology.

Dated: September 30, 2025.
Aaron T. Siegel,
*Alternate OSD Federal Register Liaison
 Officer, Department of Defense.*
BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

The Honorable Mike Johnson
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-49, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Norway for defense articles and services estimated to cost \$1.94 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 24-49

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Norway

(ii) *Total Estimated Value:*

Major Defense Equipment * .. \$0.92 billion

Other \$1.02 billion

TOTAL \$1.94 billion

(iii) *Major Defense Equipment (MDE):*

Three hundred (300) AIM-120C-8
 Advanced Medium-Range Air-to-Air Missiles (AMRAAM)

Twenty (20) AIM-120C-8 AMRAAM
 guidance sections

Non-MDE:

Also included are AMRAAM containers and support equipment; spare parts, consumables, accessories, and repair and return support; weapons software, support equipment, and classified software delivery and support; transportation support; classified publications and technical documentation; training; studies and surveys; United States

(U.S.) Government and contractor engineering; technical and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department: Air Force* (NO-D-YAH)

(v) *Prior Related Cases, if any:* NO-D-YAE

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* June 11, 2024

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Norway—AIM-120C-8 Advanced Medium-Range Air-to-Air Missiles

The Government of Norway has requested to buy three hundred (300) AIM-120C-8 Advanced Medium-Range Air-to-Air Missiles (AMRAAM) and twenty (20) AIM-120C-8 AMRAAM guidance sections. Also included are AMRAAM containers and support equipment; spare parts, consumables, accessories, and repair and return support; weapons software, support equipment, and classified software delivery and support; transportation support; classified publications and technical documentation; training; studies and surveys; U.S. Government and contractor engineering; technical and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$1.94 billion.

This proposed sale will support the foreign policy goals and national security objectives of the U.S. by improving the security of a North Atlantic Treaty Organization Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Norway's capability to meet current and future threats by supplementing and replacing its AIM-120B AMRAAMs with the latest version of the AIM-120C.

Norway already has AMRAAMs and F-35As in its inventory and will have no difficulty absorbing these articles into its armed forces. The newly acquired missiles will be used for ground-based air defense in the National Advanced Surface-to-Air Missile System (NASAMS) but may be subject to dual use with the F-35A.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be RTX Corporation, located in Tucson, AZ. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Norway.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24-49

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AIM-120C-8 Advanced Medium-Range Air-to-Air Missile (AMRAAM) is a supersonic, air or surface-launched aerial intercept guided missile featuring digital technology and microminiature solid-state electronics. AMRAAM capabilities include look-down and shoot-down, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high and low-flying and maneuvering targets. This potential sale will include AMRAAM guidance sections, control sections, warhead spares, and containers.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software

elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Norway can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Norway.

[FR Doc. 2025-19373 Filed 10-1-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24-64]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6523, urooj.zahra.civ@mail.mil, or dscn.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-64, Policy Justification, and Sensitivity of Technology.

Dated: September 30, 2025.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

The Honorable Mike Johnson
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-64, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Austria for defense articles and services estimated to cost \$1.05 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 24-64

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

- (i) *Prospective Purchaser:* Government of Austria
 (ii) *Total Estimated Value:*

Major Defense Equipment *	\$350 million
Other	\$700 million
TOTAL	\$1.05 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Twelve (12) UH-60M Black Hawk helicopters
 Twenty-six (26) T700-GE-701D engines
 Fifteen (15) AN/AAR-57 Counter Missile Warning Systems (CMWS)
 Thirty (30) H-764U Embedded Global Positioning Systems with Inertial Navigation (EGI) with country-unique selective availability anti-spoofing modules (or Future M-Code replacement)

Non-MDE:

The following non-MDE is also included: APR-39C(V)1/4 radar warning receivers; AVR-2B laser detecting sets; AN/ARN-147(V) very high frequency omnidirectional range instrument landing system receiver radio; AN/ARN-149(V) low frequency automatic direction finder (ADF) radio receiver; AN/ARN-153 Tactical Air Navigation System (TACAN) receiver transmitter; AN/APN-209 radar altimeter radios; EBC-406HM emergency locator transmitter (ELT); Improved Heads Up Display (IHUD); signal data converters for IHUD; color weather radars; MX-10D electro optical and infrared with laser designator; Engine Inlet Barrier Filters (EIBF); Ballistic Armor Protection Systems (BAPS); Internal Auxiliary Fuel Tank Systems (IAFTS); Fast Rope Insertion Extraction System (FRIES); External Rescue Hoist (ERH); rescue hoist equipment sets; dual patient litter system (DPLS) sets; Martin Baker palletized crew chief and gunner seats with crashworthy floor structural modifications; External Stores Support System (ESSS); instrument panel; cockpit multi-function display (MFD); degraded visual environment (DVE) system; Traffic Alert Collision Avoidance System (TCAS II); cargo hook scale; sling load observation capability; Direction Finder DF-935; environmental control system; snow skis provisions; Bambi bucket provisions; Helicopter Terrain Awareness System (HTAWS); CONRAD troop radio capability; TETRA BOS radio capability; very important person kit; 28 volts of direct current 10 ampere utility power socket (cabin); Universal Serial Bus (USB) charging outlet; Crashworthy Extended Range Fuel Systems (CEFS) tanks; Black Hawk Aircrew Trainer (BAT); training devices; helmets; transportation; organizational equipment; spare and repair parts; support

equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics support.

(iv) *Military Department: Army (AU-B-VCS)*

(v) *Prior Related Cases, if any: None*
 (vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None*

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex*

(viii) *Date Report Delivered to Congress: May 29, 2024*

* as defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION**Austria—UH-60M Blackhawk Helicopters*

The Government of Austria has requested to buy twelve (12) UH-60M Black Hawk helicopters with twenty-six (26) T700-GE-701D engines; fifteen (15) AN/AAR-57 Counter Missile Warning Systems (CMWS); and thirty (30) H-764U Embedded Global Positioning Systems with Inertial Navigation (EGI) with country-unique selective availability anti-spoofing modules (or Future M-Code replacement). The following non-MDE is also included: APR-39C(V)1/4 radar warning receivers; AVR-2B laser detecting sets; AN/ARN-147(V) very high frequency omnidirectional range instrument landing system receiver radio; AN/ARN-149(V) low frequency automatic direction finder (ADF) radio receiver; AN/ARN-153 Tactical Air Navigation System (TACAN) receiver transmitter; AN/APN-209 radar altimeter radios; EBC-406HM emergency locator transmitter (ELT); Improved Heads Up Display (IHUD); signal data converters for IHUD; color weather radars; MX-10D electro optical and infrared with laser designator; Engine Inlet Barrier Filters (EIBF); Ballistic Armor Protection Systems (BAPS); Internal Auxiliary Fuel Tank Systems (IAFTS); Fast Rope Insertion Extraction System (FRIES); External Rescue Hoist (ERH); rescue hoist equipment sets; dual patient litter system (DPLS) sets; Martin Baker palletized crew chief and gunner seats with crashworthy floor structural modifications; External Stores Support System (ESSS); instrument panel; cockpit multi-function display (MFD); degraded visual environment (DVE) system; Traffic Alert Collision Avoidance System (TCAS II); cargo

hook scale; sling load observation capability; Direction Finder DF-935; environmental control system; snow skis provisions; Bambi bucket provisions; Helicopter Terrain Awareness System (HTAWS); CONRAD troop radio capability; TETRA BOS radio capability; very important person kit; 28 volts of direct current 10 ampere utility power socket (cabin); Universal Serial Bus (USB) charging outlet; Crashworthy Extended Range Fuel Systems (CEFS) tanks; Black Hawk Aircrew Trainer (BAT); training devices; helmets; transportation; organizational equipment; spare and repair parts; support equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics support. The estimated cost is \$1.05 billion.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a partner that is a force for political stability and economic progress in Europe.

The proposed sale will improve Austria's capability to deter current and future threats and support coalition operations and the United States' and Austria's goal of greater military interoperability. Austria will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be Lockheed Martin, Sikorsky, located in Stratford, CT. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require approximately fifteen (15) U.S. Government and/or fifteen (15) contractor representatives to travel to Austria for an extended period for equipment de-processing/fielding, system checkout, training, and technical and logistics support.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24-64

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The UH-60M aircraft is a medium lift four bladed helicopter with two (2)

T-701D engines. The aircraft has four (4) multifunction displays (MFDs), which provide access to aircraft system, flight, mission, and communication management systems. The instrumentation panel includes four (4) MFDs, two (2) pilot and copilot Flight Director Panels, and two (2) Data Concentrator Units (DCUs). The navigation system will have Embedded Global Positioning System/with Inertial Navigation (EGIs), and two (2) Advanced Flight Control Computer Systems (AFCC), which provide 4 axis aircraft control:

a. The AN/APR-39C(V)1/4 radar warning system detects radar based rangefinders, target designators, and beam rider systems targeting an aircraft or vehicle. The APR-39 is a detection component of the suite of countermeasures designed to increase the survivability of current generation combat aircraft and specialized special operations aircraft against the threat posed by laser designated or guided weapons. This item contains sensitive technology.

b. The AN/AVR-2B Laser Warning Receiver detects laser rangefinders, target designators, and beam rider laser-aided systems targeting an aircraft or vehicle. The AVR-2B is a detection component of the suite of countermeasures designed to increase the survivability of current generation combat aircraft and specialized special operations aircraft against the threat posed by laser designated or guided weapons. This item contains sensitive technology.

c. The AAR-57 Common Missile Warning System (CMWS) is an integrated infrared countermeasures suite utilizing ultraviolet sensors to display accurate threat location and dispense decoys and countermeasures either automatically or through pilot or crew control to defeat incoming missile threats.

d. EGI provides GPS and INS capabilities to the aircraft. The EGI will include selective availability anti-spoofing module (SAASM) security modules or military code (M-code) to be used for secure GPS precision positioning service if required. The EGI within the SAASM or M-code contains sensitive technology.

2. The highest level of information that may be transferred in support of this proposed sale is classified SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Austria can provide substantially the same degree of protection of this technology as the U.S. Government. This proposed sale is necessary in furtherance of U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles, technical data, and services listed in this transmittal are

authorized for release and export to the Government of Austria.

[FR Doc. 2025-19377 Filed 10-1-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24-51]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6523, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-51, Policy Justification, and Sensitivity of Technology.

Dated: September 30, 2025.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

May 21, 2024

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-51, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Canada for defense articles and services estimated to cost \$96.4 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
Director

- Enclosures:
- 1. Transmittal
 - 2. Policy Justification
 - 3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 24-51

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Canada

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$68.0 million
Other	\$28.4 million
TOTAL	\$96.4 million

(iii) *Description and Quantity or Quantities of Articles or Services under*

Consideration for Purchase: Foreign Military Sales (FMS) case CN-D-QCZ was below congressional notification threshold at \$16.1 million (\$11.8 million in MDE) and included a total of two hundred ten (210) KMU-572 Joint Direct Attack Munition (JDAM) tail kits; fifty (50) KMU-556 JDAM tail kits; and twenty-five (25) KMU-557 JDAM tail kits. The Government of Canada has requested the case be amended to include an additional six hundred ninety (690) KMU-572 JDAM tail kits; seventy-five (75) KMU-556 JDAM tail kits; and twenty-five (25) KMU-557

JDAM tail kits. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):
Nine hundred (900) KMU-572 Joint Direct Attack Munition (JDAM) tail kits
One hundred twenty-five (125) KMU-556 JDAM tail kits
Fifty (50) KMU-557 JDAM tail kits
Non-MDE:
Also included are Laser Illuminated Target Detectors; FMU-139 fuzes;

weapons support equipment; spare and repair parts, consumables and accessories, and repair and return support; publications and technical documentation; studies and surveys; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department: Air Force (CN-D-QCZ)*

(v) *Prior Related Cases, if any: None*

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None known at this time*

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex*

(viii) *Date Report Delivered to Congress: May 21, 2024*

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Canada—Joint Direct Attack Munition (JDAM) Tail Kits

The Government of Canada has requested to buy an additional six hundred ninety (690) KMU-572 Joint Direct Attack Munition (JDAM) tail kits; seventy-five (75) KMU-556 JDAM tail kits; and twenty-five (25) KMU-557 JDAM tail kits that will be added to a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales (FMS) case, valued at \$16.1 million (\$11.8 million in MDE), included a total of two hundred ten (210) KMU-572 JDAM tail kits; fifty (50) KMU-556 JDAM tail kits; and twenty-five (25) KMU-557 JDAM tail kits. This notification is for a combined total of nine hundred (900) KMU-572 JDAM tail kits; one hundred twenty-five (125) KMU-556 JDAM tail kits; and fifty (50) KMU-557 JDAM tail kits. Also included are Laser Illuminated Target Detectors; FMU-139 fuzes; weapons support equipment; spare and repair parts, consumables and accessories, and repair and return support; publications and technical documentation; studies and surveys; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$96.4 million.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the military capability of Canada, a North Atlantic Treaty Organization Ally that is an important force for ensuring political

stability and economic progress and is a contributor to military, peacekeeping, and humanitarian operations around the world.

The proposed sale will improve Canada's capability to meet current and future threats by increasing available stores of munitions for its air force. Canada already has the JDAM in its inventory and will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Boeing Corporation, located in St. Louis, MO. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Canada.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24-51

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. Joint Direct-Attack Munitions (JDAM) consist of a bomb body paired with a warhead-specific tail kit containing an Inertial Navigation System (INS)/Global Positioning System (GPS) guidance capability with Selective Availability Anti-Spoofing Module (SAASM) or M-Code that converts unguided free-fall bombs into accurate, adverse weather "smart" munitions. The JDAM weapon can be delivered from modest standoff ranges at high or low altitudes against a variety of land and surface targets during the day or night. The JDAM can receive target coordinates via preplanned mission data from the delivery aircraft, by onboard aircraft sensors (*e.g.*, forward-looking infrared, radar) during captive carry, or from a third-party source via manual or automated aircrew cockpit entry.

a. The KMU-572 is the tail kit for a GBU-38 (500-pound JDAM) or GBU-54 (500-pound laser JDAM (LJDAM)).

b. The KMU-556 is the tail kit for a GBU-31 (2,000-pound Mk-84 bomb body JDAM).

c. The KMU-557 is the tail kit for a GBU-31 (2,000-pound BLU-109 bomb body JDAM).

2. The DSU-38 consists of a laser spot tracker, a cable connecting the DSU-38

to the basic JDAM guidance set, a cable cover, cable cover tie-down straps, modified tail kit door and wiring harness, and modified navigation and guidance flight software to support both LJDAM and standard JDAM missions. It is the addition of the DSU-38 laser sensor that turns a GBU-38 JDAM into a GBU-54 LJDAM.

3. The FMU-139 Joint Programmable Fuze (JPF) is a multi-delay, multi-arm proximity sensor compatible with general purpose blast, frag, and hardened-target penetrator weapons. The JPF settings are cockpit selectable in flight when used with numerous precision-guided weapons.

4. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

6. A determination has been made that Canada can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

7. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Canada.

[FR Doc. 2025-19372 Filed 10-1-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24-63]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6523, urooj.zahra.civ@mail.mil, or dsca.ncr.ssrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164

dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 24-63, Policy Justification, and Sensitivity of Technology.

Dated: September 30, 2025.
Aaron T. Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

May 29, 2024

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-63, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Sweden for defense articles and services estimated to cost \$900 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
Director

- Enclosures:
- 1. Transmittal
 - 2. Policy Justification
 - 3. Sensitivity of Technology

BILLING CODE 6001-FR-C		
Transmittal No. 24-63		
Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended		
(i) Prospective Purchaser: Government of Sweden		
(ii) Total Estimated Value:		
Major Defense Equipment *	\$500 million	(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Major Defense Equipment (MDE): Twelve (12) UH-60M Black Hawk helicopters Thirty (30) T700-GE-701D engines (24 installed, 6 spares) Seventeen (17) AN/AAR-57 common missile warning systems (CMWS) Non-MDE: The following is also included: AN/APR-39C(V)1/4 radar warning receivers; AN/AVR-2B laser detecting sets; AN/ARN-149(V) low frequency automatic direction finder radio receivers; AN/ARN-153 tactical air navigation systems (TACAN) receiver transmitters; AN/APN-209 radar altimeters; EBC-406HM emergency locator transmitters (ELT); Enhanced Ballistic Armor Protection Systems (EBAPS); Internal Auxiliary Fuel Tank Systems (IAFTS); Fast Rope Insertion Extraction Systems (FRIES); external rescue hoists (ERH); rescue hoist equipment sets; Martin Baker palletized crew chief and gunner seats with crashworthy
Other	\$400 million	
TOTAL	\$900 million	

floor structural modifications; aircraft fire extinguisher cartridge; impulse cartridge; thruster TCU-3/A; helmets; transportation; organizational equipment; spare and repair parts; support equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department: Army (SW-B-WBV)*

(v) *Prior Related Cases, if any: SW-B-WAD, SW-B-WBL, SW-B-WBN, SW-B-WBR, SW-B-WBS, SW-B-WBT, SW-B-WBU*

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None*
(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex*

(viii) *Date Report Delivered to Congress: May 29, 2024*

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Sweden—UH-60M Black Hawk Helicopters

The Government of Sweden has requested to buy twelve (12) UH-60M Black Hawk helicopters; thirty (30) T700-GE-701D engines (24 installed, 6 spares); and seventeen (17) AN/AAR-57 common missile warning systems (CMWS). The following is also included: AN/APR-39C(V)1/4 radar warning receivers; AN/AVR-2B laser detecting sets; AN/ARN-149(V) low frequency automatic direction finder radio receivers; AN/ARN-153 tactical air navigation systems (TACAN) receiver transmitters; AN/APN-209 radar altimeters; EBC-406HM emergency locator transmitters (ELT); Enhanced Ballistic Armor Protection Systems (EBAPS); Internal Auxiliary Fuel Tank Systems (IAFTS); Fast Rope Insertion Extraction Systems (FRIES); external rescue hoists (ERH); rescue hoist equipment sets; Martin Baker palletized crew chief and gunner seats with crashworthy floor structural modifications; aircraft fire extinguisher cartridge; impulse cartridge; thruster TCU-3/A; helmets; transportation; organizational equipment; spare and repair parts; support equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical,

and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$900 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Sweden's capability to deter current and future threats and support coalition operations and the United States' and Sweden's goal of greater military interoperability. Sweden will have no difficulty absorbing this equipment into its armed forces.

The principal contractor will be Lockheed Martin, Sikorsky, located in Stratford, CT. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require approximately fifteen (15) U.S. Government and/or fifteen (15) contractor representatives to travel to Sweden for an extended period for equipment de-processing/fielding, system checkout, training, and technical and logistics support.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24-63

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The UH-60M Black Hawk helicopter is a medium lift four bladed aircraft powered by two (2) T-701D engines. The aircraft has four (4) multifunction displays (MFD) which provide aircraft system, flight, mission, and communication management information. The instrumentation panel includes four (4) MFDs, two (2) pilot and copilot Flight Director Panels, and two (2) Data Concentrator Units (DCUs). The navigation system will have embedded global positioning system/inertial navigation system (EGIs) and two (2) Advanced Flight Control Computer Systems (AFCC) which provide 4-axis aircraft control:

a. The AN/APR-39C(V)1/4 radar warning system detects radar-based rangefinders, target designators, and beam rider systems targeting an aircraft or vehicle. The APR-39 is a detection component of the suite of countermeasures designed to increase the survivability of current generation combat aircraft and specialized special

operations aircraft against the threat posed by laser designated or guided weapons.

b. The AN/AVR-2B laser warning receiver detects laser rangefinders, target designators, and beam rider laser-aided systems targeting an aircraft or vehicle. The AN/AVR-2B is a detection component of the suite of countermeasures designed to increase the survivability of current generation combat aircraft and specialized special operations aircraft against the threat posed by laser designated or guided weapons.

c. The AN/AAR-57 common missile warning system (CMWS) is an integrated infrared countermeasures suite utilizing ultraviolet sensors to display accurate threat location and dispense countermeasures either automatically or under pilot or crew control to defeat incoming missile threats.

d. The EBC-406 emergency locator transmitter is loaded with country-unique codes that aid in the recovery of downed aircraft or personnel with a loud beeping tone and flashing LED. The ELT transmits on 406.028 MHz, the civil 121.5 MHz, and the military 243.0 MHz emergency frequencies.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Sweden can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal are authorized for release and export to Sweden.

[FR Doc. 2025-19374 Filed 10-1-25; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 24-52]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695-6523, urooj.zahra.civ@mail.mil, or

dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the

House of Representatives with attached Transmittal 24-52, Policy Justification, and Sensitivity of Technology.

Dated: September 30, 2025.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-52, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of the Netherlands for defense articles and services estimated to cost \$678 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 24-52

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the Netherlands

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$607 million
Other	\$ 71 million
TOTAL	\$678 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

One hundred seventy-four (174)

Advanced Medium-Range Air-to-Air Missiles-Extended Range (AMRAAM-ER)

Four (4) AMRAAM-C8 guidance sections

Non-MDE:

Also included is the following non-MDE: AMRAAM containers, load trainers, control section spares and support equipment; KGV-135A cryptographic devices; Common Munition Built-in-Test (BIT)/Reprogramming Equipment (CMBRE); ADU-891 Adaptor Group Test Sets; integration and test support and equipment; munitions support and support equipment; spare parts, consumables, and accessories, and repair and return support; classified software delivery and support; classified and unclassified publications, and technical documentation; personnel training and training equipment; studies and surveys; Contractor Logistics Support (CLS); U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (NE-D-YAJ)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* June 13, 2024

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Netherlands—Advanced Medium-Range Air-to-Air Missiles-Extended Range

The Government of the Netherlands has requested to buy one-hundred seventy-four (174) Advanced Medium-Range Air-to-Air Missiles-Extended Range (AMRAAM-ER) and four AMRAAM-C8 guidance sections. Also included is the following non-MDE: AMRAAM containers, load trainers, control section spares and support equipment; KGV-135A cryptographic devices; Common Munition Built-in-Test (BIT)/Reprogramming Equipment (CMBRE); ADU-891 Adaptor Group

Test Sets; integration and test support and equipment; munitions support and support equipment; spare parts, consumables, and accessories, and repair and return support; classified software delivery and support; classified and unclassified publications, and technical documentation; personnel training and training equipment; studies and surveys; Contractor Logistics Support (CLS); U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$678 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a North Atlantic Treaty Organization (NATO) Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve the Netherlands' capability to meet current and future threats by providing advanced air defense missiles as part of an upgraded Medium Range Air Defense (MRAD) system and thereby enhancing its air defense capability. This enhanced capability will protect the Netherlands and local allied forces, and will significantly improve the Netherlands' contribution to NATO Integrated Air and Missile Defense. The Netherlands will have no difficulty absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be RTX Corporation, located in Camden, AR. The purchaser typically requires offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 24-52

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Advanced Medium-Range Air-to-Air Missile (AMRAAM) is a supersonic, air-launched, aerial intercept guided missile featuring digital technology and microminiature

solid-state electronics. AMRAAM capabilities include look-down/shoot-down, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying and maneuvering targets. This potential sale will include AMRAAM guidance sections, control sections, warhead spares, and containers.

2. The Advanced Medium-Range Air-to-Air Missile-Extended Range (AMRAAM-ER) is a surface-launched missile that utilizes an AIM-120C-7 or C-8 seeker and warhead. It is joined with a separate control section and rocket motor for surface launch, making it different from the traditional air-launched AMRAAM. This provides extended range and altitude as well as higher speed and maneuverability.

3. The KGV-135A is a high-speed, general purpose encryptor/decryptor module used for wide-band data encryption.

4. The Common Munitions Built-In-Test (BIT)/Reprogramming Equipment (CMBRE) is support equipment used to interface with weapon systems to initiate and report BIT results, and upload and download flight software. CMBRE supports multiple munitions platforms with a range of applications that perform preflight checks, periodic maintenance checks, loading of Operational Flight Program (OFP) data, loading of munitions mission planning data, loading of Global Positioning System (GPS) cryptographic keys, and declassification of munitions memory.

5. The ADU-891 Adapter Group Test Set provides the physical and electrical interface between the CMBRE and the missile.

6. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

7. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

8. A determination has been made that the Netherlands can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

9. All defense articles and services listed in this transmittal have been

authorized for release and export to the Government of the Netherlands.

[FR Doc. 2025–19378 Filed 10–1–25; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2025–SCC–0877]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2026 Amendment 2

AGENCY: Institute of Education Sciences, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before November 3, 2025.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Matthew Soldner, 202–453–7441.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the

respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Assessment of Educational Progress (NAEP) 2026 Amendment 2.

OMB Control Number: 1850–0928.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 796,937.

Total Estimated Number of Annual Burden Hours: 456,764.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, and civics. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279, title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, sex, socioeconomic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. NAEP consists of two assessment programs: the NAEP long-term trend (LTT) assessment and the main NAEP assessment. The LTT assessments are given at the national level only and are administered to students at ages 9, 13, and 17 in a manner that is very different from that used for the main NAEP assessments. LTT reports mathematics and reading results that present trend data since the 1970s. In addition to the operational assessments, NAEP uses two other kinds of assessment activities: pilot assessments and special studies. Pilot assessments test items and procedures for future administrations of NAEP, while special studies (e.g., the Middle School Transcript Study (MSTS), and the High School Transcript Study (HSTS)) are opportunities for NAEP to investigate particular aspects of the assessment without impacting the reporting of the NAEP results.

This request is a second Amendment to the initially approved NAEP 2026 Clearance Package (OMB# 1850–0928 v.36) to conduct NAEP in 2026, specifically: (1) Main NAEP operational assessments will include for grades 4 and 8 (first administration of the new frameworks for reading and mathematics), grade 8 (civics and U.S. history); in Puerto Rico, grades 4 and 8 mathematics will be the only subject assessed and will include the new framework; (2) Pilot testing in grades 4, 8, and 12 (reading and mathematics); in Puerto Rico, grades 4 and 8 mathematics will be the only subject assessed.

All documents in this package are the finalized materials to be used for the data collection in early 2026. Specifically, this Amendment includes the following updates:

1. Appendix D: updates to the eNAEP Download Center and the preassessment guides,
2. Appendices J1, J2, J3, J–S: editorial updates to several survey questionnaire items,
3. Appendix C: the sampling memo, and
4. Appendix I: all finalized AMS screens that will be accessed and used by school staff for the NAEP assessment.

As of April 2025, NCES’s assurances of confidentiality protections for NAEP 2026 have changed due to recent staffing changes at the Department of Education. NCES has removed the Foundations of Evidence-Based Policymaking Act of 2018, Title III, Part B, Confidential Information Protection (“CIPSEA”) as a confidentiality assurance. However, confidentiality assurances under the Education Sciences Reform Act of 2002 (ESRA) remain in effect.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2025–19356 Filed 10–1–25; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC25–149–000.

Applicants: Genie Retail Energy Inc.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Citizens Choice Energy, LLC, et al.

Filed Date: 9/26/25.
Accession Number: 20250926–5212.
Comment Date: 5 p.m. ET 10/17/25.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG25–542–000.
Applicants: Huckleberry Solar, LLC.
Description: Huckleberry Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/29/25.
Accession Number: 20250929–5122.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: EG25–543–000.
Applicants: Mayes Solar, LLC.
Description: Mayes Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/29/25.
Accession Number: 20250929–5124.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: EG25–544–000.
Applicants: Salt Branch Solar, LLC.
Description: Salt Branch Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/29/25.
Accession Number: 20250929–5136.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: EG25–545–000.
Applicants: Twelvemile Energy II, LLC.

Description: Twelvemile Energy II, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/29/25.
Accession Number: 20250929–5137.
Comment Date: 5 p.m. ET 10/20/25.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1347–002; ER10–3048–009; ER10–3156–001.

Applicants: MeadWestvaco Coated Board, LLC, Longview Fibre Paper and Packaging, Inc., MeadWestvaco Virginia Corporation.

Description: Notice of Non-Material Change in Status of MeadWestvaco Coated Board, LLC, et al.

Filed Date: 9/26/25.
Accession Number: 20250926–5217.
Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER17–1723–001.
Applicants: Green Power Solutions of Georgia, LLC.

Description: Notice of Non-Material Change in Status of Green Power Solutions of Georgia, LLC.

Filed Date: 9/26/25.
Accession Number: 20250926–5216.
Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–951–002.
Applicants: PacifiCorp.

Description: Compliance filing: PacifiCorp submits tariff filing per 35:

Compliance Filing to be effective 12/31/9998.

Filed Date: 9/29/25.
Accession Number: 20250929–5161.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–1868–002.
Applicants: Portland General Electric Company.

Description: Compliance filing: Portland General Electric EDAM Compliance Filing Att. P to be effective 12/31/9998.

Filed Date: 9/29/25.
Accession Number: 20250929–5143.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–2694–001.
Applicants: Kelso Solar LLC.
Description: Notice of Non-Material Change in Status of Kelso Solar LLC.

Filed Date: 9/25/25.
Accession Number: 20250925–5161.
Comment Date: 5 p.m. ET 10/16/25.

Docket Numbers: ER25–3105–001.
Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Amended Filing—Revisions to Add the Electric Storage Resource Load Assessment to be effective 10/7/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5090.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3544–000.
Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: La Plata Electric Association, Inc. Withdrawal Agreement to be effective 11/26/2025.

Filed Date: 9/26/25.
Accession Number: 20250926–5178.
Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3545–000.
Applicants: Northern States Power Company, a Wisconsin corporation.

Description: 205(d) Rate Filing: 2025–09–26 NSP–DPC FSA—Fnt City 178 to be effective 9/29/2025.

Filed Date: 9/26/25.
Accession Number: 20250926–5197.
Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3546–000.
Applicants: Northern States Power Company, a Wisconsin corporation.

Description: 205(d) Rate Filing: 2025–09–25 NSP–DPC—FSA Anderson 179 to be effective 9/29/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5000.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3547–000.
Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 4479 Grand River Dam Authority GIA to be effective 9/19/2025.

Filed Date: 9/29/25.

Accession Number: 20250929–5069.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3548–000.
Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 4481 Empire District Electric Company GIA to be effective 9/24/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5070.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3549–000.
Applicants: PacifiCorp.

Description: 205(d) Rate Filing: UAMPS Construction Agreement Fremont Solar (SA No. 1185) to be effective 11/29/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5082.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3550–000.
Applicants: NSTAR Electric Company.

Description: Tariff Amendment: Cancellation—New England Power Company-Distrigas Facilities Support Agreement to be effective 9/30/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5110.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3551–000.
Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original NSA, Service Agreement No. 7749; AG1–054 to be effective 8/28/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5177.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3552–000.
Applicants: California Independent System Operator Corporation.

Description: 205(d) Rate Filing: 2025–09–29 EIM Entity Agreement Between CAISO and Power Watch to be effective 11/29/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5189.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3553–000.
Applicants: Huckleberry Solar, LLC.

Description: Initial Rate Filing: Market-Based Rate Application to be effective 11/29/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5195.
Comment Date: 5 p.m. ET 10/20/25.

Docket Numbers: ER25–3554–000.
Applicants: Occidental Power Services, Inc.

Description: 205(d) Rate Filing: Notice of Succession normal filing 2025 to be effective 9/30/2025.

Filed Date: 9/29/25.
Accession Number: 20250929–5202
Comment Date: 5 p.m. ET 10/20/25.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES25–81–000.

Applicants: Interstate Power and Light Company.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Interstate Power and Light Company.

Filed Date: 9/26/25.

Accession Number: 20250926–5214.

Comment Date: 5 p.m. ET 10/17/25.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organizations, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: September 29, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–19265 Filed 10–1–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP25–1162–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing: Annual Cash-Out Report Ending July 31, 2025 to be effective N/A.

Filed Date: 9/29/25.

Accession Number: 20250929–5067.

Comment Date: 5 p.m. ET 10/14/25.

Docket Numbers: RP25–1163–000.

Applicants: Natural Gas Pipeline Company of America LLC.

Description: Compliance filing: Penalty Revenue Crediting Report from January through June 2025 to be effective N/A.

Filed Date: 9/29/25.

Accession Number: 20250929–5068.

Comment Date: 5 p.m. ET 10/14/25.

Docket Numbers: RP25–1164–000.

Applicants: ANR Pipeline Company.

Description: Compliance filing: Penalty Revenue Crediting Report 2025 to be effective N/A.

Filed Date: 9/29/25.

Accession Number: 20250929–5099.

Comment Date: 5 p.m. ET 10/14/25.

Docket Numbers: RP25–1165–000.

Applicants: POET Biorefining—OBION LLC, Green Plains Trade Group LLC.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of Green Plains Trade Group LLC.

Filed Date: 9/29/25.

Accession Number: 20250929–5107.

Comment Date: 5 p.m. ET 10/6/25.

Docket Numbers: RP25–1166–000.

Applicants: Alliance Pipeline L.P.

Description: 4(d) Rate Filing: Negotiated Rates—Releases 10–01–2025 to be effective 10/1/2025.

Filed Date: 9/29/25.

Accession Number: 20250929–5123.

Comment Date: 5 p.m. ET 10/14/25.

Docket Numbers: RP25–1167–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: 4(d) Rate Filing: MEP September 2025 NRA Filing to be effective 10/1/2025.

Filed Date: 9/29/25.

Accession Number: 20250929–5125.

Comment Date: 5 p.m. ET 10/14/25.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system ([https://](https://elibrary.ferc.gov/idmws/search/fercgensearch.asp)

elibrary.ferc.gov/idmws/search/fercgensearch.asp) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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Dated: September 29, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–19263 Filed 10–1–25; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2025–1708; FRL–12977–01–OGC]

Proposed Settlement Agreement, Clean Air Act Petition for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (“CAA” or “the Act”), notice is given of a proposed settlement agreement to address two petitions for review filed by the Mojave Desert Air Quality Management District (“MDAQMD” or “the District”) in the U.S. Court of Appeals for the Ninth Circuit: *Mojave Desert Air Quality Management District v. EPA*, No. 25–659 (9th Cir.), and *Mojave Desert Air Quality Management District v. EPA*, No. 25–1684 (9th Cir.). MDAQMD filed case number 25–659 on January 31, 2025, and case number 25–1684 on March 13, 2025. Both petitions pertain to Nonattainment New Source Review permitting requirements that apply in the Mojave Desert area under the CAA. The EPA is providing notice of this proposed settlement agreement, which would resolve both of MDAQMD's

petitions for review as specified in the proposed agreement.

DATES: Written comments on the proposed settlement agreement must be received by November 3, 2025.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2025-1708, online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Additional Information about Commenting on the Proposed Settlement Agreement" heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jeanhee Hong, Air and Radiation Law Office (MC 2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone (202) 564-7606; email address hong.jeanhee@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Settlement Agreement

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2025-1708) contains a copy of the proposed settlement agreement.

The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

The electronic version of the public docket for this action contains a copy of the proposed settlement agreement and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket

identification number then select "search."

II. Additional Information About the Proposed Settlement Agreement

On January 31, 2025, MDAQMD filed a petition for review in the Ninth Circuit Court of Appeals of the EPA's final action titled, "Federal Implementation Plan for Nonattainment New Source Review Program; Mojave Desert Air Quality Management District, California," published at 89 FR 106332 (December 30, 2024).¹ On March 13, 2025, MDAQMD filed a second petition for review in the Ninth Circuit Court of Appeals asking the Court to "vacate the Offset Sanctions" that applied in the Mojave Desert nonattainment area starting January 31, 2025 as a result of a separate final action taken by the EPA on June 30, 2023, also pertaining to Nonattainment New Source Review requirements.²

Under the terms of the proposed settlement agreement, the MDAQMD agrees to file a pleading for dismissal with prejudice of both petitions if: (1) the EPA takes final action to conditionally approve the MDAQMD rules submitted to the EPA on August 7, 2024;³ (2) the EPA takes final action to fully approve a revision to MDAQMD Rule 1304(C)(2)(d), as described in the settlement agreement; and (3) no petition for review of either of these final actions is filed within sixty days of their respective publications in the **Federal Register**.⁴

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties to the litigation in question. The EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that the agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of

the Act. Unless the EPA or the Department of Justice determines that the settlement agreement should be withdrawn or withheld, the terms of the agreement will be affirmed.

III. Additional Information About Commenting on the Proposed Settlement Agreement

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2025-1708, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, the EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows the EPA to contact you in case the EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in the EPA's electronic public docket. If the EPA cannot read your comment due to technical difficulties and cannot contact

¹ Petition for Review, *Mojave Desert Air Quality Mgmt. Dist. v. EPA*, No. 25-659 (9th Cir.) (filed January 31, 2025) at 1.

² Petition for Review, *Mojave Desert Air Quality Mgmt. Dist. v. EPA*, No. 25-1684 (9th Cir.) (filed March 13, 2025) at 2.

³ See 90 FR 34785 (July 24, 2025) and docket at <https://www.regulations.gov/document/EPA-R09-OAR-2025-0625-0005>.

⁴ The proposed settlement agreement states that if a petition for review is filed within sixty days of publication in the **Federal Register**, other than by the MDAQMD, the MDAQMD "may choose to delay requesting the dismissal with prejudice of case numbers 25-659 and 25-1684 until after the petition(s) for review of the final rule(s) is/are resolved."

you for clarification, the EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to the EPA electronically is the EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means the EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." The EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2025-19264 Filed 10-1-25; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-12834-01-R9]

Clean Air Act Operating Permit Program; Order on Petition for Objection to State Operating Permit for the South32 Hermosa Project

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an order dated May 30, 2025, granting in part and denying in part a petition dated September 13, 2024, from the Center for Biological Diversity, Patagonia Area Resource Alliance, Sierra Club, Arizona Mining Reform Coalition, Calabasas Alliance/La Alianza Calabasas, and Friends of the Santa Cruz River. The Petition requested that the EPA object to a Clean Air Act (CAA) title V operating permit issued by the Arizona Department of Environmental Quality (ADEQ) to South32 Hermosa Project ("Hermosa") for its zinc, lead, manganese, and silver mine in Santa Cruz County, Arizona.

FOR FURTHER INFORMATION CONTACT: Catherine Valladolid, EPA Region 9, (415) 947-4103, valladolid.catherine@epa.gov. The final Order and Petition are available electronically at: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>.

SUPPLEMENTARY INFORMATION: The EPA received a petition from the Center for Biological Diversity, Patagonia Area Resource Alliance, Sierra Club, Arizona Mining Reform Coalition, Calabasas

Alliance/La Alianza Calabasas, and Friends of the Santa Cruz River dated September 13, 2024, requesting that the EPA object to the issuance of operating permit no. 96653, issued by the ADEQ to Hermosa in Santa Cruz County, Arizona. On May 30, 2025, the EPA Administrator issued an order granting in part and denying in part the petition. The order explains the basis for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than December 1, 2025.

Dated: September 19, 2025.

Michelle Angelich,

Acting Director, Air and Radiation Division, Region IX.

[FR Doc. 2025-19262 Filed 10-1-25; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-12867-01-R9]

Revision of Approved State Primacy Program for the Navajo Nation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: Notice is hereby given that the Navajo Nation revised its approved State primacy program under the federal Safe Drinking Water Act (SDWA) by adopting regulations that effectuate the federal Public Notification Rule (PNR). The Environmental Protection Agency (EPA) has determined that Navajo Nation's revision request meets the applicable SDWA program revision requirements and the regulations adopted by Navajo Nation are no less stringent than the corresponding federal regulations. Therefore, EPA approves this revision to Navajo Nation's approved State primacy program. However, this determination on Navajo Nation's request for approval of a program revision shall take effect in accordance with the procedures described below in the **SUPPLEMENTARY INFORMATION** section of this document after the opportunity to request a public hearing.

DATES: A request for a public hearing must be received or postmarked before November 3, 2025.

ADDRESSES: Documents relating to this determination that were submitted by Navajo Nation as part of its program

revision request are available for public inspection online at <https://www.navajoepa.org>, or available upon request by emailing ybarney@navajonsn.gov. Should you have difficulty accessing the website, please contact Yolanda Barney, Navajo Nation PWSS Program, via email at ybarney@navajonsn.gov.

FOR FURTHER INFORMATION CONTACT: Jake Jenzen, EPA Region 9, Drinking Water Section; via telephone number: (415) 972-3570 or via email address: jenzen.jacob@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

EPA approved Navajo Nation's initial application for primary enforcement authority ("primacy") of drinking water systems on November 6, 2000 (65 FR 66541). Since initial primacy approval, EPA has approved various revisions to Navajo Nation's primacy program. For the revision covered by this action, EPA promulgated/revised the PNR at 40 CFR part 141, subpart Q on May 4, 2000 (67 FR 25982). EPA has determined that Navajo Nation has adopted into state law PNR requirements that are comparable to and no less stringent than the federal requirements. EPA has also determined that the State's program revision request meets all of the regulatory requirements for approval, as set forth in 40 CFR 142.12, including a side-by-side comparison of the Federal requirements demonstrating the corresponding State authorities, additional materials to support special primacy requirements of 40 CFR 142.16, a review of the requirements contained in 40 CFR 142.10 necessary for States to attain and retain primary enforcement responsibility, and a statement by the Navajo Nation Attorney General certifying that Navajo Nation's laws and regulations to carry out the program revision were duly adopted and are enforceable. The Attorney General's statement also affirms that there are no environmental audit privilege and immunity laws that would impact Navajo Nation's ability to implement or enforce the Navajo Nation laws and regulations pertaining to the program revision. Therefore, EPA approves this revision of Navajo Nation's approved State primacy program. The Technical Support Document, which provides EPA's analysis of Navajo Nation's program revision request, is available by submitting a request to the following email address: R9dw-program@epa.gov. Please note "Technical Support Document" in the subject line of the email.

Public Process

Any interested person may request a public hearing on this determination. A request for a public hearing must be received or postmarked before November 3, 2025 and addressed to the Regional Administrator of EPA Region 9, via the following email address: R9dw-program@epa.gov, or by contacting the EPA Region 9 contact person listed above in this document by telephone if you do not have access to email. Please note "State Program Revision Determination" in the subject line of the email. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a timely request for a public hearing is made, then EPA Region 9 may hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 9 does not receive a timely request for a hearing or a request for a hearing was denied by the Regional Administrator for being frivolous or insubstantial, and the Regional Administrator does not elect to hold a hearing on their own motion, EPA's approval shall become final and effective on November 3, 2025, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g-2 (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: September 23, 2025.

Michael Martucci,

Acting Regional Administrator, EPA Region 9.

[FR Doc. 2025-19261 Filed 10-1-25; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company**

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12

CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than October 17, 2025.

A. Federal Reserve Bank of Richmond (Brent B. Hassell, Assistant Vice President) P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to Comments.applications@rich.frb.org:

1. *Exploration Capital Fund, L.P., Exploration Capital General Partner, LLC, Exploration Capital, LLC, all of Salt Lake City, Utah, and Stephen Gustin, Vineyard, Utah;* to acquire voting shares of M&F Bancorp, Inc., and thereby indirectly acquire voting shares of Mechanics & Farmers Bank, both of Durham, North Carolina.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025-19305 Filed 10-1-25; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention**

[30Day-25-1424]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled "U.S. National Authority for Containment of Poliovirus Data Collection Tools" to the Office of Management and Budget (OMB) for review and approval. CDC previously published a "Proposed Data Collection Submitted for Public Comment and Recommendations" notice on November 4, 2024, to obtain comments from the public and affected agencies. CDC received no comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open

for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

U.S. National Authority for Containment of Poliovirus Data Collection Tools (OMB Control No. 0920–1424, Exp. 12/31/2026)—Revision—Office of Readiness and Response (ORR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The role of the National Authority for Containment of Poliovirus (U.S. NAC) is to ensure that the requirements established for poliovirus containment standards are effectively implemented and maintained in facilities working with or storing infectious poliovirus or potentially infectious materials. Risk assessments following an incident are a critical component for adequate application of the poliovirus containment standard. To support risk assessment activities, the “Facility

Incident Reporting Form for Poliovirus Release and Potential Exposure” and the “Facility Incident Reporting Form for Poliovirus Theft or Loss” were created for facilities to capture and submit incident information to the U.S. NAC. These forms will not only address the biosafety and biosecurity containment emergency elements but will also inform the U.S. NAC risk assessments and thereby, guide CDC’s determination of the emergency response level and direction.

The information collected in the “Personal Protective Equipment Survey for Laboratories” will assist the Centers for Disease Control and Prevention (CDC), U.S. NAC and National Institute for Occupational Safety and Health (NIOSH) with developing guidance and recommendations for PPE selection and use in support of poliovirus containment as well as identify laboratory PPE commonly used to evaluate laboratory PPE performance characteristics in testing studies.

Information collected in the “Global Action Plan (GAP) Poliovirus Containment Poliovirus-Essential Facility Assessment Checklist” will be discontinued and removed from this ICR package.

Data collected from the “Global Action Plan (GAP) Poliovirus

Containment Poliovirus-Essential Facility Questionnaire” will collect additional information on poliovirus materials held by a U.S. facility, their work activities, and facility features.

The “Poliovirus Containment Sampling Plan and Sanitation Assessment Form for Wastewater (WW) Systems Supporting a Poliovirus-Essential Facility (PEF) in the United States” will collect information to assess poliovirus facility’s wastewater system, the primary safeguards to reduce and control the release of poliovirus from the facility. In addition, it will verify the safeguards of local wastewater utilities that receive wastewater from the PEF.

The “Appeals and Complaints” form is a new form that will be made available by the U.S. National Authority for Containment of Poliovirus, will allow facilities or persons to appeal or forward complaints based on services provided. This form can be used to appeal or initiate complaints regarding specific survey outreach that has been conducted or decisions rendered by the audit team after an audit.

OMB approval is sought for three years. CDC requests OMB approval for an estimated 109 annual burden hours for this information collection. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Facility Staff/Leadership	Facility Incident Reporting Form for Poliovirus Release or Potential Exposure.	10	1	45/60
Facility Staff/Leadership	Facility Incident Reporting Form for Poliovirus Theft or Loss.	10	1	45/60
Facility Staff/Leadership	Personal Protective Equipment Survey for Laboratories	20	1	1.5
Facility Staff/Leadership	GAP Poliovirus Containment Poliovirus-Essential Facility Questionnaire.	20	1	1.5
Facility Staff/Leadership	The Poliovirus Containment Sampling Plan and Sanitation Assessment Form for Wastewater (WW) Systems Supporting a Poliovirus-Essential Facility (PEF) in the United States.	20	1	1.5
Facility and Staff/Leadership	Appeals and Complaints	10	1	15/60

Jeffrey M. Zirger,
Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.
[FR Doc. 2025–19255 Filed 10–1–25; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–25–1163; Docket No. CDC–2025–0585]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled CDC Fellowship Programs Assessments. This program is designed to collect information that will allow for ongoing, collaborative, and actionable communication between CDC fellowship programs and interest holders and is associated with quality improvement of CDC fellowship programs.

DATES: CDC must receive written comments on or before December 1, 2025.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2025–0585 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.

- *Mail:* Jeffery M. Zirger, Lead, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffery M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS

H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and.
5. Assess information collection costs.

Proposed Project

CDC Fellowship Programs Assessments (OMB Control No. 0920–1163, Exp. 03/31/2026)—Revision—National Center for State, Tribal, Local, and Territorial Public Health Infrastructure and Workforce (NCSTLTPHIW), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC's mission is to protect America from health, safety, and security threats, both foreign and in the U.S. To ensure a competent, sustainable, and empowered public health workforce prepared to meet these challenges, CDC plays a key role in developing, implementing, and managing a number

of fellowship programs. A fellowship is defined as training or work experience lasting at least one month and consisting of primarily experiential (*i.e.*, on-the-job) learning, in which the trainee has a designated mentor or supervisor. CDC fellowships are intended to develop public health professionals, enhance the public health workforce, and strengthen collaborations with partners in public health and healthcare organizations, academia, and other stakeholders in governmental and non-governmental organizations. Assessing fellowship activities is essential to ensure that these programs are optimized and that the public health workforce is equipped to promote and protect the public's health.

CDC requests a three-year Revision of a Generic Clearance to collect data about its fellowship programs. Data collections will allow for ongoing, collaborative, and actionable communications between CDC fellowship programs and interest holders (*e.g.*, fellows, supervisors/mentors, alumni). Intended use of the resulting information is to:

- guide planning, implementation, and continuous quality improvement of fellowship activities and services;
- improve efficiencies in the delivery of fellowship activities and services; and
- determine to what extent fellowship activities and services are achieving established goals.

Collection and use of information about CDC fellowship activities will help ensure effective, efficient, and satisfying experiences among fellowship program participants and interest holders.

CDC estimates that annually, a subset of CDC's various fellowship programs will conduct one query each with one of the three respondent groups: fellowship applicants or fellows; mentors, supervisors, or employers; and alumni. These collections might include short surveys, interviews, and focus groups.

In this Revision, CDC is revising the estimated number of responses and the estimated burden hours. Lower than anticipated usage for the active approval period and organizational changes at CDC support the request to reduce these estimates. The estimated annualized number of respondents is reduced from 3,091 to 1,225, and the estimated annualized burden hours are reduced from 1,546 to 550. In addition, CDC is standardizing the title of the generic as "CDC Fellowship Programs Assessments." This title is used on the GENIC Request Template associated

with the Generic and has been used on previous Supporting Statement documents. The title “Data Collection for CDC Fellowship Programs” has also been associated with OMB Control No.

0920–1163. For clarity CDC will amend all documentation and consistently use the title “CDC Fellowship Programs Assessments.” No other changes are required.

OMB approval is requested for three years. CDC requests OMB approval for an estimated 550 annual burden hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Applicants or fellows	Fellowship Data Collection Instrument	750	1	30/60	375
Mentors, supervisors, or employers	Fellowship Data Collection Instrument	100	1	30/60	50
Alumni	Fellowship Data Collection Instrument	375	1	20/60	125
Total .....	.....	.....	.....	.....	550

Jeffrey M. Zirger,
*Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.*
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DEPARTMENT OF HEALTH AND
HUMAN SERVICES

**Centers for Disease Control and
Prevention**
[30Day–25–0004]

**Agency Forms Undergoing Paperwork
Reduction Act Review**

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Traveler Risk Assessment and Management Activities during Disease Outbreaks” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on June 16, 2025 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Traveler Risk Assessment and Management Activities during Disease Outbreaks—New—National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC intends use this Generic Information Collection Request (ICR) in

the event of a disease outbreak overseas that would necessitate the public health assessment and/or monitoring of travelers arriving in the U.S. Section 361 of the Public Health Service (PHS) Act (42 U.S.C. 264) authorizes the Secretary of Health and Human Services (HHS) to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into and within the United States. Under its delegated authority, the Division of Global Migration Health (DGMH) works to fulfill this responsibility through a variety of activities, including the operation of port health stations at U.S. ports of entry and administration of foreign quarantine regulations; 42 Code of Federal Regulation part 71, specifically 42 CFR 71.20 Public health prevention measures to detect communicable disease.

Additionally, on February 21, 2020, CDC issued an interim final rule (IFR) to amend its Foreign Quarantine regulations, to enable CDC to require airlines to collect, and provide to CDC, certain data regarding passengers and crew arriving from foreign countries for the purposes of health education, treatment, prophylaxis, or other appropriate public health interventions, including travel restrictions. CDC’s authority for collecting such data is contained in 42 CFR 71.4.

Under this IFR, airlines must transmit these data to CDC within 24 hours of an order. The order *Requirement for Airlines and Operators to Collect and Transmit Designated Information for Passengers and Crew Arriving Into the United States; Requirement for Passengers to Provide Designated Information* requiring the collection of this information was issued on October 25, 2021, and went into effect on November 8, 2021. Under this Order, airlines may transmit the required

information using existing data-sharing infrastructure in place between the airlines and the U.S. Department of Homeland Security (DHS) or they must retain the information for 30 days and transmit it to CDC within 24 hours upon request. This information collection for contact information is already approved under OMB Control No. 0920–1354.

During a disease outbreak, CDC relies on its federal partners in the DHS to assist in the risk assessment and entry screening process because of their presence at the ports of entry. As needed, DHS will refer travelers into public health entry screening and risk assessment process. The public health entry screening typically consists of an initial health and exposure questionnaire to determine if a more in-depth public health risk assessment of a traveler is necessary. CDC develops the tools and training to facilitate this public health entry screening and works to ensure that any individual who is identified by DHS as having been present in the outbreak area is screened and further evaluated if compatible symptoms or potential exposures are identified. For those who are symptomatic or potentially exposed, additional public health measures may involve transport to a healthcare facility for medical evaluation if a traveler is identified as being ill; quarantine for those with high-risk exposures but with no evidence of illness or infection; and/or communication with CDC or health

departments to facilitate timely detection and management if potentially exposed travelers develop symptoms after arrival.

This information collection concerns CDC's statutory and regulatory authority related to conducting public health screening of travelers upon arrival to the United States and assessing individual travelers for public health risk following a report of illness from a conveyance or other notification at a U.S. port of entry. As part of this responsibility, DGMH has implemented traveler management activities that collect contact information and share the information with state and local governments so that the travelers can be monitored for signs or symptoms of disease, and isolated and medically examined if needed. CDC anticipates the future need for these activities to prevent the transmission or spread of communicable diseases into the United States.

Disease outbreaks do not occur at regular intervals, which makes it difficult to estimate how often information collection will be necessary. The purpose of this Generic ICR is to aid in CDC's responsibility to ensure the successful implementation of traveler management in an efficient and timely manner. DGMH intends use this Generic ICR in the event of a disease outbreak that would necessitate the public health assessment and/or monitoring of travelers arriving in the U.S. Although it's possible to anticipate

some broad categories of information that would need to be collected, (*e.g.*, potential exposures, symptoms, contact information, etc.), each response is unique and requires flexibility in terms of the specific information collection tool in each instance. Data collection instruments and methods must be rapidly created and implemented to direct appropriate public health action. Often specific questions will change, or new questions will evolve with each disease outbreak.

DGMH anticipates that this Generic ICR would encompass data collection related to:

- Entry screening of travelers and (if indicated) public health risk assessment conducted either in person or virtually.
- Post-arrival management of travelers as specified in CDC recommendations for travelers arriving from outbreak areas.
- Health Department of jurisdiction follow up of indicated travelers.
- Surveys of travelers to determine the most efficient channels for reaching travelers and refine public health messaging for travelers coming from the outbreak area.
- Evaluation of entry screening, post-arrival management, and Health Department follow-up.

CDC requests OMB approval for an estimated 10,559 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Traveler	CDC Initial Screening—SAMPLE VHF	54,750	1	5/60
Traveler	POE Public Health Risk Assessment Form—SAMPLE VHF ...	5,475	1	20/60
Traveler	SAMPLE VHF Symptom Monitoring Daily Group Symptomatic Travelers.	548	21	1/60
Traveler	SAMPLE VHF Symptom Monitoring Daily Group—Web Survey for Symptomatic Travelers.	548	21	5/60
Traveler	Sample VHF Symptom Monitoring Weekly Group (Attachment E2).	4,928	3	1/60
Traveler	Sample VHF Symptom Monitoring Weekly Group	4,928	3	5/60
Traveler	SAMPLE VHF Response Survey of Travelers	5,475	1	10/60
State/Local Health Department	CDC SAMPLE VHF Jurisdiction Traveler Monitoring	70	104	5/60
State/Local Health Department	CDC SAMPLE VHF Jurisdiction Final Survey	70	1	20/60

Jeffrey M. Zirger,

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Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.*

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BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention**

[60Day–25–1389; Docket No. CDC–2025–0586]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled NCEH DLS Laboratory Quality Assurance Programs. The Division of Laboratory Science (DLS) provides quality assurance in the form of quality control samples and technical assistance to laboratories to improve analytical accuracy and reliability of tests, allowing CDC to assess performance.

DATES: CDC must receive written comments on or before December 1, 2025.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2025–0586 by either of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS

H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

NCEH DLS Quality Assurance Programs (OMB Control No. 0920–1389, Exp. 3/31/2026)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC Division of Laboratory Science (DLS) Quality Assurance (QA) and standardization programs operate out of multiple laboratories. They establish baseline measurements and provide calibration and/or QC samples that laboratories around the world rely on to develop and improve methods with acceptable levels of accuracy and reliability and, in some cases, meet

certain required certifications or accreditation. Laboratories use DLS-developed samples to test the quality and accuracy of their methods/assays. Participating laboratories enroll in the DLS QA and standardization program that fits their needs (i.e.: external quality assurance/performance assessment, proficiency testing, accuracy-based monitoring, or standardization/harmonization).

There are two points of information collection for participation in any of the DLS QA and standardization programs. The first is an enrollment/sample request form and the second is a result reporting form. For programs with multiple rounds of QA each year (when CDC sends materials to a participating laboratory to use in their quality assurance testing), one enrollment form is collected for each year or just one time at onset of request/participation and a result reporting form is returned to CDC for each panel of samples sent and tested.

The collection of general laboratory information upon enrollment application occurs via email, web-inquiry, or pdf form and includes information such as lab name or identifier, shipping address, assay information, and analytes of interest. The request/enrollment form will assist the CDC QA and standardization programs to develop and ship desired materials for laboratories' QA and standardization activities.

Participant data submission forms (some provided to participants with some pre-populated information from the enrollment form) request information on measurement results and assay characteristics (test instrument and configuration/assay description, calibrators, and reagent information), as well as sample result information (date of analysis, values), and laboratory activities (expertise, relevant research, providing reference materials to other laboratories). The collection of laboratory results following participant receipt and use of CDC quality control materials allows the CDC QA program to provide each laboratory participant with statistical reports that evaluate the performance of their analyses and methods. These reports are provided back to participating laboratories to adjust and improve their tests, and to provide expertise and TA as needed. CDC also uses the results to assess and monitor trends of laboratory measurements over time, thus contributing to the reliability and consistency of high-quality laboratory testing for analytes of significant public health and clinical decision-making.

DLS provides laboratory support that improves the detection, diagnosis, treatment, and prevention of environmental, tobacco-related, nutritional, newborn, selected chronic, and infectious diseases. CDC's DLS Laboratory QA and Standardization Programs support these efforts by improving the analytical accuracy and reliability of high priority tests used in patient care, research, and public health. A key component of quality assurance for laboratory testing is monitoring and evaluating the performance of tests in clinical, research, commercial, and public health laboratories. Some of the programs, like Accuracy-based Laboratory Monitoring Programs (AMP) for Clinical Biomarkers, include established assessment of analytical accuracy of

measurements among participating laboratories over time, while other programs provide information about the analytical performance of a laboratory at a point in time. The QA programs in DLS are foundational services provided to meet CDC and DLS objectives and have received funding and support for years, and for some, decades.

This is a Revision request for a currently approved collection, under OMB Control No. 0920–1389. CDC requests the following changes to the activities and estimated burden associated with the data collection:

Clinical Chemistry Branch (CCB): Programs have been consolidated to limit redundancies in efforts and enhance paper reduction. These changes are editorial in nature and do not impact the total burden on the public. Based on

feedback from program respondents, the term Enrollment Forms will be changed to Request Form, as not all requests are from program participants. Additional changes are made to the burden table to reflect the number of additional participants for the different programs under the CCB Clinical Standardization Programs.

Nutrition Biomarkers Branch (NBB): Changes are made to the burden table to reflect the number of respondents based on historical data for the number of participants in the two NBB MPV programs, and a correction to burden in the VITAL-EQA program.

CDC requests OMB approval for an estimated 6,674 annual burden hours. There is no additional cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Accuracy-based Laboratory Monitoring Programs (AMP) for Lipids and Other Chronic Disease Biomarkers					
CCB AMP for Chronic Disease Biomarkers					
Academic/University Research Lab.	AMP Enrollment Section on Data Submission Form	10	1	25/60	4
	AMP Data Submission Form	10	4	45/60	30
Private Research Lab	AMP Enrollment Section on Data Submission Form	10	1	25/60	4
	AMP Data Submission Form	10	4	45/60	30
Routine Clinical Lab	AMP Enrollment Section on Data Submission Form	20	1	25/60	8
	AMP Data Submission Form	20	4	45/60	60
CCB AMP for Lipid Standardization Program (LSP)					
Academic/University Research Lab.	LSP Enrollment Section on Data Submission Form	20	1	25/60	8
	LSP Data Submission Form	20	4	45/60	60
Private Research Lab	LSP Enrollment Section on Data Submission Form	10	1	25/60	4
	LSP Data Submission Form	10	4	45/60	30
Routine Clinical Lab	LSP Enrollment Section on Data Submission Form	60	1	25/60	25
	LSP Data Submission Form	60	4	45/60	180
Reference Laboratory Network Programs for Lipid and Hormone					
Reference Network Laboratories.	CRMLN Enrollment Webpage	20	1	10/60	3
	CRMLN Data Submission Form	20	2	2	80
CCB Chronic Disease Standardization Programs for Clinical Biomarkers					
CCB Hormone Standardization (HoSt) Programs					
Assay Manufacturers	HoSt Enrollment Section on Data Submission Form	60	1	30/60	30
	HoSt Data Submission Form	60	4	1	240
(LDT) Lab Developed Tests Manufacturers.	HoSt Enrollment Section on Data Submission Form	50	1	30/60	25
	HoSt Data Submission Form	50	4	1	200
End-user/Labs	HoSt Enrollment Section on Data Submission Form	30	1	30/60	15
	HoSt Data Submission Form	30	4	1	120
CCB Vitamin D Standardization Certification Program (VDSCP)					
Assay Manufacturers	VDSCP Enrollment Section on Data Submission Form	60	1	30/60	30
	VDSCP Data Submission Form	60	4	1	240
(LDT) Lab Developed Tests Manufacturers.	VDSCP Enrollment Section on Data Submission Form	50	1	30/60	25
	VDSCP Data Submission Form	50	4	1	200
End-user/Labs	VDSCP Enrollment Section on Data Submission Form	30	1	30/60	15
	VDSCP Data Submission Form	30	4	1	120

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
NBB Vitamin A Laboratory—External Quality Assurance (VITAL-EQA)					
Academic/University Research Lab.	VITAL-EQA Enrollment Form National	30	1	25/60	13
	VITAL-EQA Data Submission Form	30	2	45/60	45
Government/Ministry of Health Lab.	VITAL-EQA Enrollment Form International	30	1	25/60	13
	VITAL-EQA Data Submission Form	30	2	45/60	45
Private Research Lab	VITAL-EQA Enrollment Form	15	1	25/60	6
	VITAL-EQA Data Submission Form	15	2	45/60	22
Clinical Lab	VITAL-EQA Enrollment Form	15	1	25/60	6
	VITAL-EQA Data Submission Form	15	2	45/60	22
NBB Quality Assurance Method Performance Verification (MPV) for Folate Microbiologic Assay (MBA)					
Academic/University Research Lab.	MPV Folate MBA Enrollment Section on Data Submission Form.	10	1	25/60	4
	MPV Folate MBA Data Submission Form	10	1	45/60	30
Government/Ministry of Health Lab.	MPV Folate MBA Enrollment Section on Data Submission Form.	10	1	25/60	4
	MPV Folate MBA Data Submission Form	10	1	45/60	30
Private Research Lab	MPV Folate MBA Enrollment Section on Data Submission Form.	2	1	25/60	1
	MPV Folate MBA Data Submission Form	2	1	45/60	6
Clinical Public Health Lab ...	MPV Folate MBA Enrollment Section on Data Submission Form.	2	1	25/60	1
	MPV Folate MBA Data Submission Form	2	1	45/60	6
NBB Quality Assurance Method Performance Verification (MPV) for Micronutrients					
Academic/University Research Lab.	MPV Micronutrients Enrollment Section on Data Submission Form.	15	1	25/60	6
	MPV Micronutrients Data Submission Form	15	1	45/60	45
Government/Ministry of Health Lab.	MPV Micronutrients Enrollment Section on Data Submission Form.	15	1	25/60	6
	MPV Micronutrients Data Submission Form	15	1	45/60	45
Private Research Lab	MPV Micronutrients Enrollment Section on Data Submission Form.	7	1	25/60	3
	MPV Micronutrients Data Submission Form	7	1	45/60	21
Clinical Public Health Lab ...	MPV Micronutrients Enrollment Section on Data Submission Form.	7	1	25/60	3
	MPV Micronutrients Data Submission Form	7	1	45/60	21
OATB Biomonitoring Quality Assurance Support Program (BQASP)					
State Public Health Labs	BQASP Enrollment Email	10	1	5/60	1
	BQASP Data Submission Form	10	1	45/60	8
IRATB Proficiency in Arsenic Speciation (PAsS) Program					
Public Health Labs	PAsS Enrollment Form	28	1	10/60	5
	PAsS Data Submission Form	28	4	10/60	19
IRATB Ensuring the Quality of Urinary Iodine Procedures (EQUIP)					
Public Health Labs	EQUIP Enrollment Form	240	1	10/60	40
	EQUIP Data Submission Form	240	3	10/60	120
IRATB Lead and Multielement Proficiency (LAMP) Testing Program					
Public Health Labs	LAMP Enrollment Form	226	1	10/60	38
	LAMP Data Submission Form	226	4	10/60	151
NSMBS Newborn Screening and Quality Assurance Program (NSQAP)					
Domestic NBS Labs	NSQAP Enrollment Form	71	1	10/60	12
	NSQAP Data Submission Portal Quality Control (QC) ..	71	2	45/60	106
	NSQAP Data Submission Portal Biochemical (Proficiency Testing) PT.	71	3	45/60	160
	NSQAP Data Submission Portal Molecular PT	71	3	45/60	160

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
International NBS Labs	NSQAP Enrollment Form	568	1	10/60	95
	NSQAP Data Submission Portal QC	568	2	45/60	852
	NSQAP Data Submission Portal Biochemical PT	568	3	45/60	1,278
	NSQAP Data Submission Portal Molecular PT	568	3	45/60	1,278
NBS Test Manufacturers	NSQAP Enrollment Form	32	1	10/60	5
	NSQAP Data Submission Portal QC	32	2	45/60	48
	NSQAP Data Submission Portal Biochemical PT	32	3	45/60	72
	NSQAP Data Submission Portal Molecular PT	32	3	45/60	72
Total .....	.....	.....	.....	.....	6,674

Jeffrey M. Zirger,

*Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.*

[FR Doc. 2025–19252 Filed 10–1–25; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Lead Exposure and Prevention Advisory Committee

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS), is soliciting nominations for membership on the Lead Exposure and Prevention Advisory Committee (LEPAC). The LEPAC is composed of not more than 15 members that are Federal and non-Federal experts in fields associated with lead screening, the prevention of lead exposure, and services for individuals and communities affected by lead exposure.

DATES: Nominations for membership on the LEPAC must be received no later than October 31, 2025. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be emailed to LEPAC@cdc.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Paul Allwood, Ph.D., M.P.H., Designated Federal Officer, National

Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway, Atlanta, GA 30341. Telephone: (770) 488–6774, PAAllwood@cdc.gov.

SUPPLEMENTARY INFORMATION:

Nominations are being sought for individuals with expertise in the fields of epidemiology, toxicology, mental health, pediatrics, early childhood education, special education, diet and nutrition, and environmental health. Members may be invited to serve for three-year terms. Selection of members is based on candidates' qualifications to contribute to the accomplishment of Lead Exposure and Prevention Advisory Committee (LEPAC) objectives.

The members of this Committee are selected by the Secretary of the Department of Health and Human Services (HHS). The Committee's objective is to advise the Secretary, HHS and the Director, Centers for Disease Control and Prevention (CDC)/ Administrator, Agency for Toxic Substances and Disease Registry on a range of activities to include: (1) review of Federal programs and services available to individuals and communities exposed to lead; (2) review of the current research on lead exposure to identify additional research needs; (3) review of and identification of best practices, or the need for best practices regarding lead screening and the prevention of lead exposure; (4) identification of effective services, including services relating to healthcare, education, and nutrition for individuals and communities affected by lead exposure and lead poisoning, including in consultation with, as appropriate, the lead exposure registry as established in Public Law 114–322 Section 2203(b) (42 U.S.C. 300j–27); and (5) undertaking of any other review or activities that the Secretary determines to be appropriate.

Annually as determined necessary by the Secretary or as required by Congress, the Committee shall submit a report to include: (1) an evaluation of the effectiveness of the Federal programs and services available to individuals and communities exposed to lead; (2) an evaluation of additional lead exposure research needs; (3) an assessment of any effective screening methods or best practices used or developed to prevent or screen for lead exposure; (4) input and recommendations for improved access to effective services relating to health care, education, or nutrition for individuals and communities impacted by lead exposure; and (5) any other recommendations for communities affected by lead exposure, as appropriate.

At least half of the committee will consist of Federal representatives from a range of agencies that may include the Department of Housing and Urban Development; the Environmental Protection Agency; the Consumer Product Safety Commission; the Centers for Medicare and Medicaid Services; the Health Resources and Services Administration; the Food and Drug Administration; the U.S. Department of Agriculture; the Occupational Safety and Health Administration; the National Institute of Environmental Health Sciences; the U.S. Geological Survey; and such additional Federal, state, tribal, and local public and private officials as the Secretary deems necessary for the Committee to carry out its function. The rest of the Committee will consist of non-Federal members. Only non-Federal members are being solicited with this announcement.

Department of Health and Human Services (HHS) policy stipulates that committee membership be balanced in terms of points of view represented and the committee's function. Appointments shall be made free from discrimination

on the basis of race, religion, color, national origin, age, disability, or sex. Nominees must be U.S. citizens and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a Federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees, requiring the filing of financial disclosure reports at the beginning and annually during their terms. The Centers for Disease Control and Prevention (CDC) reviews potential candidates for LEPAC membership each year and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year.

Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address).
- At least one letter of recommendation from person(s) not employed by HHS. Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (e.g., CDC, National Institutes of Health, Food and Drug Administration)

Nominations may be submitted by the candidate or by the person/organization recommending the candidate.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2025-19277 Filed 10-1-25; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-25-1378]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Assessing Respirator Perceptions, Experiences, and Maintenance” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on July 18, 2025, to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain Find this particular information collection by selecting “Currently under 30-day Review—Open

for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

Assessing Respirator Perceptions, Experiences, and Maintenance (OMB Control No. 0920-1378, Exp. 11/30/2025)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH), is requesting approval of the Extension of a Generic Information Collection Request (ICR) for a period of three years under the project titled Assessing Respirator Perceptions, Experiences, and Maintenance. The National Personal Protective Technology Laboratory (NPPTL) is a division of NIOSH, which operates within the CDC. NPPTL was established in 2001, at the request of Congress, with the mission of preventing disease, injury, and death for the millions of working men and women relying on personal protective technology (PPT). As the nation’s respirator approver for all workplaces (42 CFR part 84), the development of NPPTL filled a need for improved personal protective equipment (PPE) and focused research into PPT. To this end, NPPTL conducts respiratory protection research to examine exposures to inhalation hazards, dermal hazards, and any other hazardous environmental threats within an occupational setting.

Federal regulations exist regarding the use of respirators in the workplace. The Occupational Safety and Health Administration (OSHA) requires employers whose hazard management includes the use of respirators to have a respiratory protection program, which has specified components. Thus, the information collected from human subjects about their use of respirators is generally consistent across NPPTL studies with only the use conditions changing (e.g., respirator type or management implementation practices related to cleaning/decontamination, fit testing, and training). NPPTL requests a Generic ICR package for information collected from individual workers and managers related to the perceptions,

maintenance, and evaluation of respirator use on the job.

Different types of data collection including surveys, focus groups, interviews, and physiological monitoring will be used to: (1) assess workers' health and safety knowledge, attitudes, skills, and other personal attributes as they relate to their respiratory protection use and maintenance; (2) identify and overcome barriers that workers face while using respiratory protection to prevent exposure to contaminants and other hazards; (3) understand organizations' maintenance of respiratory protection

programs (RPP), directives, and guidelines that support worker best practices; and (4) determine appropriate training, interventions, and programs that support activities around respirator use and maintenance. Data collection may focus on respirator types ubiquitous to the industry being studied, new to the industry being studied, or novel to any industry. These data collection efforts may occur either electronically or in the field.

Respondents are expected to include a variety of employees from occupations such as public safety and emergency response, healthcare, and social

assistance occupations who wear or manage respirator use on the job. Expected respondent job roles include industrial hygienists, occupational health professionals, infection control professionals, physicians, nurse practitioners, nurses, infection preventionists, fire department chiefs, battalion chiefs, sheriffs, shift supervisors, firefighters, police officers, and paramedics.

The total estimated burden hours are 643,626 with an estimated annual burden of 214,542 hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form Name	Number of respondents	Number of responses per respondent	Average Hours per response
Individuals who wear respirators in any occupational setting or oversee/advise on respirator use.	Informed consent	110,000	1	5/60
	Demographics standardized survey with decision logic allowing some questions to be omitted.	110,000	1	15/60
	Qualitative fit testing survey measurements	675	20	15/60
	Perceptions-based survey instrument	105,000	2	15/60
	Knowledge-based survey instrument	105,000	2	30/60
	Interview/Focus group	4,000	2	1
	Physiological Monitoring: Heart rate, blood pressure, blood oxygen saturation, breathing rate, etc.	1,000	1	9

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2025–19254 Filed 10–1–25; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–25–0213]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “National Vital Statistics Report Form” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on June 16, 2025, to obtain comments from the public and affected agencies. CDC received three comments related to the previous notice. This notice serves to

allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy

of the information collection plan and instruments, call (404) 639–7570.

Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Vital Statistics Report Form (OMB Control No. 0920–0213)—Reinstatement—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The compilation of national vital statistics by the federal government dates to the beginning of the 20th century. To administer these functions, the National Office of Vital Statistics was established in the Public Health

Service in April 1953. In August of 1960, the National Office of Vital Statistics was reorganized as the Division of Vital Statistics in the newly created National Center for Health Statistics (NCHS), which is now part of the Centers for Disease Control and Prevention (CDC).

One of the functions of NCHS is to plan and administer a program to provide statistics on births, deaths, fetal deaths, marriages, and divorces reported in the National Vital Statistics System. This includes promoting the uniform collection of data on these events and providing technical assistance to the registration areas; conducting follow-

back surveys to expand the scope of national vital statistics beyond the data available from vital records; preparing life tables and analyses of life table phenomena; and investigating the quality and reliability of data and methodology. One part of this function is to provide national final counts of marriage, and divorce occurrences following the end of each year. The collection of the data is authorized by 42 U.S.C. 242k. Provisional counts of marriages and divorces are disseminated electronically. This form is the sole source of final counts for these two events.

This data has been published since 1937 and is the sole source of this information at the national level. The data are used by the Department of Health and Human Services (HHS) and by other government, academic, and private research organizations in tracking changes in trends of vital events. The counts of events requested on the form are necessary to the administration of this portion of the program.

CDC requests OMB approval for an estimated 46 annual burden hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
State, Territory, and New Mexico County Officials.	Annual Vital Statistics Occurrence Report	91	1	30/60

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.
[FR Doc. 2025–19257 Filed 10–1–25; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–25–0980; Docket No. CDC–2025–0618]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).
ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Environmental Assessment Reporting System (NEARS). This system collects data from foodborne illness outbreak

environmental assessments routinely conducted by local, state, territorial, or tribal food safety programs in health departments during foodborne outbreak investigations.

DATES: CDC must receive written comments on or before December 1, 2025.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2025–0618 by either of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

National Environmental Assessment Reporting System (NEARS) (OMB Control No. 0920–0980, Exp. 2/26/2026)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

CDC is requesting OMB approval for the National Environmental Assessment Reporting System (NEARS) to collect data from outbreak environmental assessments routinely conducted by local, state, territorial, or tribal food safety programs during foodborne outbreak investigations. Prior to the development of NEARS, environmental assessment data were not collected at the national level. The data reported through this surveillance system provides timely information on the causes of outbreaks, including environmental factors associated with outbreaks, and are essential to environmental public health regulators' efforts to respond more effectively to outbreaks and prevent future, similar outbreaks. NEARS was developed by the Environmental Health Specialists Network (EHS-Net), a collaborative network of CDC, the U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and state and local food safety programs. The network consists of environmental health specialists (EHS), epidemiologists, and laboratorians. EHS-Net developed a standardized protocol for identifying, reporting, and analyzing data relevant to foodborne illness outbreak environmental assessments. While conducting environmental assessments during foodborne outbreak investigations is routine for food safety program officials,

reporting information from the environmental assessments to CDC is not routine. Local, state, federal, territorial, and tribal food safety programs are the primary respondents for this data collection. One official from each participating program will report environmental assessment data on outbreaks. These programs are typically located in public health or agriculture agencies. In the U.S., there are approximately 3,000 such agencies.

It is not possible to determine exactly how many outbreaks will occur in the future, nor where they will occur. Forty (40) programs reported outbreaks to NEARS from 2021–2024. Based on our experience over those years, we expect a maximum of six additional sites (two per year) to register with and report data to NEARS over the next approval cycle, for a total of 46 reporting programs. We also expect each program to report an average of six outbreaks annually.

The activities associated with NEARS that require a burden estimate consist of training, observing, interviewing managers, and reporting the data. The first activity is the training for the new food safety program personnel participating in NEARS. These staff will be encouraged to attend a Microsoft Teams/Zoom Meeting (i.e., webinar) training session on using the NEARS data entry system, conducted by CDC staff. Training burden is based on the maximum expected participation from the reporting programs which could be up to 10 additional local and state health departments. We estimate the burden of this training to be a maximum of two hours. Respondents will only be required to take this training one time. Assuming a maximum participation of up to six new programs and about five staff being trained at each participating program, the total estimated annual burden associated with this training is 60 hours.

New food safety program personnel participating in NEARS will also be encouraged to complete CDC's Environmental Assessment Training

Series (EATS). This e-Learning course provides training to staff on how to use a systems approach in foodborne illness outbreak environmental assessments. We estimate the burden of this training to be a maximum of 10 hours. Respondents will only take this training one time. Assuming a maximum participation of up to six new programs and approximately five staff being trained at each program, the estimated annual burden associated with this training is 300 hours.

Program respondents (one official from each participating program) will record environmental assessment data on pen and paper for each establishment associated with an outbreak. Most outbreaks are associated with only one establishment; however, some are associated with multiple establishments. We estimate a maximum of four establishments will be associated with any given outbreak. Recording for each assessment will take about 25 minutes. The burden for this activity is 460 hours.

Program respondents will conduct a manager interview with each establishment associated with an outbreak and initially record the data with pen and paper. Each interview will take about 15 minutes. The burden for this activity is 276 hours.

Respondents will also report this environmental assessment and manager interview data into the NEARS web-based system. This data entry is expected to take approximately 25 minutes for the environmental assessment data and 20 minutes for each manager interview (assuming a maximum of four). The burden for this activity is 207 hours.

The retail food managers interviewed are another group of respondents. Again, assuming a maximum number of 276 outbreaks, the estimated annual burden is 276 hours.

The total estimated annual burden for this information collection is 1,579 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Food safety program personnel	NEARS introduction training	30	1	2	60
	NEARS e-learning (screenshots)	30	1	10	300
	NEARS environmental assessment data (recording form).	46	24	25/60	460
	NEARS manager interview (recording form).	46	24	15/60	276
	NEARS web entry (screenshots)	46	6	45/60	207
Retail food personnel	NEARS manager interview	1,104	1	15/60	276

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Total					1,579

Jeffrey M. Zirger,
*Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.*
[FR Doc. 2025–19253 Filed 10–1–25; 8:45 am]
BILLING CODE 4163–18–P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

**Centers for Disease Control and
Prevention**
[30Day–25–0978]
**Agency Forms Undergoing Paperwork
Reduction Act Review**

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Emerging Infections Program (EIP)” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on July 14, 2025, to obtain comments from the public and affected agencies. CDC received no comments. This notice serves to allow an additional 30 days for public and affected agency comments. CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who

are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Emerging Infections Program (OMB Control No. 0920–0978, Exp. 9/30/2027)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Emerging Infections Programs (EIPs) are population-based centers of excellence established through a network of state health departments collaborating with academic institutions; local health departments; public health and clinical laboratories; infection control professionals; and healthcare providers. EIPs assist in local, state, and national efforts to prevent, control, and monitor the public health impact of infectious diseases. Activities of the EIPs fall into the following general categories: (1) active surveillance; (2) applied public health

epidemiologic and laboratory activities; (3) implementation and evaluation of pilot prevention/intervention projects; and (4) flexible response to public health emergencies. Activities of the EIPs are designed to: (1) address issues that the EIP network is particularly suited to investigate; (2) maintain sufficient flexibility for emergency response and new problems as they arise; (3) develop and evaluate public health interventions to inform public health policy and treatment guidelines; (4) incorporate training as a key function; and (5) prioritize projects that lead directly to the prevention of disease.

Activities in the EIP Network to which all applicants must participate are:

- Active Bacterial Core surveillance (ABCs): active population-based laboratory surveillance for invasive bacterial diseases.
- Foodborne Diseases Active Surveillance Network (FoodNet): active population-based laboratory surveillance to monitor the incidence of select enteric diseases.
- Influenza: active population-based surveillance for laboratory confirmed influenza-related hospitalizations.
- Healthcare-Associated Infections-Community Interface (HAIC) surveillance: active population-based surveillance for healthcare-associated pathogens and infections.

A Revision is being submitted to make existing collection instruments clearer and to add a new form specifically surveying laboratory practices. This form will allow the EIP to better detect, identify, track changes in laboratory testing methodology, gather information about laboratory utilization in the EIP catchment area to ensure that all cases are being captured, and survey EIP staff to evaluate program quality.

CDC requests OMB approval for an estimated 40,733 annual burden hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form No.	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
State Health Department.	ABC.100.1	ABCs Case Report Form	10	984	20/60
	ABC.100.2	ABCs Invasive Pneumococcal Disease in Children and Adults Case Report Form.	10	127	10/60
	ABC.100.5	ABCs Neonatal Infection Expanded Tracking Form	10	37	20/60
	FN.200.1	FoodNet Campylobacter	10	550	21/60
	FN.200.2	FoodNet Cyclospora	10	42	10/60
	FN.200.3	FoodNet Listeria monocytogenes	10	16	20/60
	FN.200.4	FoodNet Salmonella	10	855	21/60
	FN.200.5	FoodNet Shiga toxin producing E. coli	10	290	20/60
	FN.200.6	FoodNet Shigella	10	234	10/60
	FN.200.7	FoodNet Vibrio	10	46	10/60
	FN.200.8	FoodNet Yersinia	10	55	10/60
	FN.200.9	FoodNet Hemolytic Uremic Syndrome	10	10	1
	FN.200.10	FoodNet Clinical Laboratory Practices and Testing Volume.	10	70	10/60
	FSN.300.1	FluSurv-Net Influenza Hospitalization Surveillance Network Case Report Form.	15	576	25/60
	FSN.300.2	FluSurv-Net Influenza Hospitalization Surveillance Project Vaccination Phone Script and Consent Form (English/Spanish).	13	16	10/60
	FSN.300.3	FluSurv-Net Influenza Hospitalization Surveillance Project Provider Vaccination History Fax Form (Children/Adults) and notification letter.	13	126	5/60
	FSN.300.4	FluSurv-NET Laboratory Survey	15	16	10/60
	HAIC.400.1	HAIC—Multi-site Gram-Negative Surveillance Initiative (MuGSI) Case Report Form (CRF).	11	1581	29/60
	HAIC.400.2	HAIC MuGSI CA CP—CRE Health interview	10	10	30/60
	HAIC.400.3	HAIC MuGSI Supplemental Surveillance Officer Survey	11	1	20/60
	HAIC.400.4	HAIC—Invasive Staphylococcus aureus Infection Case Report Form.	10	788	29/60
	HAIC.400.5	HAIC—Invasive Staphylococcus aureus Laboratory Survey.	10	11	9/60
	HAIC.400.6	HAIC—Invasive Staphylococcus aureus Supplemental Surveillance Officers Survey.	10	1	11/60
	HAIC.400.7	HAIC—CDI Case Report and Treatment Form	10	1,650	38/60
	HAIC.400.8	HAIC—Annual Survey of Laboratory Testing Practices for C. difficile Infections.	10	16	17/60
	HAIC.400.9	HAIC—CDI Annual Surveillance Officers Survey	10	1	15/60
	HAIC.400.10 ..	HAIC—Emerging Infections Program C. difficile Surveillance Nursing Home Telephone Survey (LTCF).	10	45	5/60
	HAIC.400.11 ..	HAIC Candidemia Case Report Form	10	170	40/60
	HAIC.400.12 ..	HAIC—Laboratory Testing Practices for Candidemia Questionnaire.	10	20	14/60
	HAIC.400.13 ..	HAIC Death Ascertainment Project	10	8	24
	HAIC.400.14 ..	HAIC MuGSI KPC and NDM treatment collection form	10	60	60/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.

[FR Doc. 2025–19256 Filed 10–1–25; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10506 and CMS–10846]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by November 3, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment.

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Conditions of Participation for Community Mental Health Centers and Supporting Regulations; *Use:* The purpose of this package is to request a re-instatement with change to the Office of Management and Budget (OMB) of the collection of information requirements associated with the conditions of participation (CoPs) that Community Mental Health Centers (CMHCs) must meet to participate in the Medicare program.

On October 29, 2013, we published CoPs, for CMHCs (78 FR 64630). The CoPs included the following: *Personnel qualifications* (§ 485.904); *Client Rights* (§ 485.910); *Admission, Initial Evaluation, Comprehensive Assessment, and Discharge or Transfer of the Client* (§ 485.914); *Treatment Team, Active Treatment Plan, and Coordination of Services* (§ 485.916); *Quality Assessment and Performance Improvement* (§ 485.917); and *Organization, Governance, Administration of Services, and Partial Hospitalization Services* (§ 485.918). We finalized emergency preparedness requirements for CMHCs (§ 485.920) in the "2016 Emergency Preparedness (EP) Final Rule" published on September 16, 2016 (81 FR 63921). The information collections associated with the EP CoPs requirements can be found under OMB Control Number 0938–1325.

On September 30, 2019, we published final rule, "*Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes to Promote Innovation, Flexibility, and Improvement in Patient Care*," which revised the CMHC CoPs at § 485.914 (84 FR 51829, 51752 through 51754).

We finalized revisions to the CMHC CoPs in the "CY 2024 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems Final Rule," published on November 22, 2023 (88 FR 81540, 82076 through 82079). This final rule revised the following conditions of participation: *Personnel qualifications* (§ 485.904), *Admission, Initial Evaluation, Comprehensive Assessment, and Discharge or Transfer of the Client* (§ 485.914); *Treatment Team, Person-Centered Active Treatment Plan, and Coordination of Services* (§ 485.916); and *Organization, Governance, Administration of Services, Partial Hospitalization Services* (§ 485.918).

Medicare Part B covers partial hospitalization (PHP) services and intensive outpatient (IOP) services furnished by or under arrangements made by the CMHC if they are provided by a CMHC as defined in 42 CFR 410.110. Section 4162 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) (Pub. L. 101–508) amended sections 1832(a)(2) and 1861(ff)(3) of the Act to allow CMHCs to provide PHP services. Furthermore, the Consolidated Appropriations Act (CAA), 2023 (Pub. L. 117–238) established in section 4124 coverage of IOP services in CMHCs. The legislation extended Medicare coverage and payment of IOP services furnished by a CMHC beginning January 1, 2024, adding to the existing coverage and payment for PHP services in CMHCs. Section 4121 of the CAA, 2023 also established a new Medicare benefit category for services furnished and directly billed by Mental Health Counselors (MHCs) and Marriage and Family Therapists (MFTs).

The services provided by CMHCs must be furnished by, or under arrangement with a CMHC participating in the Medicare program. They must include the following:

- Prescribed by a physician and furnished under the general supervision of a physician.
- Subject to certification by a physician in accordance with 42 CFR 424.24(e)(1).

- Furnished under a treatment plan that meets the requirements of 42 CFR 24.24(e)(2).

- Provides outpatient services, including specialized outpatient services for children, elderly individuals, individuals with serious mental illness, and residents of its mental health service area who have been discharged from inpatient mental health facilities.

- Provides 24-hour-a-day emergency care services.

- Provides day treatment, partial hospitalization services (PHP) or intensive outpatient services (IOP) other than an individual's home or in an inpatient or residential setting, or psychosocial rehabilitation services.

- Provides screening for clients being considered for admission to State mental health facilities to determine the appropriateness of such services unless otherwise directed by State law.

- Meets applicable licensing or certification requirements for CMHCs in the state in which it is located.

- Provides at least 40 percent of its services to individuals who are not eligible for benefits under title XVIII of the Act.

We collect information on several health and safety aspects, such as *Client rights* (§ 485.910) *active treatment plans* (§ 485.916), *Quality assessment and performance improvement* (§ 485.917), and *governance* (§ 485.918).

The primary users of this information will be Federal and State agency surveyors for determining through the survey process, whether a CMHC qualifies for approval or re-approval under Medicare. CMS and its contractors will use this information to review claims to determine whether the patient is eligible for the PHP or IOP benefit and whether the claim meets the criteria for coverage and Medicare payment. Lastly, the information will be used by CMHCs to ensure their own compliance with all requirements to assist in guiding their patient care and quality programs. *Form Number:* CMS-10506 (OMB control number: 0938-1245); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit organizations; *Number of Respondents:* 1,475; *Total Annual Responses:* 7,420; *Total Annual Hours:* 1,434. (For policy questions regarding this collection contact Claudia Molinar at 410-786-8445.)

2. *Type of Information Collection Request:* Revision with of the currently approved collection; *Title:* Medicare Part D Manufacturer Discount Program; *Use:* Congress enacted the Inflation Reduction Act of 2022, Public Law 117-

169 (IRA). Section 11201 of the IRA eliminates the coverage gap phase of the Part D benefit. It also sunsets the coverage gap discount program (CGDP) after December 31, 2024, and amends the Social Security Act (the Act) to add section 1860D-14C, requiring the Secretary to establish a new Medicare Part D manufacturer discount program (MDP) beginning January 1, 2025. Under the MDP, participating manufacturers are required to provide discounts on their “applicable drugs” (brand drugs, biologics, and biosimilars) both in the initial coverage phase and in the catastrophic coverage phase of the Part D benefit.

Information in this collection is needed to set up agreements between manufacturers and CMS. Under section 1860D-14C(a) of the Act, such agreements are required for manufacturers in order to participate in the MDP and, under section 1860D43(a) of the Act, for their applicable drugs to be covered under Part D beginning in 2025. The information collected from manufacturers in the Health Plan Management System (HPMS) (Appendix A) is needed to create and execute MDP agreements and to determine which manufacturers qualify as a specified manufacturer or specified small manufacturer for phased-in discounts under section 1860D-14C(g)(4) of the Act. Banking information collected by the TPA from manufacturers and plan sponsors (Appendix B) is needed to prepare invoices and process financial transactions (deposits and payments) through the ACH. *Form Number:* CMS-10846 (OMB control number: 0938-1451); *Frequency:* Once; *Affected Public:* Private sector, Business or other for-profits and not for profits institutions; *Number of Respondents:* 40; *Number of Responses:* 40; *Total Annual Hours:* 320. (For questions regarding this collection, contact Beckie Peyton at (410) 786-1572 or beckie.peyton@cms.hhs.gov).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025-19284 Filed 10-1-25; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-3792]

Revocation of Emergency Use of Three Biological Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the Emergency Use Authorizations (EUA) (the Authorizations) issued to Pfizer, Inc. for Pfizer-BioNTech COVID-19 Vaccine; to ModernaTX, Inc. for Moderna COVID-19 Vaccine; and to Novavax, Inc. for Novavax COVID-19 Vaccine, Adjuvanted. FDA revoked these Authorizations under the Federal Food, Drug, and Cosmetic Act (FD&C Act). The revocations, which include an explanation of the reasons for each revocation, are reprinted in this document.

DATES: The Authorizations for Pfizer-BioNTech COVID-19 Vaccine, Moderna COVID-19 Vaccine, and Novavax COVID-19 Vaccine, Adjuvanted are revoked as of August 27, 2025.

ADDRESSES: Submit written requests for single copies of the revocations to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3103, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist the office in processing your requests. The revocations may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010 or emailing industry.biologics@fda.hhs.gov. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the revocations.

FOR FURTHER INFORMATION CONTACT: Andrew C. Harvan, Center for Biologics Evaluation and Research, Food and Drug Administration, 240-402-7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations.

On December 11, 2020, FDA issued an EUA to Pfizer, Inc. for Pfizer-BioNTech COVID-19 Vaccine, subject to the terms of the Authorization. On December 18, 2020, FDA issued an EUA to ModernaTX, Inc. for Moderna COVID-19 Vaccine, subject to the terms of the Authorization. Notice of the issuance of these two Authorizations were published in the **Federal Register** on January 19, 2021 (86 FR 5200), as required by section 564(h)(1) of the FD&C Act. On July 13, 2022, FDA issued an EUA to Novavax, Inc. for Novavax COVID-19 Vaccine, Adjuvanted, subject to the terms of the Authorization. Notice of the issuance of this Authorization was published in the **Federal Register** on August 29, 2022 (87 FR 52790), as required by section 564(h)(1) of the FD&C Act. Subsequent updates to these three Authorizations were made available on FDA's website.

The authorization of a biological product for emergency use under section 564 of the FD&C Act may, pursuant to section 564(g)(2) of the FD&C Act, be revoked when the criteria under section 564(c) of the FD&C Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the FD&C Act), or other circumstances make

such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the FD&C Act).

II. EUA Revocation Criteria Met

On August 27, 2025, FDA revoked the EUAs for Pfizer-BioNTech COVID-19 Vaccine, Moderna COVID-19 Vaccine, and Novavax COVID-19 Vaccine, Adjuvanted, because FDA determined that it is appropriate, for the reasons discussed below, to revoke these Authorizations under section 564(g)(2)(C) of the FD&C Act.

As more thoroughly explained in the full revocation letters, circumstances exist that make revocation of each of the EUAs appropriate to protect the public health or safety. For example, there are now approved COVID-19 vaccines for use in certain individuals that were included in the target age groups of each of these EUAs. Specifically, there are approved COVID-19 vaccines for use in individuals who are 65 years of age and older, or 6 months through 64 years of age with at least one underlying condition that puts them at high risk for severe outcomes from COVID-19. In addition, widespread natural and vaccine-acquired immunity has reduced severe outcomes, hospitalizations, and

deaths from COVID-19. While safety concerns were not the basis for FDA's decision to revoke the EUAs, due to various considerations, FDA determined that circumstances exist that make revocation of the EUAs appropriate to protect the public health or safety.

III. The Revocations

Having concluded that the criteria for revocation of the Authorizations under section 564(g)(2)(C) of the FD&C Act are met, FDA has revoked the EUAs for Pfizer-BioNTech COVID-19 Vaccine, Moderna COVID-19 Vaccine, and Novavax COVID-19 Vaccine, Adjuvanted. The revocations in their entirety follow and provide explanations of the reasons for revocation, as required by section 564(h)(1) of the FD&C Act.

IV. Electronic Access

An electronic version of this document and the full text of the Authorizations and revocations are available on the internet at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

BILLING CODE 4164-01-P



**FDA U.S. FOOD & DRUG
ADMINISTRATION**

Our Reference: EUA 27034

**EMERGENCY USE AUTHORIZATION
REVOKED
August 27, 2025**

BioNTech Manufacturing GmbH
Attention: Leslie Sands
Pfizer, Inc.
66 Hudson Boulevard East
New York, NY 10001

Dear Ms. Sands:

This letter is to notify you of the revocation of the Emergency Use Authorization (EUA) 27034 for the emergency use of Pfizer-BioNTech COVID-19 Vaccine for the prevention of COVID-19. This EUA was initially issued on December 11, 2020, for individuals 16 years of age and older and was amended and reissued in its entirety by FDA multiple times, most recently on August 22, 2024, to, among other things, authorize the use of Pfizer-BioNTech COVID-19 Vaccine (2024-2025 Formula) for use in individuals 6 months through 11 years of age.

The authorization of a biological product for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revised or revoked when the criteria under section 564(b)(1) of the Act no longer exist, the criteria under section 564(c) of the Act for issuance of such authorization are no longer met, or when circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act).

FDA has determined that circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). As of July 9, 2025, there is now an approved vaccine for use in certain individuals in the age group that is the target of your EUA. Specifically, on July 9, 2025, FDA approved Spikevax (COVID-19 Vaccine, mRNA) (2024-2025 Formula) for use in individuals who are 65 years of age and older, or 6 months through 64 years of age with at least one underlying condition that puts them at high risk for severe outcomes from COVID-19. In addition, on August 27, 2025, FDA approved Comirnaty (COVID-19 Vaccine, mRNA) (2025-2026 Formula) for use in individuals who are 65 years of age and older, or 5 years through 64 years of age with at least one underlying condition that puts them at high risk for severe outcomes from COVID-19. Prior to July 9, 2025, the only COVID-19 vaccines that were available for use in individuals 6 months through 11 years of age were authorized under EUA. Furthermore, widespread natural and vaccine-acquired immunity has reduced severe outcomes, hospitalizations, and deaths from COVID-19. While safety concerns are not the basis for our decision to revoke the EUA, due to all of these circumstances, I have

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Page 2 – EUA 27034 – Leslie Sands

determined that circumstances exist that make it appropriate to revoke your EUA and, doing so is appropriate to protect the public health or safety.

Accordingly, FDA revokes EUA 27034 for emergency use of the Pfizer-BioNTech COVID-19 Vaccine pursuant to section 564(g)(2) of the Act. As of the date of this letter, the Pfizer-BioNTech COVID-19 Vaccine, which was authorized by FDA for emergency use under EUA 27034, is no longer authorized by FDA.

Notice of this revocation will be published in the Federal Register, pursuant to section 564(h)(1) of the Act.

Sincerely,

**VINAYAK K.
PRASAD -S**

Digitally signed by VINAYAK K.
PRASAD -S
Date: 2025.08.27 10:46:46 -04'00'

Vinayak Prasad M.D., M.P.H.
Director
Center for Biologics Evaluation and Research



**FDA U.S. FOOD & DRUG
ADMINISTRATION**

Our Reference: EUA 27073

**EMERGENCY USE AUTHORIZATION
REVOKED
August 27, 2025**

ModernaTX Inc.
Attention: Mr. Brady Nesbitt
325 Binney Street
Cambridge, MA 02142

Dear Mr. Nesbitt:

This letter is to notify you of the revocation of the Emergency Use Authorization (EUA) 27073 for the emergency use of Moderna COVID-19 Vaccine for the prevention of COVID-19. This EUA was initially issued on December 18, 2020, for individuals 18 years of age and older and was amended and reissued in its entirety by FDA multiple times, most recently on August 22, 2024, to, among other things, authorize the use of Moderna COVID-19 Vaccine (2024-2025 Formula) for use in individuals 6 months through 11 years of age.

The authorization of a biological product for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revised or revoked when the criteria under section 564(b)(1) of the Act no longer exist, the criteria under section 564(c) of the Act for issuance of such authorization are no longer met, or when circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act).

FDA has determined that circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). We acknowledge your July 24, 2025, amendment to the EUA in which you state that all manufacturing operations under the EUA have ceased and that you will stop distribution of Moderna COVID-19 Vaccine (2024-2025 Formula) after approval of Spikevax (COVID-19 Vaccine, mRNA) (2025-2026 Formula). We also note that on August 27, 2025, Spikevax (COVID-19 Vaccine, mRNA) (2025-2026 Formula) was approved for use in individuals who are 65 years of age and older, or 6 months through 64 years of age with at least one underlying condition that puts them at high risk for severe outcomes from COVID-19. Additionally, since July 9, 2025, there has been an approved COVID-19 vaccine for use in certain individuals in the age group that is the target of your EUA. Specifically, on July 9, 2025, FDA approved Spikevax (COVID-19 Vaccine, mRNA) (2024-2025 Formula) for use in individuals who are 65 years of age and older, or 6 months through 64 years of age with at least one underlying condition that puts them at high risk for severe

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Page 2 – EUA 27073 – Brady Nesbitt

outcomes from COVID-19. Prior to July 9, 2025, the only COVID-19 vaccines that were available for use in individuals 6 months through 11 years of age were authorized under EUA. In addition, widespread natural and vaccine-acquired immunity has reduced severe outcomes, hospitalizations, and deaths from COVID-19. While safety concerns are not the basis for our decision to revoke the EUA, due to all of these considerations, I have determined that circumstances exist that make it appropriate to revoke your EUA and, doing so is appropriate to protect the public health or safety.

Accordingly, FDA revokes EUA 27073 for emergency use of Moderna COVID-19 Vaccine pursuant to section 564(g)(2) of the Act. As of the date of this letter, the Moderna COVID-19 Vaccine, which was authorized by FDA for emergency use under EUA 27073, is no longer authorized by FDA.

Notice of this revocation will be published in the Federal Register, pursuant to section 564(h)(1) of the Act.

Sincerely,

**VINAYAK K.
PRASAD -S**

Digitally signed by VINAYAK K.
PRASAD -S
Date: 2025.08.27 10:45:04 -04'00'

Vinayak Prasad, M.D., M.P.H.
Director
Center for Biologics Evaluation and Research



**FDA U.S. FOOD & DRUG
ADMINISTRATION**

Our Reference: EUA 28237

**EMERGENCY USE AUTHORIZATION
REVOKED
August 27, 2025**

Novavax, Inc.
Attention: Ms. Kathleen Callahan
700 Quince Orchard Road
Gaithersburg, MD 20878

Dear Ms. Callahan:

This letter is to notify you of the revocation of the Emergency Use Authorization (EUA) 28237 for the emergency use of Novavax COVID-19 Vaccine, Adjuvanted for the prevention of COVID-19. This EUA was initially issued on July 13, 2022, for individuals 18 years of age and older and was amended and reissued in its entirety by FDA multiple times, most recently on August 30, 2024, to, among other things, authorize the use of Novavax COVID-19 Vaccine, Adjuvanted (2024-2025 Formula) for use in individuals 12 years of age and older.

The authorization of a biological product for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revised or revoked when the criteria under section 564(b)(1) of the Act no longer exist, the criteria under section 564(c) of the Act for issuance of such authorization are no longer met, or when circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act).

FDA has determined that circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). We are not aware of any plans you have to distribute vaccine under the EUA. There are approved COVID-19 vaccines for use in certain individuals in the age group that is the target of your EUA. Specifically, there are approved COVID-19 vaccines for use in individuals who are 65 years of age and older, or 12 through 64 years of age with at least one underlying condition that puts them at high risk for severe outcomes from COVID-19. In addition, widespread natural and vaccine-acquired immunity has reduced severe outcomes, hospitalizations, and deaths from COVID-19. While safety concerns are not the basis for our decision to revoke the EUA, due to all of these considerations, I have determined that circumstances exist that make it appropriate to revoke your EUA and, doing so is appropriate to protect the public health or safety.

Accordingly, FDA revokes EUA 28237 for emergency use of Novavax COVID-19 Vaccine, Adjuvanted pursuant to section 564(g)(2) of the Act. As of the date of this

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Page 2 – EUA 28237 – Ms. Callahan

letter, the Novavax COVID-19 Vaccine, Adjuvanted, which was authorized by FDA for emergency use under EUA 28237, is no longer authorized by FDA.

Notice of this revocation will be published in the Federal Register, pursuant to section 564(h)(1) of the Act.

Sincerely,

VINAYAK K.
PRASAD -SDigitally signed by
VINAYAK K. PRASAD -S
Date: 2025.08.27 10:45:56
-04'00'Vinayak Prasad, M.D., M.P.H.
Director
Center for Biologics Evaluation and Research

Grace R. Graham,

Deputy Commissioner for Policy, Legislation,
and International Affairs.

[FR Doc. 2025-19272 Filed 10-1-25; 8:45am]

BILLING CODE 4164-01-C

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Food and Drug Administration**

[Docket No. FDA-2020-N-2305]

**Revocation of Emergency Use of a
Biological Product; Availability****AGENCY:** Food and Drug Administration,
HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the Emergency Use Authorization (EUA) (the Authorization) issued to Office of the Assistant Secretary for Preparedness and Response at the U.S. Department of Health and Human Services (ASPR/HHS) for COVID-19 convalescent plasma. FDA revoked the Authorization under the Federal Food, Drug, and Cosmetic Act (FD&C Act). The revocation, which includes an explanation of the reasons for the revocation, is reprinted in this document.

DATES: The Authorization is revoked as of August 27, 2025.

ADDRESSES: Submit written requests for single copies of the revocation to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3103, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist the office in processing your

requests. The revocation may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010 or emailing industry.biologics@fda.hhs.gov. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the revocation.

FOR FURTHER INFORMATION CONTACT:

Andrew C. Harvan, Center for Biologics Evaluation and Research, Food and Drug Administration, 240-402-7911.

SUPPLEMENTARY INFORMATION:**I. Background**

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations.

On August 23, 2020, FDA issued an EUA to ASPR/HHS for COVID-19 convalescent plasma, subject to the terms of the Authorization. Notice of the issuance of this Authorization was published in the **Federal Register** on February 19, 2021 (86 FR 10290), as required by section 564(h)(1) of the FD&C Act. Subsequent updates to the Authorization were made available on FDA's website.

The authorization of a biological product for emergency use under section 564 of the FD&C Act may, pursuant to section 564(g)(2) of the FD&C Act, be revoked when the criteria under section 564(c) of the FD&C Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the FD&C Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the FD&C Act).

II. EUA Revocation Request

In a request received by FDA on August 13, 2025, ASPR/HHS requested revocation of the Authorization of COVID-19 convalescent plasma. On August 27, 2025, FDA revoked the Authorization. In determining that there are circumstances that make revocation of this EUA appropriate to protect the public health or safety, FDA also considered that, as of December 10, 2024, there is licensed COVID-19 convalescent plasma for the same use that is described in the EUA, that current use of COVID-19 convalescent plasma under the EUA is limited to a small number of patients, and that the supply of licensed COVID-19 convalescent plasma is expected to meet clinical need. Due to all of these circumstances, FDA has determined that revoking this EUA is appropriate to protect the public health or safety.

III. The Revocation

Having concluded that the criteria for revocation of the Authorization under section 564(g)(2)(C) of the FD&C Act are met, FDA has revoked the EUA for COVID-19 convalescent plasma. The revocation in its entirety follows and provides explanation of the reasons for revocation, as required by section 564(h)(1) of the FD&C Act.

IV. Electronic Access

An electronic version of this document and the full text of the Authorization and revocation are available on the internet at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

BILLING CODE 4164-01-P



**FDA U.S. FOOD & DRUG
ADMINISTRATION**

Our Reference: EUA 26382

**EMERGENCY USE AUTHORIZATION
REVOKED**

August 27, 2025

Assistant Secretary for Preparedness and Response
Attention: John Knox
200 Independence Avenue, SW
Washington, DC 20201

Dear Mr. Knox:

This letter is in response to the request from the Assistant Secretary for Preparedness and Response (ASPR), received August 13, 2025, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for COVID-19 convalescent plasma. This EUA was initially issued on August 23, 2020.

The authorization of a biological product for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revoked when the criteria under section 564(b)(1) of the Act no longer exist, the criteria under section 564(c) of the Act for issuance of such authorization are no longer met, or circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). FDA has determined that circumstances make revocation of this authorization appropriate to protect the public health or safety.

In determining that there are circumstances that make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act), we considered several factors. We understand that you have requested that the EUA for COVID-19 convalescent plasma be revoked. In addition, as of December 10, 2024, there is now licensed convalescent plasma for the use that is described in your EUA. Specifically, on December 10, 2024, FDA approved a supplemental Biologics License Application (sBLA) for COVID-19 Convalescent Plasma with high titers of anti-SARS-CoV-2 antibodies for the treatment of COVID-19 in patients with immunosuppressive disease or receiving immunosuppressive treatment. Further, FDA is aware that current use of COVID-19 convalescent plasma under the EUA is limited to a small number of patients and that the supply of licensed COVID-19 convalescent plasma is expected to meet clinical need. Due to all of these circumstances, we have determined that circumstances exist that make it appropriate to revoke your EUA and doing so is appropriate to protect the public health or safety.

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Page 2 – EUA 26382 - John Knox

Accordingly, FDA revokes EUA 26382 for emergency use of COVID-19 convalescent plasma pursuant to section 564(g)(2) of the Act. As of the date of this letter, COVID-19 convalescent plasma which was authorized by FDA for emergency use under EUA 26382, is no longer authorized by FDA.

FDA does not intend to object to the use of any remaining inventory of the COVID-19 convalescent plasma that was distributed before revocation of the EUA.¹ The Guidance for Industry, *Recommendations for Investigational and Licensed COVID-19 Convalescent Plasma*, July 2024,² addresses FDA's recommendations with respect to the use of any remaining inventory of COVID-19 convalescent plasma that was distributed prior to revocation of the EUA.

Notice of this revocation will be published in the Federal Register, pursuant to section 564(h)(1) of the Act.

Sincerely,

VINAYAK K.
PRASAD -S

Digitally signed by VINAYAK K.
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Vinayak Prasad, M.D., M.P.H.
Director
Center for Biologics Evaluation and Research

¹ See *Recommendations for Investigational and Licensed COVID-19 Convalescent Plasma* Guidance for Industry, July 2024 (<https://www.fda.gov/media/180209/download>).

² The guidance also provides FDA's recommendations to blood establishments for the submission of a Biologics License Application for the manufacture of COVID-19 convalescent plasma.

Grace R. Graham,
Deputy Commissioner for Policy, Legislation,
and International Affairs.

[FR Doc. 2025–19270 Filed 10–1–25; 8:45 am]

BILLING CODE 4164–01–C

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Food and Drug Administration

[Docket No: FDA–2025–N–3774]

**Pediatric Advisory Committee (PAC);
Notice of Meeting; Establishment of a
Public Docket; Request for Comments**

AGENCY: Food and Drug Administration,
HHS.

ACTION: Notice; establishment of a
public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pediatric Advisory Committee (PAC). The general function of the Committee is to provide advice and recommendations to FDA on pediatric regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on virtually on November 13, 2025, from 10:00 a.m. to 4:00 p.m. Eastern Time (ET).

ADDRESSES: All meeting participants will be heard, viewed, captioned, and recorded for this advisory committee meeting via an online teleconferencing and/or video conferencing platform. Answers to commonly asked questions about FDA advisory committee meetings, may be accessed at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA-2025-N-1246. The docket will close on November 12, 2025. Submit either electronic or written comments on this public meeting on or before November 12, 2025. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 12, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before November 5, 2025, will be provided to the Committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

comments, that information will be posted on <https://www.regulations.gov>.

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2025-N-3774 for "Pediatric Advisory Committee meeting; Notice of Meeting; Establishment of a Public Docket; Request for Comments." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

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

and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

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

FOR FURTHER INFORMATION CONTACT:

Shivana Srivastava, Office of Pediatric Therapeutics, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5157, Silver Spring, MD 20993-0002, 301-796-8695, shivana.srivastava@fda.hhs.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area. A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing and/or video conferencing platform.

Agenda: On November 13, 2025, the PAC will meet to discuss post-marketing pediatric-focused safety reviews of the following products:

1. Center for Devices and Radiological Health
 - a. ENTERRA THERAPY SYSTEM (Humanitarian Device Exemption (HDE))
 - b. CONTEGRA PULMONARY VALVED CONDUIT (HDE)
 - c. PLEXIMMUNE (HDE)
 - d. SONALLEVE MR-HIFU (HDE)
2. Center for Biologics Evaluation and Research
 - a. QUELIMMUNE (HDE)
 - b. SEVENFACT (coagulation factor VIIa (recombinant)-jncw)
 - c. VAXCHORA (Cholera Vaccine, Live, Oral)
3. Center for Drug Evaluation and Research

- a. ABRAXANE (paclitaxel)
- b. ARMONAIR RESPICLICK (fluticasone propionate), ARMONAIR DIGIHALER (fluticasone propionate), AIRDUO RESPICLICK (fluticasone propionate and salmeterol xinafoate), AIRDUO DIGIHALER (fluticasone propionate and salmeterol xinafoate)
- c. AUBAGIO (teriflunomide)
- d. AUSTEDO (deutetrabenazine)
- e. BREXAFEMME (ibrexafungerp)
- f. BYDUREON (exenatide), BYDUREON BCISE (exenatide), BYETTA (exenatide)
- g. CIBINQO (abrocitinib)
- h. COSENTYX (secukinumab)
- i. DESCOVY (emtricitabine and tenofovir alafenamide)
- j. DUPIXENT (dupilumab)
- k. EDURANT (rilpivirine), EDURANT PED (rilpivirine)
- l. ENBREL (etanercept)
- m. EVOTAZ (atazanavir and cobicistat)
- n. LIALDA (mesalamine)
- o. LINZESS (linaclotide)
- p. LITFULO (ritlecitinib)
- q. MYRBETRIQ EXTENDED-RELEASE TABLETS (mirabegron), MYRBETRIQ GRANULES (mirabegron)
- r. NUCYNTA (tapentadol), NUCYNTA ER (tapentadol)
- s. OPANA (oxymorphone hydrochloride)
- t. PIFELTRO (doravirine), DELSTRIGO (doravirine, lamivudine, and tenofovir disoproxil fumarate)
- u. RAPIVAB (peramivir)
- v. REXULTI (brexpiprazole)
- w. RYALTRIS (olopatadine hydrochloride and mometasone furoate)
- x. SELZENTRY (maraviroc)
- y. SIMPONI ARIA (golimumab)
- z. SMOFLIPID (lipid injectable emulsion)
- aa. SOLOSEC (secnidazole)
- bb. TAYTULLA (norethindrone acetate/ethinyl estradiol capsules and ferrous fumarate capsules)
- cc. TEZSPIRE (tezepelumab-ekko)
- dd. TRINTELLIX (vortioxetine)
- ee. VIIBRYD (vilazodone hydrochloride)
- ff. XOFLUZA (baloxavir marboxil)
- gg. YCANTH (cantharidin)
- hh. ZEGALOGUE (dasiglucagon)
- ii. ZEPATIER (elbasvir and grazoprevir)
- jj. ZERBAXA (ceftolozane and tazobactam)
- kk. ZOSYN (piperacillin and tazobactam)

FDA intends to make background material available to the public no later

than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference and/or video conference meeting will be available <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>.

Scroll down to the appropriate advisory committee meeting link.

The meeting will include slide presentations with audio and video components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. All electronic and written submissions to the Docket (see **ADDRESSES**) on or before November 5, 2025, will be provided to the Committee. Oral presentations from the public will be scheduled between approximately 1:15 p.m. to 2:15 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 28, 2025. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 29, 2025.

For press inquiries, please contact the FDA Newsroom at www.fda.gov/news-events/fda-newsroom.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Shivana Srivastava (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/>

[ucm111462.htm](http://www.fda.gov/ucm111462.htm) for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*). This meeting notice also serves as notice that, pursuant to 21 CFR 10.19, the requirements in 21 CFR 14.22(b), (f), and (g) relating to the location of advisory committee meetings are hereby waived to allow for this meeting to take place using an online meeting platform. This waiver is in the interest of allowing greater transparency and opportunities for public participation, in addition to convenience for advisory committee members, speakers, and guest speakers. The conditions for issuance of a waiver under 21 CFR 10.19 are met.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–19281 Filed 10–1–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Guidances; Draft and Revised Draft Guidances for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of additional draft and revised draft product-specific guidances. The draft guidances provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled “Bioequivalence Recommendations for Specific Products” that explained the process that would be used to make product-specific guidances available to the public on FDA's website. The draft guidances identified in this notice were developed using the process described in that guidance.

DATES: Submit either electronic or written comments on the draft guidance by December 1, 2025 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA-2007-D-0369 for "Product-Specific Guidances; Draft and Revised Draft Guidances for Industry." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Joseph Kotsybar, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 3623A, Silver Spring, MD 20993-0002, 240-402-1062, PSG-Questions@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry

entitled "Bioequivalence Recommendations for Specific Products" that explained the process that would be used to make product-specific guidances available to the public on FDA's website at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>.

As described in that guidance, FDA adopted this process to develop and disseminate product-specific guidances and provide a meaningful opportunity for the public to consider and comment on those guidances. Under that process, draft guidances are posted on FDA's website and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final guidances or publishes revised draft guidances for comment. Guidances were last announced in the **Federal Register** on May 21, 2025 (90 FR 21777). This notice announces draft product-specific guidances, either new or revised, that are posted on FDA's website.

II. Drug Products for Which New Draft Product-Specific Guidances Are Available

FDA is announcing the availability of new draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Abiraterone acetate; Niraparib tosylate.
Bupivacaine; Meloxicam.
Capivasertib.
Crizotinib.
Dexmedetomidine hydrochloride.
Ensifentrine.
Fruquintinib.
Glycopyrrolate.
Ibrutinib.
Nalmefene hydrochloride.
Naloxone hydrochloride.
Nirogacestat hydrobromide.
Pemetrexed dipotassium.
Prednisolone acetate.
Sapropterin dihydrochloride.
Sofpironium bromide.
Vonoprazan fumarate.

III. Drug Products for Which Revised Draft Product-Specific Guidances Are Available

FDA is announcing the availability of revised draft product-specific guidances for industry for drug products

containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Abiraterone acetate.
Acetaminophen; Butalbital.
Albuterol sulfate.
Alectinib hydrochloride.
Amantadine hydrochloride.
Amifampridine.
Aspirin.
Azilsartan kamedoxomil.
Azilsartan kamedoxomil; Chlorthalidone.
Betamethasone acetate; Betamethasone sodium phosphate.
Betaxolol hydrochloride.
Brimonidine tartrate (multiple reference listed drugs).
Brimonidine tartrate; Brinzolamide.
Brinzolamide.
Cabotegravir.
Cabotegravir; Rilpivirine.
Carglumic acid.
Clevidipine.
Clotrimazole.
Cobicistat; Elvitegravir; Emtricitabine; Tenofovir disoproxil fumarate.
Cyclobenzaprine hydrochloride.
Dorzolamide hydrochloride.
Fluticasone furoate.
Fluticasone furoate; Umeclidinium bromide; Vilanterol trifenate.
Fluticasone furoate; Vilanterol trifenate.
Fluticasone propionate.
Fluticasone propionate; Salmeterol xinafoate.
Glatiramer acetate.
Hydroxyurea.
Isavuconazonium sulfate.
Lasmititan succinate.
Latanoprost.
Levomilnacipran hydrochloride.
Lumateperone tosylate.
Medroxyprogesterone acetate (multiple reference listed drugs).
Metformin hydrochloride.
Methylprednisolone acetate.
Metoprolol succinate.
Miconazole nitrate.
Natiffine hydrochloride (multiple reference listed drugs).
Oxiconazole nitrate (multiple reference listed drugs).
Paliperidone palmitate.
Penicillin G benzathine.
Phentermine hydrochloride; Topiramate.
Ponatinib hydrochloride.
Posaconazole.
Progesterone.

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS—Continued

Active ingredient(s)
Ranitidine hydrochloride.
Risperidone.
Semaglutide.
Topiramate (multiple reference listed drugs).
Torsemide.
Trazodone hydrochloride.
Triamcinolone acetonide.
Umeclidinium bromide.
Umeclidinium bromide; Vilanterol trifenate.
Venlafaxine hydrochloride.
Zonisamide.

For a complete history of previously published **Federal Register** notices related to product-specific guidances, go to <https://www.regulations.gov> and enter Docket No. FDA–2007–D–0369.

These draft guidances are being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on, among other things, the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

IV. Paperwork Reduction Act of 1995

While these guidances contain no collection of information, they do refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 for investigational new drugs have been approved under OMB control number 0910–0014. The collections of information in 21 CFR part 314 for applications for FDA approval to market a new drug and in 21 CFR part 320 for bioavailability and bioequivalence

requirements have been approved under OMB control number 0910–0001.

V. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Grace R. Graham,
Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–19345 Filed 10–1–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Funding to the National Rural Health Policy, Community, and Collaboration Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental funding.

SUMMARY: HRSA provided supplemental funds to the sole award recipient for the National Rural Health Policy, Community, and Collaboration Program under HRSA–24–003.

FOR FURTHER INFORMATION CONTACT: Alexa Ofori, Senior Advisor, Federal Office of Rural Health Policy, HRSA, at aofori@hrsa.gov and 301–945–3986.

SUPPLEMENTARY INFORMATION:

Recipient of the Award: The National Rural Health Association (NRHA).

Amount of Non-Competitive Award: One award for \$644,000.

Project Period: August 1, 2024, to July 31, 2029.

Assistance Listing Number: 93.155.

Award Instrument: Non-competitive supplement for services.

Authority: Section 711 of the Social Security Act (42 U.S.C. 912).

TABLE 1—RECIPIENT AND AWARD AMOUNT

Grant No.	Award recipient name	City, state	Award amount
U16RH03702	National Rural Health Association	Leawood, KS	\$644,000

Justification: NRHA was provided supplemental funds to identify, engage, educate, and collaborate with rural

stakeholders on national rural health issues and promising practices to improve health care in rural areas

nationwide. These activities build on past and ongoing NRHA projects supported by the Federal Office of Rural

Health Policy and align with the goals of the program to educate rural stakeholders and facilitate collaboration with key stakeholders to improve the exchange of information and promising practices that support rural health.

Thomas J. Engels,
Administrator.

[FR Doc. 2025–19249 Filed 10–1–25; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Funding to the National Rural Health Information Clearinghouse Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of supplemental funding.

SUMMARY: HRSA provided supplemental funds to the sole award recipient of the National Rural Health Information Clearinghouse Program under HRSA–25–009 to provide information, data, and tools related to rural health to

support improving health care in rural areas.

FOR FURTHER INFORMATION CONTACT:

Sarah Scott, Federal Office of Rural Health Policy, HRSA, at sscott2@hrsa.gov and (301) 287–2619.

SUPPLEMENTARY INFORMATION:

Recipient of the Award: The University of North Dakota.

Amount of Non-Competitive Award: One award for \$545,000.

Project Period: June 1, 2025, to May 31, 2030.

Assistance Listing (CFDA) Number: 93.223.

Award Instrument: Cooperative Agreement Supplement for Services.

Authority: Social Security Act § 711(b) (42 U.S.C. 912(b)).

TABLE 1—RECIPIENTS AND AWARD AMOUNTS

Grant No.	Award recipient name	City, state	Supplemental award amount
U56RH05539	University of North Dakota	Grand Forks, ND	\$545,000

Justification: This funding provided a one-time supplement to the University of North Dakota via the National Rural Health Information Clearinghouse Program with a budget period of June 2025 through May 2026. This supplement allows the University of North Dakota to build on past and ongoing projects supported by HRSA to improve health care in rural areas by advancing the knowledge base regarding strategies to support and enhance rural community health. The University of North Dakota is the recipient of the only award under the program and has longstanding experience identifying, developing, and disseminating resources like toolkits and webinars to support a broad range of rural health topics. The supplement will allow the University of North Dakota to create new toolkits and resources on important

topics related to rural community health and health care.

Thomas J. Engels,
Administrator.

[FR Doc. 2025–19250 Filed 10–1–25; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Funding, Rural Health Innovation and Transformation Technical Assistance

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental funding.

SUMMARY: HRSA provided supplemental funds to the Rural Health Innovation and Transformation Technical Assistance (RHIT–TA) Cooperative Agreement.

FOR FURTHER INFORMATION CONTACT:

Lawrencia Afagbedzi, Health Insurance Specialist, Federal Office of Rural Health Policy, HRSA, at lafagbedzi@hrsa.gov and 301–443–3196.

SUPPLEMENTARY INFORMATION:

Recipient of the Award: The University of Iowa.

Amount of Non-Competitive Award: One award for \$150,000.

Project Period: August 1, 2023, to July 31, 2027.

Assistance Listing Number: 93.155.

Award Instrument: Cooperative Agreement Supplement.

Authority: Section 711 of the Social Security Act (42 U.S.C. 912).

TABLE 1—RECIPIENT AND AWARD AMOUNT

Grant number	Award recipient name	City, state	Supplemental award amount
UB7RH25011	University of Iowa	Iowa City, IA	\$150,000

Justification: This funding provides a one-time supplement to the University of Iowa through the RHIT–TA Cooperative Agreement with a budget period of August 2025 through July 2026. This supplement allows the University of Iowa to build on past and ongoing projects supported by HRSA to

support health care in rural areas by advancing the knowledge base regarding the unique considerations and barriers facing rural providers implementing value-based care and innovative payment models. The University of Iowa is the recipient of the only award under the RHIT–TA program and has

established relationships with rural stakeholders and has longstanding experience developing resources related to rural value-based care. The supplement to the RHIT–TA Cooperative Agreement will allow the University of Iowa to provide additional technical assistance and develop

additional resources to promote rural value-based care related activities.

Thomas J. Engels,
Administrator.

[FR Doc. 2025–19248 Filed 10–1–25; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Inventions Available for Licensing and/or Collaboration: Acyloxyacyl Hydrolase (AOAH) and Methods of Use as a Cancer Immunotherapy

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI), an institute of the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is giving notice of the inventions listed below, which are owned by an agency of the U.S. Government and are available for licensing and/or collaboration to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT:

Inquiries related to these licensing opportunities should be directed to: Kevin Chang, Ph.D., Technology Transfer Manager, NCI, Technology Transfer Center, Email: changke@mail.nih.gov or Phone: 240–276–6910.

SUPPLEMENTARY INFORMATION: Immune CheckPoint Inhibitors (ICIs) and T-cell based therapies are part of the emerging immunology-based therapies being used to treat cancers. However, the efficacy of ICI therapies can be limited and a substantial portion of patients develop resistance or tolerance to treatment. T-cell based cancer immunotherapies have only been approved for hematological cancers. They are suboptimal in solid tumor cancers due to physical barriers and the immuno-suppressive tumor microenvironment. Thus, additional therapies and strategies are needed to improve efficacy and expand the types of cancer amenable to treatment.

Scientists at the NCI have identified a secreted lipase, Acyloxyacyl Hydrolase (AOAH), produced by cells such as macrophages and dendritic cells that can potentiate immunotherapies in murine tumor models. The protein sensitizes T cell receptors to weak antigens and protects dendritic cells through depleting immunosuppressive

arachidonyl phoshatidylcholines and oxidized derivatives. Thus, the protein can potentially enhance the efficacy and types of cancers treated by ICI based and T-cell based immunotherapies.

This Notice is in accordance with 35 U.S.C. 209 and 37 CFR part 404.

NIH Reference Number: E–038–2024.

Product Type: Therapeutic.

Therapeutic Area(s): Oncology | Immunology.

Potential Commercial Applications:

- Cancer immunotherapy.
- Combination therapy with ICIs or T-cell based therapies.

Competitive Advantages:

- Novel therapeutic entity.
- Potentially improved efficacy.
- Increased types of addressable cancers.

Publication:

• Gong L et al. Cancer Immunology Data Engine Reveals Secreted AOAH as a Potential Immunotherapy. (<https://pubmed.ncbi.nlm.nih.gov/40730154/>).

Patent Status: U.S. Provisional Patent Application entitled, “Acyloxyacyl Hydrolase and Methods of Use” was filed on November 6, 2024.

Development Stage: Pre-clinical (in vivo validation).

Collaboration Opportunity: The NCI seeks licensing and/or co-development research collaborations for the development of AOAH as an immunotherapy for cancer treatment.

Dated: September 30, 2025.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2025–19376 Filed 10–1–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Substituted Quinoline Analogs As Aldehyde Dehydrogenase 1A1 Inhibitors

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Center for Advancing Translational Sciences, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to Stage One Immunotherapeutics, Inc., incorporated

in Delaware and with headquarters in Pennsylvania.

DATES: Only written comments and/or applications for a license which are received by the National Center for Advancing Translational Sciences’ Office of Strategic Alliances on or before October 17, 2025 will be considered.

ADDRESSES: Requests for copies of the patent or patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Rebecca Erwin-Cohen, Ph.D., Sr. Technology Patenting and Licensing Specialist, NCATS Office of Strategic Alliances, Telephone: 301.827.7235; Email: rebecca.erwin-cohen@nih.gov.

SUPPLEMENTARY INFORMATION:

Intellectual Property

“Substituted Quinoline Analogs As Aldehyde Dehydrogenase 1A1 Inhibitors”.

(1) U.S. Patent Application No. 17/682,654, filed on 28 Feb 2022 (HHS Res. No. E–101–2017–0–US–06), issued as Patent No. 11,795,177 on 24 October 2023, and

(2) European Patent Application EP22207287.8, filed on 14 November 2022 (HHS Res. No. E–101–2017–0–EP–07).

The patent rights in this invention have been assigned to the Government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to the following:

“Use of the Patent Rights to develop, manufacture, and commercialize the Material (limited to compounds NCGC00588997, NCGC00589125, NCGC00589163, and NCGC00589175) as a monotherapy, in combinations, or in combination with an immunostimulator for the treatment of hepatocellular carcinoma, renal cell carcinoma, and pancreatic adenocarcinoma.”

This technology describes novel compounds that target Aldehyde dehydrogenases (ALDHs); these enzymes are responsible for the metabolism of aldehydes (both exogenous and endogenous). Overexpression of certain ALDHs, especially ALDH1A1, in a number of malignancies and cancer stem cells (CSCs) correlate with poor prognosis and tumor aggressiveness, and are linked to drug resistance in traditional cancer chemotherapy. Researchers from NCATS developed a novel series of newly designed quinoline-based analogs of ALDH1A1 inhibitors with improved enzymatic and cellular ALDH1A1 inhibition.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Center for Advancing Translational Sciences receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license. In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain confidential business information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: September 26, 2025.

Joni Rutter,

Director, National Center for Advancing Translational Sciences, National Institutes of Health.

[FR Doc. 2025–19199 Filed 10–1–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Advisory Council, October 29, 2025, 8:30 a.m. to 5:00 p.m., National Institutes of Health, Claude D. Pepper Building, 31 Center Drive, Bethesda, MD, 20894, which was published in the **Federal Register** on September 17, 2025, FR 2025–17998, 90 FRN 44834.

The National Heart, Lung, and Blood Advisory Council open meeting is being amended due to change of the meeting times. The meeting will be held on

October 29, 2025, from 9:30 a.m. to 5:00 p.m. This meeting is open to the public.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19206 Filed 10–1–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Advisory Council, October 29, 2025, 8:00 a.m. to 8:30 a.m., National Institutes of Health, Claude D. Pepper Building, 31 Center Drive, Bethesda, MD 20894, which was published in the **Federal Register** on September 17, 2025, FR 2025–17999, 90 FRN 44834.

The National Heart, Lung, and Blood Advisory Council closed meeting is being amended due to change of the meeting times. The meeting will be held on October 29, 2025, from 8:00 a.m. to 9:30 a.m. This meeting is closed to the public.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19216 Filed 10–1–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Inventions Available for Licensing and/or Collaboration: Automated Cell Radiolabeling Device Using Acoustophoresis Micro-Fluidic Technology

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI), an institute of the National Institutes of Health (NIH), Department of Health and Human Services (HHS), seeks research co-development partners and/or licensees for an automated acoustophoresis device to radio-label and isolate cells. This invention is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of

federally-funded research and development.

FOR FURTHER INFORMATION CONTACT:

Inquiries related to these licensing opportunities should be directed to Eric Cheng, Ph.D., Technology Transfer Manager, NCI, Technology Transfer Center, Email: eric.cheng2@nih.gov or Phone: 240–276–5978.

SUPPLEMENTARY INFORMATION: This technology includes an automated cell radiolabeling device that utilizes acoustophoresis microfluidic technology. The device streamlines the radiolabeling process by integrating cell washing and concentrating steps, which enhances reproducibility and standardization. This innovation simplifies the GMP (Good Manufacturing Practice) compliance for radiolabeling cells intended for human use. It also addresses the limitations of current manual methods that rely on centrifugation. The result is a benchtop system designed for clinical radiopharmacies, ensuring efficient and reliable cell preparation for diagnostic and therapeutic applications.

This Notice is in accordance with 35 U.S.C. 209 and 37 CFR part 404.

NIH Reference Number: E–096–2021.

Product Type: Device.

Therapeutic Area(s): Oncology.

View Technology Webinar:

Automated Acoustophoresis Device to Radio-Label & Isolate Cells for Immunotherapy and Isolated Cells for Immunotherapy Treatment.

Potential Commercial Applications:

- Clinical radio-pharmacies for radiolabeled cell diagnostics.
- Research institutions focused on cellular therapies and diagnostics.
- Pharmaceutical companies developing radiolabeled therapeutics.

Competitive Advantages:

- Fully automated process reduces manual intervention, increasing efficiency and consistency.
- Micron-scale acoustophoresis technology enhances reproducibility and standardization of cell radiolabeling.

• Streamlined GMP compliance simplifies regulatory processes for clinical applications.

- Benchtop system.

Publication:

• Adler, S, et al. Using Acoustophoresis Cell Washing In The Immune Cell Radiolabeling Procedure. (https://jnm.snmjournals.org/content/63/supplement_2/2755).

Patent Status: U.S. Patent Application 18/290,4425 filed on November 13, 2023, pending.

Development Stage: Prototype.

Collaboration Opportunity:

Researchers at the NCI seek licensing

and/or co-development research collaborations for an automated acoustophoresis device to radio-label and isolate cells.

Dated: September 30, 2025.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2025–19379 Filed 10–1–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Council of Councils.

The meeting will be held virtually and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations, to view the meeting should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting website (<http://videocast.nih.gov/>).

Name of Committee: Council of Councils.

Date: November 10, 2025.

Time: 02:00 p.m. to 03:30 p.m.

Agenda: Welcome and Opening Remarks; Reminders and Procedures; and Other Business of the Committee.

Place: National Institutes of Health, Building 1, 1 Center Drive, Bethesda, MD 20892.

Meeting Format: Virtual.

Contact Person: Franziska Grieder, D.V.M., Ph.D., Executive Secretary, Council of Councils, Director, Office of Research Infrastructure Programs, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, 6701 Democracy Boulevard, Room 948, Bethesda, MD 20892, GriederF@mail.nih.gov, 301–435–0744.

Registration is not required to attend this meeting.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Council of Council's home page at <http://dpcpsi.nih.gov/council/> where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals

from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: September 29, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19202 Filed 10–1–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Inventions Available for Licensing: Generating Conditional and Reverse Conditional Loss-of-Function Alleles in Mouse Casq2

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Child Health and Human Development (NICHD), an institute of the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is giving notice of the inventions listed below, which are owned by an agency of the U.S. Government and are available for licensing to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT:

Inquiries related to these licensing opportunities should be directed to: Heather Gunas, Ph.D., MPH, Technology Transfer Manager, NCI, Technology Transfer Center, Email: gunash@mail.nih.gov or Phone: 240–276–5534.

SUPPLEMENTARY INFORMATION: Cardiac calsequestrin (Casq2) plays an essential role in maintaining cardiac Ca²⁺ homeostasis. Human CASQ2 mutations are associated with catecholaminergic polymorphic ventricular tachycardia (CPVT), a rare familial arrhythmogenic disorder within a group of diseases characterized as Sudden Arrhythmic Death.

The inventors have generated Casq2Flox and Casq2RevFlox mouse strains that model CPVT. The two novel strains successfully phenocopy aspects of CPVT, including stress-induced arrhythmias and reduced basal heart rates. The strains allow investigators to determine the importance of Casq2 gene function in specific tissues and at

specific developmental time points. They also allow investigators to determine the efficacy of gene therapy and to address key mechanism questions. The materials are validated and fully functional and additional information to access these strains can be found at: <https://www.jax.org/strain/036291> and <https://www.jax.org/strain/036290>.

This Notice is in accordance with 35 U.S.C. 209 and 37 CFR part 404.

NIH Reference Number: E–128–2024.

Product Type: Research Tool.

Therapeutic Area(s): Rare/Neglected Disease.

Potential Commercial Applications:

- Study of Casq2 function.
- Study of calcium storage in cardiac muscle and CPVT.
- Determining the efficacy of gene therapy for CPVT.

Competitive Advantages:

- Only available conditional and reverse conditional loss-of-function alleles in mouse Casq2.
- Allows the study of Casq2 gene function in specific tissues and at specific developmental points.

Publication:

• Knollmann BC, et al. *Casq2* deletion causes sarcoplasmic reticulum volume increase, premature Ca²⁺ release, and catecholaminergic polymorphic ventricular tachycardia. (<https://pubmed.ncbi.nlm.nih.gov/16932808/>).

• Flores DJ, et al. Conditional ablation and conditional rescue models for Casq2 elucidate the role of development and of cell-type specific expression of Casq2 in the CPVT2 phenotype. (<https://pubmed.ncbi.nlm.nih.gov/29452352/>).

• Blackwell DJ, et al. The Purkinje-myocardial junction is the anatomic origin of ventricular arrhythmia in CPVT. (PMID <https://pubmed.ncbi.nlm.nih.gov/34990403/>).

Patent Status: N/A.

Development Stage: Discovery.

Collaboration Opportunity: NICHD seeks licensing for further developing or utilizing these Casq2 mouse strains.

Dated: September 30, 2025.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2025–19375 Filed 10–1–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****[Docket No. USCG–2025–0248]****Request for Information on Multi-Service Vessels and Vessels of Opportunity****AGENCY:** Coast Guard, DHS.**ACTION:** Request for information.

SUMMARY: The Coast Guard is requesting input from the public to better understand the operations of multi-service vessels (MSVs), specifically regarding the use of vessels of opportunity (VOOs). Public feedback will help to assess the current state of MSVs and VOOs in support of the marine transportation system and oil spill response activities.

DATES: Comments must be received by the Coast Guard on or before December 1, 2025.

ADDRESSES: You may submit comments using the Federal Docket Management System at www.regulations.gov. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mrs. Jennifer Hnatow, U.S. Coast Guard; telephone 202–372–1216, email Jennifer.L.Hnatow@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Public Participation and Request for Comments**

The U.S. Coast Guard views public participation as essential to understanding vessel inspection and examination requirements. The Coast Guard will consider all information and material received during the comment period. If you submit a comment, please include the docket number for this request for information, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Methods for submitting comments. We encourage you to submit comments through the Federal Docket Management System at www.regulations.gov. To do so, go to www.regulations.gov, type USCG–2025–0248 in the search box, and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using www.regulations.gov, contact the person

in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Public comments will be posted in our online docket at www.regulations.gov and can be viewed by following the instructions on the Frequently Asked Questions web page, available at www.regulations.gov/faq. That page also explains how to subscribe for email alerts that will notify you when comments are posted or if a final rule is published. We review all comments received.

The Coast Guard will not issue a separate response to the comments received but will carefully consider each submission. The Coast Guard may also introduce regulatory changes and update policy related to this topic. If the Coast Guard undertakes any regulatory or policy changes as a result of comments received, that change would be announced separately.

Personal information. We accept anonymous comments. Comments we post to www.regulations.gov will include any personal information you have provided. For more information about privacy and submissions to the docket in response to this document, see the Department of Homeland Security’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

II. Abbreviations

2023 NDAA National Defense Authorization Act for Fiscal Year 2023
COI Certificate of Inspection
CFR Code of Federal Regulations
MSV Multi-service vessel
OCMI Officer in Charge, Marine Inspection
OSV Offshore supply vessel
RFI Request for information
VOO Vessel of opportunity

III. Purpose

The U.S. Coast Guard is issuing this request for information (RFI) to collect information, ideas, and recommendations related to vessels that perform operations and would be required inspection under multiple subchapters in title 46 of the Code of Federal Regulations (CFR), commonly referred to as multi-service vessels (MSVs). The Coast Guard will use the public comments received in response to this RFI to better understand the vessel of opportunity (VOO) industry.

IV. Background

The Coast Guard has long supported the diversification of commercial activities for U.S.-flagged vessels. This effort began in 1999 with policy focused on simplifying the issuance of a single Certificate of Inspection (COI) for offshore supply vessels (OSVs) operating under multiple inspection

subchapters. Recognizing the evolving nature of the maritime industry, particularly with the introduction of 46 CFR subchapter M establishing standards for towing vessels in 2016, the Coast Guard sought to provide more comprehensive guidance. The National Defense Authorization Act for Fiscal Year 2023 (2023 NDAA) further spurred this effort by defining VOOs as vessels primarily engaged in activities other than spill response but used for such purposes. Section 11316 of the 2023 NDAA (Pub. L. 117–263, 136 Stat. 2395) (46 U.S.C. 3306 note). Additionally, the 2023 NDAA directed the Coast Guard to clarify in policy the applicability of subchapter M regulations to VOOs and fishing vessels. *Id.*

In response, the Coast Guard published work instruction CVC–WI–032 in June 2023, titled “U.S. Flagged Vessels Inspected Under Multiple Subchapters (“Multi-Service”).” CVC–WI–032 builds upon the original OSV policy and addresses a broader range of MSV scenarios, including VOOs, vessels carrying freight, and vessels operating in inspected and uninspected service. It provides guidance on inspection requirements, exemptions, and certification processes, which aims to streamline regulatory compliance and reduce administrative burden while maintaining safety standards. Specifically, it allows for the issuance of a single COI for vessels operating under multiple subchapters and clarifies when vessels, such as VOOs or fishing vessels engaged in spill response towing, may be exempt from certain inspection requirements.

The 2023 NDAA defined a VOO as “a vessel engaged in spill response activities that is normally and substantially involved in activities other than spill response and not a vessel carrying oil as a primary cargo.” Vessels that have historically participated in the voluntary VOO program include those whose primary service has been as fishing vessels (as defined at 46 U.S.C. 2101(12)) and recreational vessels (as defined at 46 U.S.C. 2101(34)). Officers in Charge, Marine Inspection (OCMIs) issue VOO letters (called “Oil Spill Response Vessel—Vessel of Opportunity (VOO) Letters” in CVC–WI–032) to uninspected vessels that qualify as VOOs. The VOO letter confirms that the vessel qualifies to operate as a VOO within a particular OCMI area and identifies other information, such as the normal activities of the vessel and any necessary manning requirements. Inspected vessels that qualify as VOOs have a corresponding endorsement added to their COI.

V. Request for Information

The Coast Guard requests relevant comments and information from the public regarding the operations of MSVs and VOOs, including vessel inspection information provided for MSVs as outlined within CVC-WI-032. Listed below are questions to guide your responses. We want and encourage your feedback.

1. What are the operational and regulatory challenges for MSVs? Are there improvements you recommend to Coast Guard policy in this area?

2. What are the current industry practices for MSV operations and inspections, considering geographic and regional challenges? Based on your vessel's specifications and intended activities, which regulations apply to your vessel? Are there challenges in meeting these requirements?

3. A VOO is defined by the 2023 NDAA, section 11316, as "a vessel engaged in spill response activities that is normally and substantially involved in activities other than spill response and not a vessel carrying oil as a primary cargo." Does this definition align with your understanding of VOOs and how they operate? If not, what changes would you recommend? What types of vessels operate as VOOs and what services do they normally perform when not operating as VOOs?

4. As a vessel owner or operator, what obstacles and real-world operational, logistical, and geographic challenges do vessels encounter when conducting VOO operations? Are there improvements you recommend to Coast Guard policy in this area?

5. What information should be required to obtain and renew a VOO letter from the Coast Guard? What impediments exist to obtaining a VOO letter from the Coast Guard?

6. Are there elements of existing VOO programs that could be integrated into Coast Guard policies or programs?

7. Have you encountered VOOs operating for multiple oil spill removal organizations? Are the participation requirements different for each organization? If so, what challenges arise from these differences?

8. For oil spill removal organizations that use VOOs as part of the capability packages they provide to a vessel or facility to meet vessel or facility response plan requirements;

a. What kind of services do VOOs provide for the oil spill removal organization? (For example, towing, wildlife response, carrying cargo or supplies, or passenger transportation.)

b. What percentage of these VOOs are used for each kind of service?

9. Considering geographic and regional challenges, what are the implications if VOOs are not available? What advantages or utility do VOOs bring to regional response efforts?

10. As an owner or operator of a vessel that participates in a VOO program, what additional costs do you incur in order to participate? For example, are there additional inspection costs, and do you need additional equipment to meet the needs of a VOO?

Dated: September 29, 2025.

W.R. Arguin,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2025-19276 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0077]

Agency Information Collection Activities; Reinstatement; Customs-Trade Partnership Against Terrorism (CTPAT) and Trade Compliance

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than December 1, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0077 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:
Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations

and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Customs-Trade Partnership against Terrorism (CTPAT) and Trade Compliance.

OMB Number: 1651-0077.

Form Number: N/A.

Current Actions: Reinstatement with change.

Type of Review: Reinstatement (with change).

Affected Public: Businesses.

Abstract: The CTPAT Program is comprised of two different program divisions, CTPAT Security and CTPAT Trade Compliance. The CTPAT Security program is designed to safeguard the world's trade industry from terrorists and smugglers by prescreening its

participants. The CTPAT Security program applies to United States and nonresident Canadian importers, United States exporters, customs brokers, consolidators, ports and terminal operators, carriers of cargo in air, sea and land, third party logistics providers, Mexican long haul highway carriers, and Canadian and Mexican manufacturers. The Trade Compliance program division is only available for U.S. and nonresident Canadian importers.

The CTPAT Security program application requests the following information from an applicant for the program: an applicant's contact and business information, including the number of company employees, the number of years in business, and a list of company officers.

This collection of information is authorized by the SAFE Port Act (Pub. L. 109–347).

The CTPAT Trade Compliance program is an optional component of the CTPAT program and adds trade compliance aspects to the supply chain security aspects of the CTPAT Security program. The CTPAT Security program is a prerequisite to applying to the CTPAT Trade Compliance program. Current CTPAT importers are given the opportunity to receive additional benefits in exchange for a commitment to assume responsibility for monitoring their own compliance by applying to the CTPAT Trade Compliance program. After a company has completed the security aspects of the CTPAT Security program and is in good standing, it may opt to apply to the CTPAT Trade Compliance component. The CTPAT Trade Compliance program strengthens security by leveraging the CTPAT supply chain requirements, identifying low-risk trade entities for supply chain security, and increasing the overall efficiency of trade by segmenting risk and processing by account.

The CTPAT Trade Compliance program is open to U.S. and nonresident Canadian importers that have satisfied both the CTPAT supply chain security and trade compliance requirements.

The CTPAT Trade Compliance program application includes questions about the following:

- Primary Point of Contact including name, title, email address, and phone number
- Business information including Company Name, Company Address, Company phone number, Company website, Company type (private or public), CBP Bond information, Importer of Record Number, and number of employees

- Information about the applicant's Supply Chain Security Profile
- Trade Compliance Profile and Internal Control Operating Procedures of the applicant
- Broker information
- Training material for Supply Chain Security and Trade Compliance
- Risk Assessment documentation and results
- Period testing documentation and results
- Prior disclosure history
- Partner Government Agency affiliation information

After an importer obtains CTPAT Trade Compliance membership, the importer will be required to submit an Annual Notification Letter to CBP confirming that they are continuing to meet the requirements of the program. This letter should include: personnel changes that impact the CTPAT Trade Compliance program; organizational and procedural changes; a summary of risk assessment and self-testing results; a summary of post-entry amendments and/or disclosures made to CBP; and any importer activity changes within the last 12-month period.

Proposed Changes:

CBP is adding the following data elements for all CTPAT partners:

- Date of Birth (DOB) (optional)
- Registro Federal de Contribuyentes (RFC) (Optional)

Additionally, CBP is establishing a pilot program pursuant to the Customs Trade Partnership Against Terrorism Pilot Program Act of 2023 passed into law on October 1, 2024. (Pub. L. 118–98 118th Congress). This pilot will allow 10 non-asset based and 10 asset based Third Party Logistics Providers (3PLs) to participate in the CTPAT program. This pilot will help CBP to assess whether allowing non-asset-based 3PLs and asset-based 3PLs to participate in CTPAT would enhance port security, combat terrorism, prevent supply chain security breaches, or otherwise meet the goals of CTPAT. To participate in the pilot, applicants will email CTPAT with their intent to participate as an asset based or non-asset based 3PL in the pilot program. Applicants from each group will be selected on a first-come first-serve basis. Approved applicants will then submit an application to include a Company profile and a Security profile and, if selected, will be assigned a supply chain security specialist who determines whether the applicant meets all of the eligibility requirements of either the asset based 3PL or non-asset based 3PL. If the application is approved, the applicant becomes certified and subject to the

same requirements and benefits as other C–TPAT members.

Type of Information Collection: CTPAT Application.

Estimated Number of Respondents: 770.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 770.

Estimated Time per Response: 20 hours.

Estimated Total Annual Burden Hours: 15,400.

Type of Information Collection: Trade Compliance Application.

Estimated Number of Respondents: 50.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 50.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Type of Information Collection: CTPAT Trade Compliance Notification Letter.

Estimated Number of Respondents: 50.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 50.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025–19231 Filed 10–1–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0061]

Agency Information Collection Activities; Extension; Application To Establish a Centralized Examination Station (CES)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget

(OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than December 1, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0061 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application to Establish a Centralized Examination Station.

OMB Number: 1651-0061.

Form Number: N/A.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: A Centralized Examination Station (CES) is a facility where imported merchandise is made available to CBP officers for physical examination. If a port director decides that a CES is needed, he or she solicits applications to operate a CES. The information contained in the application is used to determine the suitability of the applicant's facility, the fairness of fee structure, and the knowledge of cargo handling operations and of CBP procedures and regulations. The names of all corporate officers and all employees who will come in contact with uncleared cargo are also to be provided so that CBP may perform background investigations. The CES application is provided for by 19 CFR 118.11 and is authorized by 19 U.S.C. 1499, Tariff Act of 1930.

CBP port directors solicit these applications by using port information bulletins, local newspapers, and/or the internet. This collection of information applies to the importing and trade community, which is familiar with import procedures and with the CBP regulations.

Type of Information Collection: Application for CES.

Estimated Number of Respondents: 50.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 50.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025-19232 Filed 10-1-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2025-0002; Internal Agency Docket No. FEMA-B-2556]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before December 31, 2025.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2556, to David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: David Bascom, Acting Director, Engineering and Modeling Division,

Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are

used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information

regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Alexander County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
Unincorporated Areas of Alexander County	Alexander County Services Center, 151 West Main Avenue, Suite 7, Taylorsville, NC 28681.
Avery County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
Town of Crossnore	Town Hall, 1 Fountain Circle, Crossnore, NC 28616.
Unincorporated Areas of Avery County	Avery County Administration Building, 175 Linville Street, Newland, NC 28657.
Village of Grandfather Village	Grandfather Village Administration Office, 2120 NC Highway 105, Linville, NC 28646.
Burke County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
City of Morganton	City Hall, Development and Design Services, 305 East Union Street, Suite A100, 2nd Floor, Morganton, NC 28655.
Town of Drexel	Town Hall, 202 Church Street, Drexel, NC 28619.
Town of Glen Alpine	Glen Alpine Town Hall, 103 Pitts Street, Morganton, NC 28655.
Town of Hildebran	Town Hall, 109 South Center Street, Hildebran, NC 28637.
Town of Valdese	Town Hall, 102 Massel Avenue Southwest, Valdese, NC 28690.
Unincorporated Areas of Burke County	Burke County Planning and Zoning Department, 110 North Green Street, Morganton, NC 28655.
Caldwell County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
City of Lenoir	City Hall, Planning Department, 801 West Avenue Northwest, 3rd Floor, Lenoir, NC 28645.
Town of Cajah's Mountain	Cajah's Mountain Town Hall, 1800 Connelly Springs Road, Lenoir, NC 28645.
Town of Gamewell	Gamewell Town Hall, 2754 Old Morganton Road, Lenoir, NC 28645.
Town of Granite Falls	Town Office, 30 Park Square, Granite Falls, NC 28630.
Town of Hudson	Town Hall, 550 Central Street, Hudson, NC 28638.
Unincorporated Areas of Caldwell County	Caldwell County Planning and Development, 2345 Morganton Boulevard Southwest, Lenoir, NC 28645.

Community	Community map repository address
Village of Cedar Rock	Village of Cedar Rock Office, 2065 Cedar Rock Estate Drive, Lenoir, NC 28645.
Catawba County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
City of Claremont	City Hall, 3288 East Main Street, Claremont, NC 28610.
City of Conover	City Hall, 1011st Street East, Conover, NC 28613.
City of Hickory	Planning and Development Department, 76 North Center Street, 2nd Floor, Hickory, NC 28601.
City of Newton	Planning Department, 401 North Main Avenue, Newton, NC 28658.
Town of Brookford	Brookford Town Hall, 1700 South Center Street, Hickory, NC 28602.
Town of Catawba	Town Hall, 102 1st Street Northwest, Catawba, NC 28609.
Town of Long View	Town Government Center, 2404 1st Avenue Southwest, Long View, NC 28602.
Town of Maiden	Planning Department, 19 North Main Avenue, Maiden, NC 28650.
Unincorporated Areas of Catawba County	Catawba County Planning and Zoning Department, 25 Government Drive, Newton, NC 28658.
Cleveland County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
City of Kings Mountain	Planning Department, 101 West Gold Street, Kings Mountain, NC 28086.
Gaston County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023 and July 31, 2024	
City of Belmont	Planning and Zoning Department, 1401 East Catawba Street, Belmont, NC 28012.
City of Bessemer City	City Hall, 132 West Virginia Avenue, Bessemer City, NC 28016.
City of Cherryville	City Hall, 116 South Mountain Street, Cherryville, NC 28021.
City of Gastonia	Engineering and Land Development, Garland Municipal Business Center, 150 South York Street, Gastonia, NC 28052.
City of High Shoals	City Hall, 101 Thompson Street, High Shoals, NC 28077.
City of Lowell	City Hall, 101 West 1st Street, Lowell, NC 28098.
City of Mount Holly	City Hall, 400 East Central Avenue, Mount Holly, NC 28120.
Town of Cramerton	Town Hall, 155 North Main Street, Cramerton, NC 28032.
Town of Dallas	Administrative Office, 210 North Holland Street, Dallas, NC 28034.
Town of McAdenville	Town Hall, 163 Main Street, McAdenville, NC 28101.
Town of Ranlo	Town of Ranlo, 1825 Spencer Mountain Road, Gastonia, NC 28054.
Town of Spencer Mountain	Gaston County Administration Building, 128 West Main Avenue, Gastonia, NC 28052.
Town of Stanley	Town Hall, 416 Highway 27 South, Stanley, NC 28164.
Unincorporated Areas of Gaston County	Gaston County Administration Building, 128 West Main Avenue, Gastonia, NC 28052.
Iredell County, North Carolina and Incorporated Areas Project: 13-04-6162S Preliminary Date: September 29, 2023	
City of Statesville	City Hall, 227 South Center Street, Statesville, NC 28677.
Town of Mooresville	Planning and Community Development Department, 750 West Iredell Avenue, Mooresville, NC 28115.
Town of Troutman	Town Hall, 400 North Eastway Drive, Troutman, NC 28166.
Unincorporated Areas of Iredell County	Iredell County Planning and Development Department, 349 North Center Street, Statesville, NC 28677.
Lincoln County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
City of Lincolnton	City Hall, Planning Department, 114 West Sycamore Street, 2nd Floor, Lincolnton, NC 28092.
Unincorporated Areas of Lincoln County	Lincoln County Planning and Inspections Department, 115 West Main Street, 3rd Floor, Lincolnton, NC 28092.
McDowell County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
City of Marion	City Hall, 194 North Main Street, Marion, NC 28752.
Town of Old Fort	Town Hall, 38 South Catawba Avenue, Old Fort, NC 28762.
Unincorporated Areas of McDowell County	McDowell County Services Building, 60 East Court Street, Marion, NC 28752.

Community	Community map repository address
Mecklenburg County, North Carolina and Incorporated Areas Project: 12-04-8615S Preliminary Date: September 29, 2023	
Town of Cornelius	Town Hall, 21445 Catawba Avenue, Cornelius, NC 28031.
Town of Davidson	Town Hall, 251 South Street, Davidson, NC 28036.
Town of Huntersville	Town Center, Planning Department, 105 Gilead Road, 3rd Floor, Huntersville, NC 28078.

[FR Doc. 2025-19213 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Docket ID FEMA-2025-0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address

listed in the table below and online through the FEMA Map Service Center at <https://msc.fema.gov>.

FOR FURTHER INFORMATION CONTACT:

David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65. The current effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that

the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B-2520).	City of Litchfield Park (24-09-0662P).	The Honorable Thomas L. Schoaf, Mayor, City of Litchfield Park, 214 West Wigwam Boulevard, Litchfield Park, AZ 85340.	City Hall, 214 West Wigwam Boulevard Litchfield Park, AZ 85340.	Jul. 11, 2025	040128
Maricopa (FEMA Docket No.: B-2520).	City of Phoenix (24-09-0411P).	The Honorable Kate Gallego, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, AZ 85003.	City Hall, 200 West Washington Street, Phoenix, AZ 85003.	Jun. 20, 2025	040051
Pima (FEMA Docket No.: B-2520).	Town of Oro Valley (23-09-0234P).	The Honorable Joe Winfield, Mayor, Town of Oro Valley, 11000 North La Canada Drive, Oro Valley, AZ 85737.	Planning and Zoning Department, 11000 North La Canada Drive, Oro Valley, AZ 85737.	Jul. 11, 2025	040109
Arkansas: Benton (FEMA Docket No.: B-2531).	City of Centerton (24-06-1386P).	The Honorable Bill Edwards, Mayor, City of Centerton, P.O. Box 208, Centerton, AR 72719.	Planning and Development Department, 200 Municipal Drive, Centerton, AR 72719.	Aug. 25, 2025	050399
California:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Orange (FEMA Docket No.: B-2520).	City of Irvine (24-09-0442P).	The Honorable Larry Agran, Mayor, City of Irvine, 1 Civic Center Plaza, Irvine, CA 92606.	Development Engineering Department, 1 Civic Center Plaza, Irvine, CA 92606.	Jul. 15, 2025	060222
Riverside (FEMA Docket No.: B-2520).	Agua Caliente, Band of Cahuilla Indians Tribe (24-09-0978P).	The Honorable Reid D. Milanovich, Chair, Tribal Council of the Agua Caliente Band of Cahuilla Indians, 5401 Dinah Shore Drive, Palm Springs, CA 92264.	Agua Caliente Band of Cahuilla Indians, 5401 Dinah Shore Drive, Palm Springs, CA 92264.	Jul. 18, 2025	060763
Riverside (FEMA Docket No.: B-2520).	City of Cathedral City (24-09-0978P).	The Honorable Mark Carnevale, Mayor, City of Cathedral City, 68-700 Avenida Lalo Guerrero, Cathedral City, CA 92234.	City Hall, 68-700 Avenida Lalo Guerrero, Cathedral City, CA 92234.	Jul. 18, 2025	060704
Riverside (FEMA Docket No.: B-2520).	City of Norco (25-09-0007P).	The Honorable Greg Newton, Mayor, City of Norco, 2870 Clark Avenue Norco, CA 92860.	City Hall, 2870 Clark Avenue Norco, CA 92860.	Jul. 18, 2025	060256
Riverside (FEMA Docket No.: B-2520).	City of Palm Springs (24-09-0978P).	Scott Stiles Manager, City of Palm Springs, 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262.	City Hall, 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262.	Jul. 18, 2025	060257
San Diego (FEMA Docket No.: B-2520).	City of San Marcos (24-09-1116P).	The Honorable Rebecca Jones, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	City Hall, 1 Civic Center Drive, San Marcos, CA 92069.	Jul. 7, 2025	060296
San Luis Obispo (FEMA Docket No.: B-2520).	City of El Paso de Robles (25-09-0412P).	The Honorable John Hamon, Mayor, City of El Paso de Robles, 1000 Spring Street, Paso Robles, CA 93446.	City Hall, 1000 Spring Street, Paso Robles, CA 93446.	Jul. 17, 2025	060308
Colorado:					
Boulder (FEMA Docket No.: B-2520).	Unincorporated areas of Boulder County (24-08-0327P).	The Honorable Marta Loachamin, Chair, Boulder County Board of Commissioners, 1325 Pearl Street, Boulder, CO 80302.	Boulder County Transportation Department, 2525 13th Street, Suite 203, Boulder, CO 80304.	Jun. 30, 2025	080023
Jefferson (FEMA Docket No.: B-2520).	City of Arvada (24-08-0434P).	The Honorable Lauren Simpson, Mayor, City of Arvada, 8101 Ralston Road, Arvada, CO 80002.	Engineering Department, 8101 Ralston Road, Arvada, CO 80002.	Jul. 18, 2025	085072
Jefferson (FEMA Docket No.: B-2520).	Unincorporated areas of Jefferson County (24-08-0434P).	The Honorable Lesley Dahlkemper, Chair, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	Jul. 18, 2025	080087
Delaware: Sussex (FEMA Docket No.: B-2531).	Unincorporated areas of Sussex County (25-03-0292P).	Douglas B. Hudson President, Sussex County Council, P.O. Box 589, Georgetown, DE 19947.	Sussex County Planning and Zoning Department, 2 The Circle, Georgetown, DE 19947.	Aug. 18, 2025	100029
Florida:					
Lake (FEMA Docket No.: B-2527).	Town of Lady Lake (24-04-7428P).	William Lawrence Manager, Town of Lady Lake, 409 Fennell Boulevard, Lady Lake, FL 32159.	Town Hall, 409 Fennell Boulevard, Lady Lake, FL 32159.	Aug. 14, 2025	020613
Orange (FEMA Docket No.: B-2534).	City of Orlando (25-04-0459P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Public Works Department, Engineering Services Division, 400 South Orange Avenue, 8th Floor Orlando, FL 32801.	Aug. 14, 2025	120186
Pasco (FEMA Docket No.: B-2527).	Unincorporated areas of Pasco County (24-04-5908P).	Kathryn Starkey, Chair, Pasco County Board of Commissioners, 8731 Citizens Drive, New Port Richey, FL 33525.	Pasco County Building Construction Services Department, 8661 Citizens Drive, Suite 100, New Port Richey, FL 34654.	Aug. 14, 2025	120230
Illinois:					
Will (FEMA Docket No.: B-2527).	City of Joliet (24-05-2641P).	The Honorable Terry D'Arcy, Mayor, City of Joliet, 150 West Jefferson Street, Joliet, IL 60432.	City Hall, 150 West Jefferson Street, Joliet, IL 60432.	Aug. 15, 2025	170702
Will (FEMA Docket No.: B-2527).	Unincorporated areas of Will County (24-05-2641P).	The Honorable Jennifer Bertino-Tarrant, Will County Executive, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Aug. 15, 2025	170695
Iowa: Polk (FEMA Docket No.: B-2531).	City of Urbandale (25-07-0080P).	The Honorable Bob Andeweg, Mayor, City of Urbandale, 3600 86th Street, Urbandale, IA 50322.	City Hall, 3600 86th Street, Urbandale, IA 50322.	Aug. 18, 2025	190230
Kansas:					
Cloud (FEMA Docket No.: B-2531).	City of Concordia (24-07-0527P).	Amy Lange Manager, City of Concordia, P.O. Box 603, Concordia, KS 66901.	City Hall, 701 Washington Street, Concordia, KS 66901.	Aug. 22, 2025	200060
Cloud (FEMA Docket No.: B-2531).	Unincorporated areas of Cloud County (24-07-0527P).	Michael Cleveland, Chair, Cloud County Commission, 811 Washington Street, Concordia, KS 66901.	Cloud County Courthouse, 811 Washington Street, Concordia, KS 66901.	Aug. 22, 2025	200058
Nevada:					
Washoe (FEMA Docket No.: B-2520).	City of Sparks (24-09-0898P).	The Honorable Ed Lawson, Mayor, City of Sparks, 431 Prater Way, Sparks, NV 89431.	City Hall, 431 Prater Way, Sparks, NV 89431.	Jul. 11, 2025	320021
Washoe (FEMA Docket No.: B-2520).	Unincorporated areas of Washoe County (24-09-0898P).	Eric Brown, Washoe County Manager, 1001 East 9th Street, Reno, NV 89512.	Washoe County Administration Complex, 1001 East 9th Street, Reno, NV 89512.	Jul. 11, 2025	320019

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Washoe (FEMA Docket No.: B–2520).	Unincorporated areas of Washoe County (24–09–0938P).	Eric Brown, Washoe County Manager, 1001 East 9th Street, Reno, NV 89512.	Washoe County Administration Complex, 1001 East 9th Street Reno, NV 89512.	Jul. 7, 2025	320019
New York: Rockland (FEMA Docket No.: B–2517).	Town of Orangetown (24–02–0638P).	The Honorable Teresa M. Kenny, Supervisor, Town of Orangetown, 26 Orangeburg Road, Orangeburg, NY 10962.	Town Hall, 26 Orangeburg Road, Orangeburg, NY 10962.	Aug. 20, 2025	360686
Rockland (FEMA Docket No.: B–2517).	Village of Spring Valley (24–02–0638P).	The Honorable Alan Simon, Mayor, Village of Spring Valley, 200 North Main Street, Spring Valley, NY 10977.	Village Hall, 200 North Main Street, Spring Valley, NY 10977.	Aug. 20, 2025	365344
North Dakota: Cass (FEMA Docket No.: B–2520).	City of Horace (24–08–0240P).	The Honorable Jeff Trudeau, Mayor, City of Horace, P.O. Box 99, Horace, ND 58047.	City Hall, 215 Park Drive, East Horace, ND 58047.	Jul. 15, 2025	390359
Pennsylvania: Chester (FEMA Docket No.: B–2531).	Township of Tredyffrin (24–03–1011P).	William F. Martin Manager, Township of Tredyffrin, 1100 DuPortail Road, Berwyn, PA 19312.	Planning and Zoning Department, 1100 DuPortail Road, Berwyn, PA 19312.	Aug. 21, 2025	420291
York (FEMA Docket No.: B–2527).	Township of Warrington (24–03–0927P).	Jason Weaver, Chair, Township of Warrington Board of Supervisors, 3345 Rosstown Road, Wellsville, PA 17365.	Township Hall, 3345 Rosstown Road, Wellsville, PA 17365.	Aug. 14, 2025	422232
South Carolina: Charleston (FEMA Docket No.: B–2527).	City of North Charleston (24–04–6653P).	The Honorable Reginald L. Burgess, Mayor, City of North Charleston, 2500 City Hall, Lane North, Charleston, SC 29406.	City Hall, 2500 City Hall, Lane North, Charleston, SC 29406.	Aug. 14, 2025	450042
Texas: Collin (FEMA Docket No.: B–2527).	City of Lavon (24–06–2319P).	The Honorable Vicki Sanson, Mayor, City of Lavon, P.O. Box, 340 Lavon, TX 75166.	City Hall, 120 School Road Lavon, TX 75166.	Aug. 15, 2025	481313
Collin (FEMA Docket No.: B–2527).	City of Murphy (25–06–0241P).	The Honorable Scott Bradley, Mayor, City of Murphy, 206 North Murphy Road, Murphy, TX 75094.	City Hall, 206 North Murphy Road, Murphy, TX 75094.	Aug. 18, 2025	480137
Collin (FEMA Docket No.: B–2527).	City of Plano (25–06–0241P).	The Honorable John B. Muns, Mayor, City of Plano, 1520 K Avenue Plano, TX 75074.	City Hall, 1520 K Avenue, Plano, TX 75074.	Aug. 18, 2025	480140
Comal (FEMA Docket No.: B–2531).	City of New Braunfels (24–06–0841P).	The Honorable Neal Linnartz, Mayor, City of New Braunfels, 550 Landa Street, New Braunfels, TX 78130.	City Hall, 550 Landa Street, New Braunfels, TX 78130.	Aug. 14, 2025	485493
Dallas (FEMA Docket No.: B–2531).	City of Mesquite (25–06–0337P).	The Honorable Daniel Alemán, Jr., Mayor, City of Mesquite, P.O. Box 850137, Mesquite, TX 75185.	City Hall, 757 North Galloway Avenue, Mesquite, TX 75149.	Aug. 25, 2025	485490
Fannin (FEMA Docket No.: B–2427).	City of Bonham (24–06–0129P).	The Honorable H. L. Compton, Mayor, City of Bonham, 514 Chestnut Street, Bonham, TX 75418.	City Hall, 514 Chestnut Street, Bonham, TX 75418.	Aug. 20, 2025	480222
Kaufman (FEMA Docket No.: B–2427).	City of Terrell (24–06–2328P).	The Honorable Rick Carmona, Mayor, City of Terrell, 201 East Nash Street, Terrell, TX 75142.	City Hall, 201 East Nash Street, Terrell, TX 75142.	Aug. 4, 2025	480416
Kaufman (FEMA Docket No.: B–2427).	Unincorporated areas of Kaufman County (24–06–2328P).	The Honorable Jackie Allen Kaufman, County Judge, 1902 East U.S. Highway 175, Kaufman, TX 75142.	Kaufman County Development Services Building, 101 North Houston Street, Kaufman, TX 75142.	Aug. 4, 2025	480411
Medina (FEMA Docket No.: B–2531).	Unincorporated areas of Medina County (24–06–0782P).	The Honorable Keith Lutz Medina, County Judge, 1300 Avenue M, Room 250, Hondo, TX 78861.	Old Medina County Jail, 1502 Avenue K, 2nd Floor, Hondo, TX 78861.	Aug. 22, 2025	480472
Tarrant (FEMA Docket No.: B–2427).	City of Fort Worth (24–06–1014P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 100 Fort Worth Trail, Fort Worth, TX 76102.	Department of Transportation and Public Works, 100 Fort Worth Trail, Fort Worth, TX 76102.	Aug. 18, 2025	480596
Tarrant (FEMA Docket No.: B–2427).	City of Fort Worth (24–06–1845P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 100 Fort Worth Trail, Fort Worth, TX 76102.	Department of Transportation and Public Works, 100 Fort Worth Trail, Fort Worth, TX 76102.	Aug. 14, 2025	480596
Tarrant (FEMA Docket No.: B–2427).	City of Fort Worth (24–06–1981P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 100 Fort Worth Trail, Fort Worth, TX 76102.	Department of Transportation and Public Works, 100 Fort Worth Trail, Fort Worth, TX 76102.	Aug. 18, 2025	480596
Tarrant (FEMA Docket No.: B–2427).	City of Fort Worth (24–06–2148P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 100 Fort Worth Trail, Fort Worth, TX 76102.	Department of Transportation and Public Works, 100 Fort Worth Trail, Fort Worth, TX 76102.	Aug. 14, 2025	480596
Washington: King (FEMA Docket No.: B–2488).	Town of Skykomish (22–10–0931P).	The Honorable Henry Sladek, Mayor, Town of Skykomish, P.O. Box 308, Skykomish, WA 98288.	City Hall, 119 4th Street, North Skykomish, WA 98288.	Mar. 31, 2025	530236
King (FEMA Docket No.: B–2488).	Unincorporated areas of King County (22–10–0931P).	The Honorable Dow Constantine King, County Executive, 401 5th Avenue, Suite 800, Seattle, WA 98104.	King County Executive Office, 401 5th Avenue, Suite 800, Seattle, WA 98104.	Mar. 31, 2025	530071

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Wyoming: Teton (FEMA Docket No.: B-2488).	Unincorporated areas of Teton County (23-08-0662P).	The Honorable Luther Propst, Chair, Teton County Board of Commissioners, P.O. Box 3594, Jackson, WY 83001.	Teton County Public Works Department, 320 South King Street, Jackson, WY 83002.	Mar. 20, 2025	560094

[FR Doc. 2025-19207 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2025-0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address

listed in the table below and online through the FEMA Map Service Center at <https://msc.fema.gov>.

FOR FURTHER INFORMATION CONTACT:

David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65. The current effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that

the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
Henry (FEMA Docket No.: B-2538).	City of Headland (25-04-0618P).	The Honorable Jody Singleton, Mayor, City of Headland, 25 Grove Street Headland, AL 36345.	City Hall, 25 Grove Street Headland, AL 36345.	Sep. 12, 2025	01 010097
Madison (FEMA Docket No.: B-2542).	City of Huntsville (24-04-5390P).	The Honorable Thomas Battle, Jr., Mayor, City of Huntsville, P.O. Box 308, Huntsville, AL 35804.	City Hall, 308 Fountain Circle Southwest, 8th Floor, Huntsville, AL 35801.	Sep. 18, 2025	01 010153
Madison (FEMA Docket No.: B-2542).	Unincorporated areas of Madison County (24-04-5390P).	The Honorable Mac McCutcheon, Chair, Madison County Board of Commissioners, 100 North Side Square, Suite 700, Huntsville, AL 35801.	Madison County Inspection Department, 266-C Shields Road, Huntsville, AL 35811.	Sep. 18, 2025	01 010151
Arizona: Yavapai (FEMA Docket, No.: B-2527).	City of Cottonwood (25-09-0337X).	The Honorable Ann Shaw, Mayor, City of Cottonwood, 827 North Main Street, Cottonwood, AZ 86326.	Public Works Department, 1490 West Mingus Avenue, Cottonwood, AZ 86326.	Jul. 23, 2025	040096
California:					
Los Angeles (FEMA Docket, No.: B-2527).	City of Los Angeles (25-09-0104P).	The Honorable Karen Bass, Mayor, City of Los Angeles, 200 North Spring Street, Room 303, Los Angeles, CA 90012.	Department of Public Works, 1149 South Broadway, Suite 800, Los Angeles, CA 90015.	Aug. 4, 2025	060137

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Riverside (FEMA Docket, No.: B-2527).	City of Lake Elsinore (24-09-1047P).	The Honorable Brian Tisdale, Mayor, City of Lake Elsinore, 130 South Main Street, Lake Elsinore, CA 92530.	City Hall, 130 South Main Street, Lake Elsinore, CA 92530.	Jul. 21, 2025	060636
Riverside (FEMA Docket, No.: B-2527).	City of Murrieta (22-09-1427P).	The Honorable Lori Stone, Mayor, City of Murrieta, 1 Town Square, Murrieta, CA 92562.	Public Works Department, 1 Town Square, Murrieta, CA 92562.	Aug. 11, 2025	060751
San Diego (FEMA Docket, No.: B-2527).	Unincorporated areas of San Diego County (24-09-0910P).	The Honorable Ebony N. Shelton, Chief Administrative Officer, San Diego County, 1600 Pacific Highway, Room 209, San Diego, CA 92101.	San Diego County Flood Control Office, 5510 Overland Avenue, San Diego, CA 92123.	Jul. 23, 2025	060284
San Luis Obispo (FEMA Docket, No.: B-2527).	City of San Luis Obispo (24-09-1118P).	The Honorable Erica A. Stewart, Mayor, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA 93401.	Department of Public Works, 919 Palm Street, San Luis Obispo, CA 93401.	Jul. 23, 2025	060310
Ventura (FEMA Docket, No.: B-2527).	City of Simi Valley (24-09-0344P).	The Honorable Dee Dee Cavanaugh, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	City Hall, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	Jul. 23, 2025	060421
Colorado:					
Boulder (FEMA Docket, No.: B-2527).	City of Louisville (24-08-0497P).	The Honorable Chris Leh, Mayor, City of Louisville, 749 Main Street, Louisville, CO 80027.	City Hall, 749 Main Street, Louisville, CO 80027.	Jul. 21, 2025	085076
Larimer (FEMA Docket, No.: B-2527).	Unincorporated areas of Larimer County (24-08-0420P).	The Honorable Kristin Stephens, Chair, Larimer County, Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County, Courthouse, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	Aug. 1, 2025	080101
Weld (FEMA Docket, No.: B-2527).	Town of Firestone (24-08-0277P).	The Honorable Don Conyack, Mayor, Town of Firestone, 9950 Park Avenue, Firestone, CO 80504.	Department of Engineering and Utilities, 9950 Park Avenue, Firestone, CO 80504.	Jul. 31, 2025	080241
Idaho: Elmore (FEMA Docket, No.: B-2527).	Unincorporated areas of Elmore County (24-10-0107P).	The Honorable Bud Corbus, Chair, Elmore County, Board of Commissioners, 150 South 4th East Street, Mountain Home, ID 83647.	Elmore County Land Use and Building Department, 520 East 2nd Street South, Mountain Home, ID 83647.	Jul. 31, 2025	160212
Illinois: DuPage (FEMA Docket No.: B-2531).	Village of Oak Brook (25-05-0048P).	The Honorable Larry Herman, President, Village of Oak Brook, 1200 Oak Brook Road, Oak Brook, IL 60523.	Village Hall, 1200 Oak Brook Road, Oak Brook, IL 60523.	Sep. 2, 2025	170214
Nevada:					
Clark (FEMA Docket, No.: B-2527).	City of Henderson (24-09-0945P).	The Honorable Michelle Romero, Mayor, City of Henderson, 240 Water Street, Henderson, NV 89015.	Public Works Department, 240 Water Street, Henderson, NV 89015.	Jul. 16, 2025	320005
Clark (FEMA Docket, No.: B-2527).	City of North Las Vegas (24-09-1120P).	The Honorable Pamela Goynes-Brown, Mayor, City of North Las Vegas, 2250 Las Vegas Boulevard North, Suite 910, North Las Vegas, NV 89030.	Public Works Department, 2250 Las Vegas, Boulevard North, North Las Vegas, NV 89030.	Jul. 24, 2025	320007
Washoe (FEMA Docket, No.: B-2527).	City of Reno (24-09-0332P).	The Honorable Hillary Schieve, Mayor, City of Reno, 1 East 1st Street, Reno, NV 89505.	City Hall, 1 East 1st Street, Reno, NV 89505.	Aug. 4, 2025	320020
Washoe (FEMA Docket, No.: B-2527).	Unincorporated areas of Washoe County (24-09-0332P).	Eric Brown, Washoe County Manager, 1001 East 9th Street, Reno, NV 89512.	Washoe County Administration Complex, 1001 East 9th Street, Reno, NV 89512.	Aug. 4, 2025	320019
North Carolina:					
Forsyth (Docket No.: B-2534).	City of Winston-Salem (24-04-7062P).	The Honorable Allen Joines, Mayor, City of Winston-Salem, P.O. Box 2511, Winston-Salem, NC 27102.	City Hall, 100 East 1st Street, Winston-Salem, NC 27101.	Sep. 5, 2025	375360
Guilford (FEMA Docket No.: B-2531).	City of Greensboro (24-04-2368P).	The Honorable Nancy Vaughan, Mayor, City of Greensboro, P.O. Box 3136 Greensboro, NC 27402.	Stormwater Planning Division, 2602 South Elm, Eugene Street, Greensboro, NC 27402.	Aug. 25, 2025	375351
Guilford (FEMA Docket No.: B-2531).	Unincorporated areas of Guilford County (24-04-2368P).	Melvin Alston, Chair, Guilford County Board of Commissioners, 301 West Market Street Greensboro, NC 27401.	Guilford County Planning Department 400 West Market Street, Greensboro, NC 27402.	Aug. 25, 2025	370111
Surry (FEMA Docket No.: B-2538).	Unincorporated areas of Surry County (24-04-7917P).	Mark Marion, Chair, Surry County Board of Commissioners, P.O. Box 1467, Dobson, NC 27017.	Surry County Development Services Department, 122 Hamby Road, Dobson, NC 27017.	Sep. 8, 2025	370364
Oregon: Multnomah (FEMA Docket, No.: B-2527).	City of Gresham (24-10-0644P).	The Honorable Travis Stovall, Mayor, City of Gresham, 1333 Northwest Eastman Parkway, Gresham, OR 97030.	City Hall, 1333 Northwest Eastman Parkway, Gresham, OR 97030.	Jul. 28, 2025	410181
Utah:					
Davis (FEMA Docket, No.: B-2527).	City of Farmington (24-08-0551P).	The Honorable Brett Anderson, Mayor, City of Farmington, 160 South Main Street, Farmington, UT 84025.	City Hall, 160 South Main Street, Farmington, UT 84025.	Jul. 28, 2025	490044
Davis (FEMA Docket, No.: B-2527).	Unincorporated areas of Davis County (24-08-0551P).	The Honorable Lorene Miner Kamalu, Chair, Davis County Board of Commissioners, P.O. Box 618, Farmington, UT 84025.	Davis County Administrative Office, 61 South Main Street, Farmington, UT 84025.	Jul. 28, 2025	490038

[FR Doc. 2025–19208 Filed 10–1–25; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Docket ID FEMA–2025–0002; Internal Agency Docket No. FEMA–B–2564]

Changes in Flood Hazard Determinations**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The current effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, “Flood Insurance.”)

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Surprise (24–09–0569P).	The Honorable Kevin Sartor, Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	City Hall, 16000 North Civic Center Plaza, Surprise, AZ 85374.	https://msc.femagov/portal/advanceSearch .	Dec. 11, 2025	040053
Pima	Town of Marana (24–09–0485P).	The Honorable Jon Post, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Development Services Department, Ed Honea Marana Municipal Complex, 11555 West Civic Center Drive, Marana, AZ 85653.	https://msc.femagov/portal/advanceSearch .	Nov. 28, 2025	040118
Pima	Town of Marana (24–09–1054P).	The Honorable Jon Post, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Development Services Department, Ed Honea Marana Municipal Complex, 11555 West Civic Center Drive, Marana, AZ 85653.	https://msc.femagov/portal/advanceSearch .	Nov. 28, 2025	040118

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Pinal	City of Maricopa (24–09–0371P).	The Honorable Nancy Smith, Mayor, City of Maricopa, 39700 West Civic Center Plaza, Maricopa, AZ 85138.	City Hall, 39700 West Civic Center Plaza, Maricopa, AZ 85138.	https://msc.femagov/portal/advanceSearch .	Dec. 8, 2025	040052
California: Riverside	City of Corona (24–09–0818P).	The Honorable Jim Steiner, Mayor, City of Corona, 400 South Vicentia Avenue, Corona, CA 92882.	Public Works Department, 400 South Vicentia Avenue, Corona, CA 92882.	https://msc.femagov/portal/advanceSearch .	Nov. 27, 2025	060250
Riverside	City of Perris (25–09–0435P).	The Honorable Michael Vargas, Mayor, City of Perris, 101 North D Street, Perris, CA 92570.	City Hall, 101 North D Street, Perris, CA 92570.	https://msc.femagov/portal/advanceSearch .	Dec. 5, 2025	060258
Riverside	City of Riverside (25–09–0433P).	The Honorable Patricia Lock Dawson, Mayor, City of Riverside, 3900 Main Street, Riverside, CA 92522.	City Hall, 3900 Main Street, Riverside, CA 92522.	https://msc.femagov/portal/advanceSearch .	Dec. 8, 2025	060260
Riverside	Unincorporated areas of Riverside County (24–09–0818P).	The Honorable V. Manuel Perez, Chair, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	https://msc.femagov/portal/advanceSearch .	Nov. 27, 2025	060245
Riverside	Unincorporated areas of Riverside County (24–09–0975P).	The Honorable V. Manuel Perez, Chair, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	https://msc.femagov/portal/advanceSearch .	Dec. 3, 2025	060245
Riverside	Unincorporated areas of Riverside County (25–09–0640P).	The Honorable V. Manuel Perez, Chair, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	https://msc.femagov/portal/advanceSearch .	Dec. 2, 2025	060245
San Diego	City of Poway (25–09–0759X).	Chris Hazeltine, City Manager, City of Poway, 13325 Civic Center Drive, Poway, CA 92064.	City Hall, 13325 Civic Center Drive, Poway, CA 92064.	https://msc.femagov/portal/advanceSearch .	Nov. 7, 2025	060702
San Diego	City of San Diego (25–09–0759X).	The Honorable Todd Gloria, Mayor, City of San Diego, 202 C Street, 11th Floor San Diego, CA 92101.	City Hall, 202 C Street, 11th Floor San Diego, CA 92101.	https://msc.femagov/portal/advanceSearch .	Nov. 7, 2025	060295
San Diego	City of San Marcos (25–09–0243P).	The Honorable Rebecca Jones, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	City Hall, 1 Civic Center Drive, San Marcos, CA 92069.	https://msc.femagov/portal/advanceSearch .	Nov. 17, 2025	060296
San Diego	Unincorporated areas of San Diego County (25–09–0032P).	Ebony N. Shelton, Chief Administrative Officer, County of San Diego, 1600 Pacific Highway, Room 209, San Diego, CA 92101.	San Diego County, Flood Control Office, 5510 Overland Avenue, San Diego, CA 92123.	https://msc.femagov/portal/advanceSearch .	Dec. 5, 2025	060284
Colorado: Arapahoe	City of Littleton (24–08–0417P).	The Honorable Kyle Schlachter, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, CO 80120.	Public Works Department, 2255 West Berry Avenue, Littleton, CO 80120.	https://msc.femagov/portal/advanceSearch .	Nov. 21, 2025	080017
Delta	Town of Paonia (24–08–0399P).	The Honorable Paige Smith, Mayor, Town of Paonia, 214 Grand Avenue, Paonia, CO 81428.	Town Hall, 214 Grand Avenue, Paonia, CO 81428.	https://msc.femagov/portal/advanceSearch .	Nov. 28, 2025	080045
Delta	Unincorporated areas of Delta County (24–08–0399P).	The Honorable Wendell Koontz, Chair, Delta County Board of Commissioners, 501 Palmer Street, Suite 227, Delta, CO 81416.	Delta County Courthouse, 501 Palmer Street, Delta, CO 81416.	https://msc.femagov/portal/advanceSearch .	Nov. 28, 2025	080041
Douglas	City of Lone Tree (24–08–0556P).	The Honorable Marissa Harmon, Mayor, City of Lone Tree, 9220 Kimmer Drive, Suite 100, Lone Tree, CO 80124.	9220 Kimmer Drive, Suite 100 Lone Tree, CO 80124.	https://msc.femagov/portal/advanceSearch .	Dec. 19, 2025	080319

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Douglas	Unincorporated areas of Douglas County (24-08-0556P).	The Honorable Abe Laydon, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Public Works Department, 100 3rd Street, Castle Rock, CO 80104.	https://msc.femagov/portal/advanceSearch .	Dec. 19, 2025	080049
Routt	Town of Hayden (24-08-0444P).	The Honorable Ryan Banks, Mayor, Town of Hayden, P.O. Box 190, Hayden, CO 81639.	Town Hall, 178 West Jefferson Hayden, CO 81639.	https://msc.femagov/portal/advanceSearch .	Nov. 27, 2025	080157
Routt	Unincorporated areas of Routt County (24-08-0444P).	The Honorable Sonja Macys, Chair, Routt County Board of Commissioners, 522 Lincoln Avenue, Suite #30 Steamboat Springs, CO 80487.	Routt County Building Department, 136 6th Street, Suite 200, Steamboat Springs, CO 80487.	https://msc.femagov/portal/advanceSearch .	Nov. 27, 2025	080156
Yuma	City of Wray (24-08-0017P).	The Honorable Chad Deyle, Mayor, City of Wray, 245 West 4th Street, Wray, CO 80758.	Natural and Technological Hazards Division, FEMA Denver Federal Center, Building 710 Lakewood, CO 80226.	https://msc.femagov/portal/advanceSearch .	Nov. 6, 2025	0 080191
Yuma	Unincorporated areas of Yuma County (24-08-0017P).	The Honorable Adam Gates, Chair, Yuma County Board of Commissioners, 310 Ash Street, Suite A, Wray, CO 80758.	Yuma County Natural and Technological Hazards Division, FEMA Denver Federal Center, Building 710, Lakewood, CO 80226.	https://msc.femagov/portal/advanceSearch .	Nov. 6, 2025	080291
Idaho:						
Ada	City of Meridian (24-10-0611P).	The Honorable Robert Simison, Mayor, City of Meridian, 33 East Broadway Avenue, Meridian, ID 83642.	City Hall, 33 East Broadway Avenue, Meridian, ID 83642.	https://msc.femagov/portal/advanceSearch .	Nov. 12, 2025	160180
Ada	City of Star (24-10-0427P).	The Honorable Trevor A. Chadwick, Mayor, City of Star, 10769 West State Street, Star, ID 83669.	City Hall, 10769 West State Street, Star, ID 83669.	https://msc.femagov/portal/advanceSearch .	Dec. 17, 2025	160236
Ada	Unincorporated areas of Ada County (24-10-0427P).	The Honorable Rod Beck, Chair, Ada County Board of Commissioners, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County Development Services, 200 West Front Street, Boise, ID 83702.	https://msc.femagov/portal/advanceSearch .	Dec. 17, 2025	160001
Bingham	Unincorporated areas of Bingham County (24-10-0118P).	The Honorable Whitney Manwaring, Chair, Bingham County Commissioners, 501 North Maple Street, Suite 204, Blackfoot, ID 83221.	Bingham County Courthouse, 501 North Maple Street, Blackfoot, ID 83221.	https://msc.femagov/portal/advanceSearch .	Dec. 22, 2025	160018
Canyon	Unincorporated areas of Canyon County (24-10-0427P).	The Honorable Brad Holton, Chair, Canyon County Board of Commissioners, 1115 Albany Street, Room 101, Caldwell, ID 83605.	Canyon County Administration Building, 111 North 11th Avenue, Room 310 Caldwell, ID 83605.	https://msc.femagov/portal/advanceSearch .	Dec. 17, 2025	160208
Custer	City of Stanley (24-10-0674P).	The Honorable Steve Botti, Mayor, City of Stanley, P.O. Box 53, Stanley, ID 83278.	City Hall, 510 Eva Falls Avenue, Stanley, ID 83278.	https://msc.femagov/portal/advanceSearch .	Dec. 19, 2025	160054
Custer	Unincorporated areas of Custer County (24-10-0674P).	The Honorable Randy Corgatelli, Chair, Custer County Board of Commissioners, P.O. Box 385, Challis, ID 83226.	Custer County Courthouse, 801 East Main Avenue, Challis, ID 83226.	https://msc.femagov/portal/advanceSearch .	Dec. 19, 2025	160211
Lemhi	City of Salmon (24-10-0095P).	The Honorable Todd Nelson, Mayor, City of Salmon, 200 Main Street, Salmon, ID 83467.	City Hall, 200 Main Street, Salmon, ID 83467.	https://msc.femagov/portal/advanceSearch .	Nov. 7, 2025	160093
Lemhi	Unincorporated areas of Lemhi County (24-10-0095P).	The Honorable Lynn Bowerman, Chair, Lemhi County Board of County Commissioners, 206 Courthouse Drive, Salmon, ID 83467.	Lemhi County and City Building Department, 200 Fulton Street, Suite 204, Salmon, ID 83467.	https://msc.femagov/portal/advanceSearch .	Nov. 7, 2025	160092
Nevada:						
Clark	City of Henderson (24-09-0348P).	Stephanie Garcia-Vause, City Manager, City of Henderson, 240 South Water Street, Henderson, NV 89015.	City Hall, 240 South Water Street, Henderson, NV 89015.	https://msc.femagov/portal/advanceSearch .	Nov. 28, 2025	320005

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Douglas	Unincorporated areas of Douglas County (24-09-0865P).	The Honorable Sharla Hales, Chair, Douglas County Board of Commissioners, P.O. Box 218, Minden, NV 89423.	Douglas County Building Department, 1594 Esmeralda Avenue, Minden, NV 89423.	https://msc.femagov/portal/advanceSearch .	Nov. 27, 2025	320008
Oregon: Deschutes	Unincorporated areas of Deschutes County (24-10-0255P).	Nick Lelack Deschutes, County Administrator, P.O. Box 6005, Bend, OR 97708.	Deschutes County Community Development, 117 Northwest Lafayette Avenue, Bend, OR 97703.	https://msc.femagov/portal/advanceSearch .	Dec. 12, 2025	410055
Linn	Unincorporated areas of Linn County (24-10-0182P).	The Honorable Roger Nyquist, Chair, Linn County Board of Commissioners, P.O. Box 100, Albany, OR 97321.	Linn County Planning & Building Department, 300 Southwest 4th Avenue, Room 114, Albany, OR 97321.	https://msc.femagov/portal/advanceSearch .	Dec. 5, 2025	410136
South Dakota: Meade.	City of Sturgis (24-08-0096P).	The Honorable Kevin Forrester, Mayor, City of Sturgis, 1040 Harley-Davidson Way, Sturgis, SD 57785.	City Hall, 1040 Harley-Davidson Way, Sturgis, SD 57785.	https://msc.femagov/portal/advanceSearch .	Nov. 14, 2025	460055

[FR Doc. 2025-19210 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****[Docket ID FEMA-2025-0002; Internal Agency Docket No. FEMA-B-2562]****Proposed Flood Hazard Determinations****AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before December 31, 2025.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2562, to David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be

construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://>

hazards.fema.gov/femaportal/prelimdownload and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and

Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Benton County, Washington and Incorporated Areas Project: 21-10-0016S Preliminary Date: May 15, 2025	
City of Kennewick	City Hall, 210 W 6th Avenue, Kennewick, WA 99336.
City of Prosser	City Hall, 1002 Dudley Avenue, Prosser, WA 99350.
City of Richland	City Hall, 625 Swift Boulevard, Richland, WA 99352.
Town of Benton City	City Hall, 1009 Dale Avenue, Suite A, Benton City, WA 99320.
Town of West Richland	Municipal Services Building, 3100 Belmont Boulevard, West Richland, WA 99353.
Unincorporated Areas of Benton County	Benton County Public Services Building, 102206 E Wiser Parkway, Kennewick, WA 99338.

[FR Doc. 2025-19215 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2025-0002; Internal Agency Docket No. FEMA-B-2560]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before December 31, 2025.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2560, to David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be

construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection

at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by

the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Antrim County, Michigan (All Jurisdictions) Project: 14-05-3350S Preliminary Date: March 29, 2024	
Grand Traverse Band of Ottawa and Chippewa Indians	Tribal Headquarters, 2605 North West Bay Shore Drive, Peshawbestown, MI 49682.
Township of Banks	Antrim County Building, 203 East Cayuga Street, Bellaire, MI 49615.
Township of Central Lake	Central Lake Township Hall, 1622 North Mile 88, Central Lake, MI 49622.
Township of Chestonia	Antrim County Building, 203 East Cayuga Street, Bellaire, MI 49615.
Township of Custer	Custer Township Hall, 2949 Alden Highway, Mancelona, MI 49659.
Township of Echo	Echo Township Hall, 1720 Six Mile Lake Road, East Jordan, MI 49727.
Township of Elk Rapids	Government Center, 315 Bridge Street, Elk Rapids, MI 49629.
Township of Forest Home	Forest Home Township Hall, 321 North Bridge Street, Bellaire, MI 49615.
Township of Helena	Township Community Center, 8751 Helena Road, Alden, MI 49612.
Township of Jordan	Jordan Township Hall, 2647 Mount Bliss Road, East Jordan, MI 49727.
Township of Kearney	Antrim County Building, 203 East Cayuga Street, Bellaire, MI 49615.
Township of Mancelona	Township Hall, 9610 South Mile 88 Highway, Mancelona, MI 49659.
Township of Milton	Milton Township Hall, 7023 Cherry Avenue, Kewadin, MI 49648.
Township of Star	Star Township Hall, 6775 Alba Highway, Elmira, MI 49730.
Township of Torch Lake	Torch Lake Township Hall, 2355 North US Highway 31, Kewadin, MI 49648.
Township of Warner	Warner Township Hall, 2434 Ray Street, Elmira, MI 49730.
Village of Bellaire	Village Community Center, 202 North Bridge Street, Bellaire, MI 49615.
Village of Central Lake	Department of Public Works Office, 7900 Grove Street, Central Lake, MI 49622.
Village of Elk Rapids	Government Center, 315 Bridge Street, Elk Rapids, MI 49629.
Village of Ellsworth	Village Hall, 6520 Center Street, Ellsworth, MI 49729.
Village of Mancelona	Mancelona Village Hall, 120 West State Street, Mancelona, MI 49659.

[FR Doc. 2025-19211 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2025-0002; Internal Agency Docket No. FEMA-B-2559]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for

the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before December 31, 2025.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2559, to David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required

by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be

considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where

applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison. (Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,
Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Butte County, California and Incorporated Areas Project: 18-09-0006S Preliminary Date: May 30, 2025	
City of Chico	Municipal Center, 411 Main Street, 2nd Floor, Chico, CA 95928.
Unincorporated Areas of Butte County	Butte County Department of Public Works, 7 County Center Drive, Oroville, CA 95965.
Wasco County, Oregon and Incorporated Areas Project: 20-10-0029S Preliminary Date: October 14, 2022 and April 18, 2025	
City of The Dalles	City Hall, 313 Court Street, The Dalles, OR 97058.
Unincorporated Areas of Wasco County	Wasco County Planning Department, 2705 East 2nd Street, The Dalles, OR 97058.

[FR Doc. 2025-19214 Filed 10-1-25; 8:45 am]
BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2025-0002; Internal Agency Docket No. FEMA-B-2563]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and

where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The current effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance

eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The

flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Connecticut: New Haven.	Town of Wallingford (23-01-0472P).	The Honorable Vincent Cervoni, Mayor, Town of Wallingford, 45 South Main Street, Wallingford, CT 06492.	Town Hall, 45 South Main Street, Wallingford, CT 06492.	https://msc.fema.gov/portal/advanceSearch .	Dec. 15, 2025	090090
Florida:						
Manatee	Unincorporated areas of Manatee County (24-04-7461P).	Charlie Bishop, Manatee County Administrator, 1112 Manatee Avenue West, Bradenton, FL 34205.	Manatee County Administrator Building, 115 Manatee Avenue West, Bradenton, FL 34205.	https://msc.fema.gov/portal/advanceSearch .	Dec. 26, 2025	120153
Martin	Unincorporated areas of Martin County (24-04-5443P).	Don G. Donaldson, Martin County Administrator, 2401 Southeast Monterey Road, Stuart, FL 34996.	Martin County Administrative Center, 2401 Southeast Monterey Road, Stuart, FL 34996.	https://msc.fema.gov/portal/advanceSearch .	Dec. 17, 2025	120161
Orange	City of Orlando (25-04-2096P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Public Works Department, Engineering Division, 400 South Orange Avenue, 8th Floor, Orlando, FL 32801.	https://msc.fema.gov/portal/advanceSearch .	Dec. 22, 2025	120186
St. Johns	Unincorporated areas of St. Johns County (25-04-0917P).	Joy Andrews, St. Johns County Administrator, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Government Building, 500 San Sebastian View, St. Augustine, FL 32084.	https://msc.fema.gov/portal/advanceSearch .	Dec. 16, 2025	125147
Louisiana: East Baton Rouge.	Unincorporated areas of East Baton Rouge Parish (24-06-2136P).	The Honorable Sid Edwards, Mayor-President, City of Baton Rouge and East Baton Rouge Parish, P.O. Box 1471, Baton Rouge, LA 70821.	Baton Rouge Planning Commission, 1100 Laurel Street, Baton Rouge, LA 70802.	https://msc.fema.gov/portal/advanceSearch .	Dec. 28, 2025	220058
Illinois: Cook	Village of Hoffman Estates (25-05-1418P).	The Honorable William D. McLeod, Mayor, Village of Hoffman Estates, 1900 Hassell Road, Hoffman Estates, IL 60169.	Village Hall, 1900 Hassell Road, Hoffman Estates, IL 60169.	https://msc.fema.gov/portal/advanceSearch .	Dec. 19, 2025	170107
Michigan:						
Kent	Charter Township of Cascade (23-05-2902P).	The Honorable Grace Lesperance, Supervisor, Charter Township of Cascade, 5920 Tahoe Drive Southeast, Grand Rapids, MI 49546.	Charter Township Hall, 5920 Tahoe Drive Southeast, Grand Rapids, MI 49546.	https://msc.fema.gov/portal/advanceSearch .	Dec. 19, 2025	260814
Kent	Township of Ada (23-05-2902P).	The Honorable Thomas Korth, Supervisor, Township of Ada, P.O. Box 370, Ada, MI 49301.	Township Hall, 7330 Thornapple River Drive, Ada, MI 49301.	https://msc.fema.gov/portal/advanceSearch .	Dec. 19, 2025	260248
Massachusetts:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Plymouth	Town of Abington (24-01-0425P).	Scott Lambiase, Manager, Town of Abington, 500 Gliniewicz Way, Abington, MA 02351.	Town Hall, 500 Gliniewicz Way, Abington, MA 02351.	https://msc.fema.gov/portal/advanceSearch .	Dec. 12, 2025	250259
Worcester	City of Worcester (24-01-0348P).	Eric D. Batista, Manager, City of Worcester, 455 Main Street, Worcester, MA 01608.	City Hall, 455 Main Street, Worcester, MA 01608.	https://msc.fema.gov/portal/advanceSearch .	Dec. 1, 2025	250349
Missouri: Pettis	Unincorporated areas of Pettis County (24-07-0860P).	The Honorable Bill Taylor, Presiding Commissioner, Pettis County Commission, 415 South Ohio Avenue, Suite 212, Sedalia, MO 65301.	Sedalia-Pettis County Emergency Management Office, 1511 North Ohio Avenue, Sedalia, MO 65301.	https://msc.fema.gov/portal/advanceSearch .	Dec. 8, 2025	290823
North Carolina: Mecklenburg.	Town of Huntersville (24-04-7717P).	The Honorable Christy Clark, Mayor, Town of Huntersville, P.O. Box 664, Huntersville, NC 28070.	Planning Department, 105 Gilead Road, Huntersville, NC 28078.	https://msc.fema.gov/portal/advanceSearch .	Dec. 17, 2025	370478
Ohio:						
Fairfield	City of Pickerington (25-05-1088P).	The Honorable Lee Gray, Mayor, City of Pickerington, 100 Lockville Road, Pickerington, OH 43147.	City Hall, 100 Lockville Road, Pickerington, OH 43147.	https://msc.fema.gov/portal/advanceSearch .	Dec. 12, 2025	390162
Fairfield	Unincorporated areas of Fairfield County (25-05-1088P).	The Honorable Steve Davis, Commissioner, Fairfield County, 210 East Main Street, Room 301, Lancaster, OH 43130.	Fairfield County EMA, 240 Baldwin Drive, Lancaster, OH 43130.	https://msc.fema.gov/portal/advanceSearch .	Dec. 12, 2025	390158
Lake	Unincorporated areas of Lake County (24-05-1335P).	The Honorable Richard J. Regovich, President, Lake County Board of Commissioners, 105 Main Street, Painesville, OH 44077.	Lake County Administration Building, 105 Main Street, Painesville, OH 44077.	https://msc.fema.gov/portal/advanceSearch .	Dec. 15, 2025	390771
Lake	Village of Perry (24-05-1335P).	The Honorable James Gessic, Mayor, Village of Perry 3758 Center Road, Perry, OH 44081.	Village Hall, 3758 Center Road, Perry, OH 44081.	https://msc.fema.gov/portal/advanceSearch .	Dec. 15, 2025	390320
Oklahoma: Wagoner.	City of Coweta (24-06-2177P).	The Honorable Naomi Hogue, Mayor, City of Coweta, P.O. Box 850, Coweta, OK 74429.	City Hall, 310 South Broadway, Coweta, OK 74429.	https://msc.fema.gov/portal/advanceSearch .	Dec. 18, 2025	400216
Texas:						
Denton	City of Sanger (24-06-0927P).	The Honorable Thomas Muir, Mayor, City of Sanger, P.O. Box 1729, Sanger, TX 76266.	City Hall, 201 Bolivar Street, Sanger, TX 76266.	https://msc.fema.gov/portal/advanceSearch .	Dec. 19, 2025	480786
Denton	Town of Flower Mound (24-06-2617P).	The Honorable Cheryl Moore, Mayor, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Public Works Department, Floodplain Management, 1001 Cross Timbers Road, Suite 2330, Flower Mound, TX 75028.	https://msc.fema.gov/portal/advanceSearch .	Dec. 17, 2025	480777
El Paso	City of El Paso (23-06-2681P).	The Honorable Renard U. Johnson, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	Zoning Division, 811 Texas Avenue, El Paso, TX 79901.	https://msc.fema.gov/portal/advanceSearch .	Dec. 11, 2025	480214
Travis	City of Bee Cave (24-06-0788P).	The Honorable Kara King, Mayor, City of Bee Cave, 4000 Galleria Parkway, Bee Cave, TX 78738.	City Hall, 4000 Galleria Parkway, Bee Cave, TX 78738.	https://msc.fema.gov/portal/advanceSearch .	Dec. 29, 2025	481610
Travis	Unincorporated areas of Travis County (24-06-0788P).	The Honorable Andy Brown, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Courthouse, 700 Lavaca Street, Austin, TX 78701.	https://msc.fema.gov/portal/advanceSearch .	Dec. 29, 2025	481026
Virginia:						
Arlington	Unincorporated areas of Arlington County (24-03-0126P).	Mark Schwartz, County Manager, Arlington County, 2100 Clarendon Boulevard, Suite 302, Arlington, VA 22201.	Ellen M. Bozman Government Center, 2100 Clarendon Boulevard, Arlington, VA 22201.	https://msc.fema.gov/portal/advanceSearch .	Dec. 15, 2025	515520

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arlington	Unincorporated areas of Arlington County (24-03-0127P).	Mark Schwartz, County Manager, Arlington County, 2100 Clarendon Boulevard, Suite 302, Arlington, VA 22201.	Ellen M. Bozman Government Center, 2100 Clarendon Boulevard, Arlington, VA 22201.	https://msc.fema.gov/portal/advanceSearch .	Dec. 18, 2025	515520

[FR Doc. 2025-19209 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2025-0002; Internal Agency Docket No. FEMA-B-2561]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before December 31, 2025.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective

Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2561, to David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

David Bascom, Acting Director, Engineering and Modeling Division, Risk Analysis, Planning & Information Directorate, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the

revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Jeffrey Jackson,

Deputy Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Pike County, Indiana and Incorporated Areas Project: 17-05-1785S Preliminary Date: September 15, 2023	
Unincorporated Areas of Pike County	Pike County Courthouse, 801 Main Street, Petersburg, IN 47567.
Branch County, Michigan (All Jurisdictions) Project: 23-05-0015S Preliminary Date: March 07, 2024 and April 25, 2025	
City of Coldwater	Coldwater City Hall, One Grand Street, Coldwater, MI 49036.
Township of Algansee	Algansee Townhall, 378 South Ray Quincy Road, Quincy, MI 49082.
Township of Bronson	Bronson City Hall, 141 South Matteson Street, Bronson, MI 49028.
Township of California	California Townhall, 1019 Copeland Road, Montgomery, MI 49255.
Township of Coldwater	Coldwater Township Hall, 319 Sprague Road, Coldwater, MI 49036.
Township of Girard	Girard Township Clerk Office, 1009 Marshall Road, Coldwater, MI 49036.
Township of Kinderhook	Kinderhook Township Office, 797 South Angola Road, Coldwater, MI 49036.
Township of Matteson	Matteson Township Clerk Office, 850 South Werners Landing, Bronson, MI 49028.
Township of Ovid	Ovid Township Hall, 381 South Angola Road, Coldwater, MI 49036.
Township of Quincy	Quincy Village Offices, 11 North Main Street, Quincy, MI 49082.
Township of Sherwood	Sherwood Township Hall, 548 North Main Street, Sherwood, MI 49089.
Village of Quincy	Quincy Village Offices, 47 Cole Street, Quincy, MI 49082.

[FR Doc. 2025-19212 Filed 10-1-25; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7093-N-05; OMB Control No. 2501-0034]

60-Day Notice of Proposed Information Collection: Standards for Success Reporting

AGENCY: Office of the Chief Financial Officer, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development (HUD) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: December 1, 2025.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to www.regulations.gov. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to:

Thaddeus Wincek, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-0001; email address Thaddeus.D.Wincek@hud.gov. Copies of the proposed forms and other information are available by contacting Mr. Wincek.

FOR FURTHER INFORMATION CONTACT:

Thaddeus Wincek, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-0001; email address Thaddeus.D.Wincek@hud.gov, telephone (202) 402-6617 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Requests for copies of the proposed forms should be submitted to Mr. Wincek.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Standards for Success Reporting.
OMB Approval Number: 2501-0034.
Type of Request: Regular.
Type of Information Collection: Renewal.
Form Numbers: HUD-PRL.

Description of the need for the information and proposed use: This request is for the continued clearance of data collection and reporting requirements to enable the Department of Housing and Urban Development (HUD) to better assess the effectiveness of discretionary-funded programs included in this information collection request (ICR). The discretionary-funded programs included in this ICR are the Multifamily Housing Service Coordinator Grant Program, the Multifamily Housing Budget-based Service Coordinator Program, and the Resident Opportunity and Self Sufficiency Service Coordinator Grant Program (ROSS).

This proposed collection, titled Standards for Success, has three key tenets which improve data collection and reporting for participating programs. First is the standardization of data collection and reporting requirements across programs which increases data comparability and utilization. Second is the ability to report on measurable outcomes and aligning them with higher-level agency objectives. And third is the collection of record-level data, instead of aggregate data. Collecting de-identified data at the level of the service recipient allows for more meaningful analysis, improved management, and the ability to demonstrate the progress and achievements of the funding recipients and the programs. Standards for Success accepts data submission by direct data input through the HUD-funded GrantSolutions online data collection and reporting tool (OLDC) and by data file upload, accommodating file formats

in Microsoft Excel or Extensible Markup Language (XML).

Currently across HUD, there are several reporting models in place for its discretionary programs. The reporting models provide information on a wide variety of outputs and outcomes and are based on unique data definitions and outcome measures in program-specific performance and progress reports. In Federal Fiscal Year 2013, nine program offices at HUD used six systems and 15 reporting tools to collect over 700 data elements in support of varied metrics to assess the performance of their funding recipients. The proposed data collection and reporting requirements described in this notice are designed to provide HUD programs a tested alternative to their existing disparate reporting methodologies, forms, systems, and requirements.

The lack of standardized data collection and reporting requirements imposes an increased burden on funding recipients with multiple HUD funding streams. The need for a comprehensive standardized reporting approach is underscored by reviews conducted by external oversight agencies, including the HUD Office of Inspector General (OIG) and the Government Accountability Office (GAO). These oversight agencies have questioned the soundness and comparability of data reported by HUD prior to Standards for Success. To address these issues, HUD is using its statutory and regulatory authority to improve and strengthen performance reporting for its discretionary programs.

The Secretary's statutory and regulatory authority to administer housing and urban development programs include provisions allowing

for the requirement of performance reporting from funding recipients. This legal authority is codified at 42 U.S.C. 3535(r). The individual privacy of service recipients is of the highest priority. The reporting repository established at HUD to receive data submission from funding recipients will not include any personally identifiable information (PII). Additionally, if the data from a funding recipient has 25 or fewer individuals served during a fiscal year as reported in the record-level reports, then the results for the demographic data elements for the 25 or fewer individuals will also be redacted or removed from the public-use data file and any publicly available analytical products in order to ensure the inability to identify any individual.

Eligible entities receiving funding by HUD are expected to implement the proposed recordkeeping and reporting requirements with available HUD funds. It is important to note that affected HUD funding recipients only submit a subset of the universe of data elements presented. The participating HUD program offices determine the specific data collection and reporting requirements, which considers the type and level of service provided by the respective HUD program.

The reporting requirements in this proposal better organize the data than participating programs collected in the past, standardize outcomes and performance measures, and allow program offices at HUD to select which data elements are relevant for their respective programs. Documents detailing the data elements are available for review by request from Thaddeus Wincek (Thaddeus.D.Wincek@hud.gov). All information reported to HUD will be

submitted electronically. Funding recipients may use existing management information systems provided those systems collect all the required data elements and can be exported for submission to HUD. Funding recipients that sub-award funds to other organizations will need to collect the required information from their sub-recipients.

Information collected and reported will be used by funding recipients and HUD for the following purposes:

- To provide program and performance information to recipients, general public, Congress, and other stakeholders;
- To continuously improve the quality, effectiveness, and efficiency of discretionary-funded programs;
- To provide management information for use by HUD in program administration and oversight, including the scoring of applications and the monitoring of funding-recipient participation, services, and outcomes; and
- To better measure and analyze performance information to identify successful practices to be replicated and prevent or correct problematic practices and improve outcomes in compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act.

The data collection and reporting requirements may expand to other HUD programs. Program implementation will be determined by the program. HUD will provide technical assistance to funding recipients throughout the implementation.

Respondents: Organizations receiving HUD funding as listed on page 2.

ANNUAL BURDEN ESTIMATE FOR THE REQUESTED REPORTING APPROACH

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hours per response	Annual burden hours	Hourly cost per response	Annual cost
HUD Participant Record-Level Report (HUD-PRL)	5,723	1	¹ 595,532	0.33	198,511	² \$24.12	\$4,788,074

¹ There are an estimated 104 individuals served by each of the 5,723 funding recipients.

² The hourly cost of \$24.12 is the average wage for office and administrative support occupations as reported in the May 2024 *Occupational Employment and Wages* produced by the U.S. Department of Labor, Bureau of Labor Statistics.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the

proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

(Authority: Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.)

Neba Funiba,

Acting Director, Grants Management and Oversight.

[FR Doc. 2025–19271 Filed 10–1–25; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6551–N–01]

Future of the HECM and HMBS Programs and Opportunities for Innovation in Accessing Home Equity

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner and the Government National Mortgage Association, Department of Housing and Urban Development (HUD).

ACTION: Request for information.

SUMMARY: The Department of Housing and Urban Development (HUD), through the Federal Housing Administration (FHA) and the Government National Mortgage Association (Ginnie Mae), are seeking public comments regarding the market for senior homeowners to access equity in their homes and possible improvements to the Home Equity Conversion Mortgage (HECM) and HECM mortgage-backed securities (HMBS) programs. Over its lifetime, HUD's reverse mortgage programs have served over a million American seniors but have faced operational and financial challenges. This Request for Information (RFI) aims to gather market feedback on opportunities to enhance the HECM and HMBS programs and the appropriate role of these programs in facilitating access to home equity for senior homeowners.

DATES: Comments must be received by December 1, 2025. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Interested persons are invited to submit comments responsive to this RFI. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov. To receive consideration as public comments, comments must be submitted through one of the two methods specified below. All submissions must refer to the above docket number and title. Commenters are encouraged to identify the number of the specific question or questions to

which they are responding. Responses should include the name(s) of the person(s) or organization(s) filing the comment; however, because any responses received by HUD will be publicly available, responses should not include any personally identifiable information or confidential commercial information.

1. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>.

2. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

FOR FURTHER INFORMATION CONTACT: Elizabeth Davis, Housing Program Officer, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9262–9280, Washington, DC 20410–0500; telephone number 202–402–4491 or (800) CALL–FHA (1–800–225–5342); email sffeedback@hud.gov. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

The Home Equity Conversion Mortgage (HECM) program, administered by the Federal Housing Administration (FHA), was authorized by Congress in 1988 as a pilot initiative to help senior homeowners convert a portion of their accumulated home equity to cash—without having to sell their homes, relocate, or make monthly mortgage payments. The program was made permanent in 1998.

HECMs are available to homeowners aged 62 and above who occupy their homes as primary residences and meet certain financial and property eligibility criteria set forth in the regulations at 24 CFR part 206 and guidance in HUD's Single Family Housing Policy Handbook 4000.1. The product allows borrowers to receive loan proceeds in the form of a lump sum, monthly payments, a line of credit, or a combination of these options, with repayment deferred until certain due and payable events occur, such as when the borrower sells the home, moves out, or passes away. The FHA insures the HECM up to a

Maximum Claim Amount (MCA), which is determined at the time of origination. Borrowers or their estates are guaranteed never to owe more than the home is worth, even if the loan balance exceeds the property value.

Over time, FHA has implemented a range of programmatic reforms aimed at mitigating losses to FHA's Mutual Mortgage Insurance Fund (MMIF), the federal fund covering HECMs and forward mortgages, caused by HECM activity and other external factors. These reforms include the introduction of financial assessment requirements, limits on upfront draw amounts, servicing rule changes, and adjustments to principal limit factors. Ginnie Mae, likewise, has developed HMBS pooling guidelines in an effort to address persistent liquidity constraints and other structural issues within the industry. As per its statutory purpose to increase liquidity of mortgage investments and distribution of the investment capital, Ginnie Mae launched the HMBS program in 2007. Like other Ginnie Mae programs, the HMBS carries the Ginnie Mae guaranty backed by the full faith and credit of the United States government.

HMBS enables FHA-approved HECM lenders, who also are approved Ginnie Mae issuers, to pool their loans into government-backed securities. Prior to the development of the HMBS security, Fannie Mae had been the largest investor in HECMs, purchasing them from originators and holding them in their investment portfolio. Fannie Mae officially stopped purchasing reverse mortgages in 2010, effectively leaving the HMBS structure as the only meaningful secondary mortgage market outlet for HECMs. Originally, the HMBS program saw modest uptake, with \$1.2 billion in issuances in its first year, and a total Unpaid Principal Balance (UPB) of \$6.3 billion by the end of the second year. Since 2022, HMBS issuance volumes have fallen, with only \$6.3 billion in UPB being securitized in 2024, nearly the same level as that of a decade ago. Additionally, a private label market for HECM securities has developed in parallel as another source of liquidity and an outlet for collateral ineligible for the inclusion in federally guaranteed securities.

II. Purpose of This Request for Information

The purpose of this RFI is to solicit information on the appropriate role of the HECM and HMBS programs in facilitating access to home equity for senior homeowners and opportunities to improve and more closely align these programs with their intended role.

III. Specific Information Requested

While HUD welcomes all comments relevant to the appropriate role of the HECM and HMBS programs and enhancements to these programs, HUD is particularly interested in receiving input from interested parties on the questions outlined below.

Program Performance, Market Role, and Emerging Risks

1. To what extent have the HECM and HMBS programs met their intended policy goals?

2. What should HECM's role be for senior borrowers, given the rise of proprietary home equity products and competition in the market?

3. Do the HECM and HMBS programs inhibit private sector innovation in developing products for senior Americans to access home equity?

4. Are there certain features of the HECM and HMBS programs that present emerging risks or costs to the MMIF or Ginnie Mae?

Consumer Interest and Demand

5. As noted in FHA's Fiscal Year 2024 Annual Report to Congress,¹ the 2024 total current Maximum Claim Amount (MCA) for HECM endorsements declined by 17 percent from 2023's total MCA. HECM endorsements declined by 59 percent since 2022. Why has consumer demand for HECMs declined over this period, despite a growing aging homeowner population and record levels of home equity?

6. How well do borrowers understand the HECM product, including terms and risks? Are existing safeguards sufficient to protect borrowers from potential predatory lending practices?

7. How do borrowers respond to other home equity and proprietary reverse mortgage products versus the HECM product? Are there notable differences between those products and HECM in terms of usability, complexity, or borrower's loan performance?

Origination Volumes

8. What are lenders' primary barriers to entry into the reverse mortgage market? How can HUD help remove those barriers to increase lender participation in the HECM program?

9. Should HUD reevaluate HECM features or products, such as certain payment plan options, Principal Limit growth, HECM for Purchase, and HECM-to-HECM refinances?

Liquidity

10. Is there possible investor demand for HMBS that is not currently being met? What changes or features would enable HMBS to better meet that demand, and what benefits and risks are associated with them?

11. Would a different issuance volume attract more broker-dealers and investors?

12. What features of the current HMBS product could be changed to improve issuer operations and provide greater liquidity, and what are the benefits and risks associated with them?

Program Improvements

13. What regulatory or other administrative changes should HUD make to improve the HECM program, including but not limited to new servicing policies or tools, changes to HECM Refinance policies (e.g., net benefit test), and use of note sales and other strategies for active and due and payable HECMs?

14. Are there any statutory changes that would improve the HECM or HMBS programs?

15. Is there renewed interest in HUD providing HECM Lender Insurance authority?²

16. Does the Life Expectancy Set Aside (LESA) adequately cover borrowers' actual property charges throughout the life of the HECM? If not, should HUD adjust the LESA or provide an alternative to combat tax and insurance defaults? Also, should HUD mandate a LESA for all borrowers?

17. What changes would you recommend to HECM's underwriting policies in the Financial Assessment, and what are the related considerations?

18. What factors influence a HECM holder's decision to transfer ownership of HECMs to another party, such as if whether the UPB is less than 98 percent of the Maximum Claim Amount (MCA) or the HECM is eligible for assignment? Do those factors differ based on the UPB to MCA ratio?

19. How could HUD reduce obstacles to asset resolution and claim payment following a HECM becoming due and payable?

20. How can FHA monitor better for deferred maintenance?

21. What program changes would improve the HECM and HMBS programs' ability to meet their intended policy goals, while reducing or not increasing FHA's or Ginnie Mae's

exposure to additional losses or risks? Are there aspects of other foreign or domestic reverse mortgage or aging-in-place programs that could be incorporated into HUD's reverse mortgage programs?

Frank Cassidy,

Principal Deputy Assistant Secretary for Housing.

Joseph Gormley,

Executive Vice President and Chief Operating Officer for Ginnie Mae.

[FR Doc. 2025–19344 Filed 10–1–25; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6570–N–01]

30-Day Notice Waiver for Continuum of Care Program (CoC Builds); Notice of Waiver

AGENCY: Office of the Deputy Secretary, HUD.

ACTION: Notice of waiver.

SUMMARY: This notice announces a waiver, granted by the Secretary, through the Deputy Secretary, of the minimum 30-day application period required under section 102(a) of the HUD Reform Act for the Continuum of Care Program (CoC Builds) notice of funding opportunity (NOFO), which was published on HUD's website on September 5, 2025 (FR–6902–N–25A).

FOR FURTHER INFORMATION CONTACT: For information regarding this notice, contact Felicia Gaither, Acting Deputy Assistant Secretary for Special Needs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20011; telephone number (202) 402–6009 (this is not a toll-free number); email CoCBuilds@HUD.gov. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION: Section 102(a) of the HUD Reform Act (42 U.S.C. 3545(a)) sets out the requirements for notice to the public regarding assistance available from HUD. Section 102(a)(3) requires publication of selection criteria not less than 30 days before the deadline for applications or requests for assistance. On September 5, 2025, the Department published the FY2025 CoC Builds NOFO (FR–6902–N–25A),

¹ FHA's Fiscal Year 2024 Annual Report to Congress, available at <https://www.hud.gov/sites/dfiles/Housing/documents/2024FHAAnnualReportMMIFund.pdf>.

² HUD removed the reference to Lender Insurance authority in 24 CFR 206.15 through the final rule: The Federal Housing Administration: Strengthening the Home Equity Conversion Mortgage Program, effective September 19, 2017 (82 FR 7117).

announcing the availability of \$75 million in Fiscal Year 2023 CoC funds, which were appropriated in the Consolidated Appropriations Act, 2023 (Pub. L. 117–328).

The September 5, 2025 NOFO announced a funding application deadline of 3:00 p.m. EST on September 12, 2025. The period was less than the 30-day minimum application requirement under section 102(a)(3). Section 102(a)(5) of the Reform Act permits the Secretary to waive the minimum 30-day application period “if the Secretary determines that the waiver is required for appropriate response to an emergency”. The Secretary is also required to publish, in the **Federal Register**, the reasons for granting such a waiver.

The Secretary has granted a waiver of the 30-day minimum application requirement for the previously referenced NOFO. It was necessary for the Department to establish a short application period for this NOFO to address certain exigent and emergency circumstances. Specifically, HUD is required by statute to obligate the CoC funds before they expire on September 30, 2025. Given that several activities must occur prior to obligating this funding, such as conducting eligibility and merit reviews of applications, HUD must ensure that there is adequate time to complete all necessary actions before the statutory deadline.

Due to the change in administration, the incoming administration needed adequate time to review the prior administration’s grantmaking practices to ensure that HUD’s future grantmaking activity aligned with the current administration’s policy priorities. The President then issued Executive Order 14321: Ending Crime and Disorder on America’s Streets (E.O.) on July 24, 2025, which directed HUD to “take immediate steps to assess [its] discretionary grant programs” and determine whether to make changes in the grantees who should be prioritized based on the factors outlined in the E.O. This led to the CoC Builds NOFO, originally published in May 2025, being republished in September after being re-evaluated to ensure grants would be awarded in a manner that is consistent with the current administration’s policy priorities, including the addition of terms and conditions set forth in Executive Order 14332: Improving Oversight of Federal Grantmaking, dated August 7, 2025. The issuance of Executive Order 14332 caused the publishing of the NOFO to be further delayed as the NOFO required revision and additional review at many levels to

ensure that HUD’s future grantmaking activity aligned with the current administration’s policy priorities. September 5, 2025, was the earliest the NOFO could be published while still meeting HUD’s statutory requirement to obligate the CoC funds before they expire on September 30, 2025.

While shortened, a 7-day application period is still sufficient time for applicants to prepare and submit an application. Additionally, the NOFO was streamlined to remove the requirement for narrative responses in the merit review criteria. As such, the circumstances demonstrated that an emergency existed that justified the granting of a waiver of the 30-day application period required under section 102(a) of the HUD Reform Act.

On September 14, 2025, the U.S. District Court for the District of Rhode Island issued a temporary restraining order concerning this NOFO. The Department is complying with the Court’s order.

Andrew Hughes,

Deputy Secretary.

[FR Doc. 2025–19318 Filed 10–1–25; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

**[FWS–R5–ES–2025–N027;
FXES11130500000–256–FF05E00000]**

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews of 13 Northeastern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews under the Endangered Species Act, as amended, for 13 northeastern species. A 5-year status review is based on the best scientific and commercial data available at the time of the review. We are requesting submission of any such information that has become available since the previous 5-year status review for each species.

DATES: To ensure consideration, please submit your written information by November 3, 2025. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For instructions on how and where to submit information, see Request for New Information and Table

2—Contacts under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

General Information: Sarah Furtak, 413–326–4687 (phone), sarah_furtak@fws.gov (email), and via U.S. mail at U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

Species-Specific Information and Submission of Comments: Contact the appropriate person or office listed in Table 2—Contacts in **SUPPLEMENTARY INFORMATION**.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), are initiating 5-year status reviews under the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for 13 northeastern species listed in table 1, below.

A 5-year status review is based on the best scientific and commercial data available at the time of the review. Therefore, we are requesting submission of any such information that has become available since the most recent status review for each species.

Why do we conduct 5-year reviews and species status assessments?

Under the ESA, we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11(h) (for wildlife) and 50 CFR 17.12(h) (for plants). Listed wildlife and plants can also be found at https://ecos.fws.gov/tess_public/pub/listedAnimals.jsp and https://ecos.fws.gov/tess_public/pub/listedPlants.jsp, respectively. Section 4(c)(2)(A) of the ESA requires us to review each listed species’ status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species under active review. For additional information about 5-year status reviews, refer to our fact sheet at <https://www.fws.gov/project/five-year-status-reviews>.

What species are under review?

We are initiating 5-year status reviews of the species in table 1.

TABLE 1—SPECIES UNDER REVIEW

Common name	Scientific name	Status	Where listed	Listing date and citation
Dwarf wedgemussel	<i>Alasmidonta heterodon</i>	Endangered	Wherever found	3/14/1990, 55 FR 9447.
Peter's Mountain mallow ...	<i>Iliamna corei</i>	Endangered	Wherever found	5/12/1986, 51 FR 17343.
Candy darter	<i>Etheostoma osburni</i>	Endangered	Wherever found	11/21/2018, 83 FR 58747.
Hay's spring amphipod	<i>Stygobromus hayi</i>	Endangered	Wherever found	2/5/1982, 47 FR 5425.
Purple bean	<i>Villosa perpurpurea</i>	Endangered	Wherever found	1/10/1997, 62 FR 1647.
Roseate tern	<i>Sterna dougallii dougallii</i>	Endangered (North-east Region).	Atlantic Coast South to NC.	11/2/1987, 52 FR 42064.
Appalachian monkeyface ...	<i>Theliderma sparsa</i>	Endangered	Wherever found	6/14/1976, 41 FR 24062.
Diamond darter	<i>Crystallaria cincotta</i>	Endangered	Wherever found	8/26/2013, 78 FR 45074.
Northeastern beach tiger beetle.	<i>Habroscelimorpha dorsalis dorsalis</i> .	Threatened	Wherever found	8/7/1990, 55 FR 32088.
Flat-spined three-toothed land snail.	<i>Triodopsis platysayoides</i>	Threatened	Wherever found	8/3/1978, 43 FR 28932.
Virginia round-leaf birch	<i>Betula uber</i>	Threatened	Wherever found	5/27/1978, 43 FR 17910.
American hart's-tongue fern	<i>Asplenium scolopendrium</i> var. <i>americanum</i> .	Threatened	Wherever found	7/14/1989, 54 FR 29726.
Shenandoah salamander ...	<i>Plethodon shenandoah</i>	Endangered	Wherever found	8/18/1989, 54 FR 34464.

What information do we consider in our 5-year reviews and species status assessments?

A 5-year status review considers all new information available at the time of the review. In conducting the review, we consider the best scientific and commercial data that have become available since the most recent status review. We are seeking new information specifically regarding:

(1) Species biology, including but not limited to life-history and habitat requirements and impact tolerance thresholds;

(2) Historical and current population conditions, including but not limited to population abundance, trends, distribution, demographics, and genetics;

(3) Historical and current habitat conditions, including but not limited to amount, distribution, and suitability;

(4) Historical and current threats, threat trends, and threat projections in relation to the five listing factors (as defined in Section 4(a)(1) of the ESA);

(5) Conservation measures for the species that have been implemented or are planned; and

(6) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information received will be considered during the 5-year review and will also be useful in evaluating ongoing recovery programs for the species.

Request for New Information

To ensure that 5-year status reviews are based on the best available scientific and commercial information, we request new information from all sources. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

Please submit your questions, comments, and materials to the appropriate contact in table 2, below.

Public Availability of Comments

Before including your address, phone number, electronic mail address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. Although you can request that personal information be withheld from public review, we cannot guarantee that we will be able to do so.

Contacts

New information on the species covered in this notice should be submitted by mail or email to the appropriate contact shown in table 2 by the deadline provided above in **DATES**.

TABLE 2—CONTACTS

Species	Contact person, email, phone	Contact address
Dwarf wedgemussel	New York Field Office, <i>fw5es_nyfo@fws.gov</i> , (607) 753-9334.	U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, NY 13045-9385.
Peter's Mountain mallow	Jennifer Stanhope, <i>Jennifer_Stanhope@fws.gov</i> , (804) 905-9781.	U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, VA 23061-4410.
Candy darter	West Virginia Field Office, <i>FW5_WVFO@fws.gov</i> , (304) 866-3858.	U.S. Fish and Wildlife Service, West Virginia Field Office, 6263 Appalachian Highway, Davis, West Virginia 26260-8061.
Hay's Spring amphipod	Kathleen Cullen, <i>Kathleen_Cullen@fws.gov</i> , (410) 573-4579.	U.S. Fish & Wildlife Service, Chesapeake Bay Field Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401-7307.
Purple bean	Jordan Richard, <i>Jordan_Richard@fws.gov</i> , (757) 570-3697.	U.S. Fish & Wildlife Service, Southwestern Virginia Field Office, 1656 Linden Dr., Madison, WI 53706.
Roseate tern	New England Field Office, <i>newengland@fws.gov</i> , (603) 223-2541.	U.S. Fish and Wildlife Service, New England Field Office, 70 Commercial Street, Suite 300, Concord, New Hampshire 03301.
Appalachian monkeyface	Jordan Richard, <i>Jordan_Richard@fws.gov</i> , (757) 570-3697.	U.S. Fish & Wildlife Service, Southwestern Virginia Field Office, 1656 Linden Dr., Madison, WI 53706.
Diamond darter	West Virginia Field Office, <i>FW5_WVFO@fws.gov</i> , (304) 866-3858.	U.S. Fish and Wildlife Service, West Virginia Field Office, 6263 Appalachian Highway, Davis, West Virginia 26260-8061.
Northeastern beach tiger beetle	Jennifer Stanhope, <i>Jennifer_Stanhope@fws.gov</i> , (804) 905-9781.	U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, VA 23061-4410.
Flat-spined three-toothed land snail	West Virginia Field Office, <i>FW5_WVFO@fws.gov</i> , (304) 866-3858.	U.S. Fish and Wildlife Service, West Virginia Field Office, 6263 Appalachian Highway, Davis, West Virginia 26260-8061.

TABLE 2—CONTACTS—Continued

Species	Contact person, email, phone	Contact address
Virginia round-leaf birch	Emily Argo, <i>Emily_Argo@fws.gov</i> , (804) 404–8184 ...	U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, VA 23061–4410.
American hart's-tongue fern	New York Field Office, <i>fw5es_nyfo@fws.gov</i> , (607) 753–9334.	U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, NY 13045–9385.
Shenandoah salamander	Emily Argo, <i>Emily_Argo@fws.gov</i> , (804) 404–8184 ...	U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, VA 23061–4410.

Authority

We publish this document under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Sharon Marino,

Acting Regional Director, Northeast Region, U.S. Fish and Wildlife Service.

[FR Doc. 2025–19289 Filed 10–1–25; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

**[FWS–R3–ES–2025–N024;
FXES11130300000–256–FF03E00000]**

**Endangered and Threatened Species;
Receipt of Recovery Permit
Applications**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct scientific research to promote conservation or other activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act (ESA). We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before November 3, 2025.

ADDRESSES:

Document availability and comment submission: Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.*, ESXXXXXX; see table in **SUPPLEMENTARY INFORMATION**):

- **Email (preferred method):** *permitsR3ES@fws.gov*. Please refer to the respective application number (*e.g.*, Application No. ESXXXXXX) in the subject line of your email message.
- **U.S. Mail:** Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458.

FOR FURTHER INFORMATION CONTACT:

Nathan Rathbun, 612–713–5343 (telephone); *permitsR3ES@fws.gov* (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the

Privacy Act of 1974, as amended (5 U.S.C. 552a), and the Freedom of Information Act (5 U.S.C. 552).

Background

The ESA prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the CFR provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

**Permit Applications Available for
Review and Comment**

The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER19855675	Aimee-Christine Bjornstad; Elkhart, IN.	Indiana bat (<i>Myotis sodalis</i>) and northern long-eared bat (<i>M. septentrionalis</i>).	IA, MI, OH, PA, WV.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, mist net, band, radio telemetry, and release.	New.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER20106311	Aaron Crank; Lucasville, OH.	Copperbelly watersnake (<i>Nerodia erythrogaster neglecta</i>) and eastern massasauga rattlesnake (<i>Sistrurus catenatus</i>).	IL, IN, IA, MI, MN, NY, OH, PA, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, release.	New.
PER20208946	Stephanie Schubel; Pellston, MI.	Piping plover (<i>Charadrius melodus</i>).	IL, IN, MI, MN, NY, OH, PA, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, band, bio-sample, erect nest exclosures, salvage, captive rear, release.	New.
PER18694675	Jane DeClerck; Mount Healthy, OH.	Clubshell (<i>Pluerobema clava</i>), fanshell (<i>Cyprogenia stegaria</i>), rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>) northern riffleshell (<i>Epioblasma rangiana</i>), and longsolid (<i>Fusconaia subrotunda</i>).	IA, IL, IN, MI, MN, MO, OH, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, relocate due to stranding, salvage.	New.
ES35973D	Alex Patterson; Beckley, WV.	Add new species—Virginia big eared bat (<i>Corynorhinus townsendii virginianus</i>), gray bat (<i>Myotis grisescens</i>), tri-colored bat (<i>Perimyotis subflavus</i>)—to existing authorized species: Indiana bat (<i>Myotis sodalis</i>), and northern long-eared bat (<i>M. septentrionalis</i>).	Add new states—AL, AR, CO, CT, DE, DC, FL, GA, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NH, NJ, NY, NC, ND, OK, RI, SC, SD, TN, TX, VT, VA, WI, WY—to existing authorized states: IL, OH, PA, WV.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, band, radio transmitter, release.	Renew and amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1539(c)).

Sean Marsan,

Acting-Assistant Regional Director, Ecological Service, Midwest Region.

[FR Doc. 2025–19290 Filed 10–1–25; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2412–014–004–047181.1]

Implementing Section 50203 of the One Big Beautiful Bill Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of land available for coal leasing.

SUMMARY: Pursuant to section 50203 of the One Big Beautiful Bill Act (OBBBA), enacted on July 4, 2025, the Secretary of the Interior is making available for coal leasing approximately 13,103,000 acres of Federal mineral estate. The OBBBA directs the Secretary of the Interior to make available for coal leasing a minimum of 4,000,000 additional acres

of the Federal mineral estate within 90 days of enactment. This notice identifies the additional acreage that is available for leasing. All future coal lease applications will be subject to existing regulatory requirements that apply to leasing Federal coal.

DATES: Lands identified in this notice are available for coal leasing effective October 2, 2025.

FOR FURTHER INFORMATION CONTACT:

Indra Dahal, Deputy Division Chief, Solid Minerals Division, at idahal@blm.gov or by phone at (202) 742–0601. For technical or regulatory questions, you may reach out to Thomas Huebner, Coal Program Lead, at thuebner@blm.gov or by phone at (307) 775–6195.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Huebner. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: On July 4, 2025, President Trump signed into law H.R. 1 (Pub. L. 119–21), also known as the OBBBA. Section 50203 of the

OBBBA states that notwithstanding section 2(a)(3)(A) of the Mineral Leasing Act (30 U.S.C. 201(a)(3)(A)) and section 202(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(a)), not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall make available for lease known recoverable coal resources of not less than 4,000,000 additional acres on Federal land located in the 48 contiguous States and Alaska subject to the jurisdiction of the Secretary, but which shall not include any Federal lands within—

- (1) a National Monument;
- (2) a National Recreation Area;
- (3) a component of the National Wilderness Preservation System;
- (4) a component of the National Wild and Scenic Rivers System;
- (5) a component of the National Trails System;
- (6) a National Conservation Area;
- (7) a unit of the National Wildlife Refuge System;
- (8) a unit of the National Fish Hatchery System; or
- (9) a unit of the National Park System.

One Big Beautiful Bill Act, Sec. 50203, Public Law 119–21, 139 Stat. 72. The Bureau of Land Management (BLM) manages 248 million surface acres of public land, predominantly in the western United States, and over 700 million subsurface acres of mineral estate nationwide. BLM conducted an analysis to identify lands that could be made available for coal leasing under section 50203. BLM analyzed public lands that it manages, lands where the surface estate is managed by other federal agencies and the subsurface is managed by the BLM, as well as split estate lands where the surface estate is owned by private owners or State or local governments and the subsurface minerals are owned by the federal government and managed by the BLM. This analysis incorporated multiple data

sources, such as United States Geological Survey coal field data, BLM surface management agency data, Federal mineral data, existing authorized coal leases, and the BLM’s Land Use Planning data to identify coal resources that were unavailable for coal leasing as of the date of enactment of the OBBBA. The BLM reviewed the areas where there are known coal resources that are currently closed to coal leasing and compared them to the nine exclusions listed in section 50203, areas already under coal lease, areas withdrawn from mineral leasing and other public laws, and mineral estate with surface acres that are under the jurisdiction of other Federal agencies, not including lands, where appropriate, or portions of lands under the jurisdiction of the Department of War, including through the U.S. Army Corps of Engineers, the Department of Agriculture, the Department of Veterans Affairs, Department of Energy, and the Bureau of Indian Affairs, to identify acreage that could be made available for coal leasing. Lands were removed in areas around public schools and U.S. Census-designated populated places with 1,000 or more residents. However, the BLM will continue to process leases in these areas through the existing land use planning process, outside of section 50203 of the OBBBA. Additionally, lands were removed from habitat for greater sage grouse, alluvial valley floors, and areas within one quarter of a mile of recreation sites. Finally, the analysis identified the remaining recoverable coal acreage that could be made available for coal leasing.

Although this notice makes the identified areas available for coal leasing, this action does not authorize any coal leasing or coal development, and any future coal leasing is subject to BLM discretion following review of any applications under applicable laws and regulations. The application process for

leasing coal remains unchanged. Interested parties must submit lease applications for leasing coal via the Lease by Application method found in the regulations at 43 CFR 3425.1. The BLM will review each application under the suitability criteria (43 CFR 3461.5) and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347, and other statutes. If deemed unsuitable, the application will be rejected or the applicant will be invited to modify the application to meet suitability criteria or show that it falls within an available exemption or exception. Consistent with the Mineral Leasing Act of 1920, at 30 U.S.C. 201(a)(3)(A)(iii), and 43 CFR 3400.3–1, the BLM must obtain consent from the relevant surface management agency to lease Federal coal in an area in which the surface is managed by another surface management agency and those agencies will follow the laws that apply to the lands they manage and may, in some instances, involve the need for a surface management agency plan amendment.

Lands Made Available for Coal Leasing

The 13,103,000 acres made available by this notice under the authority of section 50203 of the OBBBA are derived from Geographic Information System data and analyses and are intended for general planning and illustrative purposes only. These estimates are approximate and may contain errors or omissions due to limitations in source data, resolution, or processing methods. The following table summarizes the acres made available for coal leasing by BLM Resource Management Plan (RMP) or by State (various RMPs). The table presented below rounds down the acreage to the nearest whole number to account for the inaccuracies in the geographic datasets underlying these analyses.

ADDITIONAL ACRES AVAILABLE FOR COAL LEASING

Resource management plan/state	DOI surface management agencies (excluding Bureau of Indian Affairs)	U.S. Army Corps of Engineers	Split-estate (private, state, local)	Total
Four Major RMPs				
Buffalo, WY	400,000	.....	1,700,000	2,100,000
Miles City, MT	1,100,000	.....	5,600,000	6,700,000
North Dakota, ND	30,000	65,000	3,700,000	3,795,000
Rock Springs, WY	100,000	.....	.....	100,000
Various RMPs in Each State				
Colorado	100,000	.....	60,000	160,000
Utah	29,000	.....	19,000	48,000

ADDITIONAL ACRES AVAILABLE FOR COAL LEASING—Continued

Resource management plan/state	DOI surface management agencies (excluding Bureau of Indian Affairs)	U.S. Army Corps of Engineers	Split-estate (private, state, local)	Total
New Mexico	200,000	.....	.....	200,000
Total	1,959,000	65,000	11,079,000	13,103,000

Maps that display lands made available for leasing by this notice under section 50203 of the OBBBA can be found at: <https://www.blm.gov/programs/energy-and-minerals/coal/lands-made-available-coal-leasing>.

Katharine Sinclair MacGregor,
Deputy Secretary of the Interior.

[FR Doc. 2025–19237 Filed 10–1–25; 8:45 am]

BILLING CODE 4331–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[PO #4820000251; Order #02412–014–004–047181.0]

Notice of Intent To Amend the Resource Management Plan for the Rock Springs Field Office, Wyoming and Prepare an Associated Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Wyoming State Director intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) for the Rock Springs Field Office and by this notice is announcing the beginning of the scoping period to solicit public comments and identify issues, is providing the planning criteria for public review, and is issuing a call for nominations for areas of critical environmental concern (ACECs).

DATES: The BLM requests that the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies, and ACEC nominations by November 3, 2025. To afford the BLM the opportunity to consider issues and ACEC nominations raised by commenters in the Draft RMP/

EA, please ensure your comments are received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later.

ADDRESSES: You may submit comments on issues and planning criteria related to Rock Springs RMP Amendment and nominations of new ACECs by any of the following methods:

- **Website:** <https://eplanning.blm.gov/eplanning-ui/project/13853/510>.
- **Email:** blm_wy_rockspringsrmp@blm.gov.
- **Mail:** Rock Springs Field Office 280 Highway 191 N, Rock Springs, WY 82901.

Documents pertinent to this proposal may be examined online at <https://eplanning.blm.gov/eplanning-ui/project/13853/510> and at the Rock Springs Field Office.

FOR FURTHER INFORMATION CONTACT:

Kimberlee Foster, Field Manager, telephone 307–352–0201 address 280 Highway 191 N, Rock Springs, WY 82901; email kfoster@blm.gov. Contact Ms. Foster to have your name added to our mailing list. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Foster. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Wyoming State Director intends to prepare an RMP amendment with an associated EA for the Rock Springs RMP Amendment, announces the beginning of the scoping process, seeks public input on issues and planning criteria, and invites the public to nominate ACECs. The RMP amendment would change the existing Rock Springs RMP for actions related to special management and their associated mineral restrictions.

The planning area is located in Sweetwater, Sublette, Lincoln, Fremont,

and Uinta Counties in Wyoming and encompasses approximately 3.6 million acres of public land.

Purpose and Need

The purpose of the Amendment is to review and revise the Rock Springs RMP consistent with Executive Order 14154, Executive Order 14241, Executive Order 14261, and Secretary's Order 3418. The BLM has determined that the special management designations and their associated mineral restrictions within the field office are inconsistent with recent Executive Orders and need to be reviewed.

Preliminary Alternatives

The BLM Rock Springs Field Office has identified the following preliminary considerations for the development of alternatives: reasonably foreseeable development scenario; habitat, scenic, historic, paleontological, and unique features within the area; and Tribal and cultural values. Within the field office, the BLM currently manages 12 ACECs, 5 Special Recreation Management Areas (SRMAs), a National Historic Trails (NHT) Corridor, and 13 Wilderness Study Areas. Potential for fluid mineral development was previously determined to be low for much of the special management designated areas; however, new technologies and industry interest have changed over recent years and the reasonably foreseeable development needs to be reevaluated. Additionally, locatable, coal, solid leasables and saleable mineral availability needs to be reviewed in consideration of recent Executive Orders. The BLM will re-evaluate the existing designations for ACECs, SRMAs, and the NHT corridor to assess whether special management is needed to protect sensitive resource values and whether mineral development can be allowed in certain circumstances. New nominations for ACECs will be accepted for further consideration within the planning area.

The BLM welcomes comments on all preliminary alternatives as well as suggestions for additional alternatives.

Planning Criteria

The planning criteria guide the planning effort and lay the groundwork for effects analysis by identifying the preliminary issues and their analytical frameworks. Preliminary issues for the planning area have been identified by BLM personnel and from early engagement conducted for this planning effort with Federal, State, and local agencies; Tribes; and other stakeholders. The BLM has identified the following special management designations for review: twelve existing ACECs, five SRMAs, and an NHT corridor. In addition to determining if special management is needed, the BLM will analyze the mineral (fluid, locatable, saleable, solid leasable, and coal) development and rights-of way restrictions within the existing designations. The planning criteria are available for public review and comment at the ePlanning website (see **ADDRESSES**).

Public Scoping Process

This notice of intent initiates the scoping period and public review of the planning criteria, which guide the development and analysis of the RMP Amendment and EA.

The BLM will be holding one scoping meeting in the following location: Rock Springs, WY. The specific date and location of this scoping meeting will be announced at least 15 days in advance through local media, newspapers, the ePlanning project page and social media.

Scoping comments that relate to the special management designations, mineral potential, and management of the resource values will be accepted. The 2024 Rock Springs RMP Record of Decision describes the current management of this area and the existing ACEC, SRMA, and NHT corridor designations, along with the current management actions related to mineral and rights-of-way restrictions.

ACECs

The following ACECs are currently designated in the planning area:

- Greater Sand Dunes ACEC: 26,746 acres with significant historic, cultural, geological, and wildlife values.
- Oregon Buttes ACEC: 3,441 acres with significant historic, cultural, wildlife, and scenic values.
- South Pass Historic Landscape ACEC: 53,772 acres with significant cultural, scenic, and wildlife values.
- Steamboat Mountain ACEC: 439,081 acres with significant historic, cultural, wildlife, and scenic values.

- White Mountain Petroglyphs ACEC: 22 acres with significant Native American concerns and scenic values.

- South Wind River ACEC: 281,104 acres with high value air, cultural, biodiversity, and visual resources.

- Big Sandy Openings ACEC: 1,994 acres with scenic, watershed, and geologic values.

- Pinnacles ACEC: 1,334 acres with scenic, paleontological, and wildlife values.

- Little Mountain ACEC: 115,573 acres with historic, cultural, paleontological, wildlife, and scenic values.

- Natural Corrals ACEC: 1,107 acres with cultural, historical, recreational, wildlife, scenic and geological values.

- Pine Springs ACEC: 6,483 acres with historical, cultural, and paleontological values.

- Special Status Plants ACEC: 4,469 acres with significant special status plant values.

Information about each existing ACEC, including the size, relevant and important values, and other helpful information is available in Appendix C of the 2024 Record of Decision for the Rock Springs RMP online at on the project's website (see **ADDRESSES**). The BLM will reevaluate existing designated ACECs in the Draft RMP Amendment to determine if relevant and important values still exist and analyze for consideration of designation. During preplanning and early engagement, no additional areas were identified for consideration as ACECs. The BLM will evaluate any nominated ACECs for consideration in the Draft RMP Amendment. This notice invites the public to nominate additional areas for ACEC consideration. To assist the BLM in evaluating nominations for consideration in the Draft RMP Amendment, please provide supporting descriptive materials, maps, and evidence of the relevance and importance of resources or hazards by the close of the public comment period in order to facilitate timely evaluation. The BLM has identified the anticipated issues related to the consideration of ACECs in the planning criteria.

Additional Information

The BLM will utilize and coordinate the NEPA and land use planning processes for this planning effort to help support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and Section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), including public involvement requirements of Section

106. The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed plan will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with federally recognized Tribes on a government-to-government basis in accordance with Executive Order 13175, BLM Manual 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with federally recognized Tribes and other stakeholders that may be interested in or affected by the proposed Rock Springs RMP Amendment that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental assessment as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 1610.2)

Kristina Kirby,

Acting State Director.

[FR Doc. 2025–19198 Filed 10–1–25; 8:45 am]

BILLING CODE 4331–26–P

DEPARTMENT OF THE INTERIOR

National Park Service

[OMB Control Number 1024–0232; NPS–WASO–NER–NPS0 0040701; PPNEHATUC0, PPMRSCR1Y.CU0000]

Agency Information Collection Activities; National Underground Railroad Network to Freedom Program

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS, we) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 1, 2025.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to <http://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR-ICCO), 13461 Sunrise Valley Drive, (MS-263) Herndon, VA 20191 (mail); or phadrea_ponds@nps.gov (email). Please include “1024–0232” in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Daniel Ott, Historian, National Underground Railroad Network to Freedom Program, National Park Service, or daniel_ott@nps.gov (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the information collection request (ICR) at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The National Underground Railroad Network to Freedom Act of 1998 (54 U.S.C. 308301, *et seq.*) authorizes the NPS to collect information from applicants requesting to join the Network to Freedom Program (Network). The NPS uses Form 10–946, “National Underground Railroad Network to Freedom Application”, to evaluate potential participants and determine eligibility to become part of the Network. Through the Network, we coordinate preservation and education efforts nationwide, and are working to integrate local historical sites, museums, and interpretive programs associated with the Underground Railroad movement.

All entities that apply to join the Network must have a verifiable association with the historic Underground Railroad movement and must complete and submit Form 10–946 available on our website at <http://www.nps.gov/subjects/ugrr/index.htm>. Respondents must (1) verify associations and characteristics through descriptive texts that are the result of historical research and (2) submit supporting documentation (*e.g.*, copies of rare documents, photographs, and maps).

Network Partners work with the NPS to help validate the efforts of local and regional organizations, making it easier for them to share their expertise and communicate with us and each other. Prospective partners must submit a letter with the following information:

- Name and address of the agency, company or organization.
- Name, address, and phone, fax, and email information of principal contact.
- Abstract not to exceed 200 words describing the partner’s activity or mission statement.
- Brief description of the entity’s association to the Underground Railroad.

Title of Collection: National Underground Railroad Network to Freedom Program.

OMB Control Number: 1024–0232.

Form Number: NPS Form 10–946, “National Underground Railroad Network to Freedom Application.”

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals; businesses; nonprofit organizations; and Federal, State, Local, and Tribal governments.

Total Estimated Number of Annual Respondents: 27.

Total Estimated Number of Annual Responses: 27.

Estimated Completion Time per Response: Varies; up to 40 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,001 hours.

Respondent’s Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non hour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

*Information Collection Clearance Officer,
National Park Service.*

[FR Doc. 2025–19283 Filed 10–1–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–40551; PPWOBADCO, PPMVSCS1Y.Y00000]

Notice of Intent To Extend and Continue Concession Contracts and Award Temporary Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Under the terms of the concession contracts identified in the tables below and its regulations, the

National Park Service (NPS) gives public notice that it intends to: extend each concession contract listed in table 1 below until the date shown in the “Extension Expiration Date” column or until the effective date of a new contract, whichever comes first; continue each concession contract listed in table 2 below until the date shown in the “Continuation Expiration Date” column or until the effective date of a new contract, whichever comes first; and award the temporary concession contracts listed in table 3 below

DATES: The NPS intends that the concession contract extensions, continuations, and temporary concession contracts will be effective on the dates shown in the tables below, as applicable, except for the extension of BISO001–14, which the NPS already awarded.

FOR FURTHER INFORMATION CONTACT: Kurt Rausch, Program Chief, Commercial Services Program, National Park Service, 1849 C Street NW, Mail Stop

2410, Washington, DC 20240; Telephone: 202–513–7156.

SUPPLEMENTARY INFORMATION: Under 36 CFR 51.23, the NPS proposes to extend each contract listed in table 1 until the date shown in the “Extension Expiration Date” column or until the effective date of a new contract, whichever comes first, except for the extension of BISO001–14, which the NPS already awarded. The NPS has determined that the proposed extensions are necessary to avoid an interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such an interruption. The extension of the existing contracts does not confer or affect any rights with respect to the award of new contracts.

The concession contracts listed in table 2 below have been extended for the maximum time allowable under 36 CFR 51.23. Under the provisions of the existing contracts and pending the issuance of prospectuses and the completion of the public solicitation process to award new concession

contracts, the NPS intends to continue the existing contracts until the date shown in the “Continuation Expiration Date” column or until the effective date of a new contract, whichever comes first. The continuation of the existing contracts does not confer or affect any rights with respect to the award of new concession contracts.

The NPS proposes awarding temporary concession contracts, in accordance with 36 CFR 51.24(a), to provide the visitor services currently provided under the contracts listed in table 3 below. The temporary contracts will have a term not to exceed 3 years and will be awarded to a qualified person. The NPS anticipates that the temporary contracts will be effective on the date shown in the “Effective Date” column. This notice is not a request for proposals.

The publication of this notice reflects the intent of the NPS but does not bind the NPS to extend, continue, or award any of the contracts listed below, except for the extension of BISO001–14, which the NPS already awarded.

TABLE 1—CONCESSION CONTRACTS EXTENDED UNTIL THE EXPIRATION DATE SHOWN OR UNTIL THE EFFECTIVE DATE OF A NEW CONTRACT, WHICHEVER COMES FIRST

Park unit	CONCID	Concessioner	Extension effective date	Extension expiration date
Acadia NP	ACAD001–13	Dawnland, LLC	3/1/2026	2/28/2029
Assateague Island NS	ASIS001–14	MCBP/SFET Joint Venture	1/1/2026	12/31/2028
Big South Fork NR&RA	BISO001–14	Wilderness Lodging, LLC	6/17/2025	6/16/2026
Cape Lookout NS	CALO001–14	Island Express Ferry Service, LLC	1/1/2026	12/31/2026
Canyonlands NP	CANY022–16	Moab Scenic Adventures, LLC	1/1/2026	12/31/2026
Canyonlands NP	CANY024–16	Myke Hughes, Inc	1/1/2026	12/31/2026
Canyonlands NP	CANY025–16	NAVTEC Expeditions, Inc	1/1/2026	12/31/2026
Chattahoochee River NRA	CHAT002–14	Nantahala Outdoor Center, Inc	12/1/2026	11/30/2027
Denali NP&P	DENA001–16	Doyon/Aramark Denali National Park Concession Joint Venture.	1/1/2028	12/31/2029
Delaware Water Gap NRA	DEWA001–15	Rivers Ridge Properties LLC	1/1/2026	12/31/2027
Dinosaur NM	DINO001–16	AAM's Mild to Wild Rafting, Inc	1/1/2026	12/31/2026
Dinosaur NM	DINO002–16	American River Touring Association, Inc	1/1/2026	12/31/2026
Dinosaur NM	DINO003–16	Colorado Outward Bound School	1/1/2026	12/31/2026
Dinosaur NM	DINO005–16	Holiday River Expeditions, Inc	1/1/2026	12/31/2026
Dinosaur NM	DINO006–16	Don Hatch River Expeditions, Inc	1/1/2026	12/31/2026
Dinosaur NM	DINO008–16	Dinosaur River Tours, LLC	1/1/2026	12/31/2026
Dinosaur NM	DINO009–16	O.A.R.S. Canyonlands, Inc	1/1/2026	12/31/2026
Dinosaur NM	DINO011–16	National Outdoor Leadership School	1/1/2026	12/31/2026
Dinosaur NM	DINO012–16	Griffith Expeditions, LLC	1/1/2026	12/31/2026
Dinosaur NM	DINO014–16	Eagle Outdoor Sports, Inc	1/1/2026	12/31/2026
Dinosaur NM	DINO016–26	SUPCOLO, LLC	1/1/2026	12/31/2026
Dry Tortugas NP	DRTO002–15	Key West Seaplane Adventures, LLC	9/15/2026	9/14/2027
Everglades NP	EVER004–11	TRF Concession Specialists of Florida, Inc.	1/1/2026	12/31/2026
Glacier NP	GLAC004–15	Belton Chalets, Inc	1/1/2026	12/31/2026
Glacier Bay NP&P	GLBA035–15	Glacier Bay Sea Kayaks, Inc	1/1/2026	12/31/2026
Great Smoky Mountains NP	GRSM004–16	National and State Park Concessions Riding Stables, Inc.	1/1/2026	12/31/2026
Grand Teton NP	GRTE001–07	Grand Teton Lodge Company	1/1/2026	12/31/2026
Hot Springs NP	HOSP001–16	HSMT, LLC	4/1/2026	12/31/2027
Hot Springs NP	HOSP002–12	Buckstaff Bath House Company	1/1/2026	12/31/2026
Isle Royale NP	ISRO006–16	Royale Air Service, Inc	1/1/2026	12/31/2027
Katmai NP&P	KATM002–17	No See Um Lodge, Inc	1/1/2027	12/31/2027
Katmai NP&P	KATM003–17	Alaska's Enchanted Lake Lodge, Inc	1/1/2027	12/31/2027
Katmai NP&P	KATM004–17	Katmai Air, LLC dba Kulik Lodge	1/1/2027	12/31/2027
Katmai NP&P	KATM005–17	Bear Trail Lodge, LLC	1/1/2027	12/31/2027
Katmai NP&P	KATM006–17	Royal Wolf Lodge, LLC	1/1/2027	12/31/2027

TABLE 1—CONCESSION CONTRACTS EXTENDED UNTIL THE EXPIRATION DATE SHOWN OR UNTIL THE EFFECTIVE DATE OF A NEW CONTRACT, WHICHEVER COMES FIRST—Continued

Park unit	CONCID	Concessioner	Extension effective date	Extension expiration date
Katmai NP&P	KATM007-17	Crystal Creek Lodge, LLC	1/1/2027	12/31/2027
Mount Rainier NP	MORA001-16	Rainier Mountaineering, Inc	11/1/2026	10/31/2028
Mount Rainier NP	MORA005-16	Alpine Ascents International LLC	11/1/2026	10/31/2028
Mount Rainier NP	MORA006-16	International Mountain Guides, LLC	11/1/2026	10/31/2028
Mount Rainier NP	MORU003-16	Xanterra Parks & Resorts, Inc	10/15/2026	12/31/2028
Ozark NSR	OZAR012-14	O D Blackwell1, LLC	1/1/2026	12/31/2026
Padre Island NS	PAIS002-16	Worldwinds Windsurfing, Inc	1/1/2026	12/31/2026
Rock Creek P	ROCR005-16	NCR Guest Services, LLC	3/15/2026	12/31/2027
Rocky Mountain NP	ROMO003-16	San Juan Mountain Guides, LLC	1/1/2026	12/31/2026
Rocky Mountain NP	ROMO031-16	The Pumpkin Patch, LLC	1/1/2026	12/31/2026
Rocky Mountain NP	ROMO032-16	Kent Mountain Adventure Center, Inc	1/1/2026	12/31/2026
Rocky Mountain NP	ROMO034-16	Boulder Wilderness Shuttle, LLC	1/1/2026	12/31/2026
Rocky Mountain NP	ROMO035-16	The Mountain Guides, Inc	1/1/2026	12/31/2026
Sequoia & Kings Canyon NPs	SEKI001-19	Timothy B. Loverin	1/1/2026	12/31/2026
Shenandoah NP	SHEN001-13	DNC Parks & Resorts at Shenandoah, Inc.	1/1/2026	12/31/2027
Yellowstone NP	YELL500-14	Arden Bailey	7/1/2026	6/30/2027
Yellowstone NP	YELL501-14	Three Bear Rentals, LLC	7/1/2026	6/30/2027
Yellowstone NP	YELL502-14	Three Bear Rentals, LLC	7/1/2026	6/30/2027
Yellowstone NP	YELL503-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL504-14	Back Country Adventures, Inc	7/1/2026	6/30/2027
Yellowstone NP	YELL505-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL506-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL507-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL508-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL509-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL510-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL511-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Yellowstone NP	YELL512-14	ARAMARK Sports and Entertainment Services, LLC.	7/1/2026	6/30/2027
Yellowstone NP	YELL513-14	ARAMARK Sports and Entertainment Services, LLC.	7/1/2026	6/30/2027
Yellowstone NP	YELL514-14	ARAMARK Sports and Entertainment Services, LLC.	7/1/2026	6/30/2027
Yellowstone NP	YELL515-14	ARAMARK Sports and Entertainment Services, LLC.	7/1/2026	6/30/2027
Yellowstone NP	YELL516-14	ARAMARK Sports and Entertainment Services, LLC.	7/1/2026	6/30/2027
Yellowstone NP	YELL517-14	ARAMARK Sports and Entertainment Services, LLC.	7/1/2026	6/30/2027
Yellowstone NP	YELL518-14	ARAMARK Sports and Entertainment Services, LLC.	7/1/2026	6/30/2027
Yellowstone NP	YELL519-14	Teton Science Schools, Inc	7/1/2026	6/30/2027
Yellowstone NP	YELL520-14	Teton Science Schools, Inc	7/1/2026	6/30/2027
Yellowstone NP	YELL522-14	Gary Fales Outfitting, Inc	7/1/2026	6/30/2027
Yellowstone NP	YELL523-14	DNC Parks & Resorts Yellowstone Adventures, Inc.	7/1/2026	6/30/2027
Zion NP	ZION001-15	Bryce-Zion Trail Rides, Inc	1/1/2026	12/31/2026

TABLE 2—CONCESSION CONTRACTS CONTINUED UNTIL THE EXPIRATION DATE SHOWN OR UNTIL THE EFFECTIVE DATE OF A NEW CONTRACT, WHICHEVER COMES FIRST

Park unit	CONCID	Concessioner	Continuation effective date	Continuation expiration date
Glen Canyon NRA	GLCA002-88	Aramark Sports and Entertainment Services, LLC.	1/1/2026	12/31/2026
Glen Canyon NRA	GLCA003-69	Aramark Sports and Entertainment Services, LLC.	1/1/2026	12/31/2026
Lake Mead NRA	LAKE002-82	LMNRA Guest Services, LLC	1/1/2026	12/31/2026
Lake Mead NRA	LAKE005-97	LMNRA Guest Services, LLC	1/1/2026	12/31/2026

TABLE 2—CONCESSION CONTRACTS CONTINUED UNTIL THE EXPIRATION DATE SHOWN OR UNTIL THE EFFECTIVE DATE OF A NEW CONTRACT, WHICHEVER COMES FIRST—Continued

Park unit	CONCID	Concessioner	Continuation effective date	Continuation expiration date
Lake Mead NRA	LAKE006–74	Las Vegas Boat Harbor, Inc	1/1/2026	12/31/2026
Lake Mead NRA	LAKE009–88	LMNRA Guest Services, LLC	1/1/2026	12/31/2026
National Mall and Memorial Parks	NACC003–86	Guest Services, Inc	1/1/2026	12/31/2026

TABLE 3—TEMPORARY CONCESSION CONTRACT

Park unit	CONCID	Services	Effective date
Blue Ridge PW	BLRI008–13	Food and beverage and retail	2/1/2026
Blue Ridge PW	BLRI010–13	Boat rentals and food and beverage	4/1/2026
Glen Canyon NRA	GLCA007–03	Food and beverage, marinas, retail, lodging, service stations, campgrounds, trailer village, and shower and laundry.	1/1/2026

Nicole Woody,
Acting Associate Director, Business Services.
[FR Doc. 2025–19359 Filed 10–1–25; 8:45 am]
BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–746 and 731–TA–1724 (Final)]

Overhead Door Counterbalance Torsion Springs From China; Determinations

On the basis of the record ¹ developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that an industry in the United States is materially injured by reason of imports of overhead door counterbalance torsion springs from China, provided for in subheading 7320.20.50 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”), and imports of the subject merchandise from China that have been found to be subsidized by the government of China.^{2 3}

Background

The Commission instituted these investigations effective October 29, 2024, following receipt of petitions filed

with the Commission and Commerce by IDC Group, Inc., Minneapolis, Minnesota, Iowa Spring Manufacturing, Inc., Adel, Iowa, and Service Spring Corp., Maumee, Ohio.⁴ The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of overhead door counterbalance torsion springs from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission’s investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing notices in the **Federal Register** on June 11, 2025 (90 FR 24665) and June 23 (90 FR 26608). The public hearing in connection with the investigations was cancelled.⁵

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on September 30, 2025. The views of the Commission are contained in USITC Publication 5675 (Sept. 2025), entitled *Overhead Door Counterbalance Torsion Springs from China: Investigation Nos. 701–TA–746 and 731–TA–1724 (Final)*.

By order of the Commission.

¹ The record is defined in § 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).
² 90 FR 39369 (Aug. 15, 2025); 90 FR 39374 (Aug. 15, 2025).
³ The Commission also finds that imports subject to Commerce’s affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the countervailing and antidumping duty orders on overhead door counterbalance torsion springs from China.

⁴ The petitions alleged that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and LTFV imports of overhead door counterbalance torsion springs from China and India. The investigations regarding overhead door counterbalance torsion springs from India are ongoing.
⁵ 90 FR 39420 (Aug. 15, 2025).

Issued: September 30, 2025.
Lisa Barton,
Secretary to the Commission.
[FR Doc. 2025–19320 Filed 10–1–25; 8:45 am]
BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–779 and 731–TA–1765–1766 (Preliminary)]

Chromium Trioxide From India and Turkey; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations.

AGENCY: United States International Trade Commission.
ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–779 and 731–TA–1765–1766 (Preliminary) pursuant to the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of chromium trioxide from India and Turkey, provided for in subheading 2819.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and imports of chromium trioxide from India are alleged to be subsidized by the government of India. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45

days, or in this case by November 13, 2025. The Commission's views must be transmitted to Commerce within five business days thereafter, or by November 20, 2025.

DATES: September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Laurel Schwartz (202–205–2398), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on September 29, 2025, by American Chrome & Chemicals, Inc., Canonsburg, Pennsylvania.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to

§ 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on Monday, October 20, 2025. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before noon on Thursday, October 16, 2025. Please provide an email address for each conference participant in the email. Information on conference procedures, format, and participation, including guidance for requests to appear as a witness via videoconference, will be available on the Commission's Public Calendar (Calendar (USITC) | United States International Trade Commission). A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before 5:15 p.m. on October 23, 2025, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than 4:00 p.m. on October 17, 2025. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at <https://www.usitc.gov/documents/>

handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: September 30, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19288 Filed 10–1–25; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1415]

Certain Pre-Stretched Synthetic Braiding Hair and Packaging Therefor; Notice of Commission Final Determination To Issue a Limited Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a limited exclusion order (“LEO”) barring entry of certain infringing pre-stretched synthetic braiding hair and packaging therefor that are imported by or on behalf of: A-Hair Import Inc. of Norcross, Georgia (“A-Hair”); Crown Pacific Group Inc. of Doraville, Georgia (“Crown Pacific”); Loc N Products, LLC of Atlanta, Georgia (“Loc N”); Vivace, Inc. d/b/a Dae Do Inc. of Levittown, New York (“Dae Do”); and Zugoo Import Inc. of Norcross, Georgia (“Zugoo”) (collectively, “Defaulting Respondents”). The Commission has also determined to issue cease and desist orders (“CDOs”) against each of Defaulting Respondents. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On September 9, 2024, the Commission instituted this investigation based on a complaint filed by JBS Hair of Atlanta, GA (“Complainant”). 89 FR 73123–24 (Sept. 9, 2024). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pre-stretched synthetic braiding hair and packaging therefor by reason of the infringement of certain claims of U.S. Patent Nos. 10,786,026; 10,945,478; and 10,980,301. In addition to Defaulting Respondents, the Commission’s notice of investigation named the following respondents: (1) Sun Taiyang Co., Ltd. d/b/a Outre® of Moonachie, NJ; Beauty Elements Corporation d/b/a Bijouz® of Miami Gardens, FL; Hair Zone, Inc. d/b/a Sensationnel® of Moonachie, NJ; Beauty Essence, Inc. d/b/a Supreme™ Hair US

of Moonachie, NJ; SLI Production Corp. d/b/a It’s a Wig! of Moonachie, NJ; Royal Imex, Inc. d/b/a Zury® Hollywood of Santa Fe Springs, CA; GS Imports, Inc. d/b/a Golden State Imports, Inc. of Paramount, CA; Eve Hair, Inc. of Lakewood, CA; Midway International, Inc. d/b/a BOBBI BOSS of Cerritos, CA; Mayde Beauty Inc. of Port Washington, NY; Hair Plus Trading Co., Inc. d/b/a Femi Collection of Suwanee, GA; Optimum Solution Group LLC d/b/a Oh Yes Hair of Duluth, GA; Chade Fashions, Inc. of Niles, IL; Mane Concept Inc. of Moonachie, NJ; Beauty Plus Trading Co., Inc. d/b/a Janet Collection™ of Moonachie, NJ; Model Model Hair Fashion, Inc. of Port Washington, NY; New Jigu Trading Corp. d/b/a Harlem 125® of Port Washington, NY; Shake N Go Fashion, Inc. of Port Washington, NY; and Amekor Industries, Inc. d/b/a Vivica A. Fox® Hair Collection of Conshohocken, PA (collectively, “Remaining Respondents”); and (2) Choix International, Inc. of Norcross, GA (“Choix”); I & I Hair Corp. of Dallas, TX (“I & I Hair”); Kum Kang Trading USA, Inc. d/b/a BNGHAIR of Paramount, CA (“Kum Kang”); Mink Hair, Ltd. d/b/a Sensual® Collection of Wayne, NJ (“Mink Hair”); Oradell International Corp. d/b/a MOTOWN TRESS of Manalapan, NJ (“Oradell”); and Twin Peak International, Inc. d/b/a Dejavu Hair of Atlanta, GA (“Twin Peak”) (collectively, “Consent Order Respondents”). *Id.* The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation. *Id.* at 73124.

On December 2, 2024, the Commission granted Complainant’s motion to amend the complaint and notice of investigation to add JMS Trading Corp. of Buena Park, California (“JMS Trading”) as a respondent to this investigation and to make several ministerial updates to the complaint. *See* Order No. 15 (Nov. 4, 2024), *unreviewed by Comm’n Notice* (Dec. 6, 2024); *see also* 89 FR 97068–69 (Dec. 6, 2024).

The Commission previously terminated Consent Order Respondents and JMS Trading based on entry of consent order stipulations and consent orders. *See* Order No. 10 (Oct. 18, 2024), *unreviewed by Comm’n Notice* (Nov. 15, 2024) (Kum Kang, Mink Hair, and Oradell); Order No. 16 (Nov. 14, 2024), *unreviewed by Comm’n Notice* (Dec. 11, 2024) (I & I Hair); Order No. 28 (Dec. 23, 2024), *unreviewed by Comm’n Notice* (Jan. 21, 2025) (JMS Trading); Order No. 29 (Jan. 7, 2025) (Choix) & Order No. 30 (Twin Peak) (Jan. 7, 2025), *unreviewed by Comm’n Notice* (Jan. 30, 2025).

The Commission also previously found Defaulting Respondents to be in default. *See* Order No. 26 (Dec. 19, 2024), *unreviewed by Comm’n Notice* (Jan. 17, 2025) (Loc N); Order No. 31 (Feb. 4, 2025), *unreviewed by Comm’n Notice* (Feb. 24, 2025) (Dae Do and A-Hair); Order No. 32 (Feb. 14, 2025), *unreviewed by Comm’n Notice* (Mar. 11, 2025) (Crown Pacific); Order No. 34 (Feb. 24, 2025), *unreviewed by Comm’n Notice* (Mar. 24, 2025) (Zugoo).

On April 10, 2025, the presiding administrative law judge issued an initial determination (“ID”) (Order No. 44) terminating the investigation based on withdrawal of the complaint pursuant to Commission Rule 210.21(a) (19 CFR 210.21(a)) as to Remaining Respondents.

On April 15, 2025, Complainant filed a document titled “Written Submission on Remedy, Bonding and Public Interest with Respect to Defaulting Respondents” (“JBS Hair’s Remedy Submission”).

On April 29, 2025, the Commission issued a notice determining not to review the ID terminating the investigation as to Remaining Respondents (Order No. 44). *See* 90 FR 18991–93 (May 5, 2025). The Commission also requested briefing on remedy, the public interest and bonding from the parties and from any other interested third-party. *Id.* The Commission further stated that it “considers JBS Hair’s Remedy Submission to be a declaration seeking relief against defaulting respondents pursuant to Commission Rule 210.16(c)(1) (19 CFR 210.16(c)(1)).” *Id.* at 18992.

On May 8, 2025, Complainant filed a written submission on remedy, the public interest, and bonding, requesting entry of an LEO and CDOs against Defaulting Respondents under section 337(g)(1) and Commission Rule 210.16(c). On May 14, 2025, OUII and defaulting respondent A-Hair filed written submissions on remedy, the public interest, and bonding. In particular, A-Hair argues that the Commission should not presume that a domestic industry exists under section 337(g)(1) because certain respondents have challenged whether Complainant could establish a domestic industry. On May 21, 2025, Complainant and OUII filed responses to A-Hair’s submission.

The Commission rejects A-Hair’s arguments. A-Hair itself recognizes that as a defaulting respondent, it has forfeited any “right . . . to contest the allegations at issue in the investigation.” 19 CFR 210.16(b)(4); *see also Certain Opaque Polymers*, Inv. No. 337–TA–883, Comm’n Op., 2015 WL 13817115,

*12 (Apr. 30, 2015), *aff'd*, *Organik Kimya, San. ve Tic. A.S. v. ITC*, 848 F.3d 994 (Fed. Cir. 2017) (“Organik Kimya’s challenge to the scope of an exclusion order is based on whether any and all trade secrets are unknown to the public and would be difficult to design around. These issues all go the merits, which Organik Kimya has waived by default.”). The present investigation is also distinct from *Certain Percussive Massage Devices*, cited by A-Hair, because there is no pending challenge or adjudication of any allegation in the complaint, such that the Commission would have any cause to refute Complainant’s allegations as to domestic industry. *See Certain Percussive Massage Devices*, Inv. No. 337-TA-1206, Comm’n Notice, 2021 WL 5514134 (Nov. 22, 2021).

When the conditions in section 337(g)(1)(A)–(E) (19 U.S.C. 1337(g)(1)(A)–(E)) have been satisfied, section 337(g)(1) and Commission Rule 210.16(c) (19 CFR 210.16(c)) direct the Commission, upon request, to issue a limited exclusion order or a cease and desist order or both against a respondent found in default, based on the allegations regarding a violation of section 337 in the complaint, which are presumed to be true, unless after consideration of the public interest factors in section 337(g)(1), it finds that such relief should not issue.¹

Accordingly, having examined the record of this investigation, including the parties’ submissions on remedy, the public interest, and bonding, the Commission has determined pursuant to section 337(g)(1) (19 U.S.C. 1337(g)(1)) that the appropriate remedy in this investigation is: (1) an LEO prohibiting the unlicensed entry of certain infringing pre-stretched synthetic braiding hair and packaging therefor that are imported by or on behalf of Defaulting Respondents; and (2) CDOs against each of Defaulting Respondents. The Commission has determined that the public interest factors enumerated in subsection 337(g)(1) do not preclude the issuance of the LEO and CDOs.²

¹ The Commission considers the notice of intent to default filed by respondents Zugoo, Crown Pacific, A-Hair, and Dae Do as an effective withdrawal of their answer to the complaint and notice of investigation. The Commission therefore finds that section 337(g)(1) applies to all of the Defaulting Respondents.

² Chair Karpel agrees with the majority that the Commission’s authority to issue the LEO and CDO with regard to Loc N is pursuant to section 337(g)(1) because the criteria in subsections 337(g)(1)(A)–(E) are satisfied with regard to Loc N, *see* Order No. 26 (Dec. 19, 2024), *unreviewed by* Comm’n Notice (Jan. 17, 2025), and the public interest factors do not preclude the issuance of those remedies. However, with respect to Zugoo, Crown Pacific, A-Hair, and Dae Do, Chair Karpel supports issuance of an LEO

The Commission has further determined that the bond during the period of Presidential review pursuant to section 337(j) (19 U.S.C. 1337(j)) shall be in the amount of one hundred percent (100%) of the entered value of the infringing articles.

The investigation is terminated.

The Commission’s vote for this determination took place on September 29, 2025.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 29, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19223 Filed 10–1–25; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Joint Board for the Enrollment of Actuaries gives notice of a closed teleconference meeting of the Advisory Committee on Actuarial Examinations.

DATES: The meeting will be held on October 24, 2025, from 10:00 a.m. to 5:00 p.m. (ET).

FOR FURTHER INFORMATION CONTACT: Elizabeth Van Osten, Designated Federal Officer, Advisory Committee on Actuarial Examinations, at (202) 317–3648 or elizabeth.j.vanosten@irs.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will hold a teleconference meeting on October 24, 2025, from 10:00 a.m. to 5:00 p.m. (ET). The meeting will be closed to the public.

pursuant to sections 337(d)(1) and CDOs pursuant to 337(f)(1) because the criteria in subsections 337(g)(1)(A)–(E) are not met as to those respondents. She does not agree with the majority that the notice of intent to default filed by those respondents functions to withdraw their previously filed answer to the complaint and notice of investigation. She finds that the public interest factors in sections 337(d)(1) and (f)(1) do not preclude the LEO or CDOs with respect to Zugoo, Crown Pacific, A-Hair, and Dae Do.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. 1009(d), that the subject of the meeting falls within the exception to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: September 30, 2025.

Thomas V. Curtin, Jr.,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2025–19291 Filed 10–1–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on August 6, 2025, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the “Act”), Pistoia Alliance, Inc. filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Tecniplast S.p.A., Buguggiate, ITALIAN REPUBLIC has joined as a party to this venture.

Also, International Institute for Quantum Drug Discovery (I–Q–D), College Park, MD has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on May 12, 2025. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 11, 2025 (90 FR 24667).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2025–19306 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Z-Wave Alliance, Inc.

Notice is hereby given that, on August 28, 2025, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the “Act”), Z-Wave Alliance, Inc. (the “Joint Venture”) filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Home Automation Headquarters, Santa Clarita, CA; AI Home Safety LLC, Denver, CO; and Fantem, Shenzhen City, PEOPLE’S REPUBLIC OF CHINA have joined as parties to the venture.

Also, Keaton Chia (University of California, San Diego (Kleissl Lab)), La Jolla, CA; Sensative AB, Lund, SWEDEN; Shenzhen Sunricher Technology Limited, Shenzhen, PEOPLE’S REPUBLIC OF CHINA; Syslink Technology Co., Ltd., Bangkok, THAILAND; homee GmbH, Berlin, GERMANY; Go4Panda d.o.o., Novo Mesto, SLOVENIA; and B-Smartfoils, Rauenberg, GERMANY have withdrawn as parties to the venture.

No other changes have been made in either the membership or the planned activity of the venture. Membership in this venture remains open, and the Joint Venture intends to file additional written notifications disclosing all changes in membership.

On November 19, 2020, the Joint Venture filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 1, 2020 (85 FR 77241).

The last notification was filed with the Department on June 18, 2025. A

notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 13, 2025 (90 FR 38998).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2025–19311 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Silicon Integration Initiative, Inc.

Notice is hereby given that, on August 22, 2025, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the “Act”), Silicon Integration Initiative, Inc. (“Si2”) filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Astrus Inc., Toronto, CANADA; Hangzhou Kilby Technology Co., Ltd., Hangzhou, PEOPLE’S REPUBLIC OF CHINA; Maieutic Semiconductor Private Limited, Bengaluru, REPUBLIC OF INDIA; Pulsaris AI, Inc., Hsinchu City, REPUBLIC OF CHINA (TAIWAN); Sphere Semi (DBA Mered Industries, Inc.), Palo Alto, CA; United Microelectronics Corporation (UMC), Hsinchu, REPUBLIC OF CHINA (TAIWAN); Vinci4D.ai, Inc., Palo Alto, CA; and Xpeedic Technology (Shanghai) Co., Ltd., Shanghai, PEOPLE’S REPUBLIC OF CHINA have been added as parties to this venture.

Also, Sony Semiconductor Solutions Corporation, Atsugi, JAPAN; Quantum Motion Technologies Ltd., London, UNITED KINGDOM; Moore Threads Inc., San Diego, CA; Western Semiconductor, Tempe, AZ; Simple EDA Global Services OÜ, Aaspere, REPUBLIC OF ESTONIA; Indie Semiconductor, Inc., Frankfurt (Oder), FEDERAL REPUBLIC OF GERMANY (Previously Silicon Radar GmbH, Brandenburg, FEDERAL REPUBLIC OF GERMANY); Phoelex LTD, Cambridge, UNITED KINGDOM have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research

project remains open, and Si2 intends to file additional written notifications disclosing all changes in membership.

On December 30, 1988, Si2 filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456).

The last notification was filed with the Department on July 24, 2024. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 11, 2024 (89 FR 82630).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2025–19309 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Z-Wave Alliance, Inc.

Notice is hereby given that, on August 28, 2025, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the “Act”), Z-Wave Alliance, Inc. (the “Joint Venture”) filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Home Automation Headquarters, Santa Clarita, CA; AI Home Safety LLC, Denver, CO; and Fantem, Shenzhen City, PEOPLE’S REPUBLIC OF CHINA have been added as parties to this venture.

Also, Keaton Chia (University of California, San Diego (Kleissl Lab)), La Jolla, CA; Sensative AB, Lund, KINGDOM OF SWEDEN; Shenzhen Sunricher Technology Limited, Shenzhen, PEOPLE’S REPUBLIC OF CHINA; Syslink Technology Co., Ltd., Bangkok, KINGDOM OF THAILAND; homee GmbH, Berlin, FEDERAL REPUBLIC OF GERMANY; Go4Panda d.o.o., Novo Mesto, REPUBLIC OF SLOVENIA; and B-Smartfoils, Rauenberg, FEDERAL REPUBLIC OF GERMANY have withdrawn as parties to this venture.

No other changes have been made in either the membership or the planned activity of the venture. Membership in this venture remains open, and the Joint Venture intends to file additional

written notifications disclosing all changes in membership.

On November 19, 2020, the Joint Venture filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 1, 2020 (85 FR 77241).

The last notification was filed with the Department on June 18, 2025. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 13, 2025 (90 FR 38998).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2025–19312 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—1EdTech Consortium, Inc.

Notice is hereby given that, on August 14, 2025, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), 1EdTech Consortium, Inc. (“1EdTech Consortium”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, iSucceed Virtual Schools, Boise, ID; Edulogika, San Juan, COMMONWEALTH OF PUERTO RICO; Region 7 Education Service Center, Kilgore, TX; Toddle, Phoenix, AZ; and Louisiana State University Online, Baton Rouge, LA, have been added as parties to this venture.

Also, Hypothes.is, San Francisco, CA; MyEducator LLC, North Orem, UT; Memphis-Shelby County Schools, Memphis, TN; Parchment, Scottsdale, AZ; Open University, Buckinghamshire, KINGDOM OF THE NETHERLANDS; Learning Experiences, Holt, MI; Arizona Department of Education, Phoenix, AZ; Seaford School District, Seaford, DE; and Little Rock School District, Little Rock, AR, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and 1EdTech

Consortium intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, 1EdTech Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on May 29, 2025. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 25, 2025 (90 FR 35312).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2025–19308 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1413M]

Adjustment to the Aggregate Production Quota for d-Amphetamine (For Sale) and Methylphenidate (For Sale) for 2025 Pursuant to 21 U.S.C. 826(h)

AGENCY: Drug Enforcement Administration, Department of Justice.
ACTION: Final order.

SUMMARY: The Drug Enforcement Administration (DEA) is adjusting the 2025 aggregate production quota for the schedule II-controlled substances d-amphetamine (for sale) and methylphenidate (for sale). In making this determination, DEA has considered the factors set forth in 21 CFR 1303.13(b) in accordance with 21 U.S.C. 826(a) and is expediting publication of this determination to comply with the timeframes specified in 21 U.S.C. 826(h)(1).

DATES: This final order is effective October 2, 2025.

FOR FURTHER INFORMATION CONTACT: Heather E. Achbach, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration, Telephone: (571) 776–3882.

SUPPLEMENTARY INFORMATION:

Legal Authority

Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas (APQ) for each basic class of controlled substance listed in schedule I and II. The Attorney General has delegated this

function to the Administrator of DEA pursuant to 28 CFR 0.100.

Under 21 U.S.C. 826(h), when a request for individual manufacturing quota is submitted by a DEA-registered manufacturer pertaining to a schedule II-controlled substance that is contained in a drug on the Food and Drug Administration’s (FDA’s) list of drugs in shortage, DEA must complete review of such request not later than 30 days after receipt of the request. If, after the review is completed, DEA finds that an increase in the aggregate and individual production quotas is necessary to address a shortage of that controlled substance, DEA is to increase the aggregate and individual production quotas of that controlled substance and any ingredient therein to the level requested. 21 U.S.C. 826(h)(1)(B)(i). However, if it is determined that the level requested is not necessary to address the shortage, DEA is to provide a written response detailing the basis for the determination. 21 U.S.C. 826(h)(1)(B)(ii).

Background

DEA published the 2025 established APQ for controlled substances in schedules I and II in the **Federal Register** on December 17, 2024. 89 FR 102649. The 2025 established APQ represents those quantities of schedule I and II controlled substances that may be manufactured in the United States to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes. The final order stipulated that all APQ are subject to an adjustment, in accordance with 21 CFR 1303.15.¹

Quotas Applicable to Drugs in Shortage Pursuant to 21 U.S.C. 826(h)

Under 21 U.S.C. 356c, manufacturers of drugs that are life-supporting, life-sustaining, or intended for the treatment or prevention of debilitating diseases or conditions must notify FDA of any permanent discontinuation or interruption in manufacturing likely to result in a meaningful disruption of the drug’s supply in the United States. d-Amphetamine (for sale) and methylphenidate (for sale) are drugs intended for use in the prevention or

¹ Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2025, 89 FR 102649 (December 17, 2024).

treatment of a debilitating disease or condition and therefore fall under the notification requirements of 21 U.S.C. 356c. This provision further requires FDA to assess whether the notifications received from manufacturers concern controlled substances that are subject to production quotas in accordance with 21 U.S.C. 826.

On August 15, 2025, DEA received a request from a DEA registered manufacturer of the schedule II-controlled substance d-amphetamine to increase its 2025 individual manufacturing quota pertaining to d-amphetamine (for sale). Also on August 15, 2025, DEA received a request from a separate DEA registered manufacturer of the schedule II-controlled substance methylphenidate to increase its 2025 individual manufacturing quota pertaining to methylphenidate (for sale). DEA reviewed the FDA drug shortage list and found manufacturers reported a domestic shortage of products containing d-amphetamine and products containing methylphenidate. Multiple manufacturers cited “shortage of an active ingredient” as the reason identified for the domestic shortages. Pursuant to this request, DEA began its review under the timeframes specified by 21 U.S.C. 826(h)(1).

Analysis for the Adjustment to the 2025 d-Amphetamine (For Sale) and Methylphenidate (For Sale) Aggregate Production Quotas

In conducting the review under 21 U.S.C. 826(h) in order to determine the necessity of this adjustment, the Administrator has considered the criteria in accordance with 21 CFR 1303.13 (adjustment of APQ for controlled substances). The Administrator is authorized to increase or reduce the APQ at any time. 21 CFR 1303.13(a). DEA regulations state that there are five factors that shall be considered in determining whether to adjust the APQ. 21 CFR 1303.13(b). Accordingly, the Administrator has taken into account the following factors described below for 2025: (1) changes in the demand for that class, changes in the national rate of net disposal of the class, changes in the rate of net disposal of the class by registrants holding individual manufacturing quotas for that class, and changes in the extent of any diversion in the class; (2) whether any increased demand for that class, the national and/or individual rates of net disposal of that class are temporary, short term, or long term; (3) whether any increased demand for that class can be met through existing inventories, increased individual manufacturing quotas, or increased importation,

without increasing the APQ, taking into account production delays and the probability that other individual manufacturing quotas may be suspended pursuant to 21 CFR 1303.24(b); (4) whether any decreased demand for that class will result in excessive inventory accumulation by all persons registered to handle that class (including manufacturers, distributors, practitioners, importers, and exporters), notwithstanding the possibility that individual manufacturing quotas may be suspended pursuant to 21 CFR 1303.24(b) or abandoned pursuant to 21 CFR 1303.27; and (5) other factors affecting medical, scientific, research, and industrial needs in the United States and lawful export requirements, as the Administrator finds relevant, including changes in the currently accepted medical use in treatment with the class or the substances which are manufactured from it, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires. 21 CFR 1303.13(b). Based on that review, DEA is increasing the current d-amphetamine (for sale) and methylphenidate (for sale) APQs.

DEA reviewed domestic and export data from DEA’s internal databases, IQVIA, and Multi International Data Analysis System (MIDAS). Please note, IQVIA and MIDAS do not use the sub-categories of “for sale” and “for conversion.” This is a U.S. concept to clarify how the substances are used domestically. Extrapolation of the data predicts global consumption will increase 15.16 percent for d-amphetamine drug products and 7.59 percent for methylphenidate drug products in 2025 when compared to 2024. DEA also reviewed global production and consumption data of d-amphetamine and methylphenidate published in the 2024 Psychotropic Technical Report by the International Narcotics Control Board (INCB).² Please note, INCB also does not use the sub-categories of “for sale” and “for conversion.” The report stated global manufacturing of both d-amphetamine and methylphenidate increased in 2023 compared to 2022, with United States being the largest manufacturer of both substances. According to the INCB report, global imports of d-amphetamine have been increasing in the past decade,

with forty-one countries and territories reporting imports in 2023. The volume of methylphenidate imports also increased in 2023 compared to 2022, with 120 countries and territories reporting.

Upon reviewing domestic and export data, along with the inventory reports provided by the bulk and dosage manufacturers, DEA has determined that although the current d-amphetamine (for sale) and methylphenidate (for sale) APQs are adequate to address both the domestic and foreign medical demand, they are insufficient to accommodate an unexpected rise of quota requests for product development activities. DEA is proposing to increase the APQs of d-amphetamine (for sale) and methylphenidate (for sale) to support the requests for product development activities by bulk and dosage form manufacturers submitted after the publication of the Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2025.³ The proposed increases are to support manufacturers’ product development activities toward obtaining FDA approval of new API manufacturing processes, as well as FDA approval of new drug products.

After considering these factors, DEA determined that it is necessary to increase the established 2025 APQ for the schedule II controlled substances d-amphetamine (for sale) and methylphenidate (for sale) to be manufactured in the United States to provide for the estimated legitimate medical needs of the United States, export requirements to meet foreign demand, the maintenance of reserve stocks, and to support estimated needs for product development activities. These adjustments are necessary to ensure that the United States has an adequate and uninterrupted supply of d-amphetamine (for sale) and methylphenidate (for sale) to meet legitimate patient needs both domestically and globally as well as to support product development requirements of both bulk and finished dosage form manufacturers.

Additional Legal Considerations

The procedures previously adopted by DEA for adjustment of APQ are set

² INCB Psychotropics—Technical Report Psychotropic Substances 2024, Statistics for 2023, Assessments of Annual Medical Scientific Requirements for Substances for 2025.

³ Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2025, 89 FR 102649 (December 17, 2024).

forth in DEA regulations in 21 CFR 1303.13. Under that provision, the Administrator, upon determining that an adjustment of the APQ of any basic class of controlled substance is necessary, shall publish in the **Federal Register** general notice of an adjustment in the APQ for that class. The regulation further directs that DEA will allow any interested person to file comments or objections to the adjusted APQ within the time specified by the Administrator in the notice. Section 1303.13 further provides that, “[a]fter consideration of any comments or objections . . . the Administrator shall issue and publish in the **Federal Register** his final order

determining the APQ for the basic class of controlled substance.”

The statutory timeframe applicable to actions taken under 21 U.S.C. 826(h) was enacted by Congress after DEA established its regulations in 21 CFR 1303.13. DEA has determined that it is not possible to increase the APQ within the Congressionally-mandated 30-day period while also complying with the procedures that DEA previously had laid out in 21 CFR 1303.13. Therefore, the Administrator has determined that, in order to comply with the 30-day timeframe in 21 U.S.C. 826(h), this final order must be published without opportunity for comment and made effective immediately.

Determination of 2025 d-Amphetamine (For Sale) and Methylphenidate (For Sale) Aggregate Production Quota

In determining the adjustment of the 2025 d-amphetamine (for sale) and methylphenidate (for sale) APQs, DEA has taken into consideration the factors set forth in 21 CFR 1303.13(b) in accordance with 21 U.S.C. 826(a) as well as 826(h). Based on all of the above, the Administrator is adjusting the 2025 APQs for d-amphetamine (for sale) and methylphenidate (for sale).

The Administrator hereby adjusts the 2025 APQ for the following schedule II-controlled substances expressed in grams of anhydrous acid or base, as follows:

Controlled substance	Current APQ (g)	Adjusted APQ (g)
Schedule II		
d-amphetamine (for sale)	21,200,000	26,450,000
methylphenidate (for sale)	53,283,000	58,283,000

The APQ for all other schedule I and II controlled substances included in the 2025 established APQ remain at this time as established in other Notices.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 5, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025–19335 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Hollywood Medical Rehabilitation Care, Inc.; Decision and Order

I. Introduction

On November 4, 2024, the Drug Enforcement Administration (DEA or

Government) issued an Order to Show Cause (OSC) to Hollywood Medical Rehabilitation Care, Inc., of Los Angeles, California (Respondent). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 5. The OSC proposed the revocation of Respondent’s DEA registration, No. RH0554053, alleging that Respondent “failed to comply with standards established by 21 U.S.C. 823(h),” applicable to narcotic treatment programs. *Id.* at 1; *see* 21 U.S.C. 823(a). Specifically, the OSC alleged that Respondent failed to maintain adequate records, as required by 21 U.S.C. 823(h)(2), and that Respondent’s egregious recordkeeping violations rendered DEA unable to conduct an audit. *Id.* at 2–4 (citing 21 CFR 1304.11(a)–(c), 1304.11(c), 1304.21(a), (d), 1304.04(a), (f)(2), 1304.24(a), 1305.05).

A DEA Diversion Investigator personally served the OSC on Respondent on November 6, 2024; accordingly, the Agency finds that service was proper. RFAA 1, at 1; RFAAX 2. The OSC notified Respondent of its right to file with DEA a written request for hearing within 30 days of receiving the OSC, and of its obligation to file an answer in the form set forth in 21 CFR 1316.47. RFAAX 1, at 4 (citing 21 CFR 1301.43). The OSC also notified Respondent that if it failed to file a request for hearing or answer, it would be deemed to have waived its right to a hearing and be in default. *Id.*

On November 26, 2024, Respondent submitted a timely request for hearing,

but did not file an answer. RFAA, at 1–2. The same day, the assigned Administrative Law Judge (ALJ) issued an Order for Prehearing Statements (OPS) and reminded Respondent of the statutory requirement to file an answer “no later than 30 days following the date of receipt of the [OSC].” *Id.* (21 CFR 1301.37(d)(2)–(3)). The OPS cautioned Respondent that if it failed to file an answer by the statutory deadline, it “w[ould] face an appropriate remedy (e.g., waiver of its right to a hearing, entry of default, allegations being deemed admitted, and/or dismissal of its request for hearing).” OPS, at 1.

Respondent did not file an answer by the statutory deadline of December 6, 2024, and on December 9, 2024, the Government filed a Motion to Terminate Proceedings. RFAA, at 1–2. On December 9, 2024, the ALJ issued an Order to Show Cause for Failure to File an Answer, giving Respondent a deadline of December 11, 2024, to file an answer and “a pleading showing cause for its failure to file a timely Answer and why this tribunal should not deem Respondent in default, dismiss the [request for hearing], and terminate these proceedings.” Order to Show Cause for Failure to File an Answer, at 2. Respondent failed to file an answer or any other pleadings by the ALJ’s deadline. *Id.* Accordingly, on December 12, 2024, the ALJ granted the Government’s motion, found Respondent to be in default, and terminated the proceedings. Order Denying Respondent’s Motion for Relief

from Final Order (Termination Order), at 2–3; *see also* RFAAX 4 (citing 21 CFR 1301.43(c)(2)).

On December 31, 2024, 19 days after the ALJ terminated the matter, Respondent submitted an untimely answer, a Declaration by Respondent's attorney (Mr. H.W.), and a Motion to Seek Relief from the ALJ's Termination Order (First Motion to Seek Relief), arguing that there was "good cause" to excuse Respondent's untimely answer based on Mr. H.W.'s inadvertent mistakes and illness. RFAA, at 2; RFAAX 5. On January 3, 2025, the ALJ denied Respondent's Motion to Seek Relief, finding that the Tribunal did not have jurisdiction to consider Respondent's motion because the matter had already been dismissed. RFAAX 6, at 2 (citing 1301.43(c)(3) ("Upon termination of the proceeding by the presiding officer, a party may seek relief only by filing a motion establishing 'good cause' to excuse its default with the Office of the Administrator.")). The ALJ also noted that Respondent had not demonstrated "good cause" for its failure to file a timely answer. *Id.* n.1.

On January 6, 2025, the Government submitted an RFAA to the Administrator requesting that the Agency issue a final order revoking Respondent's registration on the basis that Registrant had "failed to comply with standards established by 21 U.S.C. 823(h)," applicable to narcotic treatment programs. RFAAX 1, at 1; *see* 21 U.S.C. 823(a). The Government requested final agency action based on Respondent's failure to file a timely answer, which resulted in the ALJ's finding that Respondent was in default. RFAA, at 1 (citing 21 CFR 1301.43(c), (f), 1301.46); *see also* 21 CFR 1316.67. On January 8, 2025, Respondent submitted a Motion to Seek Relief from Final Order with the Administrator (Second Motion to Seek Relief), which presented substantially similar arguments to the First Motion to Seek Relief.

II. Default Determination

A. Respondent Is in Default Based on Its Failure To File an Answer

The Agency agrees with the ALJ that Respondent is in default based on its "fail[ure] to plead (including by failing to file an answer) or otherwise defend." *See* 21 CFR 1301.43(c)(3); RFAAX 6, at 2. After Respondent failed to file an answer along with its request for hearing on November 26, 2024, the ALJ issued an order reminding Respondent that it was required to file an answer by December 6, 2024. When Respondent failed to file an answer by this deadline, the ALJ issued an order giving

Respondent an additional five days to file an answer and to show cause for the missed deadline. Respondent failed to file an answer or any other pleadings by the ALJ's deadline, and, accordingly, the ALJ dismissed the matter.

The Agency finds that the ALJ's dismissal of the matter due to Respondent's noncompliance was an appropriate exercise of her powers and duties under the Administrative Procedure Act (APA) and the Controlled Substances Act's (CSA) implementing regulations, which, among other things, require her to "regulate the course of the hearing," "dispose of procedural requests or similar matters," and "take other action authorized by agency rule consistent with this subchapter." 5 U.S.C. 556(c)(5), (9), and (11); *see Andrew Konen, M.D.*, 90 FR 40,650, 40,651 (2025) ("Accordingly, the Agency concludes that the Agency ALJ assigned to this matter clearly has the duty and the power to issue scheduling orders, to rule on matters concerning those scheduling orders, and 'to take all necessary action to avoid delay, and to maintain order. 21 CFR 1316.52'").

B. The Factual Basis for Respondent's Motion To Set Aside the Default

The Agency may set aside a default if the respondent demonstrates "good cause" for the failures which led to the default. 21 CFR 1301.43(c). Respondent filed two motions (the First and Second Motions for Relief) seeking to demonstrate "good cause" for failing to file a timely answer. *Id.* 1301.43(c)(2). According to these motions and the accompanying filings, Respondent's failure to file an answer along with his request for hearing on November 21, 2024, was an oversight for which Respondent's attorney, Mr. H.W., takes full responsibility. *Id.* at 2. Respondent asserts that in early December, after the deadline for filing an answer had passed, "DEA served additional documents on [Mr. H.W.'s] office, which were dutifully entered into the client's file by clerical staff, some of which [Mr. H.W.] was not aware." *Id.* at 6. Mr. H.W. represents that during the "critical period of time in December, 2024, he grew increasingly ill with what would ultimately be diagnosed as a bout with COVID, gradually clouding his cognition and judgment resulting in large part a failure to calendar critical deadlines." *Id.* Due to Mr. H.W.'s illness, he "inadvertently failed to take note of the Tribunal's [December 9, 2024 Order] and the accompanying deadline date and therefore, failed to file its response to the [Order]" by the December 11 deadline. RFAAX 5, at 2–3. The Agency notes that the

requirement to file an answer existed prior to the December 6, 2024 Order.

Respondent argues that Mr. H.W.'s illness constitutes "good cause" for the Agency to excuse Respondent's failure to file a timely answer. *Id.* at 3–4. Respondent believes that it would be greatly prejudiced by a dismissal, which would be the "equivalent of a death knell to Respondent's rehabilitation center." *Id.* at 3–4. On the other hand, Respondent does not believe that the Government would be prejudiced if Respondent were permitted to file an untimely answer. *Id.* at 2–4. Respondent argues that "deciding a matter on the merits is fairer and advances the cause of justice more so than a dismissal based upon procedural deficiencies, albeit errors caused by its counsel." *Id.* at 3.

C. The Agency's Interpretation of "Good Cause" in The Default Rule

i. Relevant Authorities for Interpreting "Good Cause" in the Default Rule

Neither the text of the default rule—which became effective on December 14, 2022—nor the Notice of Proposed Rulemaking (NPRM) for the rule, defines "good cause." 21 CFR 1301.43; 85 FR 61662. As "good cause" is the same standard used in the prior iteration of 21 CFR 1301.43(d),¹ the Agency has applied this standard for decades. In doing so, the Agency has occasionally referenced federal legal authorities; for example, the Agency has referenced Supreme Court and Circuit Court decisions addressing and applying the "good cause" standard in contexts where, like here, there is noncompliance with a scheduling order or a missed deadline.² *See, e.g., Konen,*

¹ "If any person entitled to a hearing or to participate in a hearing pursuant to . . . [21 CFR] 1301.32 or . . . [21 CFR] 1301.34–1301.36 fails to file a request for a hearing or a notice of appearance, or if such person so files and fails to appear at the hearing, such person shall be deemed to have waived the opportunity for a hearing or to participate in the hearing, unless such person shows good cause for such failure."

² These federal cases interpret the "good cause" standard in the context of Federal Rules of Civil or Appellate Procedure governing various stages of litigation where important considerations underlying specific rules—such as a strong preference for allowing litigants to file a responsive pleading before a final judgment has been rendered—may impact whether "good cause" is interpreted leniently or strictly. Although these federal cases may be instructive, the Agency remains responsible for interpreting and applying the "good cause" standard as Congress intended it to be applied in the context of 21 CFR 1301.43 (a rule that was intended to "conserve scarce agency resources and greatly increase the efficiency of the adjudicatory process," NPRM, 85 FR at 61664), the CSA, and the CSA's implementing regulations. *See, e.g., Kamir Garcés-Mejías, M.D.*, 72 FR 54,931, 54,932 (2007) ("Agency proceedings brought under section 304 of the [CSA] are not governed by the Federal Rules of Civil Procedure, but rather, [the

90 FR at 40,654; *Keith Ky Ly, D.O.*, 80 FR 29,025, 29,027 n.2, 29,028 (2015) (explaining that the Agency “has frequently looked to [federal procedural] rules for guidance in interpreting its procedural rules”).

ii. The Agency’s Application of the Default Rule’s “Good Cause” Standard

Although the Agency has occasionally excused an attorney’s inadvertent mistake when the attorney has “promptly corrected its omission,”³ the Agency has repeatedly rejected respondents’ requests to excuse multiple missed litigation deadlines due to inadvertence, illness, or busy schedules. *See, e.g., Konen*, 90 FR at 40,654 (finding that respondent failed to demonstrate “good cause” for missing several deadlines when respondent’s attorney’s busy schedule and illness did not preclude him from performing other tasks); *Kamir Garces Mejias, M.D.*, 72 FR 54,931 (2007) (rejecting respondent’s argument that his attorney’s busy schedule constituted “good cause” for several missed deadlines), *Rene Casanova, M.D.*, 77 FR 58,150, 58,150 n.2 (2012) (affirming the ALJ’s denial of respondent’s consent motion for a ten-day extension—filed the same day the exceptions were due—because he had been in trial the week before).

In the context of interpreting various rules of Federal Civil and Appellate Procedure permitting extensions, some federal courts have interpreted the “good cause” or “excusable neglect”⁴ standard strictly, and disallowed extensions when litigants have failed to demonstrate that their illnesses were so severe that they prevented them from requesting an extension or notifying the court of their inability to meet a deadline. *See, e.g., Miller v. Chicago Transit Authority*, 20 F.4th 1148, 1153–54 (7th Cir. 2021) (finding that counsel’s explanations of his medical problems were “so vague as to be worthless,” and

noting that it was “[counsel’s] burden to provide the district court sufficient information to demonstrate that his illness was of such a magnitude that he could not, at a minimum, request an extension of time to file his response,” where counsel also cited a busy schedule and an office relocation as reasons for the missed deadline) (internal quotations omitted); *Acosta v. DT & C Global Mgmt., LLC*, 874 F.3d 557, 560–61 (7th Cir. 2017) (upholding the district court’s rejection of a “health problems” excuse, given the “lack of corroborating information”); *Proctor v. Northern Lakes Community Mental Health*, 560 Fed. Appx. 453, 454–55 (6th Cir. 2014) (finding that the district court did not abuse its discretion in failing to find excusable neglect when the plaintiff, who was hospitalized for three days and housebound for three weeks due to “meningitis that caused adverse mental and physical effects” and “spinal and other physical pain which compromised her mobility,” did not demonstrate that her illness rendered her “unable to file a notice of appeal”).

D. Respondent Failed To Demonstrate “Good Cause” for Setting Aside the Default

Here, the Agency agrees with the ALJ that Respondent has not provided “good cause” for its failure to file a timely answer. *See* RFAAX 6, at 2. Respondent missed two important deadlines: First, Respondent failed to file an answer by the statutory deadline of December 6, 2024, despite being notified of the deadline in the OSC on November 6, and reminded of the deadline in the OPS on November 26. Second, Respondent failed to respond to the ALJ’s Order to Show Cause for Failure to File an Answer, which set a deadline of December 11, 2024. Respondent’s Motion for Relief and Answer was filed 25 days after the statutory deadline for filing an answer and 20 days after the ALJ’s deadline to show cause. Mr. H.W. asserts that the missed deadlines were a result of inadvertence and illness. However, Mr. H.W. illness did not begin until December, so his illness should not have significantly impacted Respondent’s ability to comply with the first statutory deadline of December 6. *See In re President Casinos, Inc.*, 397 B.R. 468, 473–74 (B.A.P. 8th Cir. 2008) (affirming the district court’s dismissal in part because the creditor’s attorney did not provide sufficient details about the duration of the attorney’s incapacity following an emergency appendectomy, and noting that “[t]he fact that [the creditor’s attorney] became ill does not excuse the period of time when [he] was not ill. . . .”). Mr. H.W. did not act

quickly to rectify the mistake. Mr. H.W. did not submit any additional filings with the Tribunal until December 31, 2024, despite receiving several notifications of the missed deadline, including in the Government’s motion to terminate on December 9, the ALJ’s Order to Show Cause on December 9, and the ALJ’s dismissal order on December 12. Mr. H.W. represented that “during th[is] critical period of time” he was suffering from “exhaustion and malaise, which ultimately culminated into an episode of Covid,” but he did not provide evidence demonstrating that he was so ill that he was unable to notify the tribunal of his inability to respond. RFAAX 5, at 3, 6. Mr. H.W. represented that he “request[ed] that the firm’s other senior counsel [] take over the process,” but “[t]hat newly-assigned [] counsel took time to familiarize himself with the file, while dealing with his own pre-holiday deadlines.” Motion to Seek Relief from Final Order, Jan. 8, 2025, at 4. However, Mr. H.W. has not explained why the newly-assigned counsel was unable to notify the Tribunal of Mr. H.W.’s incapacity and communicate Respondent’s intention to continue with litigation, notwithstanding several critical missed deadlines. Mr. H.W. also has not explained why his clerical staff—who, according to Mr. H.W.’s declaration, “dutifully entered [the additional documents served on his office] into the client’s file”—were unable to notify the tribunal of Mr. H.W.’s inability to respond. RFAAX 5, at 6.

Moreover, while the Agency appreciates Respondent’s arguments that it would be unfair to hold Respondent accountable for his attorney’s mistakes, the Supreme Court has reaffirmed the common principle that “clients must be held accountable for the acts and omissions of their attorneys.” *See Pioneer Inv. Services Co.*, 507 U.S. at 396. In *Pioneer*, the Supreme Court found that the district court had erred in “suggest[ing] that it would be inappropriate to penalize respondents for the omissions of their attorney,” noting instead that “the proper focus is upon whether the neglect of respondents *and their counsel* was excusable.” *Id.* at 397. Accordingly, the Agency finds, in agreement with the ALJ, that Respondent has not provided “good cause” to set aside the default. *See* RFAAX 6, at 2.

“A default, unless excused, shall be deemed to constitute a waiver of the registrant’s/applicant’s right to a hearing and an admission of the factual allegations of the [OSC].” 21 CFR 1301.43(e). Further, “[i]n the event that a registrant . . . is deemed to be in

CSA’s implementing] regulations and the rules set forth in the applicable provisions of the [CSA]. . . . Indeed, this Agency has never held that the “good cause” standard of 21 CFR 1301.43(d), which addresses conduct constituting a waiver of the right to a hearing, is to be construed in the same manner as the federal courts interpret the “good cause” standard under FRC.P. 55(c) for setting aside the entry of a default.”).

³ *Edge Pharmacy*, 81 FR at 72,101 (Agency accepted updated version of Government’s declaration originally submitted unsigned); *see also Tony T. Bui, M.D.*, 75 FR 49,979, 49,980 (2010) (ALJ found “good cause” to excuse Respondent’s untimely hearing request where Respondent’s counsel promptly re-submitted request returned due to incomplete mailing address).

⁴ The Agency “has interpreted the ‘good cause’ standard for assessing the timeliness of hearing requests as encompassing cases of excusable neglect, mistake or inadvertence.” *John P. Moore, III, M.D.*, 82 FR 10,398, 10,400 (2017).

default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] 1316.67.” *Id.* § 1301.43(f)(1).

III. Applicable Law

A. The Alleged Statutory and Regulatory Violations

As discussed above, the OSC alleges that Respondent violated multiple provisions of the CSA and its implementing regulations. As the Supreme Court stated in *Gonzales v. Raich*, “the main objectives of the CSA were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances. . . . To effectuate these goals, Congress devised a closed regulatory system making it unlawful to . . . dispense[] or possess any controlled substance except in a manner authorized by the CSA.” 545 U.S. 1, at 12–13 (2005). In maintaining this closed regulatory system, “[t]he CSA and its implementing regulations set forth strict requirements regarding registration, . . . drug security, and recordkeeping.” *Id.* at 14.

Here, the OSC’s allegations concern the CSA’s “strict requirements regarding registration[,] . . . drug security, and recordkeeping” and, therefore, go to the heart of the CSA’s “closed regulatory system” specifically designed “to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.” *Id.*

B. Improper Dispensing, Recordkeeping, and Unaccounted for Controlled Substances

According to DEA’s implementing regulations, narcotic treatment programs “shall maintain, on a current basis, a complete and accurate record of each controlled substance . . . received, sold . . . or otherwise disposed of” 21 CFR 1304.21(a).⁵ These records must include “the date on which the controlled substances are actually received, distributed, otherwise transferred, or destroyed.” *Id.* 1304.21(d). Narcotic treatment programs also must maintain an “initial inventory . . . of all stocks of controlled substances on hand on the date [the pharmacy] first engages in the . . . dispensing of controlled substances,” as well as a “biennial inventory . . . of all

stocks of controlled substances on hand.” *Id.* 1304.11(a)–(c). These inventories and records must be retained in a readily retrievable manner “for at least 2 years from the date of such inventory or records, for inspection and copying.” *Id.* 1304.04(a).

Additionally, narcotic treatment programs must maintain a dispensing log with the following details about each narcotic controlled substance dispensed: “(1) Name of substance; (2) Strength of substance; (3) Dosage form; (4) Date dispensed; (5) Adequate identification of patient (consumer); (6) Amount consumed; (7) Amount and dosage form taken home by patient; and (8) Dispenser’s initials.” *Id.* 1304.24(a). Finally, if a narcotic treatment program wishes to authorize a non-registered individual to order schedule I and II controlled substances on its behalf, it must execute a power of attorney for that individual, which “must be available for inspection together with other order records.” *Id.* 1305.05(a).

IV. Findings of Fact

The Agency finds that, in light of Respondent’s default, the factual allegations in the OSC are deemed admitted. Respondent is deemed to have admitted that during two scheduled inspections, on April 21, 2023, and May 20, 2024, DEA investigators discovered numerous recordkeeping violations that prevented DEA from conducting an audit. RFAAX 3, at 2–3. Respondent admits that DEA’s inspections revealed the following recordkeeping violations: (1) a failure to maintain a complete and accurate record of all controlled substances on hand, (2) a failure to take an accurate initial inventory of all controlled substances on hand, (3) a failure to provide biennial inventory reports of all stocks of controlled substances on hand, (4) a failure to maintain complete and accurate continuing records of all controlled substances on hand, (5) a failure to record dates of the receipt, distribution, transfer, or destruction of controlled substances, (6) a failure to maintain records for two years, (7) a failure to maintain records in a readily retrievable manner, (8) a failure to abide by recordkeeping requirements for maintenance treatment programs, and (9) a failure to execute a power of attorney for individuals to issue orders for controlled substances on Respondent’s behalf. Accordingly, the Agency finds substantial record evidence of each of these nine recordkeeping violations.⁶

⁶ The OSC also alleges, and it is deemed admitted, that Respondent entered into two Memoranda of

V. Discussion

A. The Controlled Substances Act and Implementing Regulations

Under Section 304 of the CSA, “a registration pursuant to section 823(h)[] of this title to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(h)[]”⁷

Agreement (MOA) with DEA—one on July 22, 2019 (2019 MOA), and one on June 26, 2023 (2023 MOA). The OSC further alleges, and it is deemed admitted, that Respondent violated the terms of these MOAs by failing to update DEA regarding changes in its employees’ information and failing to comply with all recordkeeping requirements referenced in 21 CFR 1304.11, 1304.24, 1304.25, and all other sections related to narcotic treatment facilities. The OSC does not allege that these MOA violations constitute an additional ground for revoking Respondent’s registration. Accordingly, the Agency considers these factual allegations as background information.

⁷ The subsection of 21 U.S.C. 823 applicable to narcotic treatment programs was modified on December 2, 2022, and again on December 28, 2022. Prior to the modifications, the relevant subsection applicable to narcotic treatment programs was designated as 21 U.S.C. 823(g)(1), and it had three subparts, A–B, which outlined the prerequisites for registration as a narcotic treatment program. On December 2, 2022, the subsection was redesignated as 21 U.S.C. 823(h)(1), and it retained the same three subparts as the previous version, A–B. On December 28, 2022, the subsection was again redesignated as 21 U.S.C. 823(h), and the three subparts outlining the registration prerequisites were redesignated as 1–3. The December 28, 2022, citation is used throughout this decision.

21 U.S.C. 824(a), which authorizes the Attorney General to suspend or revoke the registration of a narcotic treatment if the registration prerequisites are not met, references back to the relevant subsections of 21 U.S.C. 823. Prior to December 2, 2022, the revocation provisions of § 824(a) referred to the registration prerequisites in § 823(g)(1)(A–B). On December 2, 2022, 21 U.S.C. 824(a) was modified to reference the registration prerequisites in § 823(h)(1)(A–B). However, 21 U.S.C. 824(a) was not modified again to reflect the December 28, 2022 redesignation from 823(h)(1) to 823(h). As explained below, this was clearly an unintentional technical error.

As currently written, 21 U.S.C. 824(a) would only authorize the Attorney General to revoke a registration if the applicant is not “qualified . . . to engage in the treatment with respect to which registration is sought,” because it only references 823(h)(1), and not (h)(2) or (h)(3). However, there have not been any substantive changes to § 823 or § 824 that reflect an intent to limit the Attorney General’s authority to revoke or suspend. Section 823(h) continues to clearly state that a registrant is not qualified to possess a registration unless all three subparts are met. Therefore, the Agency concludes that the failure to modify § 824(a) on December 22, 2022, was an oversight, and that Congress intended for the Attorney General to retain authority to suspend or revoke a registration if a registrant fails to adhere to any of the three registration prerequisites or standards referred to in section 823(h). *See Dept. of Def., Army Air Force Exchange Serv. v. Fed. Labor Relations Auth.*, 659 F.2d 1140, 1160 (D.C. Cir. 1981), cert. denied, 455 U.S. 945 (1982) (A statute should be read in a “manner which effectuates rather than frustrates the major purpose of the legislative draftsmen.”).

⁵ Pursuant to 21 CFR 1304.03, 1304.21, every registrant, unless exempted, must comply with the recordkeeping and inventory requirements outlined in DEA’s implementing regulations. Narcotic treatment programs are explicitly named in 21 CFR 1304.04(f) as a registrant that must maintain records.

of this title.” 21 U.S.C. 824(a). Section 823(h) outlines three prerequisites for a practitioner applying for a registration to dispense narcotic drugs for maintenance treatment or detoxification treatment:

(1) “the applicant . . . is determined by the Secretary to be qualified . . . to engage in the treatment with respect to which registration is sought;”

(2) “the Attorney General determines that the applicant will comply with standards established by the Attorney General respecting (A) security of stocks of narcotic drugs for such treatment, and (B) the maintenance of records (in accordance with section 827 of this title) on such drugs”; and

(3) “the Secretary determines that the applicant will comply with standards established by the Secretary . . . respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.”

As the Agency has previously observed, “in contrast to every other category of registration set forth in section 823, Congress did not characterize these three provisions as ‘factors’ to be considered and given discretionary weight ‘[i]n determining the public interest.’ . . . Rather, the three subparagraphs of section 823[h] are conditions for registration.” *Turning Tide, Inc.*, 81 FR 47,411, 47,413 (2016).

In this matter, the Government’s evidence in support of its *prima facie* case relates to Respondent’s failure to comply with the requirements of 21 U.S.C. 823(h)(2) regarding “maintenance of records” for narcotic drugs. RFAAX 3, at 1–4. The Government has the burden of proof in this proceeding. 21 CFR 1301.44.

Here, the Agency finds that the Government’s evidence satisfies its *prima facie* burden of demonstrating that Respondent has failed to comply with the requirements of 823(h)(2) regarding “maintenance of records” for narcotic drugs. 21 U.S.C. 823(a).

A. Allegation That Registrant Has Failed To Comply With the Requirements of Section 823(h)

Evidence is considered under section 823(h)(2) when it reflects a failure to comply with “standards established by the Attorney General respecting . . . the maintenance of records (in accordance with [21 U.S.C.] 827[⁸] of this title) on such drugs.” 21 U.S.C. 823(h)(2). Here, based on Respondent’s admissions and the findings above, the Agency finds

substantial evidence that Respondent: (1) failed to maintain a complete and accurate record of all controlled substances on hand, (2) failed to take an accurate initial inventory of all controlled substances on hand, (3) failed to provide biennial inventory reports of all stocks of controlled substances on hand, (4) failed to maintain complete and accurate continuing records of all controlled substances on hand, (5) failed to record dates of the receipt, distribution, transfer, or destruction of controlled substances, (6) failed to maintain records for two years, (7) failed to maintain records in a readily retrievable manner, (8) failed to abide by recordkeeping requirements for maintenance treatment programs, and (9) failed to execute a power of attorney for individuals to issue orders for controlled substances on Respondent’s behalf. Therefore, the Agency finds substantial record evidence that Respondent violated federal law, namely 21 CFR 1304.11(a)–(c), 1304.11(c), 1304.21(a), (d), 1304.04(a), (f)(2), 1304.24(a), 1305.05.

Accordingly, the Agency finds that Respondent has failed to comply with the requirements for registration under 21 U.S.C. 823(h)(2), and thus finds that the Agency is authorized to revoke Respondent’s registration under 21 U.S.C. 824(a). The Agency further finds that Respondent failed to provide any evidence to rebut the Government’s *prima facie* case.

VI. Sanction

Here, the Government has met its *prima facie* burden of showing that the Agency is authorized to revoke Respondent’s registration due to Respondent’s numerous recordkeeping violations, which disqualify it from registration under 21 U.S.C. 823(h)(2). Accordingly, the burden shifts to Respondent to show why it can be entrusted with registration. *Morall*, 412 F.3d at 174; *Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 FR 18,882, 18,904 (2018).

The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 FR 46,968, 46,972 (2019); see also *Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that he will not engage

in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 833; *ALRA Labs, Inc. v. Drug Enf’t Admin.*, 54 F.3d 450, 452 (7th Cir. 1995). A registrant’s acceptance of responsibility must be unequivocal. *Jones Total Health Care Pharmacy*, 881 F.3d at 830–31. In addition, a registrant’s candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 & n.4. The Agency has also considered the need to deter similar acts by the registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR at 46,972–73.

Here, although Respondent initially requested a hearing, it was deemed to be in default based on its “fail[ure] to plead (including by failing to file an answer) or otherwise defend.” See 21 CFR 1301.43(c)(3); RFAA, at 1–2. Respondent has thus not availed itself of the opportunity to refute the Government’s case.⁹ As such, Respondent has not convinced the Agency as to its future compliance with the CSA¹⁰ nor made any demonstration

⁹ Respondent filed an untimely Answer which admits to many of the allegations in the OSC, including that it “(c) failed to provide biennial inventory of all stacks of controlled substances; (f) failed to keep records for two years; (g) failed to keep records in a readily retrievable manner; (h) generally, failed to abide by recordkeeping requirements for maintenance treatment programs, and (i) failed to execute a power of attorney for individuals to issue orders for controlled substances.” Respondent’s Proposed Answer, December 31, 2024, at 4. The Answer also “acknowledg[es] that it failed to maintain complete and accurate record of many controlled substances on hand and take an accurate initial inventory of many controlled substances on hand.” *Id.* at 3.

¹⁰ Respondent’s hearing request states that Respondent will take actions to come into compliance with the CSA, such as tasking two different individuals with maintaining and reconciling records, and requests that DEA allow it to operate for a probationary period during which time DEA may conduct unannounced visits. RFAAX 3, at 1. Respondent’s Motion to Seek Relief from Final Order asserts that it “intended for these statements to provide the corrective action plan afforded to respondents by 21 [] 824(c)(3), which requires the Attorney General to review any corrective action plan submitted and determine whether the relevant proceedings ‘should be discontinued or deferred for the purposes of modification, amendment, or clarification of such plan.’” RFAAX 5, at 3. Respondent’s motion further asserts that it “ha[s] not received any response by the Attorney General regarding the proposed corrective action.” *Id.*

The Agency does not consider Respondent’s remediation statements in its hearing request to be a corrective action plan. The OSC instructed that any corrective action plan “should be clearly labeled ‘Corrective Action Plan’” and submitted by email to Thomas W. Prevostnik, Assistant

⁸ The CSA’s regulations implementing 21 U.S.C. 827 are found in 21 CFR 1304, Records and Reports of Registrants.

that it can be entrusted with a registration. Moreover, the evidence presented by the Government shows that Respondent violated the CSA, further indicating that Respondent cannot be entrusted.

Accordingly, the Agency will order the revocation of Respondent's registration.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificate of Registration No. RH0554053 issued to Hollywood Medical Rehabilitation Care. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Hollywood Medical Rehabilitation Care to renew or modify the named registrations, as well as any other pending application of Hollywood Medical Rehabilitation Care for additional registration in California. This Order is effective November 3, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 30, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,
Federal Register Liaison Officer, Drug Enforcement Administration.
[FR Doc. 2025–19387 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–09–P

Administrator, Diversion Control Division.” RFAAX 1, at 4. The OSC further instructed that the corrective action plan should be submitted separately from the answer and request for hearing. *Id.* at 5. Respondent’s request for hearing does not constitute a corrective action plan because it was not properly submitted or properly labeled as a corrective action plan. Nevertheless, in light of Respondent’s default and the extensive nature of Respondent’s recordkeeping violations, Respondent has not ensured the Agency that it can be entrusted with a registration.

DEPARTMENT OF JUSTICE
Drug Enforcement Administration
[Docket No. DEA–1598]
Bulk Manufacturer of Controlled Substances Application: Cargill, Incorporated
AGENCY: Drug Enforcement Administration, Justice.
ACTION: Notice of application.
The company does not plan to bulk manufacture this drug. No other activity for this drug code is authorized for this registration.
Justin Wood,
Acting Deputy Assistant Administrator.
[FR Doc. 2025–19317 Filed 10–1–25; 8:45 am]
BILLING CODE 4410–09–P

SUMMARY: Cargill, Incorporated has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.
DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 1, 2025. Such persons may also file a written request for a hearing on the application on or before December 1, 2025.
ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.
SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 13, 2025, Cargill, Incorporated, 17540 Monroe Wapello Road, Eddyville, Iowa 52553, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I

The company plans to bulk manufacture butanediol as a raw material for industrial and consumer products. Gamma Hydroxybutyric Acid will be manufactured as a byproduct and an impurity waste of butanediol.

DEPARTMENT OF JUSTICE
Federal Bureau of Investigation
Meeting of the Compact Council for the National Crime Prevention and Privacy Compact
AGENCY: Federal Bureau of Investigation, Department of Justice.
ACTION: Meeting notice.
SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact).
DATES: The Council will meet in open session from 9:00 a.m. (CST) until 5:00 p.m. (CST) on November 6, 2025.
ADDRESSES: The meeting will take place at the Hilton Palacio del Rio, 200 South Alamo Street, San Antonio, Texas 78205.
FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Ms. Chasity S. Anderson, FBI Compact Officer, Biometric Technology Center, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306, telephone 304–625–2803.

SUPPLEMENTARY INFORMATION: Thus far, the Federal Government and 37 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, immigration and naturalization matters, and similar noncriminal justice purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.
The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.
Matters for discussion are expected to include:
(1) Proposed Amendments to the Council Bylaws
(2) Proposed Revisions to the Next Generation Identification (NGI) Noncriminal Justice (NCJ) Rap Back

Service Outsourcing Policy and Implementation Guide

(3) Proposed Changes to the Next Generation Identification (NGI) Noncriminal Justice (NCJ) Rap Back Outsourcing Agreement

The meeting will be conducted with a blended participation option. The meeting will be open to the public on a first-come, first-serve basis. Virtual participation options are available. To register for participation, individuals must provide their name, city, state, phone, email address and agency/organization to compactoffice@fbi.gov by October 24, 2025. Individuals registering for participation must note their preference of in-person or virtual participation. Information regarding virtual participation will be provided prior to the meeting to registered individuals attending virtually.

Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the FBI Compact Officer, Ms. Chasity S. Anderson at compactoffice@fbi.gov, at least 7 days prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic. The Compact Officer will compile all requests and submit to the Compact Council for consideration.

Individuals requiring special accommodations should contact Ms. Anderson at compactoffice@fbi.gov no later than October 24, 2025. Please note all personal registration information may be made publicly available through a Freedom of Information Act request.

Chasity S. Anderson,

FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2025–19200 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Membership of the Senior Executive Service and Senior Level Standing Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of Department of Justice's standing members of the Senior Executive Service and Senior Level Performance Review Boards.

SUMMARY: Pursuant to the requirements of 5 U.S.C. 4314(c)(4), the Department of

Justice announces the membership of its 2025 Senior Executive Service (SES) and Senior Level (SL) Standing Performance Review Boards (PRBs). The purpose of a PRB is to provide fair and impartial review of SES and SL performance appraisals, executive development plans, and award recommendations/pay adjustments. The PRBs will make recommendations regarding the final performance ratings to be assigned, SES/SL awards and/or pay adjustments to be awarded.

FOR FURTHER INFORMATION CONTACT: F. Michael Sena, Director, Human Resources, Justice Management Division, Department of Justice, Washington, DC 20530; (202) 532–4594.

Dated: September 29, 2025.

Christopher C. Alvarez,

Deputy Assistant Attorney General Controller.

2025 Federal Register

List of Names (Alphabetical Order)

Alvarez, Christopher C
Armington, Elizabeth J
Bass, Pamela M
Bell, Daniel William
Bhirud, Ketan Dinkar
Boatright, Daniel S
Bolden, Scott D
Brewer, Laurence Neil
Brown, Gregory W
Burke, Claudia
Chestnut, Brendan Tyler
Conklin, Hayley Catherine
Connelly Jr, Robert L
Cypher, Catharine Delynn
D'Alessio Jr, Carmine S
Danks, Ryan J
Dauphin, Dennis E
Davis, Patrick David
Deas, Geoffrey S
Dunlap, James L
Ensign, Drew C
Farrell, Sean M
Feldt, Dennis G
Fox, Jordan N
Freeman, Mark R
Gates, Michael E
Gaulke, Frances
Gilbert, Curtis
Glad, Daniel W
Glynn, John P
Griffith, L Cristina
Gunning, Christine
Gustafson, Adam Rabun Fast
Guynn, Jonathan D
Haar, Daniel E
Haas, Alexander K
Hamilton, Eric James
Hanson, Alan Ross
Harris, Sarah
Hemingway, Jonathan
Henneberg, Maureen A
Hockey Jr, Martin F
Huntley, Colin M
Jag, Rachel Louise
Jamison, Tara M
Kallay, Dina
Kambli, Abhishek Shrikrishnak
Kelly, Richard T

Kendler, Owen M
Lampard, Ronald J
Latour, Michelle E G
Lauria, Jolene Ann
Lawrence, David G B
Lawson, Richard Polk
Lea, Brian Charles
Leider, Brenna E
Leider, Robert Jonathan
Leverty, Scott James
Lin, Jean
Lyons, Samuel R
Malphrus, Garry
Manhardt, Kirk T
Mao, Andy J
Macklin, James
Marshall III, William K
Marshall, Lynda K
Martin Jr, Edward R
Mason, Elisa
Maxey, Peter M
McArthur, Eric D
McCarthy, Andrea W
McCarthy, Patricia M
McHenry, James
Mehta, Aditi M
Merkle, Phillip K
Messersmith, Cynthia
Miller, Gwendolyn S
Mizelle, Chad R
Molina Jr, Ernesto H
Mooppan, Hashim Mandayappura
Moosvi, Tabasum
Nguyen, Vu T
Nieves, Brian David
O'Brien, Holley B
Osete, Jesus A
Peachey, William C
Pearlman, Heather L
Pelletier, Jonathan
Perkins, Paul R
Peterson, Amanda M
Pettit, Lanora Christine
Price Jr, Marvin N
Raab, Michael S
Roper, Matthew J
Roth, Jacob M
Sanghvi, Chetan
Sawyer, Aaron Y
Scott, Kevin M.
Sena, Francis Michael
Shapiro, Elizabeth J
Shumate, Brett A
Singh, Aakash
Smith, Joshua J
Snell, Robert S
Stander, Robert Nolan
Swingle, Sharon M
Torstensen Jr, Peter Martin
Tukel, Allison L
Varisco, Matthew
Whitaker, Henry C
Wilkinson, James
Williams, Michael J
Yavelberg, Jamie A

[FR Doc. 2025–19298 Filed 10–1–25; 8:45 am]

BILLING CODE 4410–CH–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0111]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection: Title National Crime Victimization Survey (NCVS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Justice Statistics (BJS), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until November 3, 2025.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Rachel Morgan, Chief, Victimization Statistics Unit, Bureau of Justice Statistics, 999 N Capitol Street NE, Washington, DC 20531 (email: BJSPRA.Comments@ojp.usdoj.gov; telephone: 202–307–0765).

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on July 24, 2025, allowing a 60-day comment period. BJS received two public comments under the 60-day notice.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility; —Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; —Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and —Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB Control Number [1121–0111]. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *Title of the Form/Collection:* National Crime Victimization Survey.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form numbers for the questionnaire are the NCVS–1 and NCVS–2. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: Persons 12 years or older living in sampled households located throughout the United States.

Abstract: The National Crime Victimization Survey (NCVS) provides national data on the level and change of criminal victimization both reported and not reported to police in the United States. The NCVS instrument measures victimization and incident characteristics and includes two periodic modules on police performance and community safety. The 2026 NCVS includes a sample redesign which updates the first stage of the NCVS sample selection to reflect changes in the U.S. population based on the 2020 decennial census.

5. *Obligation to Respond:* The obligation to respond is voluntary.

6. *Total Estimated Number of Respondents:* The estimated annual number of NCVS respondents is 157,439.

7. *Estimated Time per Respondent:* To complete the NCVS instrument, the time per response is 34.4 minutes. It will take the average non-interview respondent (*e.g.*, nonrespondent) an estimated 9.3 minutes to respond; the average follow-up interview is estimated at 7 minutes; and the average follow-up for a non-interview is estimated at 1 minute.

8. *Frequency:* Annual.

9. *Total Estimated Annual Time Burden:* The total annual burden hours for this collection is 123,202 hours.

10. *Total Estimated Annual Other Costs Burden:* \$0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (mins)	Total annual burden (hours)
Interviewed	91,312	2	182,624	34.4	104,698
Noninterviewed	56,772	2	113,544	9.3	17,599
Reinterview (Interviews)	7,484	1	7,484	7.0	873
Reinterview (Non-interviews)	1,871	1	1,871	1.0	31
Unduplicated Totals	157,439	.....	305,523	.....	123,202

If additional information is required contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC 20530.

Dated: September 30, 2025.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2025-19285 Filed 10-1-25; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Permanent Employment Certification

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before November 3, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202-693-6782, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The application form and other information requirements are necessary to the collection of information from U.S. employers wishing to sponsor foreign labor for permanent residency through the Labor Certification process. The information collected is used by the Secretary of Labor to make the necessary certification in compliance with the Immigration and Nationality Act as amended. For additional substantive information about this ICR, see the related notice published in the **Federal**

Register on January 7, 2025 (90 FR 29890).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL-ETA.

Title of Collection: Application for Permanent Employment Certification.

OMB Control Number: 1205-0451.

Affected Public: Private Sector.

Total Estimated Number of

Respondents: 40,576.

Total Estimated Number of

Responses: 954,186.

Total Estimated Annual Time Burden: 342,449 hours.

Total Estimated Annual Other Costs Burden: \$69,330.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2025-19233 Filed 10-1-25; 8:45 am]

BILLING CODE 4510-FN-P

LEGAL SERVICES CORPORATION

Notice of Revisions to Performance Area One of the LSC Performance Criteria

AGENCY: Legal Services Corporation.

ACTION: Request for comments.

SUMMARY: The Legal Services Corporation (LSC) proposes to revise Performance Area One of its Performance Criteria. In Performance Area One, LSC establishes the indicators that LSC will use to evaluate grant recipients' processes for identifying the most pressing and emerging legal needs in their service areas and determining how they will deliver legal services tailored to most effectively address those needs. LSC proposes to introduce a new criterion assessing strategic planning as well as to revise the existing criteria examining grant recipients' conduct of needs assessments, implementation of strategies to address legal needs, and self-examination of their effectiveness in delivering legal services.

DATES: Comments must be received by 11:59 p.m. Eastern on December 1, 2025.

ADDRESSES: You may send comments by any of the following methods:

- *Email:* performancearea1@lsc.gov.

Include “Comments on Performance Area 1” in the subject line of the message.

- *Mail:* Legal Services Corporation, 1825 I Street NW, Suite 800, Washington, DC 20006, ATTN: Stefanie K. Davis, Deputy General Counsel, Comments on Performance Area 1.

- *Hand Delivery/Courier:* Legal Services Corporation, 1825 I Street NW, Suite 800, Washington, DC 20006, ATTN: Stefanie K. Davis, Deputy General Counsel, Comments on Performance Area 1.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Deputy General Counsel, Legal Services Corporation, 1825 I Street NW, Suite 800, Washington, DC 20006, 202-295-1563, performancearea1@lsc.gov.

SUPPLEMENTARY INFORMATION: LSC introduced the Performance Criteria in 1994 as a tool to support both LSC's evaluation and grant recipients' self-evaluation of program quality. The Performance Criteria are structured into four Performance Areas. Each Performance Area is designed to allow users to evaluate a discrete aspect of a legal services organization's operations:

- Performance Area One establishes criteria for examining an LSC grant recipient's effectiveness in identifying the most pressing civil legal issues in its service area and directing resources toward addressing those needs.
- Performance Area Two establishes criteria for examining a grant recipient's effectiveness in engaging and serving the low-income population across its service area.

- Performance Area Three establishes criteria for examining the effectiveness of a grant recipient's legal representation and other activities designed to address the legal needs of the low-income population in its service area.

- Performance Area Four establishes criteria for examining the effectiveness of a grant recipient's governance structure, organizational leadership, and administration.

LSC last updated Performance Area One in 2007. At that time, LSC identified several factors driving the update. One was the "significant change and evolution in Legal Services programs around the country" caused by, among other factors, mergers, rapid developments in technology, and the restrictions placed on LSC grant recipients through its Fiscal Year 1996 appropriations act. Legal Services Corporation, Performance Criteria, 2007 Edition, pp. 1–2. LSC also identified significant changes in the demographic changes of the low-income population and the legal needs experienced by that population as a factor. *Id.* at 2. Finally, LSC observed that at the same time it was considering changes to the Performance Criteria, the American Bar Association (ABA) was revising its Standards for the Provision of Civil Legal Aid (ABA Standards). As a result, the 2007 revision to the Performance Criteria incorporated or referenced the ABA Standards where appropriate. *Id.*

LSC's goals for this update, which continue the theme of evolving standards in technology and the delivery of legal services, are threefold. First, LSC is introducing new indicators of quality and revising others to be more relevant to the current—and future—context of Federally funded legal aid. Second, LSC is simplifying and rewriting the Performance Criteria in plain English to make them more user friendly to LSC and grant recipient staff. Finally, where appropriate, LSC is revising the standards to maintain consistency with the 2021 revisions to the ABA Standards for the Provision of Civil Legal Services, particularly those Standards on the use of technology.

Overview of the Revisions: LSC proposes to significantly revise the titles, introductory text, Indicators of quality, and Areas of Inquiry for each Criterion in Performance Area One. In some cases, LSC proposes to introduce new Indicators, while in others LSC proposes to simplify and streamline existing Indicators. The changes are summarized below.

Criterion 1: Periodic Comprehensive Assessment and Ongoing Consideration of Legal Needs. LSC proposes to shorten

the title of this Criterion to "Needs Assessment" and revise the Indicators and Areas of Inquiry to focus on how grant recipients assess the legal needs of the low-income populations within their service areas. The Indicators broadly describe the factors LSC has identified as critical to conducting a thorough, well-developed needs assessment. Indicators examine factors such as the number and types of methods grant recipients use to collect information; whether grant recipients considered the needs of demographic subpopulations in their communities; and the extent to which grant recipients considered the capacity of other organizations to address the most pressing legal needs of the low-income community. The Areas of Inquiry for each Indicator further break down into questions about discrete parts of the broader Indicator. For example, new Indicator 1 evaluates the frequency and regularity with which a grant recipient "conducts a comprehensive assessment of existing and emerging needs of low-income individuals and families within its service area." The proposed Areas of Inquiry ask whether the grant recipient conducts such an assessment periodically; when the grant recipient conducted the most recent assessment; how the grant recipient determines when it should conduct the needs assessment; whether it has started planning for the next needs assessment; and whether the most recent assessment produced a "clear record of the most compelling existing and emerging legal needs of low-income individuals and families in the service area."

Criterion 2: Setting Goals and Objectives, Developing Strategies, and Allocating Resources. LSC proposes to rename this criterion "Strategic Planning" and to focus the Indicators and Areas of Inquiry on how grant recipients develop their strategic plans. LSC has determined that a well-developed strategic plan should identify strategies tailored to address the most pressing legal needs identified by the needs assessment in a way that contributes to closing the Justice Gap. LSC proposes to either replace Indicators that do not contribute to examining how grant recipients develop their strategic plans or to relocate Indicators to more appropriate Criteria. For example, LSC proposes to relocate existing Indicator 8, relating to case acceptance policies, to proposed Criterion 3, which examines priorities and case acceptance. Other Indicators and Areas of Inquiry have been simplified and narrowed to focus on

how grant recipients develop their strategic plans and goals.

Criterion 3: Implementation. LSC proposes to rename this Criterion "Priority Setting and Case Acceptance Policy." Consistent with this renaming and building on the preceding Criteria, LSC intends for this Criterion to examine the extent to which grant recipients' priorities and case acceptance policies effectuate the goals in their strategic plans. The Indicators and Areas of Inquiry cross-reference Criteria 1 and 2 and have been rewritten into plain English.

Criterion 4: Evaluation and Adjustment. LSC proposes to shorten the title of this Criterion to "Evaluation." LSC proposes to simplify and revise the Indicators in this Criterion to focus on grant recipients' processes for examining how well their service delivery model is meeting the goals stated in their strategic plans; whether strategic plans are agile enough to adjust to changes in the legal services delivery ecosystem, such as large variances in the availability of resources or unanticipated changes to the most pressing legal issues experienced by the populations in grantees' service areas; and whether the grant recipients' priorities are expressed in terms of outcomes that can be measured or assessed, thus allowing grant recipients to allocate resources as needed to achieve the proposed outcomes.

LSC is publishing the proposed revisions to Performance Area One on the Matters for Comment page of its website: www.lsc.gov/matters-comment. LSC is providing a 60-day period for interested parties and stakeholders to submit comments.

(Authority: 42 U.S.C. 2996g(e).)

Dated: September 29, 2025.

Stefanie Davis,

Deputy General Counsel.

[FR Doc. 2025–19245 Filed 10–1–25; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m. ET, Tuesday, November 18, 2025.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW, Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

75114 *Marine Investigation Report—*
Contact of Containership Dali with

Francis Scott Key Bridge and
Subsequent Bridge Collapse,
Patapsco River, Baltimore,
Maryland, March 26, 2024

CONTACT PERSON FOR MORE INFORMATION:

Candi Bing at (202) 590–8384 or by
email at bingc@ntsb.gov.

Media Information Contact: Jennifer
Gabris by email at jennifer.gabris@ntsb.gov
or at (202) 314–6100.

The public may view it through a live
or archived webcast by accessing a link
under “Upcoming Events” on the NTSB
home page at www.nts.gov.

Schedule updates, including weather-
related cancellations, are also available
at www.nts.gov.

The National Transportation Safety
Board is holding this meeting under the
Government in the Sunshine Act, 5
U.S.C. 552(b).

Dated: Tuesday, September 30, 2025.

LaSean R. McCray,

Alternate Federal Register Liaison Officer.

[FR Doc. 2025–19300 Filed 9–30–25; 11:15 am]

BILLING CODE 7533–01–P

**NUCLEAR REGULATORY
COMMISSION**

[NRC–2024–0183]

**NUREG: Guidelines for Inservice
Testing at Nuclear Power Plants—
Inservice Testing of Pumps and Valves
and Inservice Examination and Testing
of Dynamic Restraints (Snubbers) at
Nuclear Power Plants**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Final report; issuance.

SUMMARY: The U.S. Nuclear Regulatory
Commission (NRC) is issuing NUREG–
1482, Revision 4, “Guidelines for
Inservice Testing at Nuclear Power
Plants—Inservice Testing of Pumps and
Valves and Inservice Examination and
Testing of Dynamic Restraints
(Snubbers) at Nuclear Power Plants.”
NUREG–1482, Revision 4 provides a
basic understanding of the regulatory
basis for pump and valve inservice
testing (IST) programs and dynamic
restraint (snubbers) examination and
testing programs. This NUREG also
provides information regarding the
NRC’s involvement in the development
of the American Society of Mechanical
Engineers (ASME) Operation and
Maintenance of Nuclear Power Plants,
Division 1, OM Code: Section IST (OM
Code).

DATES: This document was published in
the **Federal Register** on October 2, 2025.

ADDRESSES: Please refer to Docket ID
NRC–2024–0183 when contacting the

NRC about the availability of
information regarding this document.
You may obtain publicly available
information related to this document
using any of the following methods:

- **Federal Rulemaking Website:** Go to
<https://www.regulations.gov> and search
for Docket ID NRC–2024–0183. Address
questions about Docket IDs in
[Regulations.gov](https://www.regulations.gov) to Bridget Curran;
telephone: 301–415–1003; email:
Bridget.Curran@nrc.gov. For technical
questions, contact the individual listed
in the **FOR FURTHER INFORMATION**

CONTACT section of this document.

- **NRC’s Agencywide Documents
Access and Management System
(ADAMS):** You may obtain publicly
available documents online in the
ADAMS Public Documents collection at
[https://www.nrc.gov/reading-rm/
adams.html](https://www.nrc.gov/reading-rm/adams.html). To begin the search, select
“Begin Web-based ADAMS Search.” For
problems with ADAMS, please contact
the NRC’s Public Document Room (PDR)
reference staff at 1–800–397–4209, at
301–415–4737, or by email to
PDR.Resource@nrc.gov. NUREG–1482,
Revision 4 is available in ADAMS under
Accession No. ML25267A104.

- **NRC’s PDR:** The PDR, where you
may examine and order copies of
publicly available documents, is open
by appointment. To make an
appointment to visit the PDR, please
send an email to PDR.Resource@nrc.gov
or call 1–800–397–4209 or 301–415–
4737, between 8 a.m. and 4 p.m. eastern
time (ET), Monday through Friday,
except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Nicholas J. Hansing, Office of Nuclear
Reactor Regulation, U.S. Nuclear
Regulatory Commission, Washington,
DC 20555–0001; telephone: 301–415–
5318; email: Nicholas.Hansing@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Discussion**

The NRC published a notice in the
Federal Register on March 14, 2025 (90
FR 12184) requesting public comment
on draft NUREG–1482, Revision 4. The
public comment period closed on April
14, 2025. The NRC received 46 public
comments. The public comments and
the NRC staff’s responses are presented
in a comment resolution matrix
available in ADAMS under Accession
No. ML25262A190. The staff considered
the public comments received on the
draft document in preparing final
NUREG–1482, Revision 4.

NUREG–1482, Revision 4 is
applicable, unless stated otherwise, to
editions and addenda (up to and
including the 2022 Edition) to the OM
Code that are incorporated by reference

in paragraph 50.55a of title 10 of the
Code of Federal Regulations (10 CFR),
“Codes and standards.” The NRC staff
discusses in this report IST program
topics such as the NRC process for the
review of the OM Code, conditions on
the use of the OM Code, interpretations
of the OM Code, and development of
IST programs for new reactors. In this
report, the NRC staff provides guidance
included in NUREG–1482, Revision 3
that has been updated to reflect IST
lessons learned and operating
experience since the report was
previously issued.

Effective August 16, 2024, the NRC
amended 10 CFR 50.55a in a final rule
(89 FR 58039; July 17, 2024) to provide
more flexibility for nuclear power plant
licensees by expanding the code of
record interval from 10 years (120
months) to two consecutive IST and
inservice inspection (ISI) program
intervals. This rulemaking also
incorporated by reference revisions to
three NRC regulatory guides to approve
new, revised, and reaffirmed ASME
Code Cases. Accordingly, NUREG–1482,
Revision 4 includes the new
terminology for the code of record
interval rather than the previous 120-
month interval when discussing IST and
ISI programs and also includes a new
Appendix C that summarizes the final
rule and its conditions. In addition, in
response to a public comment, NUREG–
1482, Revision 4 has been revised
throughout to reference the 2022 Edition
of the OM Code (the latest edition
incorporated by reference in 10 CFR
50.55a) instead of the 2020 Edition. In
accordance with 10 CFR 2.804(e)(2), the
NRC staff has determined that a post-
promulgation comment period would
serve no public interest given the nature
of the updates from the 2020 to the 2022
Edition of the OM Code.

II. Congressional Review Act

This NUREG is a rule as defined in
the Congressional Review Act (5 U.S.C.
801–808). The Office of Management
and Budget has found that it does not
meet the criteria at 5 U.S.C. 804(2).

III. Executive Order (E.O.) 12866

The Office of Information and
Regulatory Affairs determined that this
NUREG is not a significant regulatory
action under E.O. 12866.

Dated: September 29, 2025.

For the Nuclear Regulatory Commission.

Gregory Bowman,

*Acting Director, Office of Nuclear Reactor
Regulation.*

[FR Doc. 2025–19201 Filed 10–1–25; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 07001257; NRC–2025–1536]

Framatome, Inc.; Framatome Fuel Fabrication Facility; License Amendment Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to request a hearing and to petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff docketed an application for the amendment of Special Nuclear Materials License No. SNM–1227, submitted by Framatome, Inc. dated September 20, 2024. (This application was accepted on July 7, 2025). The amended license would authorize Tri-structural Isotropic (TRISO) fuel fabrication to enrichment less than 10.0 weight percent Uranium-235 (U–235) in the Specialty Fuels Building at the Framatome Fuel Fabrication Facility in Richland, WA.

DATES: Requests for a hearing or petition for leave to intervene must be filed by December 1, 2025. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) is necessary to respond to this notice must request document access by October 14, 2025.

ADDRESSES: Please refer to Docket ID NRC–2025–1536 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2025–1536. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the “For Further Information Contact” section of this document.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The license amendment request is available in ADAMS under Accession No. ML25183A361.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Stephen Poy, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7135; email: Stephen.Poy@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC has received, by letter dated September 20, 2024, an application from

Framatome, Inc., to amend materials license SNM–1227 at the Framatome Fuel Fabrication Facility, located in Richland, Washington. The Framatome Fuel Fabrication Facility is authorized to possess, use, and store SNM, source material, and byproduct material. This amendment request proposes authorization of TRISO fuel fabrication in the Specialty Fuels Building at the Framatome Fuel Fabrication Facility in Richland, WA.

As documented in an administrative completeness review, dated July 7, 2025 (ADAMS Accession No. ML25181A802), the NRC found the supplemental application acceptable for a technical review. During the technical review, the NRC will review the supplemental application in areas that include, but are not limited to, electrical and instrumentation controls, radiation protection, chemical safety, fire safety, geotechnical, hydrological, security, environmental protection, financial assessment/qualification, emergency management, human factors, integrated safety analysis, management measures, quality assurance, criticality safety, structural and natural phenomena, and material control/accountability. Prior to reaching a decision on the request to amend SNM–1227, the NRC will conduct a review and make a determination in accordance with the Atomic Energy Act of 1954, as amended (the Act), and NRC’s regulations. The NRC’s findings will be documented in a safety evaluation report.

II. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS.

Document description	ADAMS Accession No.
Framatome, Inc., License Amendment Request for Increased Site Enrichment at the Framatome Fuel Fabrication Facility in Richland, WA, dated September 20, 2024.	ML24264A171.
Framatome, Inc., Attachment 1, Affidavit SNM dated September 20, 2024.	ML24264A172 (non-public, withheld pursuant to 10 CFR 2.390). ML25020A010.
Framatome, Inc., Affidavit for Attachment 2, Integrated Safety Analysis Summary for License Amendment Request, dated January 20, 2025.	
Framatome, Inc., Affidavit for Attachment 3, Supplement to Applicant’s Environmental Report Jan 2025 ..	ML25020A011.
Cover Letter—Framatome, Inc., License Amendment Request for Increased Site Enrichment at the Framatome Fuel Fabrication Facility in Richland, WA, dated January 20, 2025.	ML25142A220.
Framatome, Inc.—EHS&L Document ISA Summaries, Part 2 Chapter 11—SF Building, dated September 20, 2024.	ML24264A180 (non-public, withheld pursuant to 10 CFR 2.390).
Framatome, Inc.—EHS&L Document ISA Summaries, Part 2 Chapter 11—General Arrangement Drawing, dated September 20, 2024.	ML24264A181 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 1—Chapters 1–8—Richland Facility ISA Program, dated September 20, 2024.	ML24264A179 (non-public, withheld pursuant to 10 CFR 2.390).
Framatome, Inc.—EHS&L Document ISA Summaries, Part 2 Chapter 11—HALEU Dry Conversion Drawing, dated September 20, 2024.	ML24264A182 (non-public, withheld pursuant to 10 CFR 2.390).
Framatome, Inc.—EHS&L Document ISA Summaries, Part 2 Chapter 11—Solution Gelation Drawing, dated September 20, 2024.	ML24264A183 (non-public, withheld pursuant to 10 CFR 2.390).
Framatome, Inc.—EHS&L Document ISA Summaries, Part 2 Chapter 11—Shell Filling and TRISO Oven Drawing, dated September 20, 2024.	ML24264A184 (non-public, withheld pursuant to 10 CFR 2.390).

Document description	ADAMS Accession No.
Framatome, Inc.—EHS&L Document ISA Summaries, Part 2 Chapter 11—Sol Gel and Upgrading Room Drawing, dated September 20, 2024.	ML24264A185 (non-public, withheld pursuant to 10 CFR 2.390).
Framatome, Inc.—EHS&L Document ISA Summaries, Part 2 Chapter 11—CVI, Scrubber, and Inspection Equipment Layout Drawing dated September 20, 2024.	ML24264A186 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 10—Dry Conversion Facility, dated January 20, 2025.	ML25020A019 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 11—Specialty Fuels Building, dated January 20, 2025.	ML25020A020 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 12—Engineering Laboratory Operations Building, dated January 20, 2025.	ML25020A021 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 13—UF6 Cylinder Recertification Facility, dated January 20, 2025.	ML25020A022 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 14—Ammonia Recovery Facility and Industrial Waste Water Treatment System, dated January 20, 2025.	ML25020A023 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 15—Blended Dysprosium and Uranium Processing Facility, dated January 20, 2025.	ML25020A024 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 16—Detached Storage and Waste Handling Systems in which SNM is Present, dated January 20, 2025.	ML25020A025 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 17—Fuel Services Building, dated January 20, 2025.	ML25020A026 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 18—Ventilation Systems (Plantwide) , dated January 20, 2025.	ML25020A027 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 19—Product Development Test Facility, dated January 20, 2025.	ML25020A028 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 20—Ancillary Systems, dated January 20, 2025	ML25020A029 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 21—Uranyl Nitrate Storage Tank Building, dated January 20, 2025.	ML25020A030 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 22—Scrap Uranium Recovery Facility, dated January 20, 2025.	ML25020A031 (non-public, withheld pursuant to 10 CFR 2.390).
Integrated Safety Analysis Summaries, Part 2—Chapter 23—Generic Comingled Chemical exposure, dated January 20, 2025.	ML25020A032 (non-public, withheld pursuant to 10 CFR 2.390).
Site Environmental Reports and Supplements, Supplement to Applicant's Environmental Report January 2025.	ML25171A113.

III. Opportunity To Request a Hearing and Petition for Leave to Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit

a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053>) and on the NRC public website at <https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate>.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies

on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056) and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the

Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the

participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including SUNSI and SGI). Requirements for access to SGI and SUNSI are regulated by 10 CFR part 2, additional requirements for SGI are in 10 CFR part 73. Nothing in this Order is intended to conflict with the SGI or SUNSI regulations.

B. Within 10 days after publication of this notice of hearing or opportunity for hearing, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–

0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email addresses for the Office of the Secretary and the Office of the General Counsel are Hearing.Docket@nrc.gov and RidsOgcMailCenter.Resource@nrc.gov, respectively.¹ The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's "need to know" the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of "need to know" as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically, why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding;² and

¹ While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

² Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, “Questionnaire for Non-Sensitive Positions,” for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart C, and 10 CFR 73.22(b)(2), to determine the requestor’s trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the National Background Investigation Services e-App system, a secure website that is owned and operated by the Defense Counterintelligence and Security Agency (DCSA). To obtain online access to the form, the requestor should contact the NRC’s Office of Administration at 301–415–3710.³

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 will be provided in the background check request package supplied by the Office of Administration for each individual for whom a background check is being requested. The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of \$310.00⁴ to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual(s) who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history

records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor’s basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: U.S. Nuclear Regulatory Commission, Office of Administration, ATTN: Personnel Security Branch, Mail Stop: TWFN –07D04M, 11555 Rockville Pike, Rockville, MD 20852.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4), as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement

or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.⁵

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2), the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order⁶ by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient’s information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner’s receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either

disclosure or less scrutiny of a requestor’s need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

³ The requestor will be asked to provide the requestor’s full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

⁴ This fee is subject to change pursuant to DCSA’s adjustable billing rates.

⁵ Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

⁶ Any motion for Protective Order or draft Non-Disclosure Agreement or Affidavit for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of Administration, in accordance with 10 CFR 2.336(f)(1)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR

2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the Office of Administration's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal

process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.⁷

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: September 30, 2025.

For the Nuclear Regulatory Commission.

Carrie Safford,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of Federal Register notice of hearing or opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: (i) supporting the standing of a potential party identified by name and address; (ii) describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; (iii) demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," no "need to know," or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement or Affidavit for SUNSI.

⁷ Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR

46562; August 3, 2012, 78 FR 34247, June 7, 2013) apply to appeals of NRC staff determinations (because they must be served on a presiding officer

or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

Day	Event/activity
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).
A	If access granted: Issuance of a decision by a presiding officer or other designated officer on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Agreements or Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2025–19301 Filed 10–1–25; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2025–1721 and K2025–1712]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing and takes other administrative steps.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive

product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. See 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

None. See Section III for summary proceedings.

III. Summary Proceeding(s)

1. *Docket No(s).*: MC2025–1721 and K2025–1712; *Filing Title*: Notice of the United States Postal Service of Filing Errata Concerning USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 869, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 29, 2025; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2025–19307 Filed 10–1–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. C2009–1; Order No. 9214]

Complaint

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is providing notice that the Postal Service has moved to transfer the Complainants' request to publicly disclose all non-public documents filed in Docket No. C2009–1 from Docket No. C2024–13 to Docket No. C2009–1 and to extend the period to respond to the request. This document grants the Postal Service's motion and establishes a new deadline to respond to the Complainants' request.

DATES: Responses to the request to publicly disclose all non-public documents are due: October 17, 2025.

ADDRESSES: Documents can be accessed electronically through the Commission's website at <https://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION: On August 1, 2025, Complainants filed a request pursuant to 39 CFR 3011.401 for the Commission to publicly disclose all non-public documents in Docket No. C2009–1.¹ After the deadline to respond to the Request was extended once, the Postal Service submitted several filings including a motion for a further extension of the response deadline.² For the reasons that follow, the Motion for Further Extension is granted.

In its Motion for Further Extension, the Postal Service asserts that a further extension of 4 weeks to the deadline to respond to the Request is necessary to allow it to review the over 500 pages of documents from Docket No. C2009–1 that it has not yet reviewed, as well as any documents it has not yet been able

to locate. Motion for Further Extension at 2. 39 CFR 3011.401(c) allows the Commission to prescribe the amount of time under which parties may oppose a request to publicly disclose non-public documents.³ The Commission agrees that an extension is warranted to allow the Postal Service to fully review the requested materials. Further, for the reasons stated by the Postal Service in its original motion for extension, the Commission agrees that neither the procedural schedule nor Complainants will be prejudiced by an extension.⁴ Finally, the Commission notes that Complainants do not object to a further extension.⁵ As such, the Commission will extend the time for interested parties to submit a substantive response to the Request until October 17, 2025.

It is ordered:

1. The United States Postal Service Motion for Further Extension of Time to Respond to Complainants' Motion to Make Entire C2009–1 (Gamefly) Docket Public per 3011.401, filed September 19, 2025, is granted.

2. Responses, pursuant to 39 CFR 3011.401(c), to Complainants' Motion to Make Entire C2009–1 (Gamefly) Docket Public Per 3011.401, filed August 1, 2025, shall be filed on or before October 17, 2025.

3. The Secretary shall arrange for publication of this order in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2025–19294 Filed 10–1–25; 8:45 am]

BILLING CODE 7710–FW–P

³ See 39 CFR 3011.401(c) (emphasis added) (stating that “[a] response to the request is due within seven calendar days of the filing of the request, *unless the Commission otherwise provides*.”).

⁴ See Docket Nos. C2024–13 and C2009–1, United States Postal Service Motion to Transfer and Additional Submissions Related to Complainants' “Motion to Make Entire C2009–1 (Gamefly) Docket Public Per 3011.401,” August 8, 2025, at 6–11; see also 39 CFR 3010.162(c) (stating that a motion for extension “shall only be granted upon consideration of the potential adverse impact, if any, on other participants and the overall impact on the procedural schedule.”).

⁵ See Requesters' Reply to USPS' “First” and “Second” Oppositions to Making the Record in C2009–1 Public, September 24, 2025, at 1 n.2 (noting that Complainants “take no position on” the Motion for Further Extension).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104150; File No. SR–MRX–2025–25]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the MRX Pricing Schedule at Options 7, Section 3

September 30, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 29, 2025, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7, Section 3, Table 1 to cap a rebate for eligible Members that add liquidity in Penny Symbols.³

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on October 1, 2025.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/mrx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On September 26, 2025, the Exchange filed SR–MRX–2025–24. On September 29, 2025, the Exchange withdrew SR–MRX–2025–24 and filed this proposal.

¹ Docket No. C2024–13, Motion to make entire C2009–1 (GameFly) docket public per 3011.401, August 1, 2025 (Request). Complainants subsequently filed an erratum to the Request correcting a regulatory cite. See Docket No. C2024–13, Motion to make entire C2009–1 (GameFly) docket public per 3011.401—erratum, August 4, 2025.

² United States Postal Service Motion for Further Extension of Time to Respond to Complainants' Motion to Make Entire C2009–1 (Gamefly) Docket Public per 3011.401, September 19, 2025 (Motion for Further Extension).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Options 7, Section 3, Table 1 to cap a rebate for eligible Members that add liquidity in Penny Symbols.

Today, the Exchange assesses all Non-Priority Customers⁴ a \$0.50 per contract Tier 4 maker fee in Penny Symbols, and all Priority Customers⁵ a \$0.47 per contract Tier 4 maker rebate in Penny Symbols.⁶ Currently, the Exchange offers Members in Tier 4 a rebate if at least half of their trading volume adds liquidity in Penny Symbols. Specifically, note 2 of Options 7, Section 3, Table 1, provides that Members that add liquidity greater than or equal to 50% of their Total Affiliated Member⁷ or Affiliated Entity⁸ Volume within a month will also be paid a

⁴ "Non-Priority Customers" include Market Makers, Non-Nasdaq MRX Market Makers (FarMMs), Firm Proprietary/Broker-Dealers, and Professional Customers.

⁵ A "Priority Customer" is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq MRX Options 1, Section 1(a)(36).

⁶ As set forth in Table 3 of Options 7, Section 3, the Tier 4 volume requirement is based on executing more than 0.70% of Total Customer ADV. Total Customer ADV is Priority Customer Total Consolidated Volume divided by Customer Total Consolidated Volume, including volume executed by Affiliated Members or Affiliated Entities. Priority Customer Total Consolidated Volume is a Member's total Priority Customer volume executed on MRX in that month, including volume executed by Affiliated Members or Affiliated Entities. All eligible volume from Affiliated Members or an Affiliated Entity will be aggregated in determining applicable tiers.

⁷ An "Affiliated Member" is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member's Form BD, Schedule A.

⁸ An "Affiliated Entity" is a relationship between an Appointed Market Maker and an Appointed OFFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. Market Makers and OFFPs are required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Members may not qualify as a counterparty comprising an Affiliated Entity. Each Member may qualify for only one (1) Affiliated Entity relationship at any given time.

rebate of \$0.02 per contract on all their Penny Symbol transactions for that month.⁹ For purposes of proposed note 2, "Total Affiliated Member or Affiliated Entity Volume" will mean all volume executed by the Member on the Exchange in all symbols and order types, including volume executed by Affiliated Members or Affiliated Entities. This note 2 incentive is available to Members through December 31, 2025.

Proposal

At this time, the Exchange proposes to cap the rebate incentive at note 2 of Options 7, Section 3, Table 1. The Exchange proposes to cap the additional rebate at \$350,000 in a given month. The Exchange will add the following sentence to note 2 of Options 7, Section 3, Table 1, "This additional rebate will be capped at \$350,000 in a given month."

While the Exchange is capping the total amount of the rebate that a Member may obtain in a given month, the Exchange continues to believe that the rebate will incentivize Members to send additional order flow to MRX in Penny Symbols.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹¹ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC

explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."¹²

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹³

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of eighteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange's proposal to cap the \$0.02 per contract rebate in note 2 of Options 7, Section 3, Table 1 is reasonable because, despite capping the rebate, Members should continue to be incentivized to add greater liquidity on the Exchange in Penny Symbols in order to obtain the rebate. Further, this increase in trading activity and liquidity on MRX, in turn, could improve overall market quality for all market participants through more trading opportunities and tighter spreads.

The Exchange's proposal to cap the \$0.02 per contract rebate in note 2 of Options 7, Section 3, Table 1 is equitable and not unfairly

⁹ Effectively, for example, a qualifying Non-Priority Customer under the proposed note 2 incentive would pay \$0.48 per contract for all their Penny Symbol transactions adding liquidity for that month (*i.e.*, \$0.50 maker fee – \$0.02 note 2 incentive). A Priority Customer qualifying for the note 2 incentive would receive a higher maker rebate of \$0.49 per contract (*i.e.*, \$0.47 maker rebate + \$0.02 note 2 incentive).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

¹² *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR-NYSEArca-2006–21)).

¹³ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

discriminatory because the proposed cap would apply uniformly to all similarly situated market participants. Further, any Member may qualify for Tier 4 by meeting the volume requirements for that tier. To the extent the proposed incentive attracts additional liquidity on the Exchange through December 31, 2025, the Exchange believes it will benefit all market participants by providing more trading opportunities, tighter spreads, and increased order interaction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In terms of intra-market competition, the Exchange's proposal to cap the rebate incentive at note 2 of Options 7, Section 3, Table 1 up to a maximum of \$350,000 in a given month does not impose an undue burden on competition because the proposed cap would apply uniformly to all similarly situated market participants. Further, any Member may qualify for Tier 4 by meeting the volume requirements for that tier. To the extent the proposed incentive attracts additional liquidity on the Exchange through December 31, 2025, the Exchange believes it will benefit all market participants by providing more trading opportunities, tighter spreads, and increased order interaction.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other options exchanges to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other options exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their

competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁴ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-2025-25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-MRX-2025-25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish

to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MRX-2025-25 and should be submitted on or before October 23, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-19352 Filed 10-1-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104148; File No. SR-NASDAQ-2025-085]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To List and Trade Shares of iShares Bitcoin Premium Income ETF Under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)

September 30, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 30, 2025, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of iShares® Bitcoin Premium Income ETF (the "Trust") under Nasdaq Rule 5711(d) ("Commodity-Based Trust Shares"). The shares of the Trust are referred to herein as the "Shares."

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under Nasdaq Rule 5711(d), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.³ iShares® Delaware Trust Sponsor LLC, a Delaware limited liability company and an indirect subsidiary of BlackRock, Inc. ("BlackRock"), is the sponsor of the Trust (the "Sponsor"). The Trust will be an actively-managed exchange-traded product ("ETP"), that intends to be treated as a publicly-traded partnership for U.S. federal income tax purposes and is registered under the Securities Act of 1933, as amended (the "1933 Act"). Rule 5711(d)(iii)(A)(2) currently requires Commodity-Based Trust Shares to be designed to reflect the performance of one or more reference assets or an index of reference assets, less expenses, and other liabilities. In other words, the Generic Listing Standards require Commodity-Based Trust Shares to be passively managed. For the securities options holdings of Commodity-Based Trust Shares, the Generic Listing Standards require that such options be listed and traded on an ISG market. The Exchange submits this proposal because the Trust will be actively managed and may hold over-the-counter ("OTC") securities options

that are not listed and traded on an ISG market; however, it will meet all of the other requirements under the Generic Listing Standards. Any statements or representations included in this proposal regarding: (a) the description of the trust holdings or reference assets; (b) limitations on the trust holdings or reference assets; (c) dissemination and availability of the trust holdings, reference assets or intraday indicative value; or (d) the applicability of Exchange listing rules specified in this proposal shall constitute continued listing standards for the Shares listed on the Exchange. The Shares will be registered with the SEC by means of the Trust's forthcoming registration statement on Form S-1 (the "Registration Statement").⁴

Overview of the Trust

The Shares will be issued by the Trust, a Delaware statutory trust. The Trust will operate pursuant to a trust agreement (the "Trust Agreement") between the Sponsor, a third party as the trustee of the Trust (the "Trustee"), and Wilmington Trust, National Association, as Delaware trustee (the "Delaware Trustee"). The Trust issues Shares representing fractional undivided beneficial interests in its net assets. The assets of the Trust consist primarily of bitcoin held by a custodian on behalf of the Trust, as well as shares of iShares Bitcoin Trust ETF ("IBIT"), cash, and the premiums associated with written options on IBIT or indices tracking spot bitcoin ETPs ("options", collectively with IBIT, the "Securities"). In the event IBIT listed options are exercised early, the Trust will deliver IBIT shares out to the options clearer. In the event the Trust is holding OTC options or options on indices that track spot bitcoin ETPs, such options will be cash-settled. A third party (the "Bitcoin Custodian") is the custodian for the Trust's bitcoin holdings, and maintains a custody account for the Trust ("Custody Account"); a third party (the "Prime Execution Agent"), is the prime broker for the Trust and maintains a bitcoin trading account for the Trust ("Bitcoin Trading Account"); and a third party is the custodian for the Trust's Securities holdings (the "Securities Custodian") and its cash holdings (the "Cash Custodian" and together with the Securities Custodian and Bitcoin Custodian, the "Custodians"). The Trust is not an investment company registered under the Investment Company Act of 1940, as

amended (the "1940 Act") and, in accordance therewith, will not own or acquire Securities in excess of 40% of the value of the Trust's total assets (excluding Government Securities (as defined in the 1940 Act) and cash items) on an unconsolidated basis.

Investment Objective

The investment objective of the Trust is to reflect generally the performance of the price of bitcoin while providing income by writing (selling) call options primarily on IBIT or indices that track spot bitcoin ETPs. The Trust seeks to reflect such performance before payment of the Trust's expenses and liabilities.

Actively-Managed Strategies

Actively-managed exchange-traded funds ("ETFs") have become a significant and growing segment of the U.S. and global ETF markets. For example, in 2024, around 49% of all ETFs launched globally were active, and in the U.S., active ETF launches outnumbered index launches by nearly 4:1.⁵ Active ETFs in the U.S. represent the vast majority of total ETF launches in 2025,⁶ with over a third of U.S. ETF inflows coming from active strategies over the past two years.⁷ The Exchange believes that these figures demonstrate substantial market demand in actively-managed strategies, and that this proposal would benefit investors by providing a transparent, regulated investment vehicle as an alternative to less regulated avenues that investors could use to obtain bitcoin exposure.

Background on Trust Holdings

The Trust will invest primarily in spot bitcoin and IBIT, will hold cash, and will write options on IBIT or

⁵ See "Decoding active ETFs," BlackRock, available at <https://www.ishares.com/us/literature/whitepaper/decoding-active-etfs.pdf>.

⁶ See "How active ETFs are unlocking innovation and opportunity for investors," BlackRock, available at <https://www.ishares.com/us/insights/active-etf-investors> ("Active ETFs accounted for 88% of all U.S.-listed ETF launches through June 2025, and 51% of global ETF launches."); see also "Monthly Active ETF Monitor (August 31, 2025)," J.P.Morgan, available at <https://am.jpmorgan.com/content/dam/jpm-am-aem/americas/us/en/insights/etf-insights/monthly-active-etf.pdf> ("60 active ETFs were launched in August. Active ETFs represent 85% of total ETF launches in 2025.").

⁷ See "Decoding active ETFs," BlackRock, available at <https://www.ishares.com/us/literature/whitepaper/decoding-active-etfs.pdf> ("31% of net asset inflows come from actively managed strategies," sourcing BlackRock Global Business Intelligence data through June 2024); see also "Monthly Active ETF Monitor (August 31, 2025)," J.P.Morgan, available at <https://am.jpmorgan.com/content/dam/jpm-am-aem/americas/us/en/insights/etf-insights/monthly-active-etf.pdf> ("Over 37% of ETF flows in 2025 have gone into active strategies").

³ The Commission approved Nasdaq Rule 5711 in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR-NASDAQ-2012-013). The Commission subsequently approved amendments to Rule 5711(d) to adopt generic listing standards for Commodity-Based Trust Shares. See Securities Exchange Act Release No. 103995 (September 17, 2025), 90 FR 45414 (September 22, 2025) (SR-NASDAQ-2025-056; SR-CboeBZX-2025-104; SR-NYSEARCA-2025-54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) ("Generic Listing Standards").

⁴ The Shares will not trade on the Exchange until such time that the Registration Statement is effective.

indices tracking spot bitcoin ETPs. The Trust's IBIT and cash holdings would be used to settle written options positions if those are exercised. The options may consist of (i) U.S. exchange-listed options, which may include listed index options, ("listed options"), (ii) flexible exchange options, which may include flexible exchange index options, ("FLEX options"), or (iii) OTC options, which are a type of customized derivative not listed on public exchanges, ("OTC options"). Bitcoin, IBIT, listed options, and FLEX options meet the eligibility criteria for Commodity-Based Trust Shares set forth in Rule 5711(d)(iv)(A) (Bitcoin) and (B) (IBIT, listed options, and FLEX options). While OTC options are not listed and traded on an ISG market, the Trust may include these holdings to better meet its investment objective.

Bitcoin (BTC)

Bitcoin is a digital asset that is created and transmitted through the operations of the peer-to-peer Bitcoin network, a decentralized network of computers that operates on cryptographic protocols (the "Bitcoin network"). No single entity owns or operates the Bitcoin network, the infrastructure of which is collectively maintained by its user base.

The Bitcoin network allows people to exchange tokens of value, called bitcoin, which are recorded on a public transaction ledger known as the Bitcoin blockchain (the "Bitcoin blockchain"). Bitcoin can be used to pay for goods and services, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on bitcoin platforms that enable trading in bitcoin or in individual end-user-to-end-user transactions under a barter system.

The Bitcoin network is commonly understood to be decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of bitcoin. Rather, bitcoin is created and allocated by the Bitcoin network protocol through a "mining" process. The value of bitcoin is determined by the supply of and demand for bitcoin-on-bitcoin platforms or in private end-user-to-end-user transactions.

New bitcoins are created and rewarded to the miners of a block in the Bitcoin blockchain for verifying transactions. The Bitcoin blockchain is a shared database that includes all blocks that have been solved by miners and it is updated to include new blocks as they are solved. Each bitcoin transaction is broadcast to the Bitcoin network and, when included in a block, recorded in the Bitcoin blockchain. As each new block records outstanding

bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Bitcoin blockchain represents a complete, transparent, and unbroken history of all transactions of the Bitcoin network.

Under the source code that governs the Bitcoin network, the supply of new bitcoin is mathematically controlled so that the number of bitcoin grows at a limited rate pursuant to a pre-set schedule. The number of bitcoin awarded for solving a new block is automatically halved after every 210,000 blocks are added to the Bitcoin blockchain, approximately every 4 years. This deliberately controlled rate of bitcoin creation means that the number of bitcoin in existence will increase at a controlled rate until the number of bitcoin in existence reaches the pre-determined 21 million bitcoin. However, the 21 million supply cap could be changed in a hard fork. A hard fork could change the source code to the Bitcoin network, including the 21 million bitcoin supply cap.

Bitcoin's role as the dominant digital asset has positioned it as a key component of institutional portfolios and investment products. Its market dynamics are influenced by macroeconomic trends, adoption rates, and its regulatory environment, making it a focal point for the broader crypto industry. With a decentralized governance model and a community-driven upgrade process, bitcoin continues to evolve while adhering to its core principles of decentralization and security.

Other Investments

As noted above, the Trust will also invest in Securities. The Commission approved the listing and trading of IBIT on January 10, 2024⁸ and IBIT listed options on September 20, 2024.⁹ In addition to IBIT listed options, the Commission has approved listed options on other spot bitcoin ETPs and listed options on indices designed to track the performance of a basket of spot bitcoin ETPs listed on U.S. exchanges.¹⁰ The Trust may also invest in exchange-listed FLEX options, which is presently available on multiple U.S. options exchanges and available for IBIT options

and indices tracking multiple U.S. spot bitcoin ETPs.¹¹

In addition to listed options and FLEX options, the Trust's options holdings may consist of OTC options. OTC options represent an important component in the toolkit of an actively managed product, especially one seeking exposure to alternative assets such as bitcoin. The Trust may utilize available OTC options for customized options positions, allowing the Trust to more efficiently obtain exposure to bitcoin and meet its investment objective. The Trust's options holdings will be available on its website (www.ishares.com), which will give investors the ability to track whether the Trust has shifted to the OTC markets.

Creation and Redemption of Shares

The Trust issues and redeems Baskets¹² on a continuous basis. Baskets are only issued or redeemed in exchange for an amount of cash, bitcoin or Securities as determined by the Trustee on each day that Nasdaq is open for regular trading. No Shares are issued unless the Cash Custodian, Bitcoin Custodian, Prime Execution Agent, and Securities Custodian has allocated to the Trust's account the corresponding amount of cash, bitcoin, or Securities, as applicable. The amount of cash, bitcoin, or Securities necessary for the creation of a Basket, or to be received upon redemption of a Basket, will vary over the life of the Trust, due to the payment or accrual of fees and other expenses or liabilities payable by the Trust. Baskets may be created or redeemed only by Authorized Participants, who pay BlackRock Investments, LLC ("BRIL"), an affiliate of the Advisor that has been retained by the Trust to perform certain order processing, Authorized Participant communications, and related services in connection with the issuance and redemption of Baskets ("ETF Services"), a transaction fee for each order to create or redeem Baskets.

The Sponsor will maintain ownership and control of bitcoin and Securities in a manner consistent with good delivery requirements for spot commodity transactions and securities transactions, respectively.

¹¹ For example, both Nasdaq ISE and Cboe Options offer electronic FLEX trading today. Additionally, the Commission recently approved the trading of FLEX IBIT options on Nasdaq ISE. See Securities Exchange Act Release No. 103563 (July 29, 2025), 90 FR 36242 (August 1, 2025) (SR-ISE-2025-12). Cboe also offers FLEX trading on both its bitcoin ETP index options and mini bitcoin ETP index options. See https://www.cboe.com/tradable_products/bitcoin-etf-index-options/.

¹² Baskets will be offered continuously at NAV per Share for 40,000 Shares.

⁸ See *infra* note 11.

⁹ See Securities Exchange Act Release No. 101128 (September 20, 2024), 89 FR 78942 (September 26, 2024) (SR-ISE-2024-03).

¹⁰ For example, Cboe offers listed options on spot bitcoin ETPs. See Securities Exchange Act Release No. 101387 (October 18, 2024). Cboe also offers listed index options on the Cboe Bitcoin U.S. ETF Index and the Mini-Cboe Bitcoin U.S. ETF Index. See https://www.cboe.com/tradable_products/bitcoin-etf-index-options/.

Net Asset Value

The net asset value (“NAV”) of the Trust is used by the Trust in its day-to-day operations to measure the net value of the Trust’s assets. The NAV of the Trust will be equal to the total assets of the Trust, which will consist of bitcoin, IBIT and cash, less total liabilities of the Trust, which includes written options on IBIT or indices tracking spot bitcoin ETPs, each determined by the Trustee pursuant to policies established from time to time by the Trustee or its affiliates as described herein. The Sponsor has the exclusive authority to determine the Trust’s NAV, which it has delegated to the Trustee under the Trust Agreement. The Sponsor has delegated to the Trustee the responsibility to calculate the NAV and the NAV per Share for the Trust, based on a pricing source selected by the Trustee. In determining the Trust’s NAV per Share, the Trustee will assess the value of bitcoin and the Securities.

Bitcoin Valuation

The value of the bitcoin held by the Trust will be based on the index price, unless the Sponsor in its sole discretion determines that the index is unreliable. The CME CF Bitcoin Reference Rate—New York Variant for the Bitcoin—U.S. Dollar trading pair (the “CF Benchmarks Index”) shall constitute the index (the “Index”), unless the CF Benchmarks Index is not available or the Sponsor in its sole discretion determines that the CF Benchmarks Index is unreliable and therefore determines not to use the CF Benchmarks Index as the Index. If the CF Benchmarks Index is not available or the Sponsor determines, in its sole discretion, that the CF Benchmarks Index is unreliable, (together a “Fair Value Event”) the Trust’s holdings may be fair valued on a temporary basis in accordance with the fair value policies approved by the Trustee. If the CF Benchmarks Index is not used as the Index price, owners of the beneficial interests of Shares (the “Shareholders”) will be notified in a prospectus supplement or on the Trust’s website and, if this index change is on a permanent basis, a filing with the SEC under Rule 19b-4 of the Act will be required. A Fair Value Event value determination will be based upon all available factors that the Sponsor or Trustee deems relevant at the time of the determination, and may be based on analytical values determined by the Sponsor or Trustee using third-party valuation models. Fair value policies approved by the Trustee will seek to determine the fair value price that the Trust might reasonably expect to receive

from the current sale of that asset or liability in an arm’s-length transaction on the date on which the asset or liability is being valued consistent with “Relevant Transactions”. In the instance of a Fair Value Event and pursuant to the Sponsor’s fair valuation policies and procedures Volume Weighted Average Prices (“VWAP”) or Volume Weighted Median Prices (“VWMP”) from another index administrator (“Secondary Index”) would be utilized. If a Secondary Index is not available or the Sponsor in its sole discretion determines the Secondary Index is unreliable the price set by the Trust’s principal market as of 4:00 p.m. ET, on the valuation date would be utilized. In the event the principal market price is not available or the Sponsor in its sole discretion determines the principal market valuation is unreliable the Sponsor will use its best judgment to determine a good faith estimate of fair value. The Trustee identifies and determines the Trust’s principal market (or in the absence of a principal market, the most advantageous market) for bitcoin consistent with the application of fair value measurement framework in FASB ASC 820-10.¹³ The principal market is the market where the reporting entity would normally enter into a transaction to sell the asset or transfer the liability. The principal market must be available to and be accessible by the reporting entity. The reporting entity is the Trust.

Securities Valuation

The valuation of the Trust’s Securities will be done by a third party, which will utilize one or more authorized data sources designated by the Sponsor or the Trustee.

Intraday Indicative Value

In order to provide updated information relating to the Trust for use by Shareholders, the Trust intends to publish an intraday indicative value per Share (“IIV”). The IIV will be calculated using data provided by one or more third-party data vendors. One or more major market data vendors will provide an IIV updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange’s regular market session of 9:30 a.m. to 4:00 p.m. ET (the “Regular Market Session”). The IIV will be

calculated using the prior day’s closing NAV per Share as a base and updating that value during the Exchange’s Regular Market Session to reflect changes in the value of the Trust’s NAV per Share during the trading day. The IIV is disseminated during the Exchange’s Regular Market Session and should not be viewed as an actual real-time update of the NAV per Share, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange’s Regular Market Session by one or more major market data vendors. In addition, the IIV will be available through online information services.

Availability of Information

The website for the Trust, which will be publicly accessible at no charge, will prominently disclose the information required under Rule 5711(v).

The NAV per Share for the Trust will be calculated once a day and will be disseminated daily to all market participants at the same time. Quotation and last sale information regarding the Shares will be disseminated through the facilities of the relevant securities information processor. Also, an estimated value that reflects an estimated IIV will be disseminated. For more information on the IIV, including the calculation methodology, see “Intraday Indicative Value” above.

The IIV disseminated during the Exchange’s Regular Market Session should not be viewed as an actual real time update of the NAV per Share, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange’s Regular Market Session by one or more major market data vendors. In addition, the IIV will be available through online information services.

Quotation and last sale information for the Trust’s holdings is widely disseminated through a variety of major market data vendors. Information relating to trading, including price and volume information, in the Trust’s holdings is available from major market data vendors and from the platforms on which such holdings are traded. Depth of book information is also available from those platforms. As it relates to bitcoin, the normal trading hours for platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Information regarding the

¹³ See FASB (Financial Accounting Standards Board) Accounting standards codification (ASC) 820-10. For financial reporting purposes only, the Trustee has adopted a valuation policy that outlines the methodology for valuing the Trust’s assets. The policy also outlines the methodology for determining the principal market (or in the absence of a principal market, the most advantageous market) in accordance with FASB ASC 820-10.

previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Applicable Standard

As noted above, the Trust's holdings of bitcoin, IBIT, listed options, and FLEX options meet the eligibility criteria in the General Listing Standards under Rule 5711(iv). Further, the Commission has previously issued orders granting approval for proposals to list bitcoin-based commodity trust shares and bitcoin-based trust issued receipts ("Spot Bitcoin ETPs").¹⁴ In the Spot Bitcoin ETP Approval Order, the Commission found that sufficient "other means" of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement with a market of significant size. Specifically, the Commission found that while the Chicago Mercantile Exchange ("CME") futures market for bitcoin was not of "significant size" with respect to the spot market, the Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals, including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission's own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of "significant size" related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].¹⁵

With respect to the Trust's bitcoin holdings, today, both the CME and

Coinbase Derivatives, LLC ("Coinbase Derivatives") offer trading in bitcoin futures. Nasdaq has a comprehensive surveillance-sharing agreement with both the CME and Coinbase Derivatives via its common membership in the Intermarket Surveillance Group ("ISG").¹⁶ This facilitates the sharing of information that is available to the CME and Coinbase Derivatives through their surveillance of their respective markets, including their surveillance of their respective bitcoin futures market.

With respect to the Trust's investments in IBIT, options, and FLEX options, the Exchange has the ability to obtain information regarding trading in these securities from other markets that are members of the ISG. Accordingly, the Exchange believes that its ability to share information regarding trading in the Trust's investments from other markets via common ISG membership would assist the Exchange in surveilling for fraudulent and manipulative acts and practices.

Given that OTC options are not traded publicly, the Trust would not have the ability to obtain information regarding trading in IBIT OTC options. Additionally, as OTC options are bilateral agreements, the Trust may be subject to counterparty risk in the event there is fraud or manipulation by the OTC options seller. However, participants in the U.S. OTC options market for IBIT are generally regulated by their institutional supervisors, and the Commission regulates market participants with and has established rules designed to improve transparency and investor protection in the OTC markets.¹⁷ To enhance transparency the Trust will publish its holdings on its website to ensure investors are aware of any OTC option positions held by the Trust. Additionally, the Trust will include disclosure in its prospectus of the risk related to trading in OTC options these options to ensure investors are sufficiently aware of the risk of holding Shares. The Trust will also publish its holdings on its website to ensure investors are aware of any OTC option positions held by the Trust.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5711(d)(viii), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV per

Share will be calculated daily and will be made available to all market participants at the same time. A minimum of 80,000 Shares will be required to be outstanding at the time of commencement of trading on the Exchange. Upon termination of the Trust, the Shares will be removed from listing.

As required in Nasdaq Rule 5711(d)(xii), the Exchange notes that any registered market maker ("Market Maker") in the Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity and commodity-based asset, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, commodity-based asset, or any other related derivative thereon in an account in which a registered Market Maker (1) directly or indirectly controls trading activities, or has a direct interest in the profits or losses thereof, (2) is required by this Rule to disclose to the Exchange, and (3) has not reported to Nasdaq.

In addition to the existing obligations under Exchange rules regarding the production of books and records (see, e.g., Rule 4625), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying commodity or commodity-based asset, or applicable derivatives of each of the foregoing, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying securities, bitcoin, bitcoin futures contracts, or any other bitcoin derivative through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its members, and their associated persons. The Exchange also has regulatory jurisdiction over any person or entity controlling a member, as well as a subsidiary or affiliate of a member that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements

¹⁴ See Securities Exchange Act No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the "Spot Bitcoin ETP Approval Order").

¹⁵ See Spot Bitcoin ETP Approval Order, *supra* note 11. The SEC made substantially similar findings in the approval order for spot Ether ETPs. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

¹⁶ For a list of the current members and affiliate members of ISG, see <https://isgportal.org/public-members>.

¹⁷ See Publication or Submission of Quotations Without Specified Information, 85 FR 68124 (Oct. 27, 2020) (to be codified at 17 CFR pts. 230 & 240).

with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 4:00 a.m. to 8:00 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The Shares of the Trust will conform to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d) and will comply with the requirements of Rule 10A-3 of the Act.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in Rules 4120, 4121, and 5711(d)(ix), including without limitation the conditions specified in Rules 4120(a)(9), 4120(a)(10), and 5711(d)(ix), and the trading pauses under Rules 4120(a)(11) and (12).

Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the bitcoin and/or Securities underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

In addition, pursuant to Rule 5711(d)(ix), the Exchange may halt trading during the day in which an interruption occurs in any of the scenarios specified therein. If the interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the

applicable federal securities laws. The surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, bitcoin futures, and the Trust's IBIT, options, and FLEX options holdings from such markets and other entities.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an information circular ("Information Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for creations and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Section 10 of Nasdaq General Rule 9, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and NAV is disseminated; (4) the risks involved in trading the Shares during the pre-market and post-market sessions when an

updated IIV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding bitcoin, that the Commission has no jurisdiction over the trading of bitcoin as a commodity.

Additionally, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Trust's website.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Commission has approved numerous series Commodity-Based Trust Shares to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Trust's holdings, with the exception of OTC options, will meet the eligibility criteria in the General Listing Standards under Rule

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

5711(iv). In the case of the OTC options, the ability to use OTC options will allow the Trust to better meet its investment objective. Further, the Commission has previously issued orders granting approval for proposals to list Spot Bitcoin ETPs.²⁰ In the Spot Bitcoin ETP Approval Order, the Commission found that sufficient “other means” of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement with a market of significant size. As discussed above, the Commission found that while the CME futures market for bitcoin was not of “significant size” with respect to the spot market, the Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals.

With respect to the Trust’s bitcoin holdings, today, both the CME and Coinbase Derivatives offer trading in bitcoin futures. Nasdaq has a comprehensive surveillance-sharing agreement with both the CME and Coinbase Derivatives via its common ISG membership. This facilitates the sharing of information that is available to the CME and Coinbase Derivatives through their surveillance of their respective markets, including their surveillance of their respective bitcoin futures market.

With respect to the Trust’s investments in IBIT, options, and FLEX options, the Exchange has the ability to obtain information regarding trading in these securities from other markets that are members of the ISG. Accordingly, the Exchange believes that its ability to share information regarding trading in the Trust’s investments from other markets via common ISG membership would assist the Exchange in surveilling for fraudulent and manipulative acts and practices.

With respect to the Trust’s investments in IBIT OTC options, the Exchange will not have the ability to obtain information regarding trading in these securities from other markets that are members of the ISG. However, the Exchange believes that the Trust’s disclosure of these options and the risks posed by these options will ensure investors are sufficiently aware of the risk of holding Shares.

While the Trust will be an actively-managed product, the Exchange does not believe this raises any novel regulatory issues under the Act. Indeed, in the context of SEC Rule 6c–11 ETPs, the Commission did not distinguish

between active and passive management, and found they function similarly with respect to operational matters.²¹ There, the Commission concluded: “[w]e therefore believe that eliminating the regulatory distinction between index-based ETPs and actively managed ETPs for purposes of exemptive relief under the Act will help to provide a more consistent and transparent regulatory framework for ETPs organized as open-end funds. This approach is consistent with our regulation of other types of open-end funds, which does not distinguish between actively managed and index-based strategies.” In other words, the regulatory framework treats active and passive ETPs registered under the 1940 Act as functionally similar from a market oversight perspective. The Exchange believes that extending this logic to the ETPs registered under the 1933 Act will bring regulatory parity between actively-managed ETPs under the 1933 Act and 1940 Act. Furthermore, as discussed above, the Exchange believes there is substantial market demand for actively-managed strategies, and that this proposal would benefit investors by providing a transparent, regulated investment vehicle as an alternative to less regulated avenues that investors could use to obtain bitcoin exposure.

The Exchange further believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. As discussed above, the surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the Exchange will be subject to the Exchange’s surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA’s

performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange may obtain trading information regarding trading in the Shares, listed bitcoin futures, and the Trust’s Securities holdings, with the exception of OTC options, from such markets and other entities that are members of ISG.

Trading in Shares of the Trust will be halted if the circuit breaker parameters have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

For all the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will rather facilitate the listing and trading of an additional ETP that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

²¹ See Securities Exchange Act Release No. 33–10695 (September 26, 2019), 84 FR 57162 (October 24, 2019), at 57168.

²⁰ See *supra* note 11.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-085 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NASDAQ-2025-085. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-085 and should be submitted on or before October 23, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-19350 Filed 10-1-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104144]

Order Granting Conditional Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 608(e) of Regulation NMS Thereunder, From Certain Requirements of the National Market System Plan Governing the Consolidated Audit Trail, Rule 613 of Regulation NMS, and Rule 17a-1 Under the Exchange Act

September 30, 2025.

I. Introduction

The Securities and Exchange Commission (the "Commission" or the "SEC") has determined to grant the Participants conditional exemptive relief from certain requirements of the national market system plan governing the consolidated audit trail (the "CAT NMS Plan"), Rule 613 of Regulation NMS, and Rule 17a-1 under the Exchange Act in order to reduce the operating costs of the consolidated audit trail (the "CAT").¹ These requirements, and the conditional exemptive relief granted, are described in more detail below.

On July 18, 2012, the Commission adopted Rule 613 of Regulation NMS, which required national securities exchanges and national securities associations (the "Participants")² to jointly develop and submit to the Commission the CAT NMS Plan.³ The goal of Rule 613 was to create a modernized audit trail system that

would provide regulators with timely access to a comprehensive set of trading data, thus enabling regulators to more efficiently and effectively analyze and reconstruct market events, monitor market behavior, conduct market analysis to support regulatory decisions, and perform surveillance, investigation, and enforcement activities.⁴ On November 15, 2016, the Commission approved the national market system plan required by Rule 613—the CAT NMS Plan.⁵

In the CAT NMS Plan Approval Order issued in 2016, the Commission estimated that the ongoing annual costs associated with maintaining and operating the Central Repository⁶ would be approximately \$55.8 million.⁷ But CAT operating costs have far exceeded these estimates⁸ due largely to increases in trading activity, which impacts various CAT cost drivers like storage, data processing, and message

⁴ See *id.* at 45730–33.

⁵ Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696, (Nov. 23, 2016) ("CAT NMS Plan Approval Order"). The CAT NMS Plan is Exhibit A to the CAT NMS Plan Approval Order. See CAT NMS Plan Approval Order, at 84943–85034. The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware State law through which the Participants conduct the activities of the CAT. Each Participant is a member of the company and jointly owns the company on an equal basis. The Participants submitted to the Commission a proposed amendment to the CAT NMS Plan on Aug. 29, 2019, which they designated as effective on filing. Under the amendment, the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC (the "Company") serves as the CAT NMS Plan, replacing in its entirety the CAT NMS Plan. See Securities Exchange Act Release No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

⁶ "Central Repository" means "the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and [the CAT NMS Plan]." See CAT NMS Plan, *supra* note 5, at section 1.1.

⁷ See, e.g., CAT NMS Plan Approval Order, *supra* note 5, at 84918–20.

⁸ The CAT budget initially approved by the Participants for 2025 exceeded \$248 million. See https://catnmsplan.com/sites/default/files/2025-05/19.25-CAT-LLC-2025-Financial_and_Operating-Budget.pdf. In May 2025, the Participants revised the CAT budget to approximately \$228 million to account for cost savings realized through the implementation of the cost savings measures approved by the Commission in 2024 (the "2024 Cost Savings Amendment") and other optimizations. See https://catnmsplan.com/sites/default/files/2025-05/19.25-CAT-LLC-2025-Financial_and_Operating-Budget.pdf; see also Securities Exchange Act Release No. 101901 (Dec. 12, 2024), 89 FR 103033 (Dec. 18, 2024). The Commission now understands, through communications with the Participants, that the CAT budget, prior to the issuance of this conditional exemptive relief, is projected to be approximately \$196 million due to further implementation of the 2024 Cost Savings Amendment and other optimizations.

²² 17 CFR 200.30-3(a)(12).

¹ 17 CFR 240.17a-1.

² The Participants include 24X National Exchange, BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange LLC, MIAx Emerald, LLC, MIAx PEARL, LLC, MIAx Sapphire, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc.

³ See Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (Aug. 1, 2012) ("Rule 613 Adopting Release"); 17 CFR 242.613.

traffic.⁹ These increases have led both the Commission and the Participants to take steps to manage and contain CAT costs in the past.¹⁰ The conditional exemptive relief granted herein further responds to these increases in CAT costs, as well as to other regulatory and judicial developments.

For instance, there have been changes to CAT funding since the CAT NMS Plan was approved in 2016. On September 6, 2023, the Commission approved a proposal that amended the method by which CAT fees would be calculated and implemented a funding model to allocate costs between Participants and Industry Members¹¹ (the “Funding Model Order”).¹² On July 25, 2025, however, the United States Court of Appeals for the Eleventh Circuit issued an opinion vacating the Funding Model Order and remanding the matter to the Commission for further proceedings consistent with its opinion.¹³ The Court stayed the effect of its judgment for sixty days from the issuance of its mandate.¹⁴ Moreover, while this case was pending, the Chairman of the Commission instructed the staff to undertake a comprehensive review of the CAT that includes consideration of mechanisms to address CAT costs.¹⁵ The Participants have also recently proposed amendments to the CAT NMS Plan designed to further reduce CAT costs,¹⁶ and various

Industry Members have submitted rule-making proposals.¹⁷

It will take the Commission and its staff time to appropriately respond to these judicial and regulatory developments. In the meantime, it is appropriate to take immediate steps where possible to attempt to contain the cost burden of the CAT, which may also reduce challenges associated with future funding models.

The Commission has determined that the conditional exemptive relief granted herein is appropriate in the public interest and consistent with the protection of investors under section 36(a)(1) of the Exchange Act,¹⁸ as well as consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system under Rule 608(e) of Regulation NMS,¹⁹ because it allows the Participants to expeditiously and meaningfully reduce CAT operational costs,²⁰ while retaining its core regulatory functionality and thereby continuing to advance the regulatory goals that Rule 613 and the CAT NMS Plan were intended to promote. In granting this relief, the Commission considered its own experience with the CAT, as well as communications with the Participants and Industry Members regarding potential cost savings measures,²¹ to identify areas that could provide immediate cost savings without having an undue impact on regulatory use of the CAT.

The Commission emphasizes that this conditional exemptive relief constitutes an interim step while the staff continues its comprehensive review of the CAT,

and while the Commission considers the proposed CAIS Amendment pending before it, which—if approved—would provide more expansive and permanent changes to the CAT. The Commission remains willing to consider alternative solutions that achieve the regulatory goals of Rule 613 and the CAT NMS Plan in a more cost-effective manner.

II. Discussion and Exemptive Relief

There are four areas of conditional exemptive relief addressed by this Order: (A) requirements to create lifecycle linkages by T+1 at noon Eastern Time; (B) requirements for re-processing of late records; (C) requirements to provide an online targeted query tool (“OTQT”); and (D) requirements related to data storage and retention.

A. Requirements To Create Lifecycle Linkages by T+1 at Noon Eastern Time

Appendix D, section 6.1 of the CAT NMS Plan states that “Noon Eastern Time T+1 (transaction date + one day)” is the deadline for “[i]nitial data validation, lifecycle linkages and communication of errors to CAT Reporters.”²² The CAT NMS Plan further explains that the Plan Processor²³ must “link and create the order lifecycle” using a “daisy chain approach,” in which “a series of unique order identifiers, assigned to all order events handled by CAT Reporters[,] are linked together by the Central Repository and assigned a single CAT-generated CAT-Order-ID that is associated with each individual order event and used to create the complete lifecycle of an order.”²⁴ The Plan Processor provides the lifecycle linkages that are required on T+1 by assigning an interim CAT Order ID.²⁵ A final CAT

⁹ See, e.g., Securities Exchange Act Release No. 98290 (Sept. 6, 2023), 88 FR 62628, 62641 (Sept. 12, 2023).

¹⁰ See, e.g., 2024 Cost Savings Amendment, *supra* note 8.

¹¹ “Industry Member” is defined in section 1.1 of the CAT NMS Plan as “a member of a national securities exchange or a member of a national securities association.”

¹² See note 9 *supra*.

¹³ See Opinion, *ASA v. Commission*, No. 23–113396 (11th Cir. July 25, 2025).

¹⁴ *Id.* On September 5, 2025, the Participants filed a new proposed amendment to the CAT NMS Plan to implement a revised funding model. See Letter from Robert Walley, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Sept. 5, 2025), available at https://catnmsplan.com/sites/default/files/2025-09/09.05.25_Plan_Amendment-2025_CAT_Funding_Model.pdf. The Company then sought an extension of the Court’s stay for an additional 90 days to give the Commission, the Company, and the Participants additional time to address the Court’s ruling. See Intervenor Consolidated Audit Trail, LLC’s Petition for Panel Rehearing, *ASA v. Commission*, No. 23–113396 (11th Cir. Sept. 8, 2025).

¹⁵ See Prepared Remarks Before SEC Speaks, Chairman Paul S. Atkins, May 19, 2025, available at <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

¹⁶ See, e.g., Securities Exchange Act Release No. 103288 (June 17, 2025), 90 FR 26637 (June 23, 2025) (the “CAIS Amendment”).

¹⁷ See, e.g., Letter from Joanna Mallers, Secretary, FIA Principal Traders Group (June 26, 2025), available at <https://www.sec.gov/comments/4-853/4853-618547-1815754.pdf>; Letter from James Toes, President and CEO, Security Traders Association (June 25, 2025), available at <https://www.sec.gov/comments/4-853/4853-616887-1809874.pdf>; Letter from Joseph Corcoran, Managing Director and Associate General Counsel, and Gerald O’Hara, Vice President and Assistant General Counsel, Securities Industry and Financial Markets Association (June 6, 2025), available at <https://www.sec.gov/comments/4-698/4698-610487-1785814.pdf>.

¹⁸ 15 U.S.C. 78mm(a)(1).

¹⁹ 17 CFR 242.608(e).

²⁰ See Parts II.A.–D. *infra* for further discussion of estimated cost savings.

²¹ See, e.g., notes 16–17 *supra*; see also, e.g., Letter from John A. Zecca, Executive Vice President, Global Chief Legal, Risk & Regulatory Officer, Nasdaq, and J. Patrick Sexton, Executive Vice President, General Counsel & Corporate Secretary, Cboe (Apr. 24, 2025), available at <https://www.sec.gov/comments/4-698/4698-598775-1738922.pdf>; Letter from Jaime Klima, General Counsel, New York Stock Exchange (Apr. 24, 2025), available at <https://www.sec.gov/comments/4-698/4698-598195-1737842.pdf>.

²² See CAT NMS Plan, *supra* note 5, at Appendix D, section 6.1; see *id.* at section 1.1 (defining “CAT Reporter” as “each national securities exchange, national securities association and Industry Member that is required to record and report information to the Central Repository pursuant to SEC Rule 613(c)”).

²³ “Plan Processor” is defined as “the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and sections 4.3(b)(i) and 6.1, and with regard to the Initial Plan Processor, the Selection Plan, to perform the CAT processing functions required by SEC Rule 613 and set forth in [the CAT NMS Plan].” See CAT NMS Plan, *supra* note 5, at section 1.1.

²⁴ *Id.* at Appendix D, section 3.

²⁵ The “CAT Order ID” is “a unique order identifier or series of unique order identifiers that allows the central repository to efficiently and accurately link all reportable events for an order, and all orders that result from the aggregation or disaggregation of such order.” See 17 CFR 242.613(j)(1); see also CAT NMS Plan, *supra* note 5, at section 1.1 (“‘CAT-Order-ID’ has the same meaning provided in SEC Rule 613(j)(1).”). See

Order ID is then assigned when corrected and linked data is processed and made available to regulators on T+5 at 8 a.m. Eastern Time.²⁶

On November 2, 2023, the Commission issued an order that granted exemptive relief from these requirements (the “November 2023 Order”), subject to certain conditions, including the condition that the Plan Processor maintain or improve the existing performance of functionality providing lifecycle linkages for all order events by T+1 at 9 p.m. Eastern Time, except an interim CAT Order ID was not required for Options Market Maker quotes in Listed Options (“OMM Quotes”).²⁷ On December 12, 2024, the Commission subsequently approved the 2024 Cost Savings Amendment, which removed the requirement that OMM Quotes be subject to “any requirement to link and create an order lifecycle,” such that OMM Quotes need not “undergo any linkage validation, linkage feedback, or lifecycle enrichment processing, but will undergo ingestion validation.”²⁸

To further reduce CAT costs, the Commission has now determined to grant conditional exemptive relief to allow the Participants to further relax requirements related to the provision of lifecycle linkages on T+1. Specifically, the Commission grants conditional exemptive relief from the requirements in Appendix D, sections 3 and 6.1 of the CAT NMS Plan that lifecycle linkages be created by T+1 at noon Eastern Time, subject to the following conditions:

- The Plan Processor must provide lifecycle linkages with a final CAT Order ID for all order events by T+5 at 8 a.m. Eastern Time, except that lifecycle linkages will not be required for OMM Quotes consistent with the provisions approved by the 2024 Cost Savings Amendment.

- Upon requests made by authorized regulatory users from the Participants or the Commission, the Plan Processor shall create interim CAT Order IDs for a specified trade date or dates and thereby provide linked lifecycles to regulators before T+5 at 8 a.m. Eastern Time.²⁹

This conditional exemptive relief granted in this Order is intended to supersede the conditional exemptive relief set forth in the November 2023 Order with respect to lifecycle linkage timeframes.³⁰

Timely access to linked data was one of the regulatory goals of Rule 613 and the CAT NMS Plan. Under the conditional exemptive relief granted herein, regulators will be able to access linked and corrected audit trail data by T+5 in the regular course, which should generally continue to be faster than was possible before the CAT existed.³¹ Moreover, regulators will be able to request linked data from the Plan Processor before T+5, as well as to access and analyze raw unprocessed data between T+2 at 8 a.m. Eastern Time and T+5 at 8 a.m. Eastern Time, which functionality should continue to enable regulatory users to effectively and expeditiously review data in the case of a major market event, albeit slightly slower than is currently possible. The conditional exemptive relief granted herein should therefore preserve the core regulatory benefits of Rule 613 and the CAT NMS Plan, while enabling the Participants to realize meaningful cost savings.³² The Commission determines that it therefore satisfies the standards of

section 36(a)(1) of the Exchange Act and Rule 608(e) of Regulation NMS.

B. Requirements for Re-Processing of Late Records

Appendix D, section 3 of the CAT NMS Plan requires that “[a]ll CAT Data reported to the Central Repository must be processed and assembled to create the complete lifecycle of each Reportable Event.”³³ The CAT NMS Plan sets a deadline of T+3 at 8 a.m. Eastern Time for the “[r]esubmission of corrected data” and a deadline of T+5 at 8 a.m. Eastern Time for the Plan Processor to make “[c]orrected data available to Participant regulatory staff and the SEC.”³⁴ For data corrections received after T+5, the CAT NMS Plan specifies that “Participants’ regulatory staff and the SEC must be notified and informed as to how re-processing will be completed.”³⁵

The November 2023 Order granted exemptive relief from these requirements, subject to the following conditions:

- The Plan Processor was required to maintain its implementation of functionality that was approved by the Operating Committee on January 14, 2022 (the “Late to the Lifecycle process”) and on September 20, 2022 (the “Targeted Replay process”) (collectively, the “Enhanced Late to the Lifecycle process”). Prior to the implementation of this functionality, in the limited circumstances in which there was a missing link between two disjointed segments of an order lifecycle, new or corrected data would join only one of the pre-existing segments and would be assigned to only one of the relevant lifecycle CAT Order IDs for the disjointed segment and evaluated for further re-processing. Under the Enhanced Late to the Lifecycle process, all late records (*i.e.*, records received after T+5)³⁶ include the date of the correction and, if applicable, the record identifier of the record being corrected as part of normal re-processing. In addition, the late record became associated with all relevant lifecycles as part of normal re-processing, such that

Securities Exchange Act Release No. 95234 (July 8, 2022), 87 FR 42247, 42250–51 (July 14, 2022), for further discussion of the lifecycle linkage requirements of the CAT NMS Plan.

²⁶ See CAT NMS Plan, *supra* note 5, at Appendix D, section 6.1.

²⁷ See Securities Exchange Act Release No. 98848 (Nov. 2, 2023), 88 FR 77128, 77130 (Nov. 8, 2023) (“November 2023 Order”). An “Options Market Maker” is a “broker-dealer registered with an exchange for the purpose of making markets in options contracts on the exchange.” See CAT NMS Plan, *supra* note 5, at section 1.1. Each Participant has also promulgated rules for its members that generally govern what constitutes a “market maker quote” and/or “market maker quotation” for that Participant. See, e.g., The Nasdaq Stock Market LLC Rules, Options 2, section 5, “Market Maker Quotations”; Cboe Exchange, Inc. Rule 5.52, “Market Maker Quotes”; NYSE Arca, Inc. Rule 6.37AP–O, “Market Maker Quotations.” A “Listed Option” is “any option traded on a registered national securities exchange or automated facility of a national securities association.” See 17 CFR 242.600(b)(52) of Regulation NMS; see also CAT NMS Plan, *supra* note 5, at section 1.1. (defining a “Listed Option” as having “the meaning set forth in Rule 600(b)(35) of Regulation NMS,” which provision has been redesignated as Rule 600(b)(52) without any changes to its terms).

²⁸ See CAT NMS Plan, *supra* note 5, at Appendix D, section 3.4; see also 2024 Cost Savings Amendment, *supra* note 8, at 103034–38.

²⁹ While the Commission understands that the timing and cost of creating an interim CAT Order ID ad hoc may vary based on the number of trade dates and data volumes to be processed in the request, the Commission understands that interim CAT Order IDs can generally be created by T+2 at 9 p.m. Eastern Time if the request is received prior to T+2 at 4 a.m. Eastern Time, or within 14 hours of receiving the request if such request is received after T+2 at 4 a.m. Eastern Time.

³⁰ See November 2023 Order, *supra* note 27, at 77130. The conditional exemptive relief provided by the November 2023 Order continues to be in force for the other areas addressed therein, except as provided in Parts IIC–D.

³¹ See CAT NMS Plan Approval Order, *supra* note 5, at 84783 (noting that corrected and linked CAT Data would be accessible on T+5, compared to OATS Data, which was not available until T+8).

³² The Commission understands from its communications with the Participants that such measures could save approximately \$2–3 million annually.

³³ “CAT Data” is defined as “data derived from Participant Data, Industry Member Data, SIP Data, and such other data as the Operating Committee may designate as ‘CAT Data’ from time to time.” See CAT NMS Plan, *supra* note 5, at section 1.1.

³⁴ See CAT NMS Plan, *supra* note 5, at Appendix D, section 6.1.

³⁵ See *id.* at Appendix D, section 6.2.

³⁶ For the purposes of the November 2023 Order and this Order, references to data received after T+5, or to post-T+5 data, submissions, or reports, are to data received after T+4 at 8 a.m. Eastern Time. See November 2023 Order, *supra* note 27, at 77130.

order event lifecycles may be associated with more than one CAT Order ID.

- The Participants were required to approve a change order to adopt:
 - Functionality to create a lifecycle mapping which indicates all lifecycle associations made during the Enhanced Late to the Lifecycle process;
 - Functionality to present to regulatory users post-T+5 data in a manner substantially similar to how such data would have been represented if it had been reported prior to T+5, including by replicating and replaying records with enrichments impacted by post-T+5 submissions, creating updated enrichments, and persisting the replicated records within the underlying data (the “Full Replay process”); and
 - Functionality to enhance the OTQT, including the ability to include or exclude any records that were created or replaced as a result of the Full Replay process.

- The Plan Processor was required to schedule the Enhanced Late to the Lifecycle process and the Full Replay process to run weekly, such that late reported data received through Friday of the prior week are available for regulatory users on the following business day at 8 a.m. Eastern Time, absent extraordinary circumstances, for data within the prior 18 months. For data outside of this 18-month window, the Participants were required to schedule the Enhanced Late to the Lifecycle process and the Full Replay process to run no less frequently than quarterly.³⁷

However, the Commission now understands from communications with the Participants that these relaxed requirements were extremely costly to implement even for a relatively limited amount of CAT Data.

Accordingly, the Commission has now determined to grant conditional exemptive relief to allow the Participants to further reduce requirements related to the re-processing of late records. Specifically, the Commission grants conditional exemptive relief from the re-processing requirements for late records in Appendix D, sections 3, 6.1, and 6.2 of the CAT NMS Plan, subject to the following conditions:

- The Plan Processor must maintain its implementation of the above-described Enhanced Late to the Lifecycle process for late records from trade dates within the prior 3 years. For data outside of this 3-year window, no re-processing is required.

- For all late records, the Plan Processor must run the above-described Enhanced Late to the Lifecycle process no less frequently than quarterly.

- The Plan Processor must maintain the above-described functionality that creates a lifecycle mapping which indicates all lifecycle associations made during the Enhanced Late to the Lifecycle process.

- Upon requests made by authorized regulatory users from the Participants or the Commission, the Plan Processor must perform the Full Replay process on specified data, such that late records received through Friday of the prior week are available for regulatory users on the following business day at 8 a.m. Eastern Time, absent extraordinary circumstances.³⁸

- For late records received after T+5 at 8 a.m. Eastern Time, the Plan Processor must continue to notify regulatory users how re-processing will be completed.

This conditional exemptive relief granted in this Order is intended to supersede the conditional exemptive relief set forth in the November 2023 Order with respect to re-processing of data received after T+5.³⁹

Even though the conditional exemptive relief granted herein will allow the Participants to relax existing requirements related to the processing of order event lifecycles that include late records, the Commission believes that the core lifecycle linkage functionality envisioned by Rule 613 and the CAT NMS Plan will be preserved.⁴⁰ The Commission

³⁸ The Commission expects that the timing and cost of performing the Full Replay process would likely vary based on the number of trade dates and data volumes to be processed in the request, as well as on the availability of compute resources. Although the Commission does not expect regulatory users to utilize the Full Replay process frequently, it may be appropriate for the Participants to budget for its potential use.

³⁹ See November 2023 Order, *supra* note 27, at 77130–31. The conditional exemptive relief provided by the November 2023 Order continues to be in force for the other areas addressed therein, except as provided in Parts II.A and II.C.

⁴⁰ See, e.g., Securities Exchange Act Release No. 77724 (Apr. 27, 2016), 81 FR 30614, 30693 (May 17, 2016) (“Currently regulators can spend days and up to months processing data they receive into a useful format. Part of this delay is due to the need to combine data across sources that could have non-uniform formats and to link data about the same event both within and across data sources. . . . [T]he Commission preliminarily believes that the Plan would reduce or eliminate the delays associated with merging and linking order events within the same lifecycle.” (footnote omitted)); see also *id.* at 30670 (“Regardless of whether order lifecycle reports are reflected in the same or different data sources, the process of linking lifecycle events is complex and can create inaccuracies. . . . The inability to link all records affects the accuracy of the resulting data and can force an inefficient manual linkage process that

understands from communications with the Participants that most order event lifecycles would be unaffected by the conditional exemptive relief granted herein—the vast majority of order event lifecycles are currently completed on time, and the vast majority of late-reported data does not impact lifecycle linkages. For the less than 1% of late-reported data that does require additional re-processing to construct an order event lifecycle, requiring the Participants to run the Enhanced Late to the Lifecycle process quarterly for trade dates within the prior 3 years should still provide regulatory users with the ability to quickly and reliably identify and link all relevant lifecycles associated with the late-reported data that is most frequently needed and accessed by regulatory users. Although this approach requires some manual intervention by regulatory users, the Commission believes this is a reasonable trade-off for the millions of dollars of cost savings the Commission expects will likely flow from significantly reducing the usage of the Full Replay process and any additional costs savings that may be realized from requiring the Plan Processor to perform the Enhanced Late to the Lifecycle process quarterly instead of weekly.⁴¹ Moreover, under the conditional exemptive relief granted herein, regulatory users will be able to request that the Plan Processor perform the Full Replay process on specified data, which should continue to enable regulatory users to react to major market events in an effective and expeditious way.

The Commission therefore determines that the conditional exemptive relief granted herein satisfies the standards of section 36(a)(1) of the Exchange Act and Rule 608(e) of Regulation NMS.

C. Requirement To Provide an OTQT

Section 6.10(c)(i) of the CAT NMS Plan requires the Plan Processor to provide the Participants and the Commission with access to processed CAT Data through different methods, including an OTQT and user-defined direct queries and bulk extracts.⁴² Specifically, the CAT NMS Plan specifies that the OTQT “will provide

would delay the completion of the data collection and analysis portion of the examination, investigation, or reconstruction.”).

⁴¹ The Commission estimates, based on its communications with the Participants, that such measures could save approximately \$4.5–6 million annually.

⁴² The OTQT functionality implemented by the Plan Processor is implemented through various tools, which are referred to as “DIVER,” “MIRS,” “OLA Viewer,” and “ARLE.” The user-defined query tool is referred to as “BDSQL,” and the bulk extract tool as “Direct Read.”

³⁷ See November 2023 Order, *supra* note 27, at 77130–31.

authorized users with the ability to retrieve CAT Data via an online query screen that includes the ability to choose from a variety of pre-defined selection criteria.”⁴³ Section 8.1, including sections 8.1.1–8.1.3, of Appendix D of the CAT NMS Plan sets forth certain performance requirements for the OTQT, subject to certain conditional exemptive relief granted by the Commission in the November 2023 Order.⁴⁴

To allow for cost savings, the Commission has now determined to grant conditional exemptive relief from the requirements for DIVER, ARLE, OLA Viewer, and MIRS volume concentration and market replay tools. Specifically, for these tools, the Commission grants conditional exemptive relief from the above-described provisions in the CAT NMS Plan directing the Participants to maintain an OTQT and setting forth performance requirements for the OTQT, subject to the following conditions:

- To ensure that the remaining CAT query tools continue to perform at the same level in the absence of certain OTQT functionality, the Plan Processor must maintain currently-existing performance requirements, controls, monitoring, logging, and reporting for the user-defined direct queries (BDSQL) and bulk extract (Direct Read) tools, as well as for the MIRS reporting statistics tools that provide regulatory users with access to compliance information.

- To enable Participants and the Commission sufficient time to adjust their regulatory programs to use any necessary replacement tools, OTQT functionality may not be eliminated earlier than 2 months after the publication of this Order in the **Federal Register**.

This conditional exemptive relief granted in this Order is intended to supersede the conditional exemptive relief set forth in the November 2023 Order with respect to OTQT performance requirements.⁴⁵

The Commission understands, based on communications with the Participants, that elimination of the OTQT will generate meaningful cost savings,⁴⁶ and the Commission does not

believe that elimination of the OTQT functionality would unduly impact regulators’ oversight of the markets. The elimination of OTQT functionality would not in any way impact the underlying CAT Data that is made available for regulators. Although the Commission has previously observed that certain OTQT functionality may enable “regulatory users with less expertise in sophisticated programming skills to access CAT Data,” insofar as BDSQL and Direct Read “require programming skills in remote data processing and/or knowledge of structured query programming language,”⁴⁷ the Commission understands from its communications with the Participants that their regulatory groups would be able to conduct their regulatory programs using only BDSQL and Direct Read or otherwise could adjust by creating their own internal tools to replicate the same targeted queries they would otherwise run on DIVER. The Commission likewise believes that its own regulatory program would not be impaired by the loss of certain OTQT functionality. Staff already have the necessary skill sets to use the BDSQL and Direct Read tools, which will be maintained by the Plan Processor, and the Commission has already developed internal tools that replicate functionality supplied by the DIVER, ARLE, OLA Viewer, and MIRS volume concentration and market replay tools that may not be available if the Participants utilize this exemptive relief. The Commission therefore determines that the conditional exemptive relief described above satisfies the standard of section 36(a)(1) of the Exchange Act and Rule 608(e) of Regulation NMS.

D. Requirements Related to Data Storage and Retention

Several data storage and retention requirements govern the Participants’ storage of data and/or data stored within the CAT. First, the Participants are subject to the storage requirements of Rule 17a–1, which states, among other things, that “[e]very national securities exchange [and] national securities association . . . shall keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records as shall be made or received by it in the course of its business as such and in the conduct of its self-regulatory activity,” and that “[e]very national securities exchange [and] national securities

association . . . shall keep such documents for a period of not less than five years, the first two years in an easily accessible place, subject to the destruction and disposition provisions of Rule 17a–6.”⁴⁸

Second, Rule 613(e)(8) states that the CAT NMS Plan must require the Central Repository to “retain the information collected pursuant to paragraph (c)(7) and (e)(7) . . . in a convenient and usable standard electronic data format that is directly available and searchable electronically without any manual intervention for a period of not less than five years.”⁴⁹

The CAT NMS Plan itself imposes several storage requirements with respect to CAT Data, including requirements in section 6.5(b) that the Central Repository retain “the information collected pursuant to paragraphs (c)(7) and (e)(7) of SEC Rule 613 in a convenient and usable standard electronic data format that is directly available and searchable electronically without any manual intervention by the Plan Processor for a period of not less than six (6) years.”⁵⁰ Additionally, pursuant to section 1.4 of Appendix D of the CAT NMS Plan, “[t]he Plan Processor must develop a formal record retention policy and program for the CAT, to be approved by the Operating Committee, which will, at a minimum . . . [m]ake data directly available and searchable electronically without manual intervention for at least six years” Section 6.3 of Appendix D of the CAT NMS Plan provides an exception to these requirements for several kinds of data, including “Interim Operational Data older than 15 days,”⁵¹ which may be retained in an archive storage tier, meaning such data is not directly available and searchable without manual intervention.⁵²

⁴⁸ See 17 CFR 240.17a-1.

⁴⁹ See 17 CFR 242.613(e)(8).

⁵⁰ See CAT NMS Plan, *supra* note 5, at section 6.5(d). Section 6.1(d)(i) of the CAT NMS Plan also requires the Plan Processor to comply with the recordkeeping requirements of Rule 613(e)(8).

⁵¹ “Interim Operational Data” is defined as “all processed, validated and unlinked data made available to regulators by T+1 at 12:00 p.m. ET and all iterations of processed data made available to regulators between T+1 and T+5, but excludes the final version of corrected data that is made available at T+5 at 8:00 a.m. ET,” and “[f]or the avoidance of doubt, ‘Interim Operational Data’ does not include processed data relating to Options Market Maker quotes in Listed Options made available to regulators by T+1 at 12:00 p.m. ET.” See CAT NMS Plan, *supra* note 5, at Appendix D, section 6.3; see also Part II.A *supra*, for a discussion of conditional exemptive relief that would affect the definition of this data.

⁵² The CAT NMS Plan states that the Plan Processor will restore archived data to an accessible storage tier upon request to the CAT Help Desk by

Continued

⁴³ See CAT NMS Plan, *supra* note 5, at section 6.10(c)(i)(A).

⁴⁴ See November 2023 Order, *supra* note 27, at 77130, 77132–34.

⁴⁵ See *id.* The conditional exemptive relief provided by the November 2023 Order continues to be in force for the other areas addressed therein, except as provided in Parts II.A–B.

⁴⁶ The Commission understands from its communications with the Participants that such measures could save approximately \$2.35–2.85 million annually.

⁴⁷ See 2024 Cost Savings Amendment, *supra* note 8, at 103036.

The Commission understands from communications with the Participants that storage costs represent approximately 40% of monthly cloud services fees, as the CAT continues to accrue volume toward its six-year storage requirement and as data volumes continue to increase. Moreover, it appears to the Commission that the storage needs for the CAT far exceed what was envisioned when the CAT was first established. For example, the CAT NMS Plan approved by the Commission stated that it “is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data,”⁵³ but the Commission understands that the Plan Processor currently projects that cumulative storage will exceed 1 exabyte (or 1,000 petabytes) in 2025—more than 37 times this original estimate. Given their significant contribution to increasing CAT costs, the Commission has determined to grant conditional exemptive relief to allow the Participants to immediately reduce the usage of storage and retention of CAT Data.

Specifically, the Commission grants conditional exemptive relief from the above-described requirements of Rule 17a-1,⁵⁴ Rule 613(e)(8), sections 6.1(d)(i) and 6.5(b) of the CAT NMS Plan, and sections 1.4 and 6.3 of Appendix D of the CAT NMS Plan, to the extent necessary to allow the Participants to:

- Delete all CAT Data older than five years.
- Move CAT Data older than three years to a more cost-effective storage tier (*i.e.*, a tier requiring some “manual intervention” to retrieve data), subject to the condition that the Plan Processor will restore archived CAT data which is older than three years old to an accessible storage tier upon request to the CAT Help Desk by an authorized regulatory user from the Participants or from the SEC.⁵⁵

an authorized regulatory user from the Participants or a senior officer from the SEC. *See* CAT NMS Plan, *supra* note 5, Appendix D, section 6.3.

⁵³ *See* CAT NMS Plan Approval Order, *supra* note 5, at 85023.

⁵⁴ Because the CAT is a facility of the Participants, it is subject to the record-keeping provisions of Rule 17a-1. *See, e.g., id.* at 84736. The Participants require exemptive relief from Rule 17a-1 to delete OMM Quotes data after one year from the CAT System and to delete Interim Operational Data older than 15 days. Conditions enabling the Participants to delete all CAT Data older than five years and/or to move CAT Data older than three years to a more cost-effective storage tier are already consistent with or more generous than Rule 17a-1, although they are more lenient than the requirements otherwise contained in Rule 613 and/or the CAT NMS Plan.

⁵⁵ The Commission understands from communications with the Participants that CAT

- Delete OMM Quotes data after one year from the CAT System.
- Delete Interim Operational Data older than 15 days.

The Commission does not believe the reduced data storage and shorter data retention periods permitted by the conditional exemptive relief granted herein would unduly impact regulators’ ability to oversee the markets. In addition, permitting the Plan Processor to delete all CAT Data older than five years from the CAT System is consistent with the data storage and retention requirements otherwise applicable to the Participants as national securities exchanges and national securities associations.⁵⁶

Allowing the movement of CAT Data older than three years to a more cost-effective storage tier, subject to the condition identified above, would allow the Participants to use lower-cost archive storage options while simultaneously maintaining records for regulatory use as needed. The first three years of CAT Data, which the Commission believes will be more frequently accessed and needed by regulatory users based on its experience in using the CAT and CAT Data, will still be maintained in a convenient and usable standard electronic data format that is directly available and searchable electronically without any manual intervention by the Plan Processor.⁵⁷ Although the Commission has stated that OMM Quotes data has substantial regulatory value,⁵⁸ based on Commission experience in using the CAT and CAT Data, the Commission expects that regulators are less likely to access OMM Quotes data after a period of one year and thus the costs of

Data is currently stored in four storage tiers: S3 Frequent Access, S3 Infrequent Access, S3 Instant Archive Access, and S3 Glacier Deep Archive. Data files that are either new or that have recently been read by regulatory users are stored in S3 Frequent Access. If a file is not read by a regulatory user for 30 days, then it moves to S3 Infrequent Access. Similarly, if a file is not read by a regulatory user for 90 days, then it moves to S3 Archive Instant Access. Finally, the CAT NMS Plan permits certain kinds of data, including Interim Operational Data older than 15 days, to be moved to S3 Glacier Deep Archive. *See, e.g.,* CAT NMS Plan, *supra* note 5, at Appendix D, section 6.3. The conditional exemptive relief granted herein would likewise permit the Participants to move all CAT Data older than three years to a storage tier like S3 Glacier Deep Archive.

⁵⁶ *See* 17 CFR 240.17a-1; 17 CFR 242.613(e)(8). *See also, e.g.,* CAT NMS Plan Approval Order, *supra* note 5, at 84758 (stating that the CAT is a facility of each of the Participants).

⁵⁷ This framework exceeds the applicable requirements set forth in Rule 17a-1, which requires that records be kept for “the first two years in an easily accessible place.” *See* 17 CFR 240.17a-1.

⁵⁸ *See, e.g.,* 2024 Cost Savings Amendment, *supra* note 8, at 103037.

maintaining older OMM Quotes data in the CAT are not sufficiently justified by its regulatory benefits.⁵⁹ Permitting the Participants to delete all OMM Quotes data after one year will significantly reduce the CAT’s storage requirements, which should result in significant cost savings. To the extent older data is required, the Commission could request access to or analysis of OMM Quotes data directly from options exchanges, because Rule 17a-1 requires them to maintain OMM Quotes data for five years.⁶⁰ Finally, deleting Interim Operational Data older than 15 days will likely have little effect, as the Commission understands from communications with the Participants that it has not been used after nearly five years of CAT operation.

The Commission therefore determines that it satisfies the standards of section 36(a)(1) of the Exchange Act and Rule 608(e) of Regulation NMS to grant this conditional exemptive relief, which will not unduly impede the intended regulatory benefits of Rule 17a-1, Rule 613, and/or the CAT NMS Plan, while enabling the Participants to realize meaningful cost savings.⁶¹

III. Conclusion

Accordingly, *it is hereby ordered*, pursuant to section 36(a)(1) of the Exchange Act⁶² and Rule 608(e) under Regulation NMS,⁶³ that the above-described conditional exemptive relief be granted.

By the Commission.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025–19315 Filed 10–1–25; 8:45 am]

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⁵⁹ According to information provided by the Participants in 2024, OMM Quotes data is the single largest data source for the CAT, comprising approximately 98% of all options data and approximately 75% of all transaction volume stored in the CAT. *Id.*

⁶⁰ 17 CFR 240.17a-1.

⁶¹ The Commission understands from its communications with the Participants that such measures could save approximately \$11–15 million annually.

⁶² 15 U.S.C. 78mm(a)(1).

⁶³ 17 CFR 242.608(e).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104149; File No. SR–NASDAQ–2025–079]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Nasdaq Pricing Schedule at Equity 7, Section 114

September 30, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 26, 2025, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (i) enhance the Designated Liquidity Provider (as defined below) program in Equity 7, Section 114(f), and (ii) add a new Market Quality Supporter (as defined below) program in Equity 7, Section 114(g). While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on November 1, 2025.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/>

rulebook/[nasdaq/rulefilings](https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to (i) enhance the Designated Liquidity Provider³ (“DLP”) program in Equity 7, Section 114(f), and (ii) add a new Market Quality Supporter⁴ (“MQS”) program in Equity 7, Section 114(g).

Together, these proposed changes are intended to create a more scalable, targeted, and effective market quality support structure for Nasdaq-listed exchange-traded products (“ETPs”).

Background

Pursuant to Equity 7, Section 114(f), the Exchange currently maintains a DLP program that is designed to enhance liquidity and market quality in Nasdaq-listed ETPs by providing incentives to

the DLP for a Qualified Security.⁵ The DLP program provides tiered rebates to qualifying DLPs based on a combination of performance criteria (*i.e.*, market quality metrics or “MQM”) and trading activity based on average daily volume (“ADV”) in the DLP’s assigned ETP. The MQMs are set out in paragraph (f)(4) of Equity 7, Section 114, and measure:⁶ (1) percentage of time at the national best bid (best offer) (“NBBO”), (2) percentage of time within 5 basis points of NBBO, (3) average notional depth within specified basis points of the NBBO, (4) average spread,⁷ and (5) auction quality.⁸ Primary DLPs may qualify for either a standard DLP rebate by meeting at least 4 of 5 standard MQMs in the assigned ETP or an enhanced DLP rebate by meeting all 5 enhanced MQMs, as specified in Equity 7, Section 114(f)(4). As set out in Section 114(f)(5), a Primary DLP that satisfies the MQMs in Section 114(f)(4) will be eligible to receive the rebates provided in paragraph (A) of Section 114(f)(5) in each of its assigned ETPs for which it qualified. For ETPs with higher ADV (*i.e.*, Tiers 1 and 2), eligible Primary DLPs receive the standard or enhanced rebate for which they qualified for each displayed share that adds liquidity in the ETP. For lower ADV ETPs (*i.e.*, Tiers 3–5), the Primary DLP receives fixed monthly payments for their standard or enhanced rebates, as applicable, which are in addition to any other rebate the Primary DLP is eligible for under Equity 7, Sections 114 and 118. Specifically, Nasdaq currently pays qualifying Primary DLPs in accordance with the following rebate schedule in Section 114(f)(5)(A):

Tiers	ADV	Standard rebate	Enhanced rebate
Tier 1	ETP with monthly ADV greater than 1 million in the prior month.	\$0.0034 per executed share ..	\$0.0036 per executed share.
Tier 2	ETP with monthly ADV between 250,001 and 1 million in the prior month.	\$0.0040 per executed share ..	\$0.0042 per executed share.
Tier 3	ETP with monthly ADV between 150,001 and 250,000 in the prior month.	\$200 per month	\$350 per month.
Tier 4	ETP with monthly ADV between 50,001 and 150,000 in the prior month.	\$225 per month	\$450 per month.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A “Designated Liquidity Provider” or “DLP” is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards. A DLP shall be selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of DLPs in a security, or modify a previously established limit, upon prior written notice to members. See Equity 7, Section 114(f)(2).

⁴ As set out in proposed paragraph (g)(2) of Equity 7, Section 114, a “Market Quality Supporter” or “MQS” has committed to maintain minimum performance standards in Low Volume ETPs. An MQS shall be selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws.

⁵ Under this program, a security may be designated as a “Qualified Security” if it (1) is an ETP listed on Nasdaq pursuant to Rules 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or

5760, and (2) has at least one DLP. See Equity 7, Section 114(f)(1).

⁶ These MQMs are measured on average in the DLP’s assigned ETP during regular market hours, except for auction quality requirements that are measured each auction against the metrics. See Equity 7, Section 114(f)(4).

⁷ Average spread is the time weighted average spread in basis points when the DLP has a two-sided quote.

⁸ Auction quality is measured by auction price deviation from first reference price after 30 seconds before the market open (Opening) and 120 before the market close (Closing).

Tiers	ADV	Standard rebate	Enhanced rebate
Tier 5	ETP with monthly ADV less than 50,001 in the prior month	\$300 per month	\$500 per month.

Further, if two DLPs are assigned to a Nasdaq-listed ETP, one may be designated as the Secondary DLP, which may receive rebates if it meets 2 of the enhanced MQMs in Section 114(f)(4) (excluding the auction quality MQM).⁹ Section 114(f)(5)(A) sets forth the rebate schedule for Secondary DLPs. For ETPs with higher ADV (*i.e.*, Tiers 1 and 2), eligible Secondary DLPs receive an additional \$0.0003 per executed share that is in addition to any other rebate the Secondary DLP is eligible for under

Equity 7, Sections 114 and 118. For ETPs with lower ADV (*i.e.*, Tiers 3–5), eligible Secondary DLPs receive an additional \$150 per month that is in addition to any other rebate the Secondary DLP is eligible for under Equity 7, Sections 114 and 118.

Lastly, the DLP program also has an additional Tape C ETP incentive for Primary DLPs based on their quoting performance across their ETP assignments. As set forth in Section 114(f)(4), the Exchange currently

requires that the average time the Primary DLP is at the NBBO for each assigned ETP averages at least 20%, and the average liquidity provided by the Primary DLP for each assigned ETP averages at least 5% of the liquidity provided on Nasdaq in the respective ETP. Qualifying Primary DLPs are then provided incremental rebates for each displayed share that adds liquidity in a Tape C ETP in accordance with the following schedule in Section 114(f)(5)(B):

	Tier 1	Tier 2	Tier 3	Tier 4
Minimum Monthly Average Number of Assigned ETPs as a Primary DLP.	10	25	50	100.
Incremental Tape C ETP Rebate	\$0.0002 per executed share.	\$0.0003 per executed share.	\$0.0004 per executed share.	\$0.0005 per executed share.

Proposal 1: DLP Program

As discussed in detail below, the Exchange proposes to enhance the current DLP program in Equity 7, Section 114(f) by: (1) eliminating the distinction between Primary and Secondary DLPs, eliminating Secondary DLP rebates, and limiting the number of DLPs to one DLP per Qualified Security; (2) replacing the distinction between standard and enhanced MQMs (and associated rebates) with a single set of MQMs (and associated rebates); (3) adding a new “Low Volume”¹⁰ group framework; (4) replacing some of the current MQMs with more detailed MQMs; (5) increasing the fixed monthly DLP rebates for Tiers 3–5; (6) updating the qualifications, eligibility thresholds, and associated rebates for the additional Tape C ETP incentive; and (7) making non-substantive changes throughout proposed Section 114(f) to remove all references to “fees” as the Exchange would only provide incentives under the DLP Program and to add references to “stipends” to refer to the monthly fixed payments the Exchange would provide to eligible DLPs.¹¹ With the proposed amendments, the Exchange is seeking to enhance market quality and encourage broader DLP participation, including in investment strategies that

exhibit wider spreads and lower trading volume.

As described above, the DLP program currently provides separate rebates for eligible Primary and Secondary DLPs. Primary DLPs are also eligible for standard or enhanced rebates based on whether they meet the relevant standard or enhanced MQMs. The Exchange now proposes to remove the distinction between Primary and Secondary DLPs, and eliminate the Secondary DLP rebates (and associated qualifications) under Equity 7, Section 114(f)(4) and (5). The Exchange also proposes to eliminate the standard and enhanced rebates (and associated qualifications) under Equity 7, Section 114(f)(4) and (5). Under this proposal, and as further described below, any DLP may qualify for one set of tiered rebates if it meets specified MQMs applicable to their assigned ETP.

The Exchange also proposes in Section 114(f) to limit the number of DLPs in a Qualified Security so that as proposed, there may only be one DLP per Qualified Security. This is to better align the rule text to current practice where issuers only have one DLP per Qualified Security. Accordingly, the Exchange will make corresponding changes in paragraphs (f)(1)(B) and (f)(2) to make clear that only one DLP will be assigned per Qualified Security.

Specifically in the definition of Qualified Security in paragraph (f)(1)(B), the Exchange proposes to remove the reference to “at least” one DLP so that it will be clear the Qualified Security has only one DLP. Also in paragraph (f)(2), the Exchange proposes to remove the last sentence, which currently provides that Nasdaq may limit the number of DLPs in a security, or modify a previously established limit, upon prior written notice to members. This language will no longer be relevant once the Exchange limits the number of DLPs in a Qualified Security to just one.

The Exchange also proposes to make clear how the DLP program will interact with the MQS program by providing in paragraph (f) that a DLP that is designated as a MQS of a Qualified Security may also be eligible to receive the MQS stipend in proposed Section 114(g), provided that the DLP meets the Market Quality Metrics in the DLP program as specified in Section 114(f)(4)(B) as well as the Market Quality Metrics for the MQS program as specified in proposed Section 114(g).

In proposed Section 114(f)(4)(A), the Exchange proposes to add a new Low Volume group framework. As used in the DLP program, the term “High Volume” ETPs will mean ETPs with a monthly ADV of more than 1 million shares in the prior month (*i.e.*, Tier 1).

⁹ The Secondary DLP is determined by using the same factors for DLPs in Section 114(f)(2), including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational

capacity, support personnel, and history of adherence to Nasdaq rules and securities laws.

¹⁰ As discussed below, “Low Volume” will mean ETPs with a monthly ADV of 1 million shares or less in the prior month. This ADV volume threshold equates to the ADV volume threshold for Tiers 2–

5 under the current DLP rebate program in Equity 7, Section 114(f)(5)(A). The Exchange is not proposing to amend the DLP program’s ADV volume thresholds under this proposal.

¹¹ The term “rebates” would therefore refer to the incentives that are provided per executed share.

The term “Low Volume” ETPs will mean ETPs with a monthly ADV of 1 million shares or less in the prior month, which equates to the ADV volume threshold for Tiers 2–5 under the current DLP rebate program in Section 114(f)(5)(A). The Exchange will further segment Low Volume ETPs into Investment Strategy Groups A–C, which

will be different ETP investment strategies segmented by their average NBBO spread in basis points, over the prior two calendar years. The Exchange would look at the NBBO continuously throughout the regular trading hours of the day and take the average of the NBBO across all of those times. That average would be the NBBO for the day,

which is then taken and averaged across two calendar years to determine the Investment Strategy group.

These Investment Strategy Groups will be checked by the Exchange each calendar year to ensure the investment strategy’s average NBBO spread remains within its respective Investment Strategy Group.

Investment Strategy Group	Average NBBO spread in basis points
A *	15 or less.
B **	16–28.
C ***	29 or more.

* Investment Strategy Group A will consist of the following investment strategies: government fixed income, North American or USD denominated developed market fixed income, developed market equities, and currencies.

** Investment Strategy Group B will consist of the following investment strategies: micro- to small-cap developed market equities, multi asset strategies other than absolute returns, commodities tracking, international fixed income, and derivatives.

*** Investment Strategy Group C will consist of the following investment strategies: emerging market equities, emerging market fixed income, multi asset absolute return strategies, commodities strategies and exchange-traded notes (“ETNs”).

Group A includes ETP investment strategies that have relatively low trading volumes but exhibit relatively tighter NBBO spreads compared to Groups B and C, which include relatively low trading volume investment strategies with increasingly wider NBBO spreads. Each Nasdaq-listed ETP will be assigned an Investment Strategy Group, which will be publicly available and updated to

reflect any changes to the assigned group.¹²

As discussed in detail below, the Investment Strategy Groups will be used to tailor the MQMs that DLPs will need to meet in their assigned ETPs to qualify for DLP rebates. The proposed Investment Strategy Group framework is intended to more precisely calibrate the DLP incentives to the liquidity profile of the investment strategy that the DLP’s assigned ETP falls under. The proposed

framework is also intended to incentivize market makers to become DLPs in ETPs, particularly ETPs that have lower trading volume and are less liquid.

Proposed Section 114(f)(4)(B) will set forth the MQM thresholds that the DLP must meet based on which Investment Strategy Group or High Volume (*i.e.*, Tier 1) ETP¹³ they are assigned, as follows:

Market quality metrics	High volume ETPs	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Time at the NBBO with a minimum notional size of \$5,000 ...	40%	45%	45%	45%
Average Notional Depth within 25 basis points of the NBBO	\$75,000	\$40,000	\$30,000	\$20,000
Average Spread in basis points	25	35	60	100
Auction Reference Price Difference (Opening) of first reference price within 30 seconds prior to the market open must be within basis points	150	150	150	150
Auction Reference Price Difference (Closing) of first reference price within 120 seconds prior to the market close must be within basis points	50	50	50	50
Auction Spread in basis points with \$37,500 notional depth (Opening)	75	105	180	300
Auction Spread in basis points with \$75,000 notional depth (Closing)	25	35	60	100

The proposed MQMs are similar to the current MQMs except the Exchange is proposing to refine some of the existing MQMs (*e.g.*, adding that time at the NBBO must be with a minimum notional size of \$5,000). The Exchange also proposes to delete the existing MQM that requires the DLP to be a certain percentage of time within 5 basis points of the NBBO, and add the new auction spread MQMs described above.

To be eligible for the proposed DLP rebates and stipends in paragraph (5)(A) of Section 114(f), DLPs will need to meet 5 of the 7 MQMs described above, including auction spread (both opening and closing),¹⁴ in the assigned ETP as measured by Nasdaq. The Exchange is requiring DLPs meet the two auction spread metrics because the opening and the closing auctions are important parts of the day as these auctions set the

benchmark prices. The Exchange also wants to ensure that there is ample liquidity during this vital part of the trading day.

Proposed Section 114(f)(4)(B) will also provide that for leveraged and inverse ETPs, the average spread, auction spread, and auction reference price difference metrics will be multiplied by the absolute value of the leverage factor of the ETP. Because

¹² The list of investment strategies in Investment Strategy Groups A–C will be publicly available on Nasdaq’s website and updated to ensure the investment strategy’s average NBBO spread remains within its respective Investment Strategy Group.

¹³ As currently set forth in Equity 7, Section 114(f)(5)(A), Tier 1 ETPs have a monthly ADV greater than 1 million in the prior month.

¹⁴ Specifically, the MQMs are Auction Spread in basis points with \$37,500 notional depth (Opening) and Auction Spread in basis points with \$75,000 notional depth (Closing).

leveraged and inverse ETPs often exhibit higher price volatility relative to standard, non-leveraged and non-inverse ETPs, the DLP is often taking on higher risk and costs to take on these products. Adjusting these MQMs by the absolute value of the ETP’s leverage factor aligns the rebate structure with the DLP’s cost of taking these products

on. These MQMs will be measured on average in the assigned ETP during regular market hours, except for the auction price difference and auction spread metrics that are measured at and directly before each auction, respectively, against the metrics and averaged for the period.
Proposed Section 114(f)(4)(C) will provide the new qualifications for the

additional Tape C ETP incentives for DLPs. Specifically, to be eligible for the rebates in proposed paragraph (5)(B) of Section 114(f), a DLP must meet the same average notional depth and average spread metrics as described above for proposed paragraph (4)(B) of Section 114(f). Specifically those metrics are as follows:

Market quality metrics	High volume ETPs	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Average Notional Depth within 25 basis points of the NBBO	\$75,000	\$40,000	\$30,000	\$20,000
Average Spread in basis points	25	35	60	100

DLPs will need to meet the above additional Tape C incentive MQMs in order to be eligible for the additional Tape C incentives in paragraph (5)(B) of Section 114(f).
Proposed section 114(f)(5) will provide that a DLP that satisfies the MQMs above will be eligible to receive the rebates and stipends provided in paragraph (A) below in each of its assigned ETPs for which it qualified, and the rebates provided in paragraph (B) in any Tape C ETP that meets the criteria of paragraph (1)(A) above.¹⁵ As is the case today, rebates and stipends

in paragraph (A) below will be in lieu of or in addition to, as specified, other rebates or fees provided under Equity 7, Sections 118 and 114. The rebates in paragraph (B) below will be in addition to other rebates or fees provided under Equity 7, Sections 118 and 114, including those in Section 114(f)(5)(A) (*i.e.*, the proposed DLP incentives) and Section 114(g) (*i.e.*, the proposed MQS stipend, as discussed below). Proposed Section 114(f)(5) will also provide that the Exchange will calculate the pricing tiers herein for the current month based on the DLP’s prior month activity

(instead of basing the tier calculations on the current month as it does today). This change will align the DLP Program with the amendments to SEC Rule 610(d) to enhance price transparency.¹⁶
Proposed paragraph (A) of Section 114(f)(5) will set forth the amended DLP rebates and stipends. As discussed above, the Exchange is eliminating the distinction between standard and enhanced rebates, and removing the Secondary DLP rebates in paragraph (A). Instead, the Exchange will pay DLP rebates and stipends according to the following schedule:

Tiers	ADV	Rebate/stipend
Tier 1	ETP with monthly ADV greater than 1 million in the prior month	\$0.0034 per executed share.
Tier 2	ETP with monthly ADV between 250,001 and 1 million in the prior month	\$0.0040 per executed share.
Tier 3	ETP with monthly ADV between 150,001 and 250,000 in the prior month	\$350 per month.
Tier 4	ETP with monthly ADV between 50,001 and 150,000 in the prior month	\$450 per month.
Tier 5	ETP with monthly ADV less than 50,001 in the prior month	\$500 per month.

In particular, the Exchange proposes to increase the fixed monthly payments (*i.e.*, stipends) in Tiers 3–5 from \$200 to \$350 (Tier 3), \$225 to \$450 (Tier 4), and \$300 to \$500 (Tier 5). Tier 1–2 rebates will remain at the same levels currently provided for the standard DLP rebates. The proposed changes are intended to better incentivize DLPs to quote in lower volume and less liquid ETPs, recognizing that there may be higher costs to do so. The Exchange also proposes to clarify in paragraph (5)(A) of Section 114(f) that the Tiers 1–2 rebates will be in lieu of any other rebate the DLP is eligible for under Equity 7, Sections 114 and 118. This is current practice today, but the Exchange is adding this language for transparency and to avoid potential confusion.¹⁷

Unlike the Tiers 3–5 DLP stipends, which are additive, the Tiers 1 and 2 DLP rebates are not because the Exchange is trying to greater incentivize DLPs to quote in lower volume and less liquid ETPs.
The Exchange also proposes that for the current month of a new DLP allocation of a symbol (*i.e.*, in the context of a listing transfer from another exchange or switching DLPs on a symbol), the DLP will automatically be eligible to receive the relevant rebate or stipend. New launches will automatically get the Tier 5 stipend for the current month. The Exchange will not have trading volume data for a newly-launched ETP for its first month, so it is proposing to automatically provide the DLP of the newly-launched

ETP with the base Tier 5 rebate of \$500 in the first month. For listing transfers or DLP allocations, where there is trading volume data for these ETPs, that trading volume data would be applied to determine which Tier rebate or stipend the DLP would receive for the current month of the transfer or allocation. After the first month, the DLP will need to satisfy the MQMs relevant to their assigned ETP, as set forth in proposed Section 114(f)(4)(B).
Proposed paragraph (B) of Section 114(f)(5) will set forth the amended additional Tape C incentives. As proposed, this will be provided to all eligible DLPs (and removing the references around Primary DLPs which is currently the case) that add liquidity in a Tape C ETP and will clarify that the

¹⁵ Paragraph (1)(A) of Section 114(f) provides the list of Nasdaq-listed ETPs that are included in the DLP program as Qualified Securities, provided it has at least one DLP. Specifically, these are ETPs

listed pursuant to Rules 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750, or 5760.
¹⁶ See Securities Exchange Act Release No. 101070 (September 18, 2024), 89 FR 81620 (October 8, 2024) (S7–30–22).

¹⁷ The Exchange notes that paragraph (5)(A) already specifies that for Tiers 3–5, the DLP will be eligible to receive a fixed payment per month in addition to any other rebate the DLP is eligible for under Equity 7, Sections 114 and 118.

DLP needs to meet the two DLP MQMs specified in proposed paragraph (4)(C) above. Specifically, the Exchange

proposes to provide DLPs rebates in accordance with the following schedule:

	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
Minimum Monthly Average Number of Assigned ETPs as a DLP and meeting the Average Notional Depth and Average Spread metrics in paragraph (4)(B).	20	35	75	135	200.
Incremental Tape C ETP Rebate	\$0.00025 per executed share.	\$0.00035 per executed share.	\$0.0004 per executed share.	\$0.00045 per executed share.	\$0.00055 per executed share.

As proposed, the Exchange will increase the minimum monthly average number of assigned Tape C ETPs needed to qualify for each rebate tier, increase the rebates in Tiers 1–2 and decrease the rebate in Tier 4. The Exchange will also add a new Tier 5 rebate. The proposed changes reflect the growing number of ETPs listed on the Exchange, and are designed to expand liquidity support in Tape C ETPs and ensure that DLPs contributing to market quality in these ETPs are appropriately incentivized.

Proposal 2: MQS Program

The Exchange proposes to establish a new MQS program in new Section 114(g) of Equity 7. The new MQS program is designed to complement the DLP program in Section 114(f) by allowing up to three members (*i.e.*, MQSs) per ETP to participate in market quality improvement by providing liquidity for lower volume ETPs. The Exchange believes that allowing up to three MQSs will work to further support market quality in lower volume ETPs and increase resiliency in market quality performance. By incentivizing more than one MQS to meet the MQS Market Quality Metrics described below, lower volume ETPs would have more members that are incentivized to provide quote quality and layering of notional depth, which can enhance the market quality in an ETP overall.

Specifically, new Section 114(g) will provide that the following stipend discussed in this section shall apply to transactions in a Qualified Security (as defined below) by up to three MQSs associated with its MQS program MPID.¹⁸ The Exchange notes that a DLP (*i.e.*, registered market maker) can also be designated as the MQS of a Qualified Security and be eligible to receive the MQS stipend proposed herein,¹⁹ but an

MQS is not required to be a registered market maker. These members are simply supporters who are trading in the ETP and have subsequently been designated as an MQS, but they are not subject to the same obligations as the DLP that is, in essence, the registered market maker (*i.e.*, lead market maker), nor are they required to meet the registered market maker obligations in the ETP, as set forth in Equity 2, Section 5. The Exchange believes that allowing any member to participate in the MQS Program (instead of limiting it just to registered market makers) would fortify participation in the proposed MQS Program, and enhance market quality in lower volume ETPs.

In light of the above, the Exchange proposes in Section 114(g) that a DLP that is designated as the MQS of a Qualified Security may also be eligible to receive the MQS stipend herein, provided that the DLP meets the Market Quality Metrics in the DLP Program as specified in proposed Section 114(f)(4)(B) described above as well as the MQS Market Quality Metrics as specified in this proposed Section 114(g). The term ADV shall mean the total consolidated volume reported to all consolidated transaction reporting plans, for each individual security, by all exchanges and trade reporting facilities during a month divided by the number of trading days during the month. If a security is not listed for a full month, the number of trading days will only include the days which the security is listed.²⁰

Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. See proposed Equity 7, Section 114(g)(2).

²⁰ See Equity 7, Section 114(f) for substantially similar provisions in the DLP program. The Exchange is not adopting the DLP program's language around the incentive only being applied for executions \$1 per share and above because this is only applicable to rebates provided per executed share and not a fixed monthly stipend.

Proposed Section 114(g)(1) will set forth the definition of Qualified Security, which will be defined for purposes of the MQS program in proposed Section 114(g)(1) as an ETP listed on Nasdaq pursuant to Nasdaq Rules 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750, or 5760, and has at least one MQS. The proposed definition will be identical to the current definition in the DLP program in Section 114(f)(1).

Proposed Section 114(g)(2) will set forth the definition of MQS, which will be a market participant that has committed to maintain minimum performance standards in Low Volume ETPs.²¹ An MQS shall be selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. The proposed definition will be similar to the definition of DLP in Section 114(f)(2) and the MQS will be selected using the same evaluation criteria as a DLP, except an MQS will not be required to be a registered market maker in the Qualified Security for the reasons discussed above.²²

Proposed Section 114(g)(3) will provide that if an MQS does not meet the performance measurements under paragraph (4) in this section for a given month, fees and credits will revert to the normal schedule under Sections 118(a) and 114. An MQS must provide 5 days written notice if it wishes to withdraw its registration in a Qualified Security, unless it is also withdrawing as a market

²¹ "Low Volume" ETPs will have the same meaning in the MQS program as proposed in the DLP program, and shall mean ETPs with a monthly ADV of 1 million shares or less in the prior month. See proposed Equity 7, Section 114(g)(4)(A).

²² A registered market maker has certain quoting obligations on Nasdaq to provide two-sided quotes in the security at all times within certain percentages from the NBBO. See Equity 2, Section 5.

¹⁸ The term "market participant identifier" or "MPID" means a unique four-letter mnemonic assigned to each Participant in the Nasdaq Market Center. A Participant may have one or more than one MPID. See Equity 1, Section 1(a)(11).

¹⁹ As discussed below, the Exchange is proposing identical qualifications as a DLP for selecting an MQS. Specifically, an MQS shall be selected by

maker in the Qualified Security, as applicable.²³

In proposed Section 114(g)(4)(A), the Exchange proposes to add a new Investment Strategy group framework, which will be identical to the framework proposed for the DLP program in Section 114(f)(4)(A) above. The Exchange will segment the Low Volume ETPs into Investment Strategy groups A–C in the same way as proposed for the DLP program and will

bucket the same investment strategies into groups A–C based on the average NBBO spread in the same way as proposed in the DLP program:²⁴

Investment Strategy Group	Average NBBO Spread in basis points
A	15 or less.
B	16–28.
C	29 or more.

Same as proposed in the DLP program, these Investment Strategy groups will be checked by the Exchange each calendar year to ensure the investment strategy’s average NBBO spread remains within its respective Investment Strategy group.

Proposed Section 114(g)(4)(B) will set forth the MQM thresholds that MQSs will need to meet based on which Investment Strategy group ETP they are assigned.

Market quality metrics	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Average Notional Depth within 75 basis points of the NBBO	\$125,000	\$75,000	\$50,000
Average Spread in basis points	35	60	100
Auction Spread in basis points with \$37,500 notional depth (Opening)	105	180	300
Auction Spread in basis points with \$75,000 notional depth (Closing)	35	60	100

The Exchange proposes that to be eligible for the stipend in paragraph (5) below, MQSs will need to meet the above MQMs in the assigned ETP as measured by Nasdaq. For leveraged and inverse ETPs, the average spread and auction spread metrics are multiplied by the absolute value of the leverage factor of the ETP. Because leveraged and inverse ETPs often exhibit higher price volatility relative to standard, non-leveraged ETPs, the MQS is often taking on higher risk and costs to take on these products. Adjusting these MQMs by the absolute value of the ETP’s leverage factor aligns the rebate structure with the MQS’s cost of taking these products on. These MQMs are measured on average in the assigned ETP during regular market hours, except for the auction spread metric that is measured directly before each auction against the metrics and averaged for the period. The Exchange also proposes that an MQS that is also designated as the DLP in a Qualified Security will need to meet the MQMs as set out in Section 114(f)(4) above to receive the MQS stipend.

Proposed Section 114(g)(5) will provide that an MQS that satisfies the MQMs in paragraph (4) above will be eligible to receive the MQS stipend of \$175 per month in each of its assigned ETPs for which it qualified. The MQS stipend will be a fixed payment per month in addition to other rebates or fees for which the MQS is eligible and provided under Equity 7, Sections 118 and 114. This stipend will only apply to the MPID where a member is an MQS. Same as proposed in the DLP program,

the Exchange proposes that for the current month following the new MQS allocation of a symbol (*i.e.*, in the context of a listing transfer from another exchange or switching MQSs on a symbol), the MQS will be automatically eligible to receive the MQS stipend. New launches will automatically get the MQS stipend for the current month as well. After the first month, the MQS will need to satisfy the MQMs relevant to their assigned ETP, as set forth in Section 114(g)(4)(B). Further, in proposed Section 114(g)(5), the Exchange proposes to specify that it will calculate the MQS stipend for the current month based on the prior month’s activity (instead of basing the tier calculations on the current month as it does today), which will align to how the Exchange proposes to calculate the pricing tiers in its DLP program described above.

Proposal 3: Technical Amendments

The Exchange proposes technical amendments to reflect the addition of new Section 114(g). Specifically, the Exchange proposes to renumber current Sections 114(g)–(k) as Sections 114(h)–(l). The Exchange also proposes to update the cross-cite to current Section 114(g) within the definition of “Designated Retail Order” in Equity 7, Section 118(a).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5)

of the Act,²⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange notes that its ETP listing business operates in a highly-competitive market in which market participants, which include both ETP issuers and ETP market makers, can readily transfer their listings or opt not to participate, respectively, if they deem fee levels, liquidity incentive programs, or any other factor at a particular venue to be insufficient or excessive. The proposed rule change reflects a competitive pricing structure designed to incentivize issuers to list new products and transfer existing products to the Exchange, and market participants to enroll and participate as ETP market makers on the Exchange, which will enhance market quality in listed ETPs on the Exchange.

Proposal 1: DLP Program

The Exchange believes that the proposed changes to the DLP program are reasonable, equitable, and not unfairly discriminatory for the reasons that follow. As a general matter, the Exchange must from time to time assess the effectiveness of the incentives it provides to market participants in return for the beneficial behavior required to receive the incentive. In this case, the Exchange is proposing to enhance the current DLP program in

²³ See Equity 7, Section 114(f)(3) for substantially similar provisions in the DLP program except the Exchange is adding “as applicable” herein to clarify that a MQS does not have to be a registered market maker.

²⁴ See *supra* notes 15–17 for the specific investment strategies within each Investment Strategy group.

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(4) and (5).

Equity 7, Section 114(f) by: (1) eliminating the distinction between Primary and Secondary DLPs, eliminating Secondary DLP rebates, and limiting the number of DLPs to one DLP per Qualified Security; (2) replacing the distinction between standard and enhanced MQMs (and associated rebates) with a single set of MQMs (and associated rebates); (3) adding a new Low Volume group framework; (4) replacing some of the current MQMs with more detailed MQMs; (5) increasing the fixed monthly DLP rebates for Tiers 3–5; (6) updating the qualifications, eligibility thresholds, and associated rebates for the additional Tape C ETP incentive; and (7) making non-substantive changes throughout proposed Section 114(f) to remove all references to “fees” as the Exchange would only provide incentives under the DLP Program and to add references to “stipends” to refer to the monthly fixed payments the Exchange would provide to eligible DLPs. Taken together, the proposed enhancements to the DLP program are intended to help the Exchange compete as a listing venue for ETPs, including with respect to Low Volume ETPs. Further, the Exchange notes that the proposed incentives are based on achieving certain objective MQMs. The revised MQMs are designed to encourage DLPs to uphold better quality markets in Nasdaq-listed ETPs and also ensure a scalable business model to support new and incubating ETPs that often trade less on a daily basis and exhibit less liquidity. The Exchange believes that providing incentives that are based on the quality of the market in individual ETPs, including those that generally have lower volumes and wider spreads, will incentivize DLPs to provide tight and deep markets in those securities. The proposed changes to the DLP program reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange and enhance market quality in Nasdaq-listed ETPs.

The Exchange further believes that the proposed changes to add a Low Volume group framework in the manner discussed above is reasonable because the proposed framework is intended to more precisely calibrate the DLP rebate/stipend qualifications in proposed Section 114(f)(4)(B) and additional Tape C incentive qualifications in proposed Section 114(f)(4)(C) to the liquidity profile of the investment strategy that the DLP’s assigned ETP falls under. In other words, segmenting Low Volume ETPs into three groups based on 2-year average NBBO spread is intended to

better align the DLP’s performance expectations to the nature of the ETP’s investment strategy and structure. The Exchange believes that the proposed framework will encourage tighter spreads and more liquidity in investment strategies that may typically be less actively traded or exhibit wider spreads. The Exchange notes that other equity exchanges distinguish between different ETP investment strategies in their fee schedules to incentivize enhanced market quality in those ETPs, or have incentives in place to encourage greater market quality in lower volume ETPs.²⁷

The Exchange similarly believes that the proposed changes to increase the fixed monthly payments in Tiers 3–5 in the manner described above will incentivize DLPs to provide tight and deep markets in ETPs that generally have lower volume and wider spreads. The Exchange also believes that automatically providing the DLP the relevant tiered rebate or stipend for the current month of a new DLP allocation of a symbol, or of a new launch, automatically providing them the Tier 5 stipend for the current month, is reasonable because the Exchange is providing the DLP with clear visibility into their rebate/stipend earnings at the time of the ETP’s launch or allocation. This approach is critical as ETPs may launch or be allocated a new DLP at various points throughout the month, potentially complicating the DLP’s ability to meet the monthly performance criteria proposed above and making it unclear on what rebates/stipends the DLP may expect. Furthermore, enabling the DLP to receive the rebate/stipend during the current month ensures they have sufficient runway to quote the product and maintain liquidity in the subsequent month as the first month of a new DLP allocation or new launch is often one where the ETP is more thinly traded and liquidity standards may be more difficult to meet.

The Exchange also believes that its proposal to amend the additional Tape C incentives by increasing the monthly average number of assigned Tape C ETPs needed to qualify for each rebate tier and to add a new Tier 5 rebate are reasonable because these modifications reflect the growing number of ETPs

listed on Nasdaq. The Exchange also believes that the proposed rebates are set at appropriate levels, and will continue to incentivize DLPs to add liquidity in Tape C ETPs in order to qualify for these rebates.

The Exchange also believes that the proposed enhancements to the DLP program, as described above, are equitable and not unfairly discriminatory because the Exchange will apply the amended program uniformly to all registered market makers that are DLPs. The Exchange does not believe it is unfairly discriminatory to only offer the program to market makers because of their unique role in the markets, including their obligation to provide liquidity in the securities in which they are registered. Thus, the DLP program is a further extension of the market maker’s role in providing liquidity in specific securities, to the benefit of all market participants. The Exchange further believes that automatically providing the DLP the relevant tiered rebate or stipend for the current month of a new DLP allocation of a symbol, or of a new launch, automatically providing them the Tier 5 stipend for the current month, is not unfairly discriminatory because this rebate/stipend will be available to all Qualified Securities during their first month of trading or new DLP allocation. As discussed above, enabling the DLP to receive the rebate during current month ensures they have sufficient runway to quote the product and maintain liquidity in the subsequent month as the first month of a new DLP allocation or new launch is often one where the ETP is more thinly traded and liquidity standards may be more difficult to meet. Further, this will be strictly limited to the first month of trading, after which the DLP must meet the MQMs set out in proposed Section 114(f)(4)(B) in order to qualify for the DLP rebates.

Ultimately, the Exchange believes that all of the changes proposed for the enhanced DLP program, taken together, will promote price discovery and market quality in Nasdaq-listed securities and further, that the tightened spreads and increased liquidity from the proposal will benefit all market participants and investors by deepening the Exchange’s liquidity pool (including in lower volume and less liquid ETPs), offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, enhancing quoting competition across exchanges, promoting market transparency, and improving investor protection. Accordingly, the Exchange believes that the proposal is reasonable, equitably

²⁷ See e.g., Cboe BZX Equities Fee Schedule for market quality incentive program for “LEP Securities,” which are single-stock ETFs determined by Cboe BZX for inclusion in the program; and NYSE Arca Equities Schedule of Fees and Charges for market quality incentive programs for leveraged ETPs and “Less Active” ETPs (defined as ETPs that have a CADV in the prior calendar quarter that is the greater of either less than 100,000 shares or less than 0.013% of Consolidated Tape B ADV), including Less Active leveraged ETPs.

allocated, and non-discriminatory because it would enhance market quality to the benefit of all market participants and investors.

Proposal 2: MQS Program

The Exchange believes that the new MQS program is reasonable because the program is designed to attract additional market makers to provide depth and tighter spreads in Nasdaq-listed ETPs that have lower volume and are less liquid. As discussed above, the Exchange is introducing a supplemental liquidity incentive framework focused on enhancing market quality in Low Volume ETPs.

The Exchange believes that allowing up to three MQSs per Qualified Security is reasonable because it will further support market quality and increase resiliency by increasing coverage in Nasdaq-listed ETPs that have lower trading volume and wider spreads. Similar to the proposed DLP program discussed above, the Exchange believes that the proposed changes to add a Low Volume group framework in the manner discussed above is reasonable because the proposed framework is intended to more precisely calibrate the MQS rebate qualifications in proposed Section 114(g)(4) to the liquidity profile of the investment strategy that the MQS's assigned ETP falls under. In other words, segmenting Low Volume ETPs into three groups based on 2-year average NBBO spread is intended to better align the MQS's performance expectations to the nature of the ETP's investment strategy and structure. The Exchange believes that the proposed framework will encourage tighter spreads and more liquidity in investment strategies that may typically be less actively traded or exhibit wider spreads across all exchanges. The Exchange notes that other equity exchanges distinguish between different ETP investment strategies in their fee schedules to incentivize enhanced market quality in those ETPs, or have incentives in place to encourage greater market quality in lower volume ETPs.²⁸

The Exchange believes that the proposed MQMs for the MQS program are reasonable as they are intended to enhance market quality by encouraging MQSs to provide depth, tighter quoted spreads, and better auction spreads in the open and close. The Exchange also believes that it is reasonable to require an MQS that is also designated as the DLP of the Qualified Security to meet the MQMs from the DLP program as specified to qualify for the MQS rebate. This change is intended to ensure that

market makers earning incentives under both programs are delivering comprehensive market quality. Since DLPs would already be eligible to receive rebates under the DLP program, the Exchange believes that the additional MQS rebate should be reserved for DLPs meeting the requisite MQMs in proposed Section 114(f)(4)(B) and providing sufficient value under the DLP program.

The Exchange believes that the flat monthly payment of \$175 is set at an appropriate level to incentivize MQSs to enhance market quality in Low Volume ETPs. In addition, providing a flat stipend (as opposed to a per-executed share rebate) would provide for a more reliable business model for MQSs that choose to participate in this program, particularly in lower volume and less liquid ETPs. The Exchange also believes that automatically providing the MQS the stipend for the current month following the new MQS allocation of a symbol or following new launches is reasonable because the Exchange is providing the MQS with clear visibility into their stipend earnings at the time of the ETP's launch or new MQS allocation. This approach is critical as ETPs may launch or get allocated to a new MQS at various points throughout the month, potentially complicating the MQS's ability to meet the monthly performance criteria proposed above. Furthermore, enabling the MQS to receive the rebate during the current month ensures they have sufficient runway to quote the product and maintain liquidity in the subsequent month as the first month of a new MQS allocation or new launch is often one where the ETP is more thinly traded and liquidity standards may be more difficult to meet.

The Exchange also believes that the proposed MQS program is equitable and not unfairly discriminatory because the Exchange will apply the MQS program uniformly to all members that choose to participate as MQSs. The Exchange further believes that automatically providing the MQS the MQS stipend for the current month following the new MQS allocation of a symbol or new launches is not unfairly discriminatory because this stipend will be available to all Qualified Securities during their first month of trading or new MQS allocation. As discussed above, enabling the MQS to receive the stipend during current month ensures they have sufficient runway to provide market quality in the product and maintain market quality for the subsequent month as the first month of a new MQS allocation or new launch is often one where the ETP is more thinly traded and

market quality standards may be more difficult to meet. Further, this will be strictly limited to the first month of trading, after which the MQS must meet the MQMs as specified in proposed Section 114(g)(4)(B) in order to qualify for the MQS stipend.

Further, the Exchange believes that the proposed MQS program will promote price discovery and market quality in Nasdaq-listed securities and further, that the tightened spreads and increased liquidity from the proposal will benefit all market participants and investors by deepening the Exchange's liquidity pool (particularly in lower volume and less liquid ETPs), offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, enhancing quoting competition across exchanges, promoting market transparency, and improving investor protection. Accordingly, the Exchange believes that the proposal is reasonable, equitably allocated, and non-discriminatory because it would enhance market quality to the benefit of all market participants and investors.

Proposal 3: Technical Amendments

The Exchange believes that the technical amendments to reflect the addition of new Section 114(g) are reasonable, equitable, and not unfairly discriminatory. Specifically, the Exchange proposes to renumber current Sections 114(g)–(k) as Sections 114(h)–(l). The Exchange also proposes to update the cross-cite to current Section 114(g) within the definition of “Designated Retail Order” in Equity 7, Section 118(a). The proposed changes will bring clarity and avoid potential confusion in Exchange's Pricing Schedule to the benefit of all market participants and investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed changes consisting of the introduction of the DLP program enhancements and adoption of the MQS program will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed changes, taken together, will enhance competition by improving the market quality in Nasdaq-listed ETPs, which will benefit all market participants through additional trading opportunities, tighter spreads, and enhanced price discovery.

In terms of intra-market competition, as it relates to the DLP and MQS programs, the Exchange notes the

²⁸ See *supra* note 30.

respective programs will be applied uniformly to all similarly situated market participants that are DLPs and MQSs, as applicable. The Exchange does not believe it is unfairly discriminatory to only offer the DLP program to registered market makers because of their unique role in the markets, including their obligation to provide liquidity in the securities in which they are registered. Thus, the DLP program is a further extension of the registered market maker's role in providing liquidity in specific ETPs, to the benefit of all market participants.

The Exchange further believes that automatically providing the applicable DLP or MQS rebate or stipend for the current month of a new DLP or MQS allocation of a symbol, or of a new launch, does not impose an undue burden on intra-market competition because the applicable rebate/stipend will be available to all Qualified Securities during their first month of trading or new DLP/MQS allocation. As discussed above, enabling the DLP or MQS to receive the rebate during the current month ensures they have sufficient runway to provide market quality in the product and maintain market quality in the subsequent month, as the first month of a new launch or new DLP/MQS allocation is often one where the ETP is more thinly traded and liquidity standards may be more difficult to meet. Further, this will be strictly limited to the first month of trading, after which the DLP and MQS must meet all of the relevant MQMs in order to qualify for the applicable rebates.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does

not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁹ and paragraph (f) of Rule 19b-4³⁰ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-079 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-NASDAQ-2025-079. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will

²⁹ 15 U.S.C. 78s(b)(3)(A).

³⁰ 17 CFR 240.19b-4(f).

be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-079 and should be submitted on or before October 23, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-19351 Filed 10-1-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104152; File No. SR-MX2-2025-01]

Self-Regulatory Organizations; MX2 LLC; Order Granting Approval to a Proposed Rule Change To Adopt Rules To Govern the Trading of Options on the Exchange for a New Facility Called MX2 Options

DATES: September 30, 2025.

I. Introduction

On June 18, 2025, MX2 LLC ("MX2" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt rules governing the trading of options on the Exchange for a new facility called MX2 Options. The proposed rule change was published for comment in the **Federal Register** on July 7, 2025.³ On August 20, 2025, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ The Commission received no comments on the proposed

³¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 103363 (July 1, 2025), 90 FR 29898 (July 7, 2025) ("Notice").

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 103750 (Aug. 20, 2025), 90 FR 41448 (Aug. 25, 2025).

rule change. This order approves the proposed rule change.

II. Description of the Proposal

“The Exchange is proposing to adopt a series of rules in connection with MX2 Options, a new facility of the Exchange that will operate an electronic trading system to trade options (the “System”). Much of the proposed functionality for MX2 Options is substantially similar to MEMX Options, and the Exchange proposes to adopt rules applicable to MX2 Options that are substantively identical or substantially similar to the approved rules of MEMX applicable to MEMX Options, with certain differences described below.

MX2 Options Members

Pursuant to the proposed rules in Chapter 17 (Participation on MX2 Options), the Exchange will authorize any Exchange Member who meets certain enumerated qualification requirements (any such Member, an “Options Member”) and any Options Member’s Sponsored Participants to obtain access to, and transact business on, MX2 Options.

There will be two types of Options Members—Options Order Entry Firms (“OEFs”) and Options Market Makers. OEFs will be those Options Members representing orders as agent on MX2 Options or trading as principal on MX2 Options. Options Market Makers will be eligible to participate as Preferred Market Makers, Lead Market Makers, or Market Makers.

To become an Options Market Maker, an Options Member is required to register by filing a written application with the Exchange, and then may select class appointments to make markets in those classes. Pursuant to proposed Rule 22.2, the Exchange may appoint one Lead Market Maker (or “LMM”) per option class. Market Makers may select from among any option issues traded on the Exchange to request appointment as an LMM, subject to the approval of the Exchange. In considering the approval of the appointment of an LMM in each security, the Exchange will consider: the Market Maker’s preference; the financial resources available to the Market Maker; the Market Maker’s experience, expertise and past performance in making markets, including the Market Maker’s performance in other securities; the Market Maker’s operational capability; and the maintenance and enhancement of competition among Market Makers in each security in which they are registered, including pursuant to the performance standards set forth in proposed Rule 22.2(i).

Pursuant to proposed Rule 22.2(c), an unlimited number of Market Makers may be registered in each class unless the number of Market Makers registered to make a market in a particular option class should be limited whenever, in the Exchange’s judgment, quotation system capacity in an option class or classes is not sufficient to support additional Market Makers in such class or classes. The Exchange will not restrict access in any particular option class until such time as the Exchange has submitted objective standards for restricting access to the Commission for its review and approval.

Options Market Makers will be required to electronically engage in a course of dealing reasonably calculated to contribute to the maintenance of fair and orderly markets. Among other things, an Options Market Maker would generally have to satisfy the following responsibilities and duties during trading: (1) maintain a continuous two-sided market in each of its appointed classes; (2) engage, to a reasonable degree under the existing circumstances, in dealings for its own accounts when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class; (3) compete with other Market Makers in its appointed classes; (4) enter a size of at least one contract for its best bid and its best offer; and (5) maintain minimum net capital in accordance with Commission and Exchange rules. The Exchange proposes to specify numerically the meaning of “continuous” with respect to maintaining continuous, two-sided quotes. For purposes of Rule 22.6, the Exchange will consider the continuous quoting requirement fulfilled if a Market Maker enters continuous bids and offers in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Options Market Maker’s appointed classes are open for trading, excluding any adjusted series, any intraday add-on series on the day during which such series are added for trading, any Quarterly Option Series, and any series with an expiration of greater than 270 days.⁶ Pursuant to proposed Rule

22.5(c), substantial or continued failure by an Options Market Maker to meet any of its obligations and duties will subject the Options Market Maker to disciplinary action, suspension, or revocation of the Options Market Maker’s registration as such or its appointment in one or more of its appointed options classes.

Options Market Makers receive certain benefits for carrying out their duties. For example, a Market Maker may be designated by the Exchange as a Lead Market Maker or may have orders directed to it in its capacity as a Preferred Market Maker, in each case receiving a priority advantage over other non-Customer orders to the extent applicable priority overlays have been implemented, as described below. Thus, an Options Market Maker has a corresponding obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis to justify this favorable treatment. The proposed continuous quoting requirement under proposed Rule 22.6(d) is substantially identical to that of MEMX Options as well as other options exchanges, including Cboe EDGX Options (“EDGX Options”), Nasdaq PHLX LLC (“Phlx”), and Nasdaq ISE, LLC (“ISE”).⁷

OEFs that transact business with Public Customers must be members of FINRA. Pursuant to proposed Rule 17.2(g), (Requirements for Options Participation, Options Principal), every Options Member will be required to have at least one registered Options Principal who satisfies the criteria of that rule, including the satisfaction of a proper qualification examination. An OEF may only transact business with Public Customers if such Options Member also is an Options Member of another registered national securities exchange or association with which the Exchange has entered into an agreement under Rule 17d–2 under the Act⁸ pursuant to which such other exchange or association will be the designated options examining authority for the OEF. The proposed rules relating to qualification and participation on MX2 Options as an Options Member (including as an OEF and an Options Market Maker) are substantively identical to the relevant rules of MEMX Options.

As provided in proposed Rule 16.2, existing Exchange Rules applicable to the MX2 equities market contained in

⁶ The Exchange also proposes to adopt provisions that exclude from the calculation of continuous quoting those times that an Options Market Maker is experiencing a technical failure or limitation, during a trading halt, suspension or pause in the underlying security, or when the underlying

security is in a limit up-limit down state. *See, e.g.*, proposed Rule 22.6(d)(2)–(3).

⁷ *See* MEMX Rule 22.6(d); EDGX Options Rule 22.6(d); Phlx Rule 1081(c) and ISE Rule 804(e).

⁸ 17 CFR 240.17d–2.

Chapters 1 through 15 of the Exchange Rules will apply to Options Members unless a specific Exchange Rule applicable to the MX2 Options market (proposed Chapters 16 through 29 of the Exchange Rules) governs or unless the context otherwise requires. Options Members can therefore provide sponsored access to the MX2 Options Exchange to a non-Member (*i.e.*, a Sponsored Participant) pursuant to Rule 11.3 of the Exchange Rules.

Definitions

The Exchange proposes to define a series of terms under proposed Rule 16.1 (Definitions), which are to be used in proposed Chapters 16 to 29 relating to the trading of options contracts on the Exchange. Each of the terms defined in proposed Rule 16.1 is identical to definitions included in MEMX Rule 16.1.⁹

Execution System

MX2 Options will closely resemble the Exchange's affiliate, MEMX Options, but will differ in that MX2 Options will maintain a pro rata allocation model with execution priority dependent on the capacity of an order (*e.g.*, Customer or non-Customer) as well as status as a Lead Market Maker or Preferred Market Maker, as applicable.¹⁰

All trading interest entered into the System will be automatically executable. Orders entered into the System will be displayed on an anonymous basis. However, options trades will not be anonymous through settlement. Accordingly, as set forth in proposed Rule 21.10, aggregated and individual transaction reports produced by the System will indicate the details of a User's transactions, including the contra party's executing firm ID ("EFID"), capacity, and clearing firm account number.¹¹ The Exchange will become an exchange member of the Options Clearing Corporation ("OCC"). The System will be linked to OCC for the Exchange to transmit locked-in trades for clearance and settlement.

Hours of Operation. Proposed Rule 21.2 states that MX2 Options System will begin accepting orders after 9:30

a.m. Eastern Time pursuant to the market opening procedures described in proposed Rule 21.7.¹² The System will be open until 4:00 p.m. Eastern Time except that option contracts on Fund Shares, as defined in proposed Rule 19.3(i), option contracts on exchange-traded notes including Index-Linked Securities, as defined in proposed Rule 19.3(l), and option contracts on broad-based indexes, as defined in proposed Rule 29.1(j), will close as of 4:15 p.m. Eastern Time. The proposed hours of operation on MX2 Options are the same as on MEMX Options.

Units of Trading. As stated in proposed Rule 21.3, the unit of trading in each series of options traded on MX2 Options will be the unit of trading established for that series by the OCC pursuant to the rules of the OCC and the agreements of the Exchange with the OCC. The proposed determination of the unit of trading for a series of options traded on MX2 Options is the same as on MEMX Options pursuant to MEMX Rule 21.3.

Minimum Quotation and Trading Increments. As stated in proposed Rule 21.5(a), the Exchange is proposing to apply the following quotation increments: (1) if the options series is trading at less than \$3.00, five (5) cents; (2) if the options series is trading at \$3.00 or higher, ten (10) cents; and (3) if the options series is trading pursuant to the Penny Interval Program one (1) cent if the options series is trading at less than \$3.00, five (5) cents if the options series is trading at \$3.00 or higher, unless for QQQ, SPY, or IWM where the minimum quoting increment will be one (1) cent for all series. In addition, as stated in proposed Rule 21.5(b), the Exchange is proposing that the minimum trading increment for options contracts traded on MX2 Options will be one (1) cent for all series.¹³ Such proposed minimum quotation and trading increments are

the same as on MEMX Options pursuant to MEMX Rules 21.5(a), (b) and (c).

Penny Interval Program. As set forth in proposed Rule 21.5(d), the Exchange is proposing to adopt a Penny Interval Program that is substantially similar to the penny programs of other exchanges, including MEMX Options, which includes minimum quoting requirements for option classes listed under the Penny Interval Program. However, eligibility for inclusion in the Penny Interval Program will be limited to those classes already operating under penny programs of other options exchanges at the time MX2 Options is launched. The list of option classes included in the Penny Interval Program will be announced by the Exchange via circular distributed to Options Members and published by the Exchange on its website.

Order Types and Handling

Instructions. The System will make available to Users two Order Types (as defined in proposed Rule 21.1(d))—Limit Orders and Market Orders—as well as various other instructions and modifiers that can be appended to such orders. The characteristics and functionality of each Order Type is substantially similar to what is currently approved for use on MEMX Equities, MEMX Options, and on other options exchanges, including EDGX Options, except where described in the Notice. The Exchange notes that each of the proposed rules regarding the order types and order type instructions and modifiers is substantively identical to the applicable rule for a corresponding order type or order type instruction or modifier offered by MEMX Options with the exception of the proposed addition of Reserve Orders, which are not currently offered on MEMX Options.

Reserve orders are limit orders that have both a portion of the quantity displayed ("Display Quantity") and a reserve portion of the quantity ("Reserve Quantity") not displayed. Both the Display Quantity and Reserve Quantity of the Reserve Order are available for potential execution against incoming orders. If the Display Quantity of a Reserve Order is fully executed, the System will, in accordance with the User's instruction, replenish the Display Quantity from the Reserve Quantity using either Random Replenishment or Fixed Replenishment, as directed by the User. Under either instruction, any order with a Reserve Quantity will be handled as a new order by the System and a new order identification number will be created each time a displayed quantity is replenished. The Exchange will obfuscate the unique order identification number on its data feeds

⁹ See Notice, *supra* note 3, at 29900–02.

¹⁰ The proposed market structure for MX2 Options is similar to other options exchanges such as EDGX Options, NYSE American Options ("NYSE American") and the MIAH Options Exchange ("MIAH").

¹¹ The Exchange will reveal a User's identity: when a registered clearing agency ceases to act for a participant, or the User's clearing firm, and the registered clearing agency determines not to guarantee the settlement of the User's trades; and for regulatory purposes or to comply with an order of an arbitrator or court. See proposed Rule 21.10. The Exchange notes that proposed Rule 21.10 is identical to MEMX Rule 21.10.

¹² Specifically, proposed Rule 21.7(a) states that the System will open options, other than index options, for trading after the System's observation after 9:30 a.m. Eastern Time of both: the first transaction on the primary listing market in the security underlying the option, and the Limit Up-Limit Down price bands applicable to the security underlying the option as disseminated by the applicable Securities Information Processor ("SIP"). With respect to index options, the System will open for trading after a time period (which the Exchange determines for all classes) following the System's observation after 9:30 a.m. Eastern Time of the first disseminated index value for the index underlying an index option.

¹³ The Exchange also proposes to offer trading of Mini Options, and that the minimum trading increment for Mini Options will be the same as the minimum trading increment permitted for standard options on the same underlying security. See proposed Rule 21.5(c).

for replenishment of an order with Reserve Quantity. If the remainder of an order is less than the replenishment amount, the Exchange will display the entire remainder of the order. A User must instruct the Exchange as to the quantity of the order to be initially displayed by the System (“Max Floor”) when entering an order with a Reserve Quantity, which is also used to determine the replenishment amount, as set forth below. Users may not designate bulk messages as Reserve Orders.

With respect to the replenishment instructions, if a User designates Random Replenishment, the replenishment quantities for the order are randomly determined by the System within a replenishment range established by the user, (*i.e.* the range will be between the Max floor minus the replenishment value selected by the User and the Max Floor plus the replenishment value established by the User. Further, a User must select whether the Random Replenishment be immediate or to have the time interval of such replenishment randomly set by the Exchange. If the User selects a random time interval, the System will randomly replenish the User’s displayed replenishment quantity at different time intervals ranging up to one (1) millisecond following each execution that triggers replenishment. The nondisplayed portion of an order subject to Random Replenishment will remain fully executable prior to the replenishment of a User’s displayed quantity.

If the User selects Fixed Replenishment, the System will replenish the Display Quantity of the order to the Max Floor designated by the User. As noted above, the Exchange does not currently offer Reserve Orders on MEMX Options, however, the definition and functionality of Reserve Orders as proposed in MX2 Rule 21.1(e)(4) are substantively identical to that in MX2 Rule 11.6(k), as well as MEMX Rule 11.6(k), as Reserve Orders are provided on MEMX Equities. According to the Exchange, although Reserve Orders are not currently available on MEMX Options, they are available on multiple competing options exchanges,¹⁴ and Reserve orders operate in the same manner on those exchanges, the only difference being that the Exchange offers the random time interval functionality as an option if Random Replenishment is selected.¹⁵

Time-in-Force Designations. Users may designate their orders to remain in force and available for display and/or potential execution for varying periods of time. Unless cancelled earlier, once these time periods expire, the order (or the unexecuted portion thereof) is returned to the entering party. A Time-in-Force applied to a bulk message applies to each bid and offer within that bulk message. Unless otherwise specified in the Exchange Rules or the context indicates otherwise, the Exchange determines which of the following Times-in-Force are available on a class or system basis. The Time-in-Force designations available on MX2 Options are described in proposed Rule 21.1(g) and include Immediate or Cancel (“IOC”) or Day. Each of the proposed Time-in-Force designations available on MX2 Options is identical to the same Time-in-Force designation available on MEMX Options.

Member Match Trade Prevention Modifiers. As with MEMX Options, the Exchange will allow Users to use certain Match Trade Prevention (“MTP”) modifiers, which are described in proposed Rule 21.1(h). Any incoming order designated with an MTP modifier will be prevented from executing against a resting opposite side order also designated with an MTP modifier and originating from the same EFID, Exchange Member identifier, trading group identifier, or Exchange Sponsored Participant identifier. The Exchange will offer the following MTP modifiers: MTP Cancel Newest, described in proposed Rule 21.1(h)(1); MTP Cancel Oldest, described in proposed Rule 21.1(h)(2); and MTP Cancel Both, described in proposed Rule 21.1(h)(3).

Re-Pricing Mechanism. The Exchange, like MEMX Options, proposes to offer a re-pricing mechanism to Users to comply with the order protection and trade through restrictions of the Options Order Protection and Locked/Crossed Market Plan. This re-pricing mechanism, described in proposed Rule 21.1(i), is referred to by the Exchange as Price Adjust and is identical to the Price Adjust mechanism offered by MEMX Options pursuant to MEMX Rule 21.1(i).

EFIDs. As proposed in Rule 21.1(j), the term “EFIDs” means Executing Firm IDs and refers to what the System uses to identify the User and the clearing number for the execution of orders and quotes submitted to the System with that EFID. A User may obtain one or more EFIDs from the Exchange (in a form and manner determined by the Exchange). The Exchange assigns an EFID to its Users. Each EFID corresponds to a single User and a single clearing number of a Clearing

Member with the Clearing Corporation. A User may obtain multiple EFIDs, which may be for the same or different clearing numbers. A User is able (in a form and manner determined by the Exchange) to designate which of its EFIDs may be used for each of its ports. If a User submits an order or quote through a port with an EFID not enabled for that port, the System cancels or rejects the order or quote. The Exchange notes that its proposed Rule 21.1(j) is identical to MEMX Rule 21.1(j).

Ports and Bulk Messages. Proposed Rule 21.1(k) defines two types of ports: (1) a “physical port,” which provides a physical connection to the System and may provide access to multiple logical ports; and (2) a “logical port” or “application session,” which provides Users with the ability within the System to accomplish a specific function through a connection, such as order entry, data receipt, or access to information. The Exchange notes that each of the proposed types of ports available on MX2 Options is identical to the same types of ports on MEMX Options. The Exchange also proposes to offer bulk message functionality through the same logical ports as Users submit other messages to the Exchange, as MEMX Options does. Finally, the Exchange proposes to adopt the same bulk message functionality as is offered by MEMX Options. The term “bulk message” is proposed to mean a bid or offer included in a single electronic message a User submits with a Market Maker Capacity to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers (which number the Exchange will announce via Exchange notice or publicly available technical specifications). The System handles a bulk message in the same manner as it handles an order or quote, unless the Exchange Rules specify otherwise. Users may submit bulk messages through a logical port, subject to the following: bulk messages must contain a Time-in-Force of Day or IOC; a Market Maker with an appointment in a class must designate a bulk message for that class as Post Only or Book Only, and a non-appointed Market Maker must designate a bulk message for that class as Post Only; the System cancels or rejects a Post Only bulk message bid (offer) with a price that locks or crosses the Exchange best offer (bid) or ABO (ABB); the System executes a Book Only bulk message bid (offer) that locks or crosses the ABO (ABB) against offers (bids) resting in the Book at prices the same as or better than the ABO (ABB)

¹⁴ See, e.g., EDGX Options Rule 21.1(d)(1) and Nasdaq GEMX Options 3, Section 7(g).

¹⁵ The random time interval functionality is currently offered on MEMX under Rule 11.6(k) and MX2 under Rule 11.6(k).

and then cancels the unexecuted portion of that bid (offer).

Cancel Back. Users can use a “Cancel Back” instruction on an order (including bulk messages) to make the order not subject to the Price Adjust process pursuant to proposed Rule 21.1(i). The System cancels or rejects an order with a Cancel Back instruction (immediately at the time the System receives the order or upon return to the System after being routed away) if displaying the order on the Book would create a violation of proposed Rule 27.3, or if the order cannot otherwise be executed or displayed in the Book at its limit price. The System executes a Book Only—Cancel Back order against resting orders. The proposed definition of Cancel Back in proposed Rule 21.1(m) is identical to a Cancel Back Order defined in MEMX Rule 21.1(m).

Market Opening Procedures. As stated in proposed Rule 21.7, the System will open options, other than index options, for trading after the System’s observation after 9:30 a.m. Eastern Time of both: (1) the first transaction on the primary listing market in the security underlying the option, and (2) the Limit Up-Limit Down price bands applicable to the security underlying the option as disseminated by the applicable Securities Information Processor (“SIP”). With respect to index options, the System will open for trading after a time period (which the Exchange determines for all classes) following the System’s observation after 9:30 a.m. Eastern Time of the first disseminated index value for the index underlying an index option. Because the Exchange does not propose to adopt an opening cross or similar opening process, the opening trade that occurs on the Exchange will be a trade in the ordinary course of dealings on the Exchange. Accordingly, the System will ensure that the opening trade in an options series will not trade through a Protected Quotation at another options exchange, consistent with the general standard regarding trade throughs articulated in proposed Rule 21.6(e). The proposed market opening procedures are substantively identical to the market opening procedures for MEMX Options. Additionally, the Exchange proposes under Rule 21.7(c) that it may delay the commencement of trading in any class of options in the interests of a fair and orderly market. As stated in proposed Rule 21.6(c), orders received prior to the opening of the System will be cancelled.

Routing. Pursuant to proposed Rule 21.9, the MX2 Options Exchange will support orders that are designated to be routed to the National Best Bid and Offer (“NBBO”) as well as orders that

will execute only within MX2 Options. Orders that are designated to execute at the NBBO will be routed to other options markets to be executed when the Exchange is not at the NBBO consistent with the Options Order Protection and Locked/Crossed Market Plan. Subject to the exceptions contained in proposed Rule 27.2(b), (Order Protection, Exceptions to Trade-Through Liability), the System will ensure that an order will not be executed at a price that trades through another options exchange. An order that is designated by an Options Member as routable will be routed in compliance with applicable trade-through restrictions. Any order entered with a price that would lock or cross a Protected Quotation that is not eligible for either routing or the price adjust process as defined in proposed Rule 21.1(i) will be cancelled. Bulk messages are not eligible for routing. These rules related to routing are substantively identical to those of MEMX Options.

Pursuant to proposed Rule 21.9(d), MX2 Options can route orders in options via MEMX Execution Services LLC (“MEMX Execution Services”), which serves as the Outbound Router of the Exchange, as defined in Rule 2.11. The function of the Outbound Router will be to route orders in options listed and open for trading on MX2 Options to other options exchanges pursuant to the proposed rules of MX2 Options solely on behalf of MX2 Options. The Outbound Router is subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Act. Use of MEMX Execution Services or Routing Services (as defined below) to route orders to other market centers is optional. In the event the Exchange is not able to provide order routing services through its affiliated broker-dealer, the Exchange will route orders to other options exchanges in conjunction with one or more routing brokers that are not affiliated with the Exchange (“Routing Services”).¹⁶ Parties that do not desire to use MX2 Execution Services or other Routing Services provided by the Exchange must designate orders as not available for routing.¹⁷

In connection with the proposed rules regarding routing to away options exchanges, proposed Rule 21.9(f) provides that MEMX Execution Services has, pursuant to Rule 15c3–5 under the Act,¹⁸ implemented certain tests designed to mitigate the financial and

regulatory risks associated with providing the Exchange’s Users with access to such away options exchanges. Pursuant to the policies and procedures developed by MEMX Execution Services to comply with Rule 15c3–5, if an order or series of orders are deemed to be erroneous or duplicative, would cause the entering User’s credit exposure to exceed a preset credit threshold, or are non-compliant with applicable pre-trade regulatory requirements (as defined in Rule 15c3–5), MEMX Execution Services will reject such orders prior to routing and/or seek to cancel any orders that have been routed. This is consistent with the routing implementation of other options exchanges, and the Exchange notes that proposed Rule 21.9(f) is substantively identical to MEMX Rule 21.9(f).

Order Priority. Upon opening, trades on the Exchange will occur when a buy order and a sell order match on the Exchange’s order book. The system will execute trading interest within the System in price priority, meaning it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. Pursuant to proposed Rule 21.8(c), after considering price priority, all orders are matched according to pro-rata priority according to size. In addition, Customer, Lead Market Maker, and Preferred Market Maker priority overlays are available at the Exchange’s discretion on a class-by-class basis pursuant to proposed Rule 21.8(d). The Exchange will issue a notice specifying which classes of options are initially subject to these additional priority overlays and will provide such Options Members with reasonable advance notice of any changes to the application of such overlays.

Specifically, (i) the Customer Overlay provides Customers with priority over all non-Customer interest at the same price, and if there are two or more Customer orders for the same options series at the same price, priority is afforded to the Customer orders in the sequence in which they were received by the System;¹⁹ (ii) the Preferred Market Maker overlay (which may only be in effect if the Customer Overlay is also in effect and will only apply to any remaining balance after Priority Customer Orders have been satisfied provides the Preferred Market Maker with priority over other Market Makers for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other

¹⁶ See proposed Rule 21.9(e).

¹⁷ See proposed Rule 21.9(d).

¹⁸ 17 CFR 240.15c3–5.

¹⁹ See proposed Rule 21.8(d)(1).

Market Makers at the NBBO);²⁰ and (iii) the Lead Market Maker overlay (which may only be in effect if the Customer Overlay is also in effect and will only apply to any remaining balance after Priority Customer Orders have been satisfied) provides Lead Market Makers with priority over other Market Makers for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other Market Makers at the NBBO)²¹ and for small size orders.²²

After executions resulting from the Priority Overlays described above, Orders and Quotes within the System for the accounts of non-Customers, including Professional Customers, have next priority. If there is more than one highest bid or more than one lowest offer in the Consolidated Book for the account of a non-Customer, then such bids or offers will be afforded priority on a “size pro rata” basis.²³

In allocating the participation entitlements set forth in proposed Rule 21.8(h) to the Preferred Market Maker and the Lead Market Maker, the following will apply.²⁴ In a class of options where both the Lead Market Maker and the Preferred Market Maker participation entitlements are in effect and an Options Member has directed an order to a Preferred Market Maker: (A) if the Preferred Market Maker’s priority quote is at the NBBO, the Preferred Market Maker’s participation entitlement will supersede the Lead Market Maker’s participation entitlements for an order directed to

such Preferred Market Maker; (B) if the Preferred Market Maker’s priority quote is not at the NBBO, the Lead Market Maker’s participation entitlement will apply to that order, provided the Lead Market Maker’s priority quote is at the NBBO; (C) if an order is preferred to the Lead Market Maker (*i.e.* the Lead Market Maker is also the Preferred Market Maker), the Lead Market Maker receives the participation and/or small order entitlement, as applicable, provided the Lead Market Maker/Preferred Market Maker’s priority quote is at the NBBO; and (D) neither the Preferred Market Maker’s nor the Lead Market Maker’s priority quote is at the NBBO then executed contracts will be allocated in accordance with the pro-rata allocation methodology as described in paragraphs 21.8(c) and 21.8(e) without regard to any participation entitlement. If an incoming order has not been preferred to a Preferred Market Maker by an Options Member, however, then the Lead Market Maker’s participation entitlement will apply to that order, provided the Primary Market Maker’s priority quote is at the NBBO.²⁵

As proposed and as noted above, the participation entitlements of proposed Rule 21.8 will not be in effect unless the Customer Overlay is also in effect and the participation entitlements will only apply to any remaining balance after Customer orders have been satisfied.²⁶

Pursuant to proposed Rule 21.8(h)(4), neither the Lead Market Maker nor the Preferred Market Maker may be allocated a total quantity greater than the quantity they are quoting at the execution price. If the Lead Market Maker’s or the Preferred Market Maker’s allocation of an order pursuant to its participation entitlement is greater than its pro-rata share of priority quotes at the best price at the time that the participation entitlement is granted, neither the Lead Market Maker nor the Preferred Market Maker will receive any further allocation of that order.

In establishing the counterparties to a particular trade, the participation entitlements will first be counted against the Lead Market Maker’s highest priority bids and offers or the Preferred Market Maker’s highest priority bids or offers.²⁷

The proposed participation entitlements only apply to the allocation of executions among competing Market Maker priority quotes existing on the MX2 Options Book at the time the order is received by the Exchange. No market participant is allocated any portion of

an execution unless it has an existing interest at the execution price. Moreover, no market participant can execute a greater number of contracts than is associated with its interest at a given price. Accordingly, the Lead Market Maker and the Preferred Market Maker participation entitlements contained in the proposed Rule are not guarantees.²⁸

The Exchange believes that proposed Rule 21.8 governing priority on the Exchange is consistent with other options exchanges that have similar market models, including EDGX Options and NYSE American.²⁹

Data Feeds. The System will offer proprietary data feeds including a depth of book quotation and execution feed, a top of book quotation and executions information feed, a DROP feed that offers information regarding the options trading activity of a specific User, and a historical options data feed.³⁰

Risk Controls. The Exchange proposes to offer Users the ability to establish certain risk control parameters and limits that are intended to assist Users in managing their market risk. The proposed risk controls are set forth in proposed Rules 21.16 and 21.17 and are identical to those offered by MEMX Options pursuant to MEMX Rules 21.16 and 21.17.³¹ The proposed risk controls are designed to offer Users protection from entering orders outside of certain size and price parameters, as well as certain standard or Exchange-established parameters based on order type and market conditions.

Under the proposed Risk Monitor Mechanism, Users may configure risk limits for various parameters, including number of contracts executed (“volume”), notional value of executions (“notional”), number of executions (“count”), number of contracts executed as a percentage of number of contracts outstanding within an Exchange-designated time period or during the trading day (“percentage”), and the number of times the limits on any of the foregoing parameters are reached (“risk trips”). The System will track each of the parameters within an underlying for an EFID (“underlying limit”), across all underlyings for an EFID (“EFID limit”), across all

²⁰ See proposed Rule 21.8(f)(1), which states: For each incoming order, if the PMM has a priority quote at the NBBO, its participation entitlement is equal to the greater of the proportion of the total size at the best price represented by the size of its quote, or sixty percent (60%) of the contracts to be allocated if there is only one other Market Maker quotation or non-Customer order at the NBBO and forty percent (40%) if there are two or more other Market Maker quotes and/or non-Customer orders at the NBBO.

²¹ See proposed Rule 21.8(g)(1), which states: For each incoming order, if the LMM has a priority quote at the NBBO, its participation entitlement is equal to the greater of the proportion of the total size at the best price represented by the size of its quote, or sixty percent (60%) of the contracts to be allocated if there is only one other Market Maker quotation or non-Customer order at the NBBO and forty percent (40%) if there are two or more other Market Maker quotes and/or non-Customer orders at the NBBO.

²² See proposed Rule 21.8(g)(2), which states: Small size orders will be allocated in full to the LMM if the LMM has a priority quote at the NBBO. The Exchange will review this provision quarterly and will maintain the small order size at a level that will not allow small size orders executed by LMMs to account for more than 40% of the volume executed on the Exchange. Small size orders are defined as incoming orders of five or fewer contracts.

²³ See proposed Rule 21.8(e).

²⁴ See proposed Rule 21.8(h)(1).

²⁵ See proposed Rule 21.8(h)(2).

²⁶ See proposed Rule 21.8(h)(3).

²⁷ See proposed Rule 21.8(h)(5).

²⁸ See proposed Rule 21.8(h)(6).

²⁹ See, e.g., EDGX Options Rule 21.8; NYSE American Rule 964NY.

³⁰ See proposed Rule 21.15(b)(1)–(4).

³¹ See Securities Exchange Act Release No. 98730 (Oct. 12, 2023) 88 FR 71898 (Oct. 18, 2023) (SR–MEMX–2023–28) and Securities Exchange Act Release No. 99700 (Mar. 8, 2024) 89 FR 18689 (Mar. 14, 2024) (SR–MEMX–2024–09) (together, “MEMX Risk Control Filings”) for details regarding the risk controls.

underlyings for a group of EFIDs (“EFID Group”) (“EFID Group limit”), and/or across a customized group of orders designated by the User (“Custom Group Limit”), over a User-established time period (“interval”) and on an absolute basis for a trading day (“absolute limits”).

When the System determines that a specified parameter has reached the User-defined risk limit, depending on the User’s instructions and the applicable limit that has been reached, the Risk Monitor Mechanism either: (1) cancels or rejects such User’s orders or quotes in all series of the applicable underlying(s) and cancels or rejects any additional orders or quotes from the User in the applicable underlying(s) until the counting program resets; or (2) suspends all of a User’s resting orders or quotes in all series of the applicable underlying(s) and cancels or rejects any additional orders or quotes from the User in the applicable underlying(s) until the Exchange is instructed to reinstate such bids and offers. A User may also engage the Risk Monitor Mechanism to cancel resting bids and offers, as well as subsequent orders as set forth in proposed Rule 22.10 (“mass cancellation”) or to suspend all resting bids and offers until the Exchange is instructed to reinstate such bids and offers (“mass suspension”).

In addition to the Risk Monitor Mechanism functionality described above, the Exchange also proposes to offer additional price protection mechanisms and risk controls that relate to certain standard or Exchange-established parameters based on order type and market conditions, which are described in proposed Rule 21.17, as well as additional controls applicable to options activity, described in Rule 21.17, Interpretations and Policies .01. These controls include a Market Order NBBO Width Protection, Limit Order Fat Finger Check, Buy Order Put Check, Drill-Through Price Protection, Market Orders in No-Bid (Offer) Series control, Bulk Message Fat Finger Check, and Rejection of Bulk Message Updates, controls related to the maximum dollar amount for a single order and maximum number of contracts for a single order, controls related to the order types or modifiers that can be utilized as well as orders when the market is crossed, controls to restrict the options classes for which a User may enter orders to test symbols only, controls prohibiting the entry of duplicative orders, controls restricting the overall rate of order entry, and credit controls measuring both gross and net exposure that warn when approached and, when breached,

prevent submission of either all new orders or Market Orders only.³²

Proposed Rule 21.17, Interpretation and Policy .02 indicates that the Exchange will offer risk functionality that permits a user to: to (i) cancel all unexecuted orders and quotes in the MX2 Options Book, or (ii) block the entry of any new orders and quotes, or (iii) both cancel all unexecuted orders and quotes in the MX2 Options Book and block the entry of any new orders and quotes. In addition to (i), (ii), and (iii), the Exchange also offers (iv) risk functionality that automatically cancels a User’s open orders and quotes to the extent the User loses its connection to the Exchange. Further, MX2 Options offers batch cancel functionality that permits a User to cancel any orders or quotes in any series of options by requesting the Exchange to affect such cancellation. A User initiating such a request may also request that the Exchange block new inbound orders in any series of options. The block will remain in effect until the User requests the Exchange remove the block. Finally, proposed Rule 21.17, Interpretation and Policy .03 indicates that the risk controls provided are meant to supplement, and not replace, the Member’s or User’s own internal systems, monitoring, and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Act. Responsibility for compliance with all Exchange and SEC rules remains with the Member or User.³³

One-Second Exposure Period. Proposed Rule 22.11 will prohibit Options Members from executing as principal on MX2 Options orders they represent as agent unless (i) agency orders are first exposed on MX2 Options for at least one (1) second or (ii) the Options Member has been bidding or offering on MX2 Options for at least one (1) second prior to receiving an agency order that is executable against such bid or offer. During this one-second exposure period, other Options Members will be able to enter orders to trade against the exposed order. The one-second order exposure period requirement is consistent with the rules of other options exchanges, including MEMX Options.

Options Order Protection and Locked/Crossed Market Plan Rules

The Exchange will participate in the Options Order Protection and Locked/Crossed Market Plan (the “Plan”) and therefore will be required to comply

with the obligations of the Plan. Similar to Regulation NMS, the Plan requires exchanges to adopt rules “reasonably designed to prevent Trade-Throughs,” while specifying certain exemptions from that prohibition, including for ISOs. The proposed rules in Chapter 27 (Options Order Protection and Locked and Crossed Markets Rules) are identical to the rules of MEMX Options, and as such, the Exchange is proposing to incorporate Chapter 27 of MEMX’s rulebook by reference into Chapter 27 of the MX2 Rulebook.³⁴

Securities Traded on MX2 Options

General Listing Standards. The Exchange proposes to adopt listing standards for options traded on MX2 Options as described in Chapter 19 (Securities Traded on MX2 Options), as well as for index options as described in Chapter 29 (Index Rules), which are identical to the approved rules of MEMX Options.³⁵ The Exchange will join the Options Listings Procedures Plan and will list and trade options already listed on other options exchanges. The Exchange will gradually phase-in its trading of options, beginning with a selection of actively traded options. The Exchange is proposing to incorporate by reference the rules of MEMX’s Chapters 19 and 29 into Chapters 19 and 29 of MX2’s rulebook.

Conduct and Operational Rules for Options Members

The Exchange proposes to adopt rules for MX2 Options that are substantively identical to the rules of MEMX Options regarding exercises and deliveries as described in Chapter 18 (Business Conduct); Chapter 23 (Exercises and Deliveries); records, reports and audits as described in Chapter 24 (Records, Reports and Audits); doing business with the public as described in Chapter 26 (Doing Business With the Public); and margin as described in Chapter 28 (Margin Requirements). The Exchange proposes to incorporate each of those MEMX chapters by reference into

³⁴ Specifically, the Exchange denotes: “The rules contained in MEMX Chapter 27, as such rules may be in effect from time to time, are hereby incorporated by reference into this Chapter. Members must comply with MEMX Chapter 27 as if such rules were part of the Rules. Unless the context dictates otherwise, the following terms, or any variations of these terms, from MEMX Chapter 27 have the following meaning for purposes of this Chapter: “Exchange” means “MX2”; and “Member” (i.e., MEMX Member) means “Member (i.e., MX2 Member).” The Exchange will copy this language into the additional MEMX chapters it is proposing to incorporate by reference into MX2’s rulebook, each as further described below.

³⁵ See MEMX Rules, Chapters 19 and 29.

³² See MEMX Risk Control Filings, *supra* note 31.

³³ See *id.*

Chapters 18, 23, 24, 26 and 28 of MX2's rulebook.³⁶

National Market System

Before it begins operations, MX2 Options will become a member of the Options Price Reporting Authority ("OPRA"), the Options Linkage Authority ("OLA"), the Options Regulatory Surveillance Authority ("ORSA"), and the Options Listing Procedures Plan ("OLPP").

Regulation

The Exchange will join the existing options industry agreements pursuant to Section 17(d) of the Act³⁷ prior to commencing operations, as it did for equities. The Exchange will amend its Regulatory Services Agreement ("RSA") with FINRA prior to commencing operations to govern many aspects of the regulation and discipline of Members that participate in options trading, just as it does for equities regulation. Further, the Exchange itself will perform options listing regulation, as well as authorize Options Members to trade on MX2 Options, and conduct surveillance of options trading as it does today for equities.

Section 17(d) of the Act and the rules thereunder permit self-regulatory organizations ("SROs") to allocate certain regulatory responsibilities to avoid duplicative oversight and regulation. Rule 17d-2³⁸ permits SROs to file with the Commission plans under which the SROs allocate among themselves the responsibility to receive regulatory reports from, and examine and enforce compliance with, specified provisions of the Act and rules thereunder and SRO rules by firms that are members of more than one SRO ("common members"). If such a plan is declared effective by the Commission, an SRO that is a party to the plan is relieved of regulatory responsibility as to any common member for whom responsibility is allocated under the plan to another SRO.

All of the options exchanges, FINRA, and NYSE have entered into the Options Sales Practices Agreement and the Exchange will join this agreement prior to the commencement of operations for MX2 Options. Under this Agreement, the examining SROs will examine firms that are common members of the Exchange and the particular examining SRO for compliance with specified provisions of the Act, specified rules and regulations adopted thereunder,

specified examining SRO rules, and specified MX2 Options rules. The Exchange also intends to enter into and seek Commission approval of a bilateral Rule 17d-2 agreement with FINRA prior to commencing of operations for MX2 Options. Additionally, all options exchanges and FINRA have entered into the Options-Related Market Surveillance Agreement and the Exchange intends to join this agreement prior to the commencement of operations for MX2 Options.

For those regulatory responsibilities that fall outside the scope of any Rule 17d-2 agreements, the Exchange will retain full regulatory responsibility under the Act. However, the Exchange has entered into a Regulatory Services Agreement with FINRA, pursuant to which FINRA personnel operate as agents for the Exchange in performing certain of these functions. The Exchange and FINRA will continue to operate under the Regulatory Services Agreement that is currently in place but with modifications as necessary to accommodate the expanded scope for MX2 Options. Those modifications will be implemented prior to the commencement of operations of MX2 Options. The Exchange will supervise FINRA's performance of regulatory services and will continue to bear ultimate regulatory responsibility for the MX2 Options.

Consistent with the Exchange's existing regulatory structure, the Exchange's Chief Regulatory Officer will have general supervision of the regulatory operations of MX2 Options, including responsibility for overseeing the surveillance, examination, and enforcement functions and for administering all regulatory services agreements applicable to MX2 Options. Similarly, the Exchange's existing Regulatory Oversight Committee will be responsible for overseeing the adequacy and effectiveness of Exchange's regulatory and self-regulatory organization responsibilities, including those applicable to MX2 Options.

Finally, the Exchange will perform automated surveillance of trading on MX2 Options for the purpose of maintaining a fair and orderly market at all times. The Exchange will monitor MX2 Options to identify unusual trading patterns and determine whether particular trading activity requires further regulatory investigation.

In addition, the Exchange will oversee the process for determining and implementing trade halts, identifying and responding to unusual market conditions, and administering the Exchange's process for identifying and remediating "obvious errors" by and

among its Options Members. The proposed rules in Chapter 20 (Regulation of Trading on MX2 Options) regarding halts, unusual market conditions, extraordinary market volatility, obvious errors, audit trail, transfers of positions, and off-exchange RWA transfers are substantively identical to the approved rules of MEMX Options.

Minor Rule Violation Plan

The Exchange's disciplinary rules, including Exchange Rules applicable to "minor rule violations," are set forth in Chapter 8 of the Exchange's current Rules. Such disciplinary rules will apply to Options Members and their associated persons.

The Exchange's Minor Rule Violation Plan ("MRVP") specifies those uncontested minor rule violations with sanctions not exceeding \$2,500 that would not be subject to the provisions of Rule 19d-1(c)(1) under the Act³⁹ requiring that an SRO promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.⁴⁰ The Exchange's MRVP includes the policies and procedures included in Exchange Rule 8.15 (Imposition of Fines for Minor Violation(s) of Rules) and in Exchange Rule 8.15, Interpretations and Policy .01.

The Exchange proposes to amend its MRVP and Exchange Rule 8.15, Interpretation and Policy .01 to include proposed Rule 25.3 (Penalty for Minor Rule Violations). The rules included in proposed Rule 25.3 as appropriate for disposition under the Exchange's MRVP are: (a) position limit and exercise limit violations; (b) violations regarding the failure to accurately report position and account information; (c) Market Maker quoting obligations; (d) violations regarding expiring exercise declarations; (e) violations relating to the failure to respond to the Exchange's requests for the submission of trade data; and (f) violations relating to noncompliance with the Consolidated Audit Trail Compliance Rule requirements. The

³⁹ 17 CFR 240.19d-1(c)(1).

⁴⁰ The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Release No. 34-21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission will not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

³⁶ See MEMX Rules, Chapters 18, 23, 24, 26, and 28.

³⁷ 15 U.S.C. 78q(d).

³⁸ 17 CFR 240.17d-2.

rules included in proposed Rule 25.3 are the same as the rules included in the MRVPs of MEMX Options and other options exchanges.⁴¹

The Exchange will include the enumerated options trading rule violations in the Exchange's standard quarterly report of actions taken on minor rule violations under the MRVP. The quarterly report includes: the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the fine imposed, the number of times the rule violation has occurred, and the date of disposition. In addition, because amended Rule 8.15 will offer procedural rights to a person sanctioned for a violation listed in proposed Rule 25.3, the Exchange will provide a fair procedure for the disciplining of members and associated persons, consistent with Section 6(b)(7) of the Act.⁴²

The Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires a formal disciplinary action.

Section 36 Exemption Request

The Exchange proposes to incorporate by reference as MX2 Options rules certain rules of the Cboe Exchange, Inc. ("Cboe"), the New York Stock Exchange ("NYSE"), FINRA, and as described above, its affiliated exchange, MEMX. Specifically, MX2 Options proposes to incorporate by reference the applicable rules of MEMX with respect to Chapter 18 (Business Conduct), Chapter 19 (Securities Traded on MX2 Options), Chapter 23 (Exercises and Deliveries), Chapter 24 (Records, Reports and Audits), Chapter 26 (Doing Business with the Public), Chapter 27 (Options Order Protection and Locked and Crossed Markets Rules), Chapter 28 (Margin Requirements) and Chapter 29 (Index Rules).⁴³ In addition, MX2 Options Rule 26.16 proposes to incorporate by reference the applicable rules of FINRA with respect to Communications with Public Customers; MX2 Options Rule 28.3 proposes to incorporate by reference initial and maintenance margin

requirements of either Cboe or NYSE; MX2 Options Rule 29.5 proposes to incorporate by reference the applicable rules of Cboe with respect to position limits for broad based index options; and MX2 Options Rule 29.7 proposes to incorporate by reference the applicable rules of Cboe with respect to position limits for Narrow-Based and Micro-Narrow Based Index Options traded on MX2 Options and also on Cboe. Thus, for certain MX2 Options rules, Exchange members will comply with a MX2 Options rule by complying with the MEMX, Cboe, NYSE, or FINRA rule referenced.

The Exchange has requested, pursuant to Rule 240.0–12 under the Act,⁴⁴ an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those MX2 Options rules that are effected solely by virtue of a change to a cross-referenced MEMX, Cboe, NYSE, or FINRA rule. The Exchange proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are not trading rules. The Exchange also agrees to provide written notice to Options Members prior to the launch of MX2 Options of the specific MEMX, Cboe, NYSE, and FINRA rules that it will incorporate by reference. In addition, the Exchange will notify Options Members whenever MEMX, Cboe, NYSE, or FINRA proposes a change to a cross-referenced MEMX, Cboe, NYSE, or FINRA rule.⁴⁵

Amendments to Existing Exchange Rules

In addition to the rules of MX2 Options proposed above, the Exchange proposes to amend certain existing Exchange Rules that currently apply to the Exchange's equities market in order to reflect the Exchange's proposed operation of MX2 Options.

First, the Exchange proposes to amend paragraph (d) of Interpretations and Policies .01 to Rule 2.5 (Restrictions), which generally requires each Member to register at least two Principals with the Exchange subject to certain exceptions described therein, to provide that such paragraph (d) will not apply to a Member that solely conducts business on the Exchange as an Options Member, however, Options Members

must comply with the registration requirements set forth in proposed Rule 17.2(g). The Exchange notes that proposed Rule 17.2(g), which provides that every Options Member must have at least one Options Principal and sets forth the Exchange's Options Principal registration requirements, is identical to MEMX Rule 17.2(g). In connection with this proposed change, the Exchange also proposes to amend paragraph (i) of Interpretations and Policies .01 to Rule 2.5 to include Options Principal as a registration category and to set forth the Exchange's qualification requirements for an Options Principal, which are the same as those for an Options Principal on MEMX Options.

The Exchange also proposes to modify Rule 2.11(a)(6), which states that MEMX Execution Services will maintain an error account for the purpose of addressing positions that are the result of an execution or executions that are not clearly erroneous under Rule 11.15 and result from a technical or systems issue at MEMX Execution Services, the Exchange, a routing destination, or a non-affiliate third-party routing broker that affects one or more orders ("Error Positions"). The proposed change to Rule 2.11(a)(6) would add a reference to the comparable provision to that which governs review and resolution of clearly erroneous transactions (*e.g.*, for equities, Rule 11.15) but for options transactions, namely Rule 20.6, which governs review and resolution of options transactions that may qualify as obvious errors.

Lastly, the Exchange proposes to amend Interpretations and Policies .01 Rule 8.15 (Imposition of Fines for Minor Violation(s) of Rules), which contains the list of Exchange Rule violations and recommended fine schedule pursuant to Rule 8.15, to include a new paragraph (i) referencing proposed Rule 25.3 for the recommended fines for minor rule violations of the Exchange Rules applicable to MX2 Options, which the Exchange notes are the same as those of MEMX Options.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴⁶ In particular, the Commission finds that the proposed rule change is consistent with, among

⁴¹ See MEMX Rule 25.3. See also EDGX Options Rule 25.3 and Cboe BZX Options ("BZX Options") Rule 25.3.

⁴² 15 U.S.C. 78f(b)(7).

⁴³ Each MEMX Chapter incorporated by reference into MX2's rules will have the same chapter numbers in MX2's rulebook.

⁴⁴ 17 CFR 240.0–12.

⁴⁵ The Exchange will provide such notice through a posting on the same website location where the Exchange will post its own rule filings pursuant to Rule 19b–4(l) under Act, within the time frame required by that rule. The website posting will include a link to the location on the MEMX, Cboe, NYSE, or FINRA website where the proposed rule change is posted.

⁴⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

others, Sections 6(b)(1),⁴⁷ 6(b)(5),⁴⁸ and 6(b)(8)⁴⁹ of the Act. Section 6(b)(1) of the Act requires that an exchange be so organized and have the capacity to be able to carry out the purposes of the Act and to comply and enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. Section 6(b)(5) of the Act requires that the rules of a national securities exchange be designated, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Act requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

As detailed above, MX2's proposed rules are substantially similar to those of other exchanges, including its affiliated options exchange, MEMX Options, except primarily with respect to the Exchange's priority model and the availability of Reserve orders, which differ from MEMX Options.

Exchange Members

For the same reasons provided by the Commission in its order approving MEMX Options,⁵⁰ the proposed qualification, registration, member operations, and use of MX2 Options requirements provide the Exchange with the capacity to carry out the purposes of the Act and enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, provide that registered broker-dealers can become members and have access to MX2 Options, and ensure that Options Members and their associated persons can be appropriately disciplined for violations of the Act, the rules and regulations thereunder, and Exchange rules.⁵¹

Additionally, for the same reasons provided by the Commission in its order approving MEMX Options, the proposed

Options Market Maker registration and qualification requirements provide an objective process by which an Options Member could become a Market Maker and provide for continued oversight by the Exchange to monitor for continued compliance by Market Makers with the terms of their application for such status. As discussed above, the proposed rules relating to Market Makers are substantively identical to the rules of MEMX Options.

The proposed Options Market Maker participation requirements provide that Market Makers receive certain benefits for carrying out their responsibilities. At the same time, the proposed Options Market Maker participation requirements impose affirmative obligations on Market Makers that balance the benefits afforded to such participants. For the same reasons provided by the Commission in its order approving MEMX Options, the quoting obligations for Market Makers are designed to contribute to the maintenance of a fair and orderly market. MX2 Options' Market Maker participation requirements are substantially similar to the participation requirements of MEMX Options.

MX2 Options Market Structure and Trading Rules

The functionalities and features of MX2 Options market structure and trading system are based on functionalities and features currently used and previously approved for other options exchanges and do not raise novel issues. Among other things, the rules are reasonably designed to provide for a simple, orderly opening process for an exchange that only trade multiply listed options and an orderly re-opening process following the conclusion of a trading halt. The proposed rules provide for the electronic display and execution of orders in a pro rata allocation model with execution priority dependent on the capacity of an order (*e.g.*, Customer or non-Customer) as well as status as a Lead Market Maker or Preferred Market Maker, as applicable. The proposed priority model is similar to that in place on other options exchanges that have been previously approved by the Commission.⁵²

MX2 Options will only utilize the two industry standard order types (limit orders and market orders) and will offer order handling instructions that are substantially similar to the rules of other options exchanges. The Exchange's

proposed reserve order functionality is similar to that available on other options exchanges.⁵³ The Commission finds that the priority system and order types are consistent with Section 6(b)(5) of the Act and are designed to promote just and equitable principles of trade and are not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

MX2 Options will require a one-second exposure period in order to execute a principal order represented as an agent, similar to MEMX Options and the requirements of other exchanges. This exposure requirement should facilitate the prompt execution of orders while continuing to provide members with an opportunity to compete for exposed bids and offers.

MX2 Options listing standards are identical to MEMX Options listing standards. MX2 Options will join the OLPP and will list and trade options already listed on other options exchanges. The Commission finds that the proposed listing standards are consistent with the Section 6(b)(5) of the Act and are designed to protect investors and the public interest and promote just and equitable principles of trade.

MX2 Options proposes operational rules that are substantially identical to MEMX Options, including rules applicable to exercise and deliveries. Those rules adopt the common set of options exchange requirements applicable to exercise notices and applicable cut-off times for submission of exercise-related notices, the assignment of exercise notices, and delivery and payment requirements. For the same reasons the Commission provided in its order approving MEMX Options, these rules are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.⁵⁴

The Commission finds that the proposed functionalities and features of MX2 Options' overall structure and trading operations are consistent with

⁴⁷ 15 U.S.C. 78f(b)(1).

⁴⁸ 15 U.S.C. 78f(b)(5).

⁴⁹ 15 U.S.C. 78f(b)(8).

⁵⁰ See Securities Exchange Act Release No. 95445 (Aug. 8, 2022), 87 FR 49894, 49902 (Aug. 12, 2022) (approving rules governing MEMX Options) ("MEMX Options Order").

⁵¹ See 15 U.S.C. 78f(b)(1), (b)(2) and (b)(6).

⁵² See, *e.g.*, EDGX Options Rule 21.8(c), NYSE American Options Rule 964NYP(h), MIAx Emerald Options Rule 514(c)(2), and MIAx Options Rule 514(c)(2).

⁵³ See, *e.g.*, EDGX Options Rule 21.1(d)(1) and NYSE Arca Options Rule 6.62P-0E(d)(1).

⁵⁴ See MEMX Options Order, *supra* note 50.

Section 6(b)(5) of the Act, which requires an exchange's rules to, among other things, be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

Options Order Protection, Locked/Crossed Market Plan, and Outbound Routing

MX2 Options rules are designed to comply with applicable Federal securities laws and regulations and the obligations of the Options Order Protection and Locked/Crossed Market Plan. Specifically, the rules are designed to ensure that an order is not executed at a price that would trade through another options exchange. In this regard, MX2 Options will be required under Rule 608(c) of Regulation NMS⁵⁵ to comply with and enforce compliance by its Options Members with the Options Order Protection and Locked/Crossed Market Plan once it joins that plan, including the requirement to avoid trading through better prices available on other markets. Any order designated by an Options Member as routable will be routed by MX2 Options in compliance with applicable trade-through restrictions, and any order entered with a price that would lock or cross a Protected Quotation that is not eligible for either routing or the price adjust process in proposed Rule 21.1(i) will be cancelled. Additionally, as discussed above, MX2 Options will route orders in options listed and open for trading on MX2 Options via MEMX Execution Services, the Outbound Router of the Exchange, to other options exchanges.⁵⁶ Furthermore, MEMX Execution Services has, pursuant to Rule 15c3-5 under the Act,⁵⁷ implemented certain tests designed to mitigate the financial and regulatory risks associated with providing the Exchange's Users with access to such away options exchanges. Pursuant to the policies and procedures developed by MEMX Execution Services to comply with Rule 15c3-5, if an order or series of orders are deemed to be erroneous or duplicative, would cause the entering User's credit exposure to exceed a preset credit threshold, or are non-compliant with applicable pre-trade regulatory

requirements (as defined in Rule 15c3-5), MEMX Execution Services will reject such orders prior to routing and/or seek to cancel any orders that have been routed. This is consistent with the routing implementation of other options exchanges.⁵⁸ For the same reasons the Commission provided in its order approving rules governing MEMX Options, the Exchange's proposed order protection rules and outbound routing rules are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.⁵⁹

Before commencing operations, MX2 Options will join the Options Order Protection and Locked/Crossed Market Plan. To meet their regulatory responsibilities under that plan, including the requirement to avoid trading through better-priced protected quotations available on other markets, other options exchanges that are participants must have sufficient notice of new protected quotations, as well as all necessary information such as final technical specifications. Therefore, it would be a reasonable policy and procedure under the Options Order Protection and Locked/Crossed Market Plan for industry participants to begin treating MX2 Options' best bid and best offer as a protected quotation no later than 60 days after the date of this order or such later date as MX2 Options begins operation.

Risk Monitoring and Protection

MX2 Options will offer several optional types of risk controls that are designed to offer protection from entering orders outside of certain size and price parameters, as well as certain standard or Exchange-established parameters based on order type and market conditions. These include pre-trade risk controls, activity-based risk controls, and global risk controls. The proposed risk controls are identical to those offered by MEMX Options.⁶⁰

MX2 Options also will offer additional price protection mechanism and risk controls. These controls are substantially similar to those offered on MEMX Options. The proposed risk protections are reasonably designed to provide liquidity providers with protections to help them manage risk and efficiently use capital when trading options. These protections are in

addition to, and do not take the place of, members' required market access controls, vigilant oversight of trading and algorithms, and overall risk management. For example, these mechanisms are intended to provide Market Makers with optional supplemental tools as an additional layer of protection to assist them in managing risk and utilize available capital in leveraged options securities. To the extent they achieve that intended objective, liquidity providers would be incentivized to quote more contracts at potentially better prices, thus benefitting investors through the availability of that liquidity. Accordingly, the proposed risk protections for MX2 Options are designed to, among other things, promote just and equitable principles of trade and protect investors and the public interest.

Participation in Multiparty Options-Related Plans

The Exchange will become a participant in the various applicable multiparty plans for options trading. Specifically, the Exchange represents that MX2 Options will become a member of OPRA, the Options Order Protection and Locked/Crossed Market Plan, the ORSA, and the OLPP prior to commencing operations. Joining these plans will integrate MX2 Options into the national market system for standardized listed options.

Regulation

The Exchange's proposed approach to self-regulation of its members and facilities is discussed in detail above, and involves joining the existing options industry multiparty agreements, utilizing an RSA with FINRA, and perform options listing and marketplace surveillance. Also, as explained above, consistent with the Exchange's existing regulatory structure, the Exchange's Chief Regulatory Officer will have general supervision of the regulatory operations of MX2 Options, including responsibility for overseeing the surveillance, examination, and enforcement functions and for administering all regulatory services agreements applicable to MX2 Options. Similarly, the Exchange's existing Regulatory Oversight Committee will be responsible for overseeing the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities, including those applicable to MX2 Options.

The Exchange's proposed rules and regulatory structure with respect to MX2 Options are consistent with the requirements of Section 6(b)(1) of the

⁵⁵ See 17 CFR 242.608(c).

⁵⁶ The Outbound Router is subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Act. 15 U.S.C. 78s.

⁵⁷ 17 CFR 240.15c3-5.

⁵⁸ Proposed Rule 21.9(f) is substantively identical to MEMX Rule 21.9(f).

⁵⁹ See MEMX Options Order, *supra* note 50.

⁶⁰ See MEMX Rules 21.16 and 21.17.

Act, which requires an exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance, by its members and persons associated with its members, with the Act and the rules and regulations thereunder and the rules of the Exchange, and with Section 6(b)(6) and (7) of the Act, which require an Exchange to provide fair procedures for the disciplining of members and persons associated with members. Further, it is consistent with the Act to allow the Exchange to contract with FINRA to perform functions relating to the regulation and discipline of members and the regulation of MX2 Options.⁶¹ These functions are fundamental elements to a regulatory program and constitute core self-regulatory functions. FINRA has the expertise and experience to perform these functions on behalf of the Exchange.⁶²

The amended MRVP will provide the Exchange with the capacity to enforce compliance with, and provide appropriate discipline for, violations of the rules of the Exchange and the federal securities laws. As existing Exchange Rule 8.15 will continue to offer procedural rights to a person sanctioned for a violation listed in proposed MX2 Options Rule 25.3, the Exchange's rules provide a fair procedure for the disciplining of members and associated persons, consistent with the requirements of Section 6(b)(7) of the Act.⁶³ For the same reasons provided by the Commission in its order approving MEMX Options, the MRVP changes should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.⁶⁴

In approving the proposed changes to the Exchange's MRVP, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to the imposition of fines under the Exchange's MRVP. The violation of any

SRO rules, as well as the federal securities laws, is a serious matter. However, the Exchange's MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing flexibility in handling certain violations. The Exchange represents that it will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the Exchange's MRVP or whether a violation requires a formal disciplinary action.⁶⁵

Section 11(a) of the Act

Section 11(a)(1) of the Act⁶⁶ prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, "covered accounts"), unless an exception applies. Rule 11a2-2(T) under the Act,⁶⁷ known as the "effect versus execute" rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2-2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2-2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;⁶⁸ (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

In a letter to the Commission, the Exchange requests that the Commission concur with the Exchange's conclusion that Options Members that enter orders into the proposed System satisfy the requirements of Rule 11a2-2(T).⁶⁹ For

the reasons set forth below, orders entered into the System could satisfy the requirements of Rule 11a2-2(T).

The Rule's first requirement is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.⁷⁰ The Exchange has represented that MX2 Options does not have a physical trading floor, and the System will receive orders from Options Members electronically through remote terminals or computer-to-computer interfaces.⁷¹ The System satisfies this off-floor transmission requirement.

Second, the Rule requires that the member and any associated person not participate in the execution of its order after the order has been transmitted. MX2 represented that at no time following the submission of an order is an Options Member or an associated person of the Options Member allowed to acquire control or influence over the result or timing of the order's execution.⁷² According to the Exchange,

Secretary, dated Sept. 24, 2025 ("MX2 Options 11(a) Letter").

⁷⁰ See, e.g., MEMX Options Order, *supra* note 50, and Securities Exchange Act Release Nos. 85828 (May 10, 2019), 84 FR 21841 (May 15, 2019) (registration of Long-Term Stock Exchange); 75760 (Aug. 7, 2015), 80 FR 48600 (Aug. 13, 2015) (SR-EDGX-2015-18); 61419 (Jan. 26, 2010), 75 FR 5157 (Feb. 1, 2010) (SR-BATS-2009-031) (approving BATS options trading); 59154 (Dec. 23, 2008), 73 FR 80468 (Dec. 31, 2008) (SR-BSE-2008-48) (approving equity securities listing and trading on BSE); 57478 (Mar. 12, 2008), 73 FR 14521 (Mar. 18, 2008) (SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080) (approving NOM options trading); 53128 (Jan. 13, 2006), 71 FR 3550, 3553 (Jan. 23, 2006) (File No. 10-131) (granting the exchange registration of Nasdaq Stock Market, Inc.); 44983 (Oct. 25, 2001), 66 FR 55225 (Nov. 1, 2001) (SR-PCX-00-25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR-NYSE-90-52 and SR-NYSE-90-53) (approving NYSE's Off-Hours Trading Facility); and 15533 (Jan. 29, 1979), 44 FR 6084 (Jan. 31, 1979) ("1979 Release").

⁷¹ See MX2 Options 11(a) Letter, *supra* note 69, at 5.

⁷² See *id.* at 6. MX2 notes that Rule 11a2-2(T) does not preclude members from canceling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted, provided that such cancellations or modifications are transmitted from off an exchange floor. See *id.* The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. See Securities Exchange Act Release No. 14563 (Mar. 14, 1978), 43 FR 11542 (Mar. 17, 1978) ("1978 Release") (stating that the "non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the

⁶¹ See, e.g., Regulation of Exchanges and Alternative Trading Systems, Securities Exchange Act Release No. 40760 (Dec. 8, 1998), 63 FR 70844 (Dec. 22, 1998). See also Securities Exchange Act Release No. 50122 (July 29, 2004), 69 FR 47962 (Aug. 6, 2004) (SR-Amex-2004-32) (Order approving proposed rule that allowed Amex to contract with another SRO for regulatory services).

⁶² The RSA is not before the Commission, and therefore, the Commission is not acting on it.

⁶³ 15 U.S.C. 78f(b)(7).

⁶⁴ 17 CFR 240.19b-1(c)(2). See also MEMX Options Order, *supra* note 50.

⁶⁵ See Notice, *supra* note 3, at 29909.

⁶⁶ 15 U.S.C. 78k(a)(1).

⁶⁷ 17 CFR 240.11a2-2(T).

⁶⁸ This prohibition also applies to associated persons. The member may, however, participate in clearing and settling the transaction.

⁶⁹ See Letter from Anders Franzon, General Counsel, Exchange, to Vanessa Countryman,

the execution of an Options Member's order is determined solely by what quotes and orders are present in the System at the time the Options Member submits the order, and the order priority based on MX2 rules.⁷³ Accordingly, an Options Member and its associated persons do not participate in the execution of an order submitted to the System.⁷⁴

Third, Rule 11a2-2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities, such as the System, are used as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.⁷⁵ The Exchange has represented that the design of the System ensures that no Options Member has any special or unique trading advantages in the handling of its orders after transmitting its orders to the Exchange.⁷⁶ Based on the Exchange's representation, the System satisfies this condition.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business

executing member, provided that any such instructions are also transmitted from off the floor").

⁷³ See MX2 Options 11(a) Letter, *supra* note 69, at 2. MX2 proposes rules for the registration, obligations, and operation of market makers on MX2 Options. MX2 has represented that market makers will submit quotes in classes of options contracts to which they are appointed. *See id.*

⁷⁴ See, e.g., Securities Exchange Act Release Nos. 58375 (Aug. 18, 2008), 73 FR 49498, 49505 (Aug. 21, 2008) (File No. 10-182) (order granting the registration of BATS Exchange, Inc.) ("Bats Order") and 61698 (Mar. 12, 2010), 75 FR 13151, 13164 (Mar. 18, 2010) (File Nos. 10-194 and 10-196) (order approving DirectEdge exchanges) ("DirectEdge Order").

⁷⁵ See, e.g., Bats Order and DirectEdge Order, *supra* note 74. In considering the operation of automated execution systems operated by an exchange, the Commission stated that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2-2(T). *See* 1979 Release, *supra* note 70.

⁷⁶ See MX2 Options 11(a) Letter, *supra* note 69.

for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2-2(T) thereunder.⁷⁷ Options Members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.⁷⁸

IV. Exemption From Section 19(b) of the Act With Regard to Certain Rules of Cboe, NYSE, FINRA, and MEMX Incorporated by Reference

The Exchange proposes to incorporate by reference as MX2 Options Rules certain rules of Cboe, NYSE, FINRA, and MEMX.⁷⁹ Thus, for certain MX2 Options rules, the Exchange members will comply with a MX2 Options rule by complying with the rule referenced. In connection with its proposal to incorporate these rules by reference, the Exchange requested, pursuant to Rule 240.0-12 under the Act,⁸⁰ an exemption

⁷⁷ See Bats Order and DirectEdge Order, *supra* note 74. In addition, Rule 11a2-2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2-2(T)(d). *See also* 1978 Release, *supra* note 72 (stating "[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests").

⁷⁸ See MX2 Options 11(a) Letter, *supra* note 69. The Exchange represented that it will advise its membership through the issuance of a Regulatory Circular that those Options Members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption. *See id.* at 3.

⁷⁹ Specifically, MX2 Options proposes to incorporate by reference the applicable rules of MEMX with respect to Chapter 18 (Business Conduct), Chapter 19 (Securities Traded on MX2 Options), Chapter 23 (Exercises and Deliveries), Chapter 24 (Records, Reports and Audits), Chapter 26 (Doing Business with the Public), Chapter 27 (Options Order Protection and Locked and Crossed Markets Rules), Chapter 28 (Margin Requirements) and Chapter 29 (Index Rules); MX2 Options Rule 26.16 proposes to incorporate by reference the applicable rules of FINRA with respect to Communications with Public Customers; MX2 Options Rule 28.3 proposes to incorporate by reference initial and maintenance margin requirements of either Cboe or NYSE; MX2 Options Rule 29.5 proposes to incorporate by reference the applicable rules of Cboe with respect to position limits for broad based index options; and MX2 Options Rule 29.7 proposes to incorporate by reference the applicable rules of Cboe with respect to position limits for Narrow-Based and Micro-Narrow Based Index Options traded on MX2 Options and also on Cboe.

⁸⁰ 17 CFR 240.0-12.

under Section 36 of the Act⁸¹ from the rule filing requirements of Section 19(b) of the Act for changes to those MX2 Options rules that are effected solely by virtue of a change to a cross-referenced Cboe, NYSE, FINRA, or MEMX rule. The Exchange proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are not trading rules. The Exchange agrees to provide written notice to Options Member prior to the launch of MX2 Options of the specific Cboe, NYSE, FINRA, and MEMX rules that it will incorporate by reference. In addition, the Exchange will notify Options Members whenever Cboe, NYSE, FINRA, or MEMX proposes a change to a cross-referenced Cboe, NYSE, FINRA, or MEMX rule.⁸²

Using its authority under Section 36 of the Act, the Commission previously exempted certain SROs from the requirement to file proposed rule changes under Section 19(b) of the Act.⁸³ Each such exempt SRO agreed to be governed by the incorporated rules, as amended from time to time, but has not been required to file a separate proposed rule change with the Commission each time the SRO whose rules are incorporated by reference seeks to modify its rules. Each exempt SRO had procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO in order to provide its members with notice of a proposed rule change that affects their interests, so that they would have an opportunity to comment on it.

The Commission is granting the Exchange's request for exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section

⁸¹ 15 U.S.C. 78mm.

⁸² The Exchange represents that it will provide such notice through a posting on the same website location where the Exchange will post its own rule filings pursuant to Rule 19b-4(l) under Act, within the time frame required by that rule. The website posting will include a link to the location on the MEMX, Cboe, NYSE, or FINRA website where the proposed rule change is posted.

⁸³ See Securities Exchange Act Release No. 49260 (Feb. 17, 2004), 69 FR 8500 (Feb. 24, 2004) (granting application for exemptions pursuant to Section 36(a) under the Act by the American Stock Exchange LLC, the International Securities Exchange, Inc., the Municipal Securities Rulemaking Board, the Pacific Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Boston Stock Exchange, Inc.). *See also*, e.g., MEMX Options Order, *supra* note 50, and Securities Exchange Act Release Nos. 75760 (Aug. 7, 2015) 80 FR 48600 (Aug. 13, 2015) (SR-EDGX-2015-18) (approving the operations of EDGX Options Exchange, which included exemptive relief pursuant to Section 36(a) under the Act) and 57478 (Mar. 12, 2008), 73 FR 14521 (Mar. 18, 2008) (order approving SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080, which included exemptive relief pursuant to Section 36(a) under the Act).

19(b) of the Act with respect to the rules that the Exchange proposes to incorporate by reference into the rules of MX2 Options. This exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. Consequently, the Commission grants the Exchange's exemption request for MX2 Options. This exemption is conditioned upon the Exchange providing written notice to Options Members whenever Cboe, NYSE, FINRA, or MEMX proposes to change a rule that MX2 Options has incorporated by reference.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-MX2-2025-01) be, and it hereby is, approved.

It is further ordered, pursuant to Section 36 of the Act,⁸⁴ that MX2 shall be exempted from the rule filing requirements of Section 19(b) of the Act⁸⁵ with respect to the Cboe, FINRA, NYSE, and MEMX rules that MX2 proposes to incorporate by reference in MX2 rules, subject to the conditions specified in this order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸⁶

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104146; File No. 10-249]

In the Matter of the Application of Texas Stock Exchange LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission

September 30, 2025.

I. Introduction and Procedural History

On January 31, 2025, Texas Stock Exchange LLC ("TXSE") filed with the Securities and Exchange Commission

("Commission") a Form 1 application ("Form 1") under the Securities Exchange Act of 1934 ("Act" or "Exchange Act"), seeking registration as a national securities exchange under Section 6 of the Exchange Act.¹ On April 2, 2025, TXSE submitted Amendment No. 1 to its Form 1 application.² Notice of the application, as amended, was published for comment in the **Federal Register** on April 10, 2025.³ On July 9, 2025, the Commission instituted proceedings pursuant to Section 19(a)(1)(B) of the Act⁴ to determine whether to grant or deny TXSE's application for registration as a national securities exchange under Section 6 of the Act.⁵ On July 29, 2025, TXSE filed another amendment to the Form 1 ("Amendment No. 2").⁶ Amendment No. 2 was published for comment in the **Federal Register** on August 5, 2025.⁷ The Commission has received comments on the amended Form 1.⁸

The Commission has reviewed the Exchange's registration application, as amended, together with the comment letters received, in order to make a determination whether to grant such registration. For the reasons set forth below, and based on the representations set forth in the Form 1, as amended, this order approves TXSE's application, as amended, for registration as a national securities exchange.

¹ 15 U.S.C. 78f. The Form 1 is available on the Commission's website at: <https://www.sec.gov/rules-regulations/other-commission-orders-notices-information/tkse-form-1>. See also 15 U.S.C. 78s(a)(1) (stating that the Commission shall, "[w]ithin ninety days of the date of publication of such notice (or within such longer period as to which the applicant consents)," grant the registration or institute proceedings to determine whether the registration should be denied).

² In Amendment No. 1, TXSE submitted updated portions of its Form 1 application, including Exhibits A-3 (Proposed First Amended and Restated Limited Liability Company Agreement of Texas Stock Exchange LLC), B-1 (Rules of TXSE), C (information regarding subsidiaries or affiliates), E (description of the proposed operation of the exchange), H (listing applications), J (list of officers, governors, members of all standing committees, or persons performing similar functions), and K (Shareholders owning 5% or more).

³ See Securities Exchange Act Release No. 102773 (Apr. 4, 2025), 90 FR 15375 ("Notice").

⁴ 15 U.S.C. 78s(a)(1)(B).

⁵ See Securities Exchange Act Release No. 103422, 90 FR 31360 (July 14, 2025).

⁶ In Amendment No. 2, TXSE submitted updated portions of its Form 1 application, including Exhibits A-3, B-1, C, D, E, F, H, J, and K. Amendment No. 2 is available on the Commission's website at: <https://www.sec.gov/rules-regulations/other-commission-orders-notices-information/tkse-form-1>.

⁷ See Securities Exchange Act Release No. 103604 (July 31, 2025), 90 FR 37607.

⁸ The public comment file for TXSE's Form 1 (File No. 10-249) is available on the Commission's website at: <https://www.sec.gov/comments/10-249/10-249.htm>.

II. Statutory Standards

Pursuant to Sections 6(b) and 19(a) of the Act,⁹ the Commission shall by order grant an application for registration as a national securities exchange if the Commission finds, among other things, that the proposed exchange is so organized and has the capacity to carry out the purposes of the Act and can comply, and can enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange.¹⁰

As discussed in greater detail below, the Commission finds that TXSE's application, as amended, for exchange registration meets the requirements of the Act and the rules and regulations thereunder. Further, the Commission finds that the proposed rules of TXSE are consistent with Section 6 of the Act in that, among other things, they are designed to: (1) assure fair representation of the exchange's members in the selection of its directors and administration of its affairs and provide that, among other things, one or more directors shall be representative of investors and not be associated with the exchange, or with a broker or dealer;¹¹ (2) prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanisms of a free and open market and a national market system;¹² (3) not permit unfair discrimination between customers, issuers, or dealers;¹³ and (4) protect investors and the public interest.¹⁴ The Commission also finds that the proposed rules of TXSE are consistent with Section 11A of the Act.¹⁵ Finally, the Commission finds that TXSE's proposed rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.¹⁶

III. Discussion

The Commission received comment letters expressing support for TXSE's

⁹ 15 U.S.C. 78f(b) and 15 U.S.C. 78s(a), respectively.

¹⁰ See also *supra* note 1 (discussing the time for Commission action following publication of notice of an application for exchange registration).

¹¹ See 15 U.S.C. 78f(b)(3).

¹² See 15 U.S.C. 78f(b)(5).

¹³ See *id.*

¹⁴ See *id.*

¹⁵ 15 U.S.C. 78k-1.

¹⁶ 15 U.S.C. 78f(b)(8).

⁸⁴ 15 U.S.C. 78mm.

⁸⁵ 15 U.S.C. 78s(b).

⁸⁶ 17 CFR 200.30-3(a)(12) and (76).

Form 1.¹⁷ Many commenters state that entry of TXSE in the market will increase competition in areas including listings, trading technologies, market structure, and market data, and facilitate capital formation,¹⁸ as well as increase efficiency.¹⁹ One commenter states the introduction of TXSE may cause existing exchanges to “revisit fee structures” and could “lead to improvements in pricing transparency.”²⁰

One commenter opposes approval of TXSE’s Form 1, stating that “TXSE fails to present a compelling justification for its addition to the already saturated U.S. equity exchange landscape.”²¹ This commenter further states, “fragmentation remains a persistent issue, raising questions about whether new exchanges like TXSE enhance market competition or simply complicate infrastructure without clear

innovation” and that TXSE did not propose any advancements in transparency, investor access, or market efficiency.²²

In contrast, a commenter states that the market, rather than the Commission, should decide how many exchanges there should be.²³ The commenter acknowledges “legitimate concerns” around certain market structure issues, stating that “these problems need to be addressed regardless of whether we have three exchanges or three hundred” and that such concerns should not “block approval of new exchange applications.”²⁴ Instead, according to the commenter, “[a]s long as the proposed entrant can demonstrate that it can fulfill a national securities exchange’s legal obligations under the Securities Exchange Act, then its registration should be approved.”²⁵

The Act does not require that a new exchange be novel or that it provide innovation to the market. While adding another exchange to the national market system can impose costs to the industry, including specifically to those market participants that become members of TXSE, as stated above in Section II, the Act requires that the Commission grant an application for registration as a national securities exchange if the Commission finds that the requirements of the Act and the rules and regulations thereunder with respect to the applicant are satisfied.²⁶ For the reasons discussed throughout this order, the Commission finds that TXSE’s application, as amended, for exchange registration meets the requirements of the Act and the rules and regulations thereunder and accordingly grants the application for registration.

A. Ownership and Governance of TXSE

TXSE is a Delaware limited liability company²⁷ that will be wholly owned by its sole member, TXSE Group Inc. (“TXSE Group”), a Delaware corporation.²⁸ TXSE Group will be the entity through which the individual investors who are ultimate owners of

the Exchange will hold their ownership interests in the Exchange.²⁹

1. TXSE Board of Directors

The Board³⁰ of TXSE (“Exchange Board”) will be its governing body and will possess all of the powers necessary for the management of its business and affairs, including governance of TXSE as a self-regulatory organization (“SRO”).³¹ Specifically:

- the Exchange Board initially will be composed of 10 Directors;³²
- one Director will be the Chief Executive Officer (“CEO”) of TXSE, who shall be considered an Industry Director;³³
- at least 50% of the Directors of the Exchange Board shall be Non-Industry Directors,³⁴ and the remainder shall be Industry Directors and Member Representative Directors;
- at least 20% of the Directors on the Exchange Board shall be Member Representative Directors;³⁵

²⁹ See Form 1, Exhibit C and Exhibit K.

³⁰ “Board” means the Board of Directors of TXSE. See Article I of the proposed First Amended and Restated Limited Liability Company Agreement of TXSE Exchange LLC (“TXSE LLC Agreement”). The TXSE LLC Agreement states that the agreement is subject to certain provisions of the Fourth Amended and Restated Stockholders’ Agreement, dated as of October 23, 2024, as amended from time to time, by and among TXSE Group and its initial stockholders (“Stockholders’ Agreement”). See TXSE LLC Agreement. See also Form 1, Exhibit C, which includes the Stockholders’ Agreement. To the extent any provision of the Stockholders’ Agreement is a stated policy, practice, or interpretation (as defined in Rule 19b–4 under the Act) of TXSE, any amendment thereto must be filed with the Commission pursuant to Section 19(b)(4) of the Act and Rule 19b–4 thereunder. See Section 3(a)(27) of the Act, 15 U.S.C. 78c(a)(27) (defining “rules of an exchange”).

³¹ See TXSE LLC Agreement, Article III, Section 1. See also Form 1, Exhibit J.

³² See TXSE LLC Agreement, Article III, Section 2(a). The term “Director” is defined in TXSE LLC Agreement, Article I. A Director may not be subject to statutory disqualification. See TXSE LLC Agreement, Article III, Section 2(d).

³³ See TXSE LLC Agreement, Article III, Section 2(b)(i). “Industry Director” means, among other criteria, a Director who is or has served within the prior three years an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer. See TXSE LLC Agreement, Article I, for a description of all of the circumstances regarding when a Director would be considered an Industry Director. TXSE LLC Agreement, Article I.

³⁴ “Non-Industry Director” means a Director who is an Independent Director or any other individual who would not be an Industry Director. See TXSE LLC Agreement, Article I. “Independent Director” means a Director who has no material relationship with TXSE or any affiliate of TXSE or any Exchange Member or any affiliate of any such Exchange Member; provided, however, that an individual who otherwise qualifies as an Independent Director shall not be disqualified from serving in such capacity solely because such Director is a Director of TXSE or TXSE Group. See *id.*

³⁵ See TXSE LLC Agreement, Article III, Section 2(b)(ii). “Member Representative Director” means a

Continued

¹⁷ See, e.g., Letters from Glen Hamer, President and CEO, Texas Association of Business, dated May 6, 2025 (“TAB Letter”); Ray Hunt, dated May 7, 2025; Morgan Meyer, Texas State Representative, dated May 13, 2025 (“Meyer Letter”); Scott Leiter, Managing Director and Chief Investor Officer, Deason Capital Services, dated May 13, 2025; R. Carter Pate, dated May 16, 2025 (“Pate Letter”); Xavier Szejnberg, Director of Wall Street for McCombs School of Business, University of Texas at Austin, dated May 16, 2025 (“Szejnberg Letter”); Phil Gramm, dated May 21, 2025 (“Gramm Letter”); John Cornyn, United States Senator, dated May 22, 2025 (“Cornyn Letter”); Michael Nicholas, CEO, Bond Dealers of America, dated May 22, 2025 (“BDA Letter”); Chris Furlow, President and CEO, Texas Bankers Association, dated May 23, 2025 (“TBA Letter”); Lee Bratcher, President, Texas Blockchain Council, dated May 23, 2025 (“TBC Letter”); Ted Cruz, United States Senator, dated May 23, 2025; Robert Arancio, Managing Director, Head of Trading, dated May 27, 2025 (“Neuberger Letter”); Drew McKnight, Co-CEO, Fortress Investment Group, dated May 27, 2025 (“Fortress Letter”); Justin Yancy, President, Texas Business Leadership Council, dated June 2, 2025; Dale Young, Chairman and CEO, Summit Financial Group, dated June 2, 2025 (“Summit Letter”); Stephen John Berger, Managing Director, Global Head of Government and Regulatory Policy, Citadel Securities, dated June 12, 2025 (“Citadel Letter”); Christopher Iacovella, President and CEO, American Securities Association, dated July 9, 2025 (“ASA Letter”); John L. Thor, Co-Chair, Hal S. Scott, President, and R. Glen Hubbard, Co-Chair, Committee on Capital Markets Regulation, dated Aug. 4, 2025 (“Committee on Capital Markets Letter”).

¹⁸ See, e.g., Citadel Letter at 1; TAB Letter; Meyer Letter; Committee on Capital Markets Letter at 2. Several commenters observe a downward trend in the number of public companies in recent years, and state that competition for listing services may encourage more companies to go public. See, e.g., Meyer Letter; Cornyn Letter; TBA Letter at 2; Fortress Letter at 1; Citadel Letter at 1; Committee on Capital Markets Letter at 2.

¹⁹ See, e.g., TAB Letter; Gramm Letter at 2; BDA Letter at 1; Neuberger Letter at 2.

²⁰ Szejnberg Letter. Similarly, commenters state increased competition may result in lower fees and compliance costs. See, e.g., Summit Financial Group Letter; Gramm Letter at 2; and TBC Letter.

²¹ Taylor, Masters of Public Policy Student, Northwestern University, dated July 14, 2025.

²² *Id.* But see Citadel Letter at 1 (stating “[w]hile there is a legitimate criticism of the proliferation of securities exchanges that offer little differentiation or innovation in their products or services, the innovation TXSE is proposing is unique and value-additive for the capital markets”).

²³ See Letter from James J. Angel dated May 27, 2025, at 3.

²⁴ See *id.*

²⁵ See *id.*

²⁶ See *supra* notes 9–10 and accompanying text.

²⁷ See Certification of Formation of Texas Stock Exchange LLC.

²⁸ See Fourth Amended and Restated Certificate of Incorporation of TXSE Group Inc. (“TXSE Group Certificate”).

- at least two of the Non-Industry Directors shall also qualify as Independent Directors;³⁶ and
- during such time as TXSE operates a listings business, the Board shall include at least one Director who is representative of issuers and investors and not associated with an Exchange Member, a broker, or a dealer.³⁷

The initial Directors of the Exchange Board will be appointed by TXSE Group and will serve until the first annual meeting of the LLC Member.³⁸ The first annual meeting of the LLC Member will be held within 90 days after the Commission grants TXSE's exchange registration.³⁹

In addition, TXSE Group will appoint the initial Nominating Committee and Member Nominating Committee, consistent with each committee's compositional requirements, to nominate candidates for election to the Exchange Board.⁴⁰ The Nominating

Director who has been appointed as such to the initial Exchange Board pursuant to Section 3(g) of the TXSE LLC Agreement or elected by TXSE Group after having been nominated by the Member Nominating Committee or by an Exchange Member pursuant to the TXSE LLC Agreement and confirmed as the nominee of Exchange members after majority vote of Exchange Members, if applicable. A Member Representative Director must be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member. See TXSE LLC Agreement, Article I. A "Stockholder Exchange Member" means an Exchange Member that also maintains, directly or indirectly, an ownership interest in TXSE. See *id.* "Exchange Member" or "Member" means any registered broker or dealer that has been admitted to membership in the national securities exchange operated by TXSE. An Exchange Member shall have the status of a "member" of the Exchange as that term is defined in Section 3(a)(3) of the Exchange Act. See *id.* See also TXSE Rule 1.005(q).

³⁶ See TXSE LLC Agreement, Article III, Section 2(b)(ii). In addition, the Exchange Board shall have a "Lead Director," who shall be an Independent Director designated by the Exchange Board and will preside over executive sessions of the Exchange Board. See TXSE LLC Agreement, Article III, Section 4.

³⁷ See TXSE LLC Agreement, Article III, Section 2(b)(ii). Such Director may be, but is not required to be, an Independent Director. *Id.*

³⁸ See TXSE LLC Agreement, Article III, Section 3(g). "LLC Member" means any person who maintains a direct ownership interest in TXSE, which shall initially be TXSE Group. See TXSE LLC Agreement, Article I. The Exchange represents that if the Commission approves the Exchange's Form 1 application, TXSE Group, as the controlling LLC Member of the Exchange, will appoint interim Directors of the Exchange Board which will include interim Member Representative Director(s). Upon the appointment of the Interim Directors by TXSE Group, the Interim Board would meet the Board composition requirements set forth in the TXSE LLC Agreement. The Exchange also represents that, prior to the commencement of operations as an Exchange, the Exchange would complete the full nomination, petition and voting processes set forth in the TXSE LLC Agreement. See Form 1, Exhibit J.

³⁹ See TXSE LLC Agreement, Article III, Section 3(g).

⁴⁰ See TXSE LLC Agreement, Article V1.

Committee and Member Nominating Committee, after completion of their respective duties for nominating directors for election to the Board for that year, will recommend candidates to serve on the succeeding year's Nominating Committee or Member Nominating Committee, as applicable.⁴¹ Exchange Members will have rights to nominate and elect additional candidates for the Member Nominating Committee pursuant to a petition process.⁴²

The Nominating Committee will nominate candidates for election to the Board.⁴³ For Member Representative Director positions, the Member Nominating Committee, composed solely of Member Representative Members,⁴⁴ will solicit input from Exchange Members, and Exchange Members may submit petition candidates.⁴⁵ If no candidates are nominated pursuant to a petition process, then the initial nominees approved and submitted by the Member Nominating Committee will be nominated as Member Representative Directors by the Nominating Committee.⁴⁶ If a petition process produces additional candidates, then the candidates nominated pursuant to the petition process, together with those nominated by the Member Nominating Committee, will be presented to Exchange Members for election to determine the final designees for any open Member Representative Director positions.⁴⁷ In the event of a contested election, the candidates who receive the most votes will be selected as the Member Representative Director designees by the Member Nominating Committee.⁴⁸

The TXSE governance provisions are consistent with the Act. In particular, the requirement that the number of Member Representative Directors must be at least 20% of the Board and the means by which they will be chosen by Exchange Members provides for the fair representation of members in the selection of directors and the administration of TXSE and therefore

⁴¹ See *id.*

⁴² See *id.*

⁴³ See TXSE LLC Agreement, Article V, Section 2.

⁴⁴ See TXSE LLC Agreement, Article V, Section 3. "Member Representative Member" means a member of any committee or hearing panel who is an officer, director, employee or agent of an Exchange Member that is not a Stockholder Exchange Member. See TXSE LLC Agreement, Article I.

⁴⁵ See TXSE LLC Agreement, Article III, Section 3.

⁴⁶ See TXSE LLC Agreement, Article III, Section 3(e).

⁴⁷ See *id.*

⁴⁸ See TXSE LLC Agreement, Article III, Section 3(f).

are consistent with Section 6(b)(3) of the Act.⁴⁹ As the Commission has previously stated, this requirement helps to ensure that members have a voice in an exchange's self-regulatory program, and that an exchange is administered in a way that is equitable to all those who trade on its market or through its facilities.⁵⁰

In addition, with respect to the requirements that the number of Non-Industry Directors equal or exceed the number of Industry Directors and that at least two Non-Industry Directors shall also qualify as Independent Directors, the proposed composition of the Exchange Board satisfies the requirements in Section 6(b)(3) of the Act.⁵¹ The Commission previously has stated that the inclusion of public, non-industry representatives on exchange oversight bodies is an important mechanism to support an exchange's ability to protect the public interest.⁵² Further, the presence of public, non-industry representatives can help to ensure that no single group of market participants has the ability to systematically disadvantage other market participants through the

⁴⁹ 15 U.S.C. 78f(b)(3).

⁵⁰ See, e.g., Securities Exchange Act Release Nos. 102853 (Apr. 11, 2025), 90 FR 16207 (Apr. 17, 2025) (File No. 10-244) (order granting exchange registration of Green Impact Exchange, LLC ("GIX")) ("GIX Order"); 102650 (Mar. 13, 2025), 90 FR 12590 (Mar. 18, 2025) (order granting exchange registration of MX2 LLC ("MX2")) ("MX2 Order"); 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024) (File No. 10-242) (order granting exchange registration of 24X National Exchange LLC ("24X")) ("24X Order"); 100539 (July 15, 2024), 89 FR 58848 (July 19, 2024) (File No. 10-240) (order granting exchange registration of MIAx Sapphire, LLC; 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020) (File No. 10-237) (order granting exchange registration of MEMX LLC ("MEMX")) ("MEMX Order"); 85828 (May 10, 2019), 84 FR 21841 (May 15, 2019) (File No. 10-234) (order granting exchange registration of Long Term Stock Exchange, Inc. ("LTSE")) ("LTSE Order"); 79543 (Dec. 13, 2016), 81 FR 92901, 92903 (Dec. 20, 2016) (File No. 10-227) (order granting exchange registration of MIAx PEARL, LLC ("MIAx PEARL")) ("MIAx PEARL Order"); 68341 (Dec. 3, 2012), 77 FR 73065, 73067 (Dec. 7, 2012) (File No. 10-207) (order granting exchange registration of Miami International Securities Exchange, LLC ("MIAx")) ("MIAx Order"); 58375 (Aug. 18, 2008), 73 FR 49498, 49501 (Aug. 21, 2008) (File No. 10-182) (order granting exchange registration of BATS Exchange, Inc. ("BATS")) ("BATS Order"); 53128 (Jan. 13, 2006), 71 FR 3550, 3553 (Jan. 23, 2006) (File No. 10-131) (order granting exchange registration of The Nasdaq Stock Market, Inc. ("Nasdaq")) ("Nasdaq Order").

⁵¹ 15 U.S.C. 78f(b)(3).

⁵² See, e.g., GIX Order, *supra* note 50, at 16210; MX2 Order, *supra* note 50, at 12592; 24X Order, *supra* note 50, at 97094; MEMX Order, *supra* note 50, at 27452; LTSE Order, *supra* note 50, at 21843; MIAx PEARL Order, *supra* note 50, at 92903; MIAx Order, *supra* note 50, at 73067; BATS Order, *supra* note 50, at 49501; and Nasdaq Order, *supra* note 50, at 3553.

exchange governance process. Public directors can provide unbiased perspectives, which may enhance the ability of the Exchange Board to address issues in a non-discriminatory fashion and foster the integrity of the Exchange. For similar reasons, the additional composition requirement that applies during such time as TXSE operates a listings business (*i.e.*, the requirement that one Director be representative of issuers and investors and not associated with an Exchange Member⁵³) is consistent with the requirements of Section 6(b)(3) of the Act.

2. Interim Board

As discussed above, TXSE Group will hold a special meeting to appoint interim Directors of the Board ("Interim Board"), which will include interim Member Representative Directors.⁵⁴ Upon appointment of the interim Directors, the Interim Board will meet the Exchange Board composition requirements set forth in the TXSE LLC Agreement.⁵⁵ The Interim Board will serve only until the first annual meeting of the LLC Member, which will be held within 90 days after the Commission grants the Exchange's registration as a national securities exchange.⁵⁶ The Exchange represents that it will complete the full nomination, petition, and voting process set forth in the TXSE LLC Agreement, which will provide persons that are approved as Exchange Members after the date that the Commission grants the Exchange's registration as a national securities exchange with the opportunity to participate in the selection of Member Representative Directors as promptly as possible after the effective date of the TXSE LLC Agreement.⁵⁷

3. Exchange Committees

TXSE has proposed to establish several named committees of the Exchange Board, including an Appeals Committee⁵⁸ and a Regulatory Oversight Committee,⁵⁹ as well as the

Nominating Committee and Member Nominating Committee, discussed above.⁶⁰

The Appeals Committee will consist of two Independent Directors, and one Member Representative Director.⁶¹ Each member of the Regulatory Oversight Committee must be an Independent Director.⁶²

The TXSE proposed named committees, which are similar to the named committees maintained by other exchanges,⁶³ are designed to help enable the Exchange to carry out its responsibilities under the Act and are consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.⁶⁴

B. TXSE Group and Regulation of the Exchange

When TXSE commences operations as a national securities exchange, it will have all of the attendant regulatory obligations under the Act. In particular, TXSE will be responsible for the operation and regulation of its trading system and the regulation of its members. Certain provisions in both the TXSE and TXSE Group governing documents are designed to facilitate the ability of TXSE to fulfill its regulatory obligations and to help facilitate Commission oversight of TXSE. The discussion below summarizes some of these key provisions.

1. Ownership Structure; Ownership and Voting Limitations

As stated above, TXSE will be owned by TXSE Group. The TXSE Group Certificate includes restrictions on the ability to own and vote shares of stock of TXSE Group.⁶⁵ These limitations are

designed to prevent any TXSE Group stockholder from exercising undue control over the operation of the Exchange and to ensure that the Exchange and the Commission are able to carry out their regulatory obligations under the Act.

In particular, for so long as TXSE Group shall control, directly or indirectly, any Regulated Securities Exchange Subsidiary, which would include TXSE,⁶⁶ no Person,⁶⁷ either alone or together with its Related Persons,⁶⁸ will be permitted to beneficially own, directly or indirectly, shares of stock of TXSE Group representing in the aggregate more than 40% of the then-outstanding shares of stock of TXSE Group.⁶⁹ A more restrictive condition will apply to the broker-dealer members of the Exchange, who will be prohibited from beneficially owning, directly or indirectly, either alone or together with their Related Persons, shares of stock of TXSE Group representing in the aggregate more than 20% of the then-outstanding shares of stock of TXSE Group.⁷⁰ If any Person,

Order, *supra* note 50; MIAX Order, *supra* note 50; BATS Order, *supra* note 50, and IEX Order, *supra* note 63; *see also* Securities Exchange Act Release Nos. 76998 (Jan. 29, 2016), 81 FR 6066 (Feb. 4, 2016) (File No. 10-221) (order granting exchange registration of ISE Mercury, LLC ("ISE Mercury")) ("ISE Mercury Order"); 70050 (July 26, 2013), 78 FR 46622 (Aug. 1, 2013) (File No. 10-209) (order granting exchange registration of ISE Gemini, LLC ("ISE Gemini")) ("ISE Gemini Order"); 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (CBOE-2008-88) (Cboe Exchange demutualization order); 53963 (June 8, 2006), 71 FR 34660 (June 15, 2006) (SR-NSX-2006-03) (National Stock Exchange demutualization order); 51149 (Feb. 8, 2005), 70 FR 7531 (Feb. 14, 2005) (SR-CHX-2004-26) (Chicago Stock Exchange demutualization order); and 49098 (Jan. 16, 2004), 69 FR 3974 (Jan. 27, 2004) (SR-Phlx-2003-73) (Philadelphia Stock Exchange demutualization order).

⁶⁶ "Regulated Securities Exchange Subsidiary" means any registered national securities exchange controlled, directly or indirectly, by TXSE Group, including TXSE. *See* TXSE Group Certificate, Article SIXTH.

⁶⁷ *See* TXSE Group Certificate, Article SIXTH (defining "Person").

⁶⁸ *See id.* (defining "Related Persons"). Pursuant to the TXSE Group Certificate, "Related Persons" include, among others, any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing), other than the Stockholders' Agreement, to act together for the purpose of acquiring, voting, holding or disposing of shares of the stock of the Corporation. *Id.* As stated above, any amendment to a provision of the Stockholders' Agreement would be subject to Section 19(b) and Rule 19b-4 thereunder, to the extent the provision is a rule of TXSE. *See supra* note 30.

⁶⁹ *See* TXSE Group Certificate, Article SEVENTH(b)(i)(A). There are limited exceptions to these prohibitions. *See infra* notes 75-77 and accompanying text.

⁷⁰ *See* TXSE Group Certificate, Article SEVENTH(b)(i)(B). This restriction, unlike others discussed below (*see infra* note 75-77 and

⁵³ *See* TXSE LLC Agreement, Article III, Section 2(b)(ii)(C).

⁵⁴ *See* Form 1, Exhibit J. *See also supra* note 38.

⁵⁵ *See id.* *See also* TXSE LLC Agreement, Article III, Section 2.

⁵⁶ *See* TXSE LLC Agreement, Article III, Section 3(g).

⁵⁷ *See* Form 1, Exhibit J.

⁵⁸ *See* TXSE LLC Agreement, Article IV, Section 1. The Appeals Committee will preside over all appeals related to disciplinary and adverse action determinations in accordance with TXSE rules. *See* TXSE LLC Agreement, Article IV, Section 6(b).

⁵⁹ *See* TXSE LLC Agreement, Article IV, Section 1. The Regulatory Oversight Committee will be responsible for establishing the goals, assessing the performance, and fixing the compensation of the Chief Regulatory Officer and for recommending personnel actions involving the Chief Regulatory

Officer and senior regulatory personnel. *See* TXSE LLC Agreement, Article IV, Section 6(a).

⁶⁰ The Exchange Board could also establish additional committees. *See* TXSE LLC Agreement, Article IV, Section 1. All committees of the Exchange Board will be subject to the control and supervision of the Exchange Board. *See id.*

⁶¹ *See* TXSE LLC Agreement, Article IV, Section 6(b).

⁶² *See* TXSE LLC Agreement, Article IV, Section 6(a).

⁶³ *See, e.g.*, GIX Order, *supra* note 50, at 16210; MEMX Order, *supra* note 50, at 27453. *See also* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142 (June 23, 2016) (File No. 10-222) (order granting exchange registration of Investors' Exchange, LLC ("IEX")) ("IEX Order"); Article IV, Section 4.1 of the Eleventh Amended and Restated Bylaws of Cboe Exchange, Inc.

⁶⁴ 15 U.S.C. 78f(b)(1).

⁶⁵ These provisions are consistent with ownership and voting limits approved by the Commission for other SROs, except as discussed below. *See, e.g.*, GIX Order, *supra* note 50; MX2 Order, *supra* note 50; 24X Order, *supra* note 50; MEMX Order, *supra* note 50; LTSE Order, *supra* note 50; MIAX PEARL

either alone or together with their Related Persons, at any time beneficially owns shares of stock of TXSE Group in violation of these ownership limits, TXSE Group will be required (to the extent funds are legally available) to redeem the shares in excess of the applicable ownership limit at their par value.⁷¹

In addition, for so long as TXSE Group shall control, directly or indirectly, any Regulated Securities Exchange Subsidiary, which would include TXSE, no Exchange Member, alone or together with its Related Persons, shall be entitled to vote or cause the voting of shares of stock of TXSE Group, beneficially owned directly or indirectly by such Exchange Member or its Related Persons, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than 20% of the then-outstanding votes entitled to be cast on such matter ("Voting Limitation").⁷² Further, if any Exchange Member, either alone or together with its Related Persons, enters into any agreement, plan or other arrangement with any other person, either alone or together with its Related Persons, under circumstances that would result in shares of stock of TXSE Group that would be subject to such agreement, plan, or other arrangement not being voted on any matter or any proxy relating thereto being withheld, where the effect of such agreement, plan, or other arrangement would be to enable any Exchange Member, either alone or together with its Related Persons, to vote, possess the right to vote, or cause the voting of shares of stock of TXSE Group that would exceed 20% of the then outstanding votes entitled to be cast on such matter, then the Exchange

accompanying text), cannot be waived. See TXSE Group Certificate, Article SEVENTH(b)(ii).

⁷¹ See TXSE Group Certificate, Article SEVENTH(b)(v), (c). TXSE Group shall redeem the number of shares of stock necessary so that such Person, together with its Related Persons, shall beneficially own directly or indirectly shares of stock of TXSE Group not in violation of the ownership limitations, after taking into account that such redeemed shares shall become treasury shares and shall no longer be deemed to be outstanding. See *id.* In addition, if any Person, either alone or together with its Related Persons, at any time purports to acquire beneficial ownership of shares of stock of TXSE Group in violation of the ownership limitations, then TXSE Group shall record on its books the transfer of only that number of shares that would not violate the ownership limitations and shall treat the remaining shares as owned by the purported transferor, for all purposes, including without limitation, voting, payment of dividends and distributions with respect to such shares whether upon liquidation or otherwise. TXSE Group Certificate, Article SEVENTH(b)(iv).

⁷² See TXSE Group Certificate, Article SEVENTH(a)(i).

Member with the right to vote such shares, shall not be entitled to vote the excess shares and TXSE Group shall disregard any purported voting of such shares.⁷³ Unlike other registered national securities exchange structures, the TXSE Group Certificate does not apply a similar 20% Voting Limitation to TXSE Group stockholders that are not also Exchange Members.⁷⁴

TXSE Group will be permitted to waive the 40% ownership limitation pursuant to a resolution of the TXSE Group Board,⁷⁵ if it makes certain determinations.⁷⁶ Any such waiver will not be effective unless and until approved by the Commission.⁷⁷ TXSE Group would not be permitted to waive the 20% ownership limitation or 20% Voting Limitation with respect to Exchange Members and their Related Persons.⁷⁸

Any person that proposes to own shares of stock of TXSE Group in excess of the 40% ownership limitation, will be required to deliver written notice to the TXSE Group of its intention.⁷⁹ The notice must be delivered to TXSE Group not less than 45 days (or any shorter period to which the TXSE Group Board expressly consents) before the proposed ownership of such stock.⁸⁰

The TXSE Group Certificate also contains provisions that are designed to further safeguard the ownership limitations and Voting Limitation

⁷³ See *id.*

⁷⁴ See TXSE Group Certificate. See also Notice, *supra* note 3, at 15375, n.2; *supra* note 65.

⁷⁵ See TXSE Group Certificate, Article SEVENTH(b)(ii)

⁷⁶ See TXSE Group Certificate, Article SEVENTH(b)(iii). The required determinations are that such waiver will not impair the ability of TXSE Group or TXSE to carry out their respective responsibilities under the Act and the rules and regulations promulgated thereunder; that such waiver is otherwise in the best interests of TXSE Group, its stockholders, and TXSE; that such waiver will not impair the ability of the Commission to enforce the Act; and that such Person and its Related Persons are not subject to any applicable "statutory disqualification" (as defined in Section 3(a)(39) of the Act). See *id.* These provisions are consistent with provisions related to the waiver of ownership and voting limits approved by the Commission for other SROs. See, e.g., GIX Order, MX2 Order, 24X Order, MEMX Order, LTSE Order, MIAx PEARL Order, MIAx Order, and BATS Order, *supra* note 50; ISE Mercury Order and ISE Gemini Order, *supra* note 65; IEX Order, *supra* note 63; and Securities Exchange Act Release No. 61698 (Mar. 12, 2010), 75 FR 13151 (Mar. 18, 2010) (File Nos. 10–194 and 10–196) (order granting exchange registration of DirectEdge exchanges) ("DirectEdge Exchanges Order").

⁷⁷ See TXSE Group Certificate, Article SEVENTH(b)(ii)(C).

⁷⁸ See TXSE Group Certificate, Article SEVENTH(a), (b)(iii)(D).

⁷⁹ See TXSE Group Certificate, Article SEVENTH(b)(ii)(A).

⁸⁰ See *id.* "TXSE Group Board" means the Board of Directors of TXSE Group. See TXSE Group Certificate, Article FOURTH(c).

described above or are otherwise related to direct and indirect changes in control. Specifically, TXSE Group shall have the right to require any Person and its Related Persons that the TXSE Group Board reasonably believes to be subject to the Voting Limitation, to beneficially own stock in violation of the ownership limitations, or to beneficially own an aggregate of 5% or more of the then outstanding shares of stock of TXSE Group entitled to vote on any matter, to provide to TXSE Group upon request, complete information as to all shares of stock of TXSE Group beneficially owned by such Person and its Related Persons.⁸¹

The TXSE LLC Agreement does not include the same change of control provisions that are present in the TXSE Group Certificate because the TXSE LLC Agreement instead explicitly identifies its owner (TXSE Group) by name as the "LLC Member" of TXSE.⁸² Thus, any changes in the ownership of TXSE would require the TXSE LLC Agreement to be amended. Any amendment to the TXSE LLC Agreement, including to ownership of TXSE, would constitute a proposed rule change under Section 19(b) of the Act⁸³ and Rule 19b–4⁸⁴ thereunder that will be required to be filed with, or filed with and approved by, the Commission.⁸⁵ Moreover, pursuant to the TXSE LLC Agreement itself, any transfer of limited liability company interests of TXSE will be subject to prior approval by the Commission pursuant to the rule filing procedure under Section 19 of the Act.⁸⁶

Although TXSE Group is not directly responsible for regulation, its activities with respect to the operation of TXSE must be consistent with, and must not interfere with, the self-regulatory obligations of TXSE.⁸⁷ As described above, the provisions applicable to direct and indirect changes in control of TXSE Group and TXSE, as well as the Voting Limitation imposed on owners of TXSE Group who also are Exchange Members, are designed to help prevent any owner of TXSE Group from exercising undue influence or control

⁸¹ See TXSE Group Certificate, Article SEVENTH(d). This provision will also provide TXSE Group the right to request from such persons information as to any other factual matter relating to the applicability or effect of TXSE Group Certificate Article SEVENTH, which includes the ownership limitations and Voting Limitation, as may reasonably be requested of such person and its Related Persons. See *id.*

⁸² See TXSE LLC Agreement, Exhibit A.

⁸³ 15 U.S.C. 78s(b).

⁸⁴ 17 CFR 240.19b–4.

⁸⁵ See TXSE LLC Agreement, Article VIII, Sections 1(b), 4.

⁸⁶ See TXSE LLC Agreement, Article X, Section 9.

⁸⁷ See, e.g., IEX Order, *supra* note 63.

over the operation of TXSE and to help ensure that TXSE retains a sufficient degree of independence to effectively carry out its regulatory obligations under the Act.

In addition, these limitations are designed to address the conflicts of interests that might result from a member of a national securities exchange owning interests in the exchange. As the Commission has stated in the past, a member's ownership interest in an entity that controls an exchange could become so large as to cast doubt on whether the exchange may fairly and objectively exercise its self-regulatory responsibilities with respect to such member.⁸⁸ A member that is a controlling shareholder of an exchange could seek to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and conduct surveillance of the member's conduct or diligently enforce the exchange's rules and the federal securities laws with respect to conduct by the member that violates such provisions. As such, these requirements are designed to minimize the potential that a person or entity can improperly interfere with or restrict the ability of the Exchange to effectively carry out its regulatory oversight responsibilities under the Act.

The Commission has recognized that "to be effective, an SRO must be structured in such a way that regulatory staff is unencumbered by inappropriate business pressure" that could "inhibit effective regulation and discourage vigorous enforcement against members."⁸⁹ To help ensure independent and empowered SRO regulatory operations, TXSE has, among other things, adopted a governance structure designed to mitigate the inherent conflict. Specifically, TXSE has an independent Chief Regulatory Officer that oversees the Exchange's regulatory operations and that reports to an independent Regulatory Oversight Committee of the Exchange Board. In

addition, TXSE has an Exchange Board composed of at least 50% Non-Industry Directors⁹⁰ with required key board committees that are either fully independent or majority independent, such as the Regulatory Oversight Committee⁹¹ and the Appeals Committee.⁹²

Ownership and voting limits in the governing documents of an exchange and/or its holding company further protect the status of SRO independence. The provisions that TXSE has proposed are consistent with those in place across all exchanges today, except as described above regarding the application of the Voting Limitation solely to TXSE Group stockholders that are also Exchange Members, and are designed to prevent any direct or indirect owner from exercising control over the operation of the exchange as well as to ensure that the exchange and the Commission are able to carry out their regulatory obligations under the Act.⁹³ These

⁹⁰ In addition, at least two of the Non-Industry Directors shall be Independent Directors. See TXSE LLC Agreement, Article III, Section 2(b)(ii).

⁹¹ Each member of the Regulatory Oversight Committee will be an Independent Director. See TXSE LLC Agreement, Article IV, Section 6(a).

⁹² The Appeals Committee will consist of two Independent Directors and one Member Representative Director. See TXSE LLC Agreement, Article IV, Section 6(b).

⁹³ The Exchange has not proposed to impose a voting limitation on direct and indirect owners of TXSE Group that are not Exchange Members. While the Commission has previously found such a limitation consistent with the Act in approving other exchange governance structures (see, e.g., *supra* note 65), the lack of such a provision does not prevent a finding that TXSE's proposed governance structure is consistent with the Act, and with Section 6(b)(1) in particular, which requires an exchange to be so organized and have the capacity to carry out the purposes of the Act. When proposing rules pertaining to the governance, administration, transparency and ownership of SROs in 2004, including proposing to require exchanges to limit the ability of their members that are brokers or dealers to own or vote a significant interest in the exchange, the Commission did not propose to impose voting or ownership limitations on persons that were not also exchange members. See Securities Exchange Act Release No. 50699 (Nov. 18, 2004), 69 FR 71126, at 71143–46 (Dec. 8, 2004). The Commission stated that "the conflict with respect to members creates a risk that a member could use its controlling interest in its regulator to influence the regulatory process to its benefit." *Id.* at 71143. Accordingly, because of "the significant incentives for a member to attempt to exercise undue influence in such a case," the Commission proposed to require SROs to impose voting and ownership limitations on members. *Id.* In contrast, the Commission proposed a less restrictive approach for non-members than the rules that had, at the time, been adopted by exchanges. The Commission recognized that there is the potential for any person that controls an exchange to direct its operation so as to cause the SRO to neglect its regulatory obligations under the Act, but determined not to propose the approach then adopted by exchanges that applied ownership and voting limitations on persons that were not exchange members in light of the substantive governance and other standards it was proposing to

provisions impose limits on voting and ownership of exchange holding companies, with more stringent limits imposed on member owners.⁹⁴

As a registered exchange, TXSE will be subject to the same regulatory standards applicable to any other exchange regardless of the identity of the ultimate owners of that exchange. As discussed above and further below and except as otherwise noted, TXSE has proposed to adopt industry-standard protections in a governance structure for itself and its holding company that is designed to preserve TXSE's self-regulatory independence by protecting TXSE from inappropriate business pressures. The proposed provisions, including the proposed ownership limitations and Voting Limitation, when taken together should serve to mitigate potential conflicts of interest and protect the regulatory operations of TXSE.⁹⁵

TXSE's and TXSE Group's proposed governance provisions are consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.⁹⁶ In particular, these requirements are designed to minimize the potential that a person could improperly interfere with or restrict the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Act.

2. Regulatory Independence and Oversight

Although TXSE Group will not itself carry out regulatory functions, its activities with respect to the operation of TXSE must be consistent with, and must not interfere with, TXSE's self-regulatory obligations. In this regard, TXSE and TXSE Group propose to adopt certain provisions in their respective governing documents that are designed to help maintain the independence of

strengthen the independence of SROs and their regulatory functions. See *id.* at 71143. As discussed herein, exchanges have implemented many of the types of provisions that the Commission proposed in 2004 to strengthen such independence. TXSE has similarly proposed to implement such provisions as described herein. The Commission finds that, in light of such other provisions, including TXSE's proposed ownership limitations and Voting Limitation, TXSE's proposed governance structure is consistent with the Act.

⁹⁴ See *supra* notes 65–78 and accompanying text.

⁹⁵ See, e.g., *infra* notes 98–109 and accompanying text (discussing provisions designed to help ensure the independence of TXSE's regulatory function and facilitate the ability of TXSE to carry out its regulatory responsibilities under, and operate in a manner consistent with, the Act). See also *infra* notes 111–115 (discussing Commission authority and controlling person obligations under Sections 19, 20 and 21C of the Act).

⁹⁶ 15 U.S.C. 78f(b)(1).

⁸⁸ See, e.g., GIX Order, *supra* note 50; MX2 Order, *supra* note 50; 24X Order, *supra* note 50; MEMX Order, *supra* note 50; LTSE Order, *supra* note 50; MIAx PEARL Order, *supra* note 50; MIAx Order, *supra* note 50; BATS Order, *supra* note 50; IEX Order, *supra* note 63; ISE Mercury Order, *supra* note 65; and DirectEdge Exchanges Order, *supra* note 76.

⁸⁹ See, e.g., Securities Exchange Act Release No. 50700 (Nov. 18, 2004), 69 FR 71256 (Dec. 8, 2004) (Concept Release Concerning Self-Regulation). Nevertheless, the federal securities laws require member involvement in the overall governance and administration of an exchange. See, e.g., 15 U.S.C. 78f(b)(3) (requiring an exchange, among other things, to provide to its broker-dealer members "a fair representation of its members in the selection of its directors and administration of its affairs").

the regulatory functions of TXSE. These proposed provisions are substantially similar to those included in the governing documents of other exchanges that recently have been granted registration.⁹⁷ Specifically:

- the directors, officers, employees, and agents of TXSE Group must give due regard to the preservation of the independence of the self-regulatory function of TXSE and to its obligations to investors and the general public and must not take actions which would interfere with the effectuation of decisions by the Exchange Board relating to its regulatory functions (including disciplinary matters) or which would adversely affect TXSE's ability to carry out its responsibilities under the Act.⁹⁸

- TXSE Group must comply with the federal securities laws and the rules and regulations promulgated thereunder, and must cooperate with the Commission and TXSE, pursuant to, and to the extent of, their respective regulatory authority.⁹⁹ In addition, TXSE Group's officers, directors, employees, and agents must comply with the federal securities laws and the rules and regulations promulgated thereunder and cooperate with the Commission and TXSE pursuant to, and to the extent of, their respective regulatory authority.¹⁰⁰ TXSE Group

must take reasonable steps necessary to cause its agents to so cooperate.¹⁰¹

- TXSE Group, and its officers, directors, employees, and agents must submit to the jurisdiction of the U.S. federal courts, the Commission, and TXSE, for purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws, and the rules and regulations thereunder, arising out of, or relating to, TXSE's activities.¹⁰²

- All books and records of TXSE reflecting confidential information pertaining to the self-regulatory function of TXSE (including but not limited to disciplinary matters, trading data, trading practices, and audit information) must be retained in confidence by TXSE and its personnel, including directors, officers, Board Observers, employees, and agents, and will not be used by TXSE for any non-regulatory purposes and shall not be made available to any person (including, without limitation, any TXSE member) other than to personnel of the Commission, and those personnel of TXSE, members of committees of the Exchange Board, members of the Exchange Board, or hearing officers and other agents of TXSE, to the extent necessary or appropriate to properly discharge the self-regulatory responsibilities of TXSE.¹⁰³ Similar provisions apply to TXSE Group and its directors, officers, employees, and agents.¹⁰⁴

- The books and records of TXSE and TXSE Group must be maintained in the United States¹⁰⁵ and, to the extent they are related to the operation or

administration of TXSE, TXSE Group's books and records will be subject at all times to inspection and copying by the Commission and TXSE.¹⁰⁶

- Furthermore, to the extent they are related to the business of TXSE, the books, records, premises, officers, directors, employees, and agents of TXSE Group will be deemed to be the books, records, premises, officers, directors, employees, and agents of TXSE, for purposes of, and subject to oversight pursuant to, the Act.¹⁰⁷

- TXSE Group will take reasonable steps necessary to cause its officers, directors, employees, and agents, prior to accepting a position as an officer, director, employee or agent (as applicable) with TXSE Group to consent in writing to the applicability of provisions regarding non-interference, confidentiality, books and records, compliance and cooperation, jurisdiction, and regulatory obligations, with respect to their activities related to TXSE.¹⁰⁸

- The TXSE Group Bylaws require that, so long as TXSE Group controls TXSE, any changes to that document must be submitted to the Exchange Board for approval, and, if such change is required to be filed with the Commission pursuant to Section 19(b) of the Act and the rules and regulations thereunder, such change shall not be effective until filed with and effective by operation of law, or filed with, and approved by, the Commission.¹⁰⁹

The provisions discussed in this section, which are designed to help ensure the independence of TXSE's regulatory function and facilitate the ability of TXSE to carry out its regulatory responsibilities under, and operate in a manner consistent with, the Act, are appropriate and consistent with the requirements of the Act, particularly with Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.¹¹⁰

Further, Section 19(h)(1) of the Act¹¹¹ provides the Commission with the authority "to suspend for a period not exceeding twelve months or revoke the registration of [an SRO], or to censure or impose limitations upon the activities, functions, and operations of [an SRO], if [the Commission] finds, on the record after notice and opportunity for hearing,

⁹⁷ See, e.g., GIX Order, *supra* note 50; MX2 Order, *supra* note 50; 24X Order, *supra* note 50; MEMX Order, *supra* note 50; LTSE Order, *supra* note 50; IEX Order, *supra* note 63; and DirectEdge Exchanges Order, *supra* note 76.

⁹⁸ See Second Amended and Restated Bylaws of TXSE Group Inc. ("TXSE Group Bylaws"), Article 12, Section 12.3. Similarly, Article III, Section 1(d) of the TXSE LLC Agreement requires the Exchange Board and each Director, when managing the business and affairs of TXSE, to consider the requirements of Section 6(b) of the Act and requires each Director, officer, or employee of TXSE to comply with the federal securities laws and regulations thereunder and cooperate with the Commission, and TXSE pursuant to its regulatory authority. Article III, Section 1(e) of the TXSE LLC Agreement also requires the Exchange Board, when evaluating any proposal to take into account all factors that the Exchange Board deems relevant, including, without limitation, to the extent deemed relevant: the potential impact on the integrity, continuity and stability of the national securities exchange operated by TXSE and the other operations of TXSE, on the ability to prevent fraudulent and manipulative acts and practices, and on investors and the public, and whether such proposal would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

⁹⁹ See TXSE Group Bylaws, Article 12, Section 12.1.

¹⁰⁰ See TXSE Group Bylaws, Article 12, Section 12.4.

¹⁰¹ See TXSE Group Bylaws, Article 12, Section 12.1.

¹⁰² See TXSE Group Certificate, Article SEVENTEENTH(a).

¹⁰³ See TXSE LLC Agreement, Article X, Section 4. Pursuant to Article I of the TXSE LLC Agreement, "Board Observer" means the representative that certain investors in TXSE Group have the right to designate to attend all meetings of the Exchange Board, and any committee thereof, in a non-voting observer capacity, pursuant to the Stockholders' Agreement.

¹⁰⁴ See TXSE Group Bylaws, Article 11. The TXSE Group Bylaws further provide that all books and records of TXSE reflecting confidential information pertaining to the self-regulatory function of TXSE that come into the possession of TXSE Group, and the information contained in those books and records of TXSE, will be retained in confidence by TXSE and the officers, directors, employees and agents of TXSE Group. See *id.* The TXSE Group and TXSE governing documents acknowledge that requirements to keep such information confidential shall not limit or impede the rights of the Commission to access and examine such confidential information pursuant to the U.S. federal securities laws and the rules and regulations thereunder, or limit the ability of officers, directors, employees, or agents of TXSE or TXSE Group to disclose such information to the Commission or TXSE. See TXSE LLC Agreement, Article X, Section 4 and TXSE Group Bylaws, Article 11.

¹⁰⁵ See TXSE LLC Agreement, Article X, Section 4; and TXSE Group Bylaws, Article 1, Section 1.3.

¹⁰⁶ See TXSE Group Bylaws, Article 11.

¹⁰⁷ See *id.*

¹⁰⁸ See TXSE Group Bylaws, Article 12, Section 12.2; TXSE Group Certificate, Article EIGHTEENTH.

¹⁰⁹ See TXSE Group Bylaws, Article 9, Section 9.2; TXSE Group Certificate, Article FOURTEENTH.

¹¹⁰ 15 U.S.C. 78f(b)(1).

¹¹¹ See 15 U.S.C. 78s(h)(1).

that [the SRO] has violated or is unable to comply with any provision of the Act, the rules or regulations thereunder, or its own rules or without reasonable justification or excuse has failed to enforce compliance . . .” with any such provision by its members (including associated persons thereof). If the Commission were to find, or become aware of, through staff review and inspection or otherwise, facts indicating any violations of the Act, including without limitation Sections 6(b)(1) and 19(g)(1),¹¹² these matters could provide the basis for a disciplinary proceeding under Section 19(h)(1) of the Act.

Even in the absence of the governance provisions described above, under Section 20(a) of the Act,¹¹³ any person with a controlling interest in TXSE would be jointly and severally liable with and to the same extent that TXSE is liable under any provision of the Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Act¹¹⁴ creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Act or rule thereunder. Further, Section 21C of the Act¹¹⁵ authorizes the Commission to enter a cease-and-desist order against any person who has been “a cause of” a violation of any provision of the Act through an act or omission that the person knew or should have known would contribute to the violation. These provisions are applicable to TXSE Group.

3. Regulatory Oversight Committee

The regulatory operations of TXSE will be monitored by the Regulatory Oversight Committee of the Exchange Board. As mentioned above, the Regulatory Oversight Committee will consist only of Independent Directors.¹¹⁶ The Regulatory Oversight Committee will be responsible for overseeing the adequacy and effectiveness of TXSE’s regulatory and SRO responsibilities, assessing TXSE’s regulatory performance, and assisting the Exchange Board (and committees of the Exchange Board) in reviewing TXSE’s regulatory plan and the overall effectiveness of TXSE’s regulatory functions.¹¹⁷

Further, the Chief Regulatory Officer (“CRO”) of TXSE will have general supervision over TXSE’s regulatory operations, including responsibility for overseeing TXSE’s surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another SRO to which TXSE is a party.¹¹⁸ The Regulatory Oversight Committee, in consultation with the CEO of TXSE, will be responsible for establishing the goals, assessing the performance, and fixing the compensation of the CRO and for recommending personnel actions involving the CRO and senior regulatory personnel.¹¹⁹

4. Regulatory Funding and Services

As a prerequisite for the Commission’s granting of an exchange’s application for registration, an exchange must be organized and have the capacity to carry out the purposes of the Act.¹²⁰ Specifically, an exchange must be able to enforce compliance by its members, and persons associated with its members, with the federal securities laws and rules thereunder and the rules of the exchange.¹²¹ The discussion below summarizes how TXSE proposes to conduct and structure its regulatory operations.

a. Regulatory Funding

To help ensure that TXSE has and will continue to have adequate funding to be able to meet its responsibilities under the Act, TXSE states that, if the Commission approves TXSE’s application for registration as a national securities exchange, TXSE Group will allocate sufficient assets to TXSE to enable TXSE’s operation.¹²² Specifically, TXSE represents that TXSE Group will make a cash contribution to TXSE of \$5,000,000, “in addition to any previously-provided in-kind contributions, such as legal, regulatory, and infrastructure-related services.”¹²³ TXSE also represents that such cash and in-kind contributions from TXSE Group will be adequate to operate TXSE,

including the regulation of TXSE,¹²⁴ and that TXSE and TXSE Group will enter into a written agreement that requires TXSE Group to provide adequate funding over time for the TXSE’s operations, including the regulation of TXSE.¹²⁵

Further, any “Regulatory Funds” received by TXSE will not be used for non-regulatory purposes or distributed to TXSE Group, but rather will be applied to fund the regulatory operations of TXSE (including surveillance and enforcement activities), or, as applicable, used to pay restitution and disgorgement to customers.¹²⁶ Any excess non-regulatory funds, as solely determined by TXSE, will be remitted to TXSE Group in accordance with the TXSE LLC Agreement.¹²⁷

b. Regulatory Contract with the Financial Industry Regulatory Authority (“FINRA”)

Although TXSE will be an SRO with all of the attendant regulatory obligations under the Act, it has represented to the Commission that it intends to enter into a regulatory services agreement (“RSA”) with FINRA, under which FINRA as a regulatory services provider will perform certain regulatory functions on TXSE’s behalf.¹²⁸ Specifically, TXSE expects that such services will include performance of investigation, disciplinary, and hearing services.¹²⁹ Notwithstanding the RSA, TXSE will retain legal responsibility for the regulation of its members and its market

¹²⁴ See Form 1, Exhibit I.

¹²⁵ See Form 1, Exhibit I. TXSE represents that this agreement will provide that TXSE receive all fees, including regulatory fees and trading fees, payable by TXSE’s members, as well as any funds received from any applicable market data fees and tape revenue, and will further provide that TXSE Group will reimburse TXSE for its costs and expenses to the extent the TXSE’s assets are insufficient to meet its costs and expenses. See *id.*

¹²⁶ See TXSE LLC Agreement, Article IX, Section 4. Article I of the TXSE LLC Agreement defines “Regulatory Funds” as “fees, fines, or penalties derived from the regulatory operations of [TXSE],” but such term does not include “revenues derived from listing fees, market data revenues, transaction revenues, or any other aspect of the commercial operations of [TXSE], even if a portion of such revenues are used to pay costs associated with the regulatory operations of [TXSE].” This definition is consistent with the rules of other SROs. See, e.g., MIAx Sapphire By-Laws, Article IX, Section 9.4; GIX LLC Agreement, Article XVII, Section 17.04(b); MX2 LLC Agreement, Article XVII, Section 17.4(b); 24X LLC Agreement, Article XI, Section 11.4(b); MEMX LLC Agreement, Article XVII, Section 17.4(b); LTSE Bylaws, Article I(bb); Amended and Restated By-Laws of MIAx Exchange, Article 1(ii); By-Laws of NASDAQ PHLX LLC, Article I(ii); and By-Laws of NASDAQ BX, Inc., Article I(ii).

¹²⁷ See Form 1, Exhibit I.

¹²⁸ See Form 1, Exhibit L. See also TXSE Rule 8.001(d).

¹²⁹ See Form 1, Exhibit L.

¹¹⁸ See TXSE LLC Agreement, Article VI, Section 5.

¹¹⁹ See TXSE LLC Agreement, Article IV, Section 6(a). To the extent that the CEO of TXSE has any indirect supervisory responsibility for the role or function of the CRO, including but not limited to, implementation of the budget for the regulatory function or regulatory personnel matters, the Regulatory Oversight Committee will take all steps reasonably necessary to ensure that the CEO does not compromise the regulatory autonomy and independence of the CRO or the regulatory function. See *id.*

¹²⁰ See 15 U.S.C. 78f(b)(1).

¹²¹ See *id.* See also Section 19(g) of the Act, 15 U.S.C. 78s(g).

¹²² See Form 1, Exhibit I.

¹²³ See Form 1, Exhibit I.

¹¹² 15 U.S.C. 78f(b)(1); 15 U.S.C. 78s(g)(1).

¹¹³ 15 U.S.C. 78t(a).

¹¹⁴ 15 U.S.C. 78t(e).

¹¹⁵ 15 U.S.C. 78u-3.

¹¹⁶ See TXSE LLC Agreement, Article IV, Section 6(a).

¹¹⁷ See *id.*

and the performance of FINRA as its regulatory services provider. Because TXSE anticipates entering into an RSA with FINRA, it has not made provisions to fulfill the regulatory services that will be undertaken by FINRA. Accordingly, the Commission is conditioning the operation of TXSE on a final RSA that specifies the services that will be provided to TXSE.

It is consistent with the Act for TXSE to contract with FINRA to perform certain examination, enforcement, and disciplinary functions.¹³⁰ These functions are fundamental elements of a regulatory program and constitute core self-regulatory functions. FINRA has the expertise and experience to perform these functions for TXSE.¹³¹ However, TXSE, unless relieved by the Commission of its responsibility, bears the self-regulatory responsibilities and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on TXSE's behalf.¹³² In performing these regulatory functions, however, FINRA may nonetheless bear liability for causing or aiding and abetting the failure of TXSE to perform its regulatory functions.¹³³ Accordingly, although FINRA will not act on its own behalf under its SRO responsibilities in carrying out these regulatory services for TXSE, FINRA may have secondary liability if, for example, the Commission finds that the contracted functions are being performed so inadequately as to cause a violation of the federal securities laws or rules thereunder by TXSE.¹³⁴

¹³⁰ For example, GIX, MX2, 24X, MEMX, LTSE, IEX, MIA Exchange, MIA PEARL, LLC, Nasdaq MRX, LLC, Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc. ("Cboe EDGX"), and Cboe BZX Exchange, Inc. ("Cboe BZX") have entered into RSAs with FINRA.

¹³¹ See, e.g., GIX Order, *supra* note 50; MX2 Order, *supra* note 50; 24X Order, *supra* note 50; MEMX Order, *supra* note 50; LTSE Order, *supra* note 50; Nasdaq Order, *supra* note 50; IEX Order, *supra* note 63; and DirectEdge Exchanges Order, *supra* note 76. The Commission is not approving the RSA or any of its specific terms.

¹³² See 15 U.S.C. 78s(g)(1).

¹³³ For example, if failings by FINRA have the effect of leaving TXSE in violation of any aspect of TXSE's self-regulatory obligations, TXSE would bear direct liability for the violation, while FINRA may bear liability for causing or aiding and abetting the violation. See, e.g., GIX Order, *supra* note 50; MX2 Order, *supra* note 50; 24X Order, *supra* note 50; MEMX Order, *supra* note 50; LTSE Order, *supra* note 50; Nasdaq Order, *supra* note 50; BATS Order, *supra* note 50; IEX Order, *supra* note 63; and DirectEdge Exchanges Order, *supra* note 76.

¹³⁴ See, e.g., GIX Order, *supra* note 50; MX2 Order, *supra* note 50; 24X Order, *supra* note 50; MEMX Order, *supra* note 50; LTSE Order, *supra* note 50; Nasdaq Order, *supra* note 50; and IEX Order, *supra* note 63.

c. Rule 17d-2 Agreements

Section 19(g)(1) of the Act,¹³⁵ among other things, requires every SRO registered as either a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members.¹³⁶ Rule 17d-2 of the Act permits SROs to propose joint plans to allocate regulatory responsibilities amongst themselves for their common rules with respect to their common members.¹³⁷ These agreements, which must be filed with and declared effective by the Commission, generally cover areas where each SRO's rules substantively overlap, including such regulatory functions as personnel registration and sales practices. For example, the Commission recently declared effective a plan to allocate regulatory responsibilities between FINRA and MEMX pursuant to which FINRA assumes examination and enforcement responsibility for broker-dealers that are members of both FINRA and MEMX with respect to the rules of MEMX that are substantially similar to the applicable rules of FINRA, as well as certain specified provisions of the federal securities laws.¹³⁸

¹³⁵ 15 U.S.C. 78s(g)(1).

¹³⁶ 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

¹³⁷ See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d-2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO ("common members"). Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

¹³⁸ See Securities Exchange Act Release No. 96101 (Oct. 18, 2022), 87 FR 64280 (Oct. 24, 2022) (File No. 4-762). See also, e.g., Securities Exchange Act Release Nos. 103497 (July 18, 2025) 90 FR 34696 (July 23, 2025) (FINRA/GIX); 103130 (May 27, 2025), 90 FR 23389 (June 2, 2025) (FINRA/24X); 86587 (Aug. 7, 2019), 84 FR 39883 (Aug. 12, 2019) (File No. 4-747) (FINRA/LTSE); 83696 (July 24, 2018), 83 FR 35682 (July 27, 2018) (File No. 4-678) (FINRA/MIA Exchange/MIA PEARL); 77321 (Mar. 8, 2016), 81 FR 13434 (Mar. 14, 2016) (File No. 4-697) (FINRA/ISE Mercury, LLC); 73641 (Nov. 19, 2014), 79 FR 70230 (Nov. 25, 2014) (File No. 4-678) (FINRA/MIA Exchange); 70053 (July 26, 2013), 78 FR 46656 (Aug. 1, 2013) (File No. 4-663) (FINRA/Topaz Exchange n/k/a ISE Gemini, LLC); 59218 (Jan. 8, 2009), 74 FR 2143 (Jan. 14, 2009) (File No. 4-575) (FINRA/Boston Stock Exchange, Inc. ("BSE")); 58818 (Oct. 20, 2008), 73 FR 63752 (Oct. 27, 2008) (File No. 4-569) (FINRA/BATS Exchange, Inc.); 55755 (May 14, 2007), 72 FR 28087 (May 18, 2007) (File No. 4-536) (National Association of Securities Dealers, Inc. ("NASD") n/k/a FINRA/Chicago Board of Options Exchange, Inc.

A Rule 17d-2 plan that is declared effective by the Commission relieves the specified SRO of those regulatory responsibilities allocated by the plan to another SRO.¹³⁹ TXSE has represented to the Commission that it will join all applicable plans, including Rule 17d-2 plans for the allocation of regulatory responsibilities.¹⁴⁰ Similar to other exchanges, the Commission understands from TXSE that it will enter into a bilateral Rule 17d-2 agreement covering common members of TXSE and FINRA. This agreement will allocate to FINRA regulatory responsibility, with respect to common members, for specified regulatory and enforcement matters arising out of specified common rules and specified provisions of the Act and the rules and regulations thereunder. In addition, the Commission is conditioning operation of TXSE as an exchange on TXSE first joining the applicable multilateral Rule 17d-2 plans, including the multi-party Rule 17d-2 plan for the allocation of regulatory responsibilities with respect to certain Regulation NMS and Consolidated Audit Trail rules and the multi-party Rule 17d-2 plan for the surveillance, investigation, and enforcement of common insider trading rules.¹⁴¹

Because TXSE anticipates entering into these Rule 17d-2 agreements, it has not made provision to fulfill the regulatory obligations that will be undertaken by FINRA and other SROs under these agreements with respect to common members.¹⁴² Accordingly, the Commission is conditioning the operation of TXSE on approval by the Commission of a Rule 17d-2 agreement that allocates the above specified matters to FINRA, and the approval of an amendment to the existing multi-party Rule 17d-2 plans specified above to add TXSE as a party.

concerning the CBOE Stock Exchange, LLC); 55367 (Feb. 27, 2007), 72 FR 9983 (Mar. 6, 2007) (File No. 4-529) (NASD/International Securities Exchange, LLC); and 54136 (July 12, 2006), 71 FR 40759 (July 18, 2006) (File No. 4-517) (NASD/Nasdaq).

¹³⁹ See Securities Exchange Act Release No. 12935 (Oct. 28, 1976), 41 FR 49091 (Nov. 8, 1977) (Rule 17d-2 Adopting Release).

¹⁴⁰ See Form 1, Exhibit E.

¹⁴¹ See Securities Exchange Act Release Nos. 63430 (Dec. 3, 2010), 75 FR 76758 (Dec. 9, 2010) (File No. 4-618) (order approving and declaring effective a multiparty 17d-2 plan concerning covered Regulation NMS and Consolidated Audit Trail rules); 58526 (Sept. 12, 2008), 73 FR 54646 (Sept. 22, 2008) (File No. 4-566) (order approving and declaring effective a multiparty 17d-2 plan for insider trading rules).

¹⁴² For common members, the regulatory obligations will be covered by the Rule 17d-2 agreements, and for TXSE members that are not also members of FINRA, the regulatory obligations will be covered by the RSA.

C. TXSE Trading System

TXSE will operate a fully automated electronic order book and will not maintain or operate a physical trading floor. Only Members of TXSE and entities that enter into market access arrangements with members (collectively, “Users”¹⁴³) will have access to the TXSE system.¹⁴⁴ Users will be able to electronically submit orders to buy or sell securities traded on the Exchange through a variety of systems.¹⁴⁵ TXSE will allow firms to register as market makers with affirmative and negative market making obligations.¹⁴⁶

Users may submit orders to the Exchange as Limit Orders (including Market Maker Peg Orders), Market Orders, or Pegged Orders.¹⁴⁷ Orders must be submitted with one of the following time-in-force instructions, as applicable: Immediate-or-Cancel; System; Day; or Regular Hours Only.¹⁴⁸ In addition to these time-in-force instructions, Limit Orders and Pegged Orders may also be submitted with a Good ‘til Time instruction.¹⁴⁹ Users may submit Limit Orders with the display instructions of Displayed or Non-Displayed.¹⁵⁰ A Limit Order with a Displayed instruction also may include a Reserve Quantity.¹⁵¹ Displayed orders will be displayed on an anonymous basis at a specified price.¹⁵² Limit Orders may also include a Display-Price Sliding instruction so orders can be automatically re-priced to comply with Rule 610 of Regulation NMS or Rule 201 of Regulation SHO.¹⁵³ Users may also submit Market Maker Peg Orders, which track the national best bid or national best offer within a designated percentage to comply with market

maker quotation requirements.¹⁵⁴ Orders may be entered as a Round Lot, Odd Lot, or Mixed Lot.¹⁵⁵ In addition, a User may attach a Minimum Execution Quantity instruction to a Limit Order with a time-in-force of Immediate-or-Cancel or a Market Order with a time-in-force of Immediate-or-Cancel.¹⁵⁶ Limit Orders may also be designated as Intermarket Sweep or Post Only.¹⁵⁷ All orders will be designated as Book Only.¹⁵⁸ TXSE’s proposed order types and instructions are similar to order types and instructions approved by the Commission and currently available on other national securities exchanges.¹⁵⁹

TXSE will offer a Random Replenishment instruction in connection with a Limit Order submitted with a Reserve Quantity instruction.¹⁶⁰ In addition to randomizing the size of the refreshed displayed portion, this instruction will allow the User to elect to have the TXSE system randomly replenish the displayed replenishment quantity at different time intervals ranging up to one millisecond following each execution that triggers replenishment.¹⁶¹

The TXSE system will continuously and automatically match orders pursuant to price/time priority. The highest-priced order to buy (lowest-priced order to sell) will have priority over all other orders to buy (sell) in all cases. For equally-priced trading interest in time priority, TXSE will give first priority to the portion of a Limit Order with a displayed instruction (including a Market Maker Peg Order), second priority to Limit Orders with a non-displayed instruction (including the Reserve Quantity of Limit Orders), and third to Orders with a Peg instruction (*i.e.*, Primary Peg Order, Midpoint Peg Order, Market Peg Order).¹⁶² With respect to the price of executions that would occur on TXSE, the TXSE system is designed to comply with the order protection requirements

of Rule 611 of Regulation NMS¹⁶³ by requiring that, for any execution to occur on TXSE during regular trading hours, the price must be equal to, or better than, the Protected NBBO, unless an exception to Rule 611 applies.¹⁶⁴ Orders may be executed on the Exchange during the Regular Market Session or during Pre- and Post-Market Sessions;¹⁶⁵ however, some order types and functionality are available only during the Regular Market Session.¹⁶⁶

In addition, TXSE’s rules are designed to address locked and crossed markets, as required by Rule 610(e) of Regulation NMS,¹⁶⁷ in that they are designed not to disseminate interest that would lock or cross a protected quote, to require Users to reasonably avoid displaying interest that locks or crosses any protected quotation, and are reasonably designed to assure the reconciliation of locked or crossed interest.¹⁶⁸

Initially, TXSE will not offer any outbound routing functionality;¹⁶⁹ thus, as noted above, all orders submitted to TXSE will be treated as Book Only,¹⁷⁰ though Limit Orders may also include the execution instructions of Intermarket Sweep Order, if appropriate.¹⁷¹

The Commission finds that TXSE’s trading rules are consistent with the Act and, in particular, the Section 6(b)(5) requirement that an exchange’s rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and protect investors and the public interest.¹⁷²

As a national securities exchange, TXSE will be a trading center whose quotations can be “automated

¹⁴³ See TXSE Rule 1.005(jj).

¹⁴⁴ To obtain authorized access to the TXSE system, each User must enter into a User Agreement with TXSE. See TXSE Rule 11.003(a).

¹⁴⁵ For a discussion of the means of access to TXSE, see Form 1, Exhibit E–1.

¹⁴⁶ See TXSE Rules 11.015 through 11.018. TXSE’s rules relating to market makers are similar to the rules of other national securities exchanges. See, e.g., MEMX Rules 11.17 through 11.20 and Cboe EDGX Rules 11.17 through 11.20.

¹⁴⁷ See TXSE Rule 11.007. Limit Orders may be designated as Intermarket Sweep Orders. See TXSE Rule 11.007(b)(5). Pegged Orders may be designated as either a Primary Peg, a Midpoint Peg, or a Market Peg. See TXSE Rule 11.007(c). Market Maker Peg Orders are a type of limit order. See TXSE Rule 11.007(e).

¹⁴⁸ See TXSE Rule 11.007(a)(1), (b)(1), and (c)(1).

¹⁴⁹ See TXSE Rule 11.007(b)(1) and (c)(1).

¹⁵⁰ See TXSE Rule 11.007(b)(3). Market Orders and Pegged Orders are not eligible for display. See TXSE Rules 11.007(a)(3) and 11.007(c)(3).

¹⁵¹ See TXSE Rule 11.007(b)(4).

¹⁵² See TXSE Rule 11.009(b).

¹⁵³ See TXSE Rule 11.006(j).

¹⁵⁴ See TXSE Rule 11.007(e). Market Maker Peg Orders are always displayed. See *id.*

¹⁵⁵ See Form 1, Exhibit E, and TXSE Rule 11.006(q) and 11.007(a) through (c).

¹⁵⁶ See TXSE Rules 11.007(a)(2), (b)(2), and (c)(2).

¹⁵⁷ See TXSE Rule 11.007(b)(5).

¹⁵⁸ See TXSE Rule 11.007.

¹⁵⁹ See, e.g., MEMX Rules 11.6 and 11.8; LTSE 11.190(a); and Cboe EDGX Rules 11.6 and 11.8.

¹⁶⁰ See TXSE Rule 11.006(k)(1).

¹⁶¹ See TXSE Rule 11.006(k)(1)(A).

¹⁶² See TXSE Rule 11.008. See also Form 1, Exhibit E–1. Orders in each category (*i.e.*, Limit Orders with a displayed instruction, Limit Orders with a non-displayed instruction, and Orders with a Pegged Instruction) will generally be ranked in priority based on the time such orders were initially received by the System.

¹⁶³ 17 CFR 242.611.

¹⁶⁴ See TXSE Rules 1.005(x) (defining “Protected NBBO”) and 11.009(a)(2).

¹⁶⁵ TXSE’s Regular Trading Hours will be from 9:30am ET to 4pm ET, its Pre-Market Session will run from 8am ET to 9:30am ET, and its Post-Market Session will run from 4pm ET to 5pm ET. See TXSE Rules 1.005(z), (v) and (u).

¹⁶⁶ See TXSE Rule 11.007(a) through (c), (e).

¹⁶⁷ 17 CFR 242.610(e).

¹⁶⁸ See TXSE Rule 11.009(f). See also TXSE Rule 11.006(a) (allowing Users to attach a Cancel Back instruction to immediately cancel an order when, if displayed, it would create a violation of Rule 610(d) of Regulation NMS, 17 CFR 242.610(d)), and TXSE Rules 11.006(j) and 11.007(b)(8) (relating to price sliding functionality to avoid violations of Rule 610(e) of Regulation NMS, 17 CFR 242.610(e)).

¹⁶⁹ See Form 1, Exhibit E, Section 2(b).

¹⁷⁰ See TXSE Rule 11.007.

¹⁷¹ See TXSE Rule 11.007(b)(5).

¹⁷² See 15 U.S.C. 78f(b)(5). TXSE’s trading rules, including its rules relating to market makers, order types and instructions, execution, and opening processes, are similar to existing exchanges’ trading rules. See, e.g., Chapter XI of the MEMX rulebook and Chapter XI of the Cboe BZX rulebook.

quotations” under Rule 600(b)(6).¹⁷³ TXSE has designed itself to qualify by being an “automated trading center” under Rule 600(b)(7) whose best-priced, displayed quotation will be a “protected quotation” under Rules 600(b)(81) and 600(b)(82), and for purposes of Rule 611.¹⁷⁴

To meet their regulatory responsibilities under Rule 611(a) of Regulation NMS, other trading centers will be required to have sufficient notice of new protected quotations, as well as all necessary information and technical specifications.¹⁷⁵ It would be a reasonable policy and procedure under Rule 611(a) to require that industry participants begin treating TXSE’s best bid and best offer as a protected quotation as soon as possible but no later than 90 days after the date of this order, or such later date as TXSE begins operation as a national securities exchange. The Commission has taken the same position with other new equities exchanges.¹⁷⁶

D. Discipline and Oversight of Members

As stated above, one prerequisite for the Commission’s grant of an exchange’s application for registration is that a proposed exchange must be so organized and have the capacity to be able to carry out the purposes of the Act.¹⁷⁷ Specifically, an exchange must be able to enforce compliance by its members and persons associated with its members with the federal securities laws and rules thereunder and the rules of the exchange.¹⁷⁸ As also stated above, pursuant to an RSA with FINRA, FINRA will perform many of the initial disciplinary processes on behalf of TXSE.¹⁷⁹ For example, FINRA will investigate potential securities laws violations, issue complaints, and conduct hearings pursuant to TXSE rules. Appeals from disciplinary decisions will be heard by the TXSE Appeals Committee,¹⁸⁰ and the TXSE

Appeals Committee’s decision shall be final unless the Exchange Board on its own initiative orders review of a disciplinary decision.¹⁸¹

TXSE’s rules provide that the Exchange has disciplinary jurisdiction over its Members so that it can enforce its Members’ compliance with its rules and the federal securities laws and rules.¹⁸² The Exchange’s rules also permit TXSE to sanction Members for violations of its rules and violations of the federal securities laws and rules by, among other things, expelling or suspending Members, limiting Members’ activities, functions, or operations, fining or censuring Members, or suspending or barring a person from being associated with a Member, or any other fitting sanction.¹⁸³ TXSE’s rules also provide for the imposition of fines for certain minor rule violations in lieu of commencing disciplinary proceedings.¹⁸⁴

Accordingly, as a condition to the operation of TXSE, a Minor Rule Violation Plan (“MRVP”) filed by TXSE under Act Rule 19d–1(c)(2) must be declared effective by the Commission.¹⁸⁵

The Commission finds that TXSE’s rules concerning its disciplinary and oversight programs are consistent with the requirements of Sections 6(b)(6) and 6(b)(7) of the Act¹⁸⁶ in that they provide fair procedures for the disciplining of members and persons associated with members. The Commission further finds that the rules of TXSE provide it with the ability to comply, and with the ability to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of TXSE.¹⁸⁷

E. Listing and Trading Securities on TXSE¹⁸⁸

1. Registration Under Section 12(b) of the Act

Once TXSE begins operations as a national securities exchange, a security

will be considered for listing on TXSE only if such security is registered pursuant to Section 12(b) of the Act¹⁸⁹ or such security is subject to an exemption.¹⁹⁰ An issuer may register a security pursuant to Section 12(b) by submitting to TXSE a listing application that provides certain required information.¹⁹¹ The Exchange will review the listing application and, if the listing application is approved, will certify to the Commission that it has approved the security for listing and registration.¹⁹² Registration of the security will become effective thirty days after the receipt of such certification by the Commission or within a shorter period of time as the Commission may determine.¹⁹³ Once registration is effective the security is eligible for listing on TXSE.¹⁹⁴

2. Initial and Continuing Listing Standards

TXSE’s proposed initial and continuing listing standards for securities to be listed and traded on the Exchange are substantially similar to the current rules for the Nasdaq Global Select Market of Nasdaq, NYSE, or IEX.¹⁹⁵ The Commission has previously found that the initial and continuing listing standards of Nasdaq, NYSE, and IEX are consistent with the Act.¹⁹⁶

¹⁸⁹ 15 U.S.C. 78l(b).

¹⁹⁰ 15 U.S.C. 78l(c); TXSE Rule 16.203.

¹⁹¹ 15 U.S.C. 78l(b); TXSE Rule 16.202. Prior to submitting a listing application to TXSE, the issuer would be required to participate in a free confidential pre-application eligibility review, in which the TXSE Exchange will determine whether the issuer meets its listing criteria and is eligible to submit a listing application. *See* TXSE Rule 16.201.

¹⁹² *See* TXSE Rule 16.203(f); 15 U.S.C. 78l(d).

¹⁹³ 15 U.S.C. 78l(d).

¹⁹⁴ *See* TXSE Rule 14.203(f); 15 U.S.C. 78l(d).

¹⁹⁵ *See* Nasdaq Rule 5000 series; NYSE Listed Company Manual; IEX Chapters 14 and 16; TXSE Rule Chapters 16 and 17. In addition, TXSE proposed a Confidential Pre-Application Review of Eligibility for its proposed listing standards, which is based on the equivalent rules of IEX and the New York Stock Exchange LLC (“NYSE”). *See* TXSE Rule 16.201; *see also* IEX Rule 14.201 and NYSE Listed Company Manual Sections 101 and 104 (providing for a free confidential review of the eligibility for listing of any company that requests such a review and provides the necessary documents).

¹⁹⁶ *See* Securities Exchange Act Release No. 53128 (Jan. 13, 2006), 71 FR 3550 (Jan. 23, 2006) (File No. 10–131) (approving the application of Nasdaq to become a registered national securities exchange); IEX Order, *supra* note 63; NYSE Listed Company Manual Sections 1, 7, and 8. *See also* Securities Exchange Act Release Nos. 66648 (Mar. 23, 2012), 77 FR 19428 (Mar. 30, 2012) (SR–NASDAQ–2012–013) (approving the adoption of listing rules relating to certain derivative securities products); 48745 (Nov. 4, 2003), 68 FR 64154 (Nov. 12, 2003) (SR–NYSE–2002–33, SR–NASDAQ–2002–77, SR–NASDAQ–2002–80, SR–NASDAQ–2002–138, SR–NASDAQ–2002–139, and SR–NASDAQ–2002–141) (order approving rules relating to corporate governance of listed companies, including rules relating to the

¹⁷³ *See* TXSE Rule 11.009(b).

¹⁷⁴ *See* 17 CFR 242.600(b)(81) through (82) and 17 CFR 242.611.

¹⁷⁵ *See* Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038, 30041 (May 24, 2006) (File No. S7–10–04) (extending the compliance dates for Rule 610 and Rule 611 of Regulation NMS under the Act).

¹⁷⁶ *See, e.g.*, GIX Order, *supra* note 50, at 16216; MX2 Order, *supra* note 50, at 12600; MEMX Order, *supra* note 50, at 27461; BATS Order, *supra* note 50, at 49505; and DirectEdge Exchanges Order, *supra* note 76, at 13163.

¹⁷⁷ *See* 15 U.S.C. 78f(b)(1).

¹⁷⁸ *See id.*

¹⁷⁹ *See supra* notes 128–129 and accompanying text. *See also* TXSE Rule 8.001(d) (stating that TXSE and FINRA are parties to a regulatory services agreement, pursuant to which FINRA will perform certain functions described in Chapter 8 on behalf of TXSE).

¹⁸⁰ *See* TXSE Rule 8.010(b).

¹⁸¹ *See* TXSE Rule 8.010(b) and (c).

¹⁸² *See generally* TXSE Rule Chapters 7 and 8.

¹⁸³ *See* TXSE Rule 8.001(a).

¹⁸⁴ *See* TXSE Rule 8.015.

¹⁸⁵ 17 CFR 240.19d–1(c)(2).

¹⁸⁶ 15 U.S.C. 78f(b)(6) and (b)(7).

¹⁸⁷ *See* 15 U.S.C. 78f(b)(1).

¹⁸⁸ While commenters were generally supportive of TXSE’s proposal to establish a listing market (*see, e.g.*, TBA Letter; BDA Letter at 1; Fortress Letter at 1; Committee on Capital Markets Letter at 1–2), some commenters were specifically supportive of TXSE’s proposed listing standards (*see, e.g.*, Letter from Cromwell Coulson, President and CEO, OTC Markets Group Inc., dated July 29, 2025 at 1; ASA Letter), or were specifically supportive of TXSE expanding the market for exchange-traded products (*see, e.g.*, Pate Letter at 2; Gramm Letter at 2).

TXSE's proposed initial and continuing listing standards are consistent with the requirements of the Act. With respect to the standards relating to the listing and delisting of companies, including procedures and prerequisites for initial and continued listing on TXSE, obligations of security issuers listed on TXSE, as well as rules describing the application and qualification process,¹⁹⁷ TXSE's proposed listing rules for securities are substantially similar to those of Nasdaq, NYSE or IEX. TXSE Rule 16.201, which is substantially similar to the analogous rules of IEX and NYSE,¹⁹⁸ requires a company seeking the initial listing of one or more classes of securities on TXSE to participate in a free confidential pre-application eligibility review to determine whether the company meets the TXSE's listing criteria and, if, upon completion of this review, TXSE determines that a company is eligible for listing, TXSE will notify that company in writing that it has been cleared to submit an original listing application. In addition, with respect to the standards relating to other securities, including securities of exchange-traded funds and other exchange-traded derivative securities products, TXSE's proposed listing rules are substantially similar to those of Nasdaq.¹⁹⁹

3. Corporate Governance Standards

TXSE's proposed corporate governance standards in connection with securities to be listed and traded on the Exchange are substantially similar to the current rules of Nasdaq and NYSE.²⁰⁰ The Commission has

internal audit function) ("NYSE Listing Rules Order"); 51813 (June 9, 2005), 70 FR 35484 (SR-NYSE-2004-20) (order approving amendments to NYSE's original and continued listing standards).

¹⁹⁷ See TXSE Rules Chapter 16. The requirements relating to the listing of companies are substantially similar to those of Nasdaq or NYSE. See Nasdaq Rule 5000 series; NYSE Listed Company Manual Sections 1, 7, and 8. TXSE's general procedures and prerequisites for initial and continued listing are substantially similar to those of Nasdaq, while the initial and continued listing requirements (including numerical standards) are substantially similar to those of NYSE. See *id.* TXSE's rules governing the process for delisting are substantially similar to those of IEX. See TXSE Rule 16.500 *et seq.*; IEX Rule 14.500 *et seq.*

¹⁹⁸ See *supra* note 196 (referencing TXSE Rule 16.201, IEX Rule 14.201, and NYSE Listed Company Manual Sections 101 and 104).

¹⁹⁹ See TXSE Rules Chapter 17; see also the Nasdaq Rule 5000 series.

²⁰⁰ See Nasdaq Rule 5600 *et seq.*; NYSE Listed Company Manual Section 303A *et seq.* TXSE Rule 16.414 requiring listed companies to maintain an internal audit function is substantially similar to IEX Rule 14.414 and NYSE Listed Company Manual Section 303A.07(c) (each requiring listed companies to maintain an internal audit function to provide management and the audit committee with ongoing assessments of the listed company's risk

previously found that the corporate governance standards for listed issuers of Nasdaq, NYSE, and IEX are consistent with the Act.²⁰¹ The Commission finds that TXSE's proposed corporate governance listing standards for listed issuers contained in TXSE's proposed rules are consistent with Section 6(b)(5) of the Act and satisfy the requirements of Section 10A(m) of the Act and Rule 10A-3 thereunder.²⁰² TXSE's corporate governance standards for listed issuers are designed to promote independent and objective review and oversight of the accounting and auditing practices of listed issuers and to enhance audit committee independence, authority, and responsibility by implementing the standards set forth in Rule 10A-3.

4. Trading Pursuant to Unlisted Trading Privileges

TXSE proposes to trade securities pursuant to unlisted trading privileges ("UTP"). TXSE Rule 14.001 establishes the Exchange's authority to trade securities on a UTP basis. TXSE Rule 14.001(a) provides that TXSE may extend UTP to any security that is an NMS stock that is listed on another national securities exchange or with respect to which UTP may otherwise be extended in accordance with Section 12(f) of the Act.²⁰³ That rule further provides that any such security would be subject to all TXSE rules applicable to trading on TXSE, unless otherwise noted.

TXSE Rule 14.001(b) establishes additional rules for trading of UTP Exchange Traded Products, which are defined in TXSE Rule 1.005(II). TXSE Rule 14.001(b)(1) provides that TXSE will distribute an information circular prior to the commencement of trading in a UTP Exchange Traded Product that generally would include the same information as the information circular provided by the listing exchange, including (a) the special risks of trading the Exchange Traded Product, (b) the Exchange's rules that would apply to the Exchange Traded Product; (c) information about the dissemination of value of the underlying assets or

management processes and system of internal control). TXSE Rule 16.407 providing exemptions from certain governance requirements is substantially similar to Nasdaq Rule 5615 and IEX Rule 14.407.

²⁰¹ See *supra* note 196. TXSE proposed to adopt a requirement for listed issuers to have an internal audit function that is substantially similar to IEX's and NYSE's. See *supra* note 200 (referencing NYSE Listed Company Manual Section 303A.07(c); IEX Rule 14.414; TXSE Rule 16.414. See also NYSE Listing Rules Order, *supra* note 196; IEX Order, *supra* note 63.

²⁰² See 15 U.S.C. 78f(b)(5); 15 U.S.C. 78j-1(m); 17 CFR 240.10A-3.

²⁰³ 15 U.S.C. 78l(f).

indices; and (d) the applicable trading hours for UTP Exchange Traded Products and risks of trading in the Pre-Market and Post-Market Sessions due to the lack of calculation or dissemination of the underlying index value, the intraday indicative value or a similar value. TXSE Rule 14.001(b)(2) establishes certain requirements for members that have customers that trade UTP Exchange Traded Products.²⁰⁴ TXSE Rule 14.001(b)(4) also establishes certain requirements for any member registered as a market maker in a UTP Exchange Traded Product that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index composed of currencies or commodities.²⁰⁵ TXSE Rule 14.001(b)(6) provides that the Exchange will enter into comprehensive surveillance sharing agreements with markets that trade components of the index or portfolio on which the UTP Exchange Traded Product is based to the same extent as the listing exchange's rules require the listing exchange to enter into comprehensive surveillance sharing agreements with such markets.

The Commission finds that the Exchange's proposed approach to the trading of securities on a UTP basis, as set forth in TXSE Rule 14.001, is consistent with Section 12(f) of the Act and Rule 12f-5 thereunder.²⁰⁶ Rule 12f-5 under the Act requires an exchange that extends unlisted trading privileges to securities to have in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.²⁰⁷ TXSE Rule 14.001 includes a provision that any security traded UTP on the Exchange "shall be

²⁰⁴ TXSE Rule 14.001(b)(2)(A) states that TXSE Rule 14.001(b)(2) applies to UTP Exchange Traded Products that are the subject of an order by the Commission exempting the series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940, and are not otherwise subject to prospectus delivery requirement under the Securities Act of 1933. TXSE Rule 14.001(b)(2)(B) requires members to provide a written description of the terms and characteristics of UTP Exchange Traded Products to purchasers of such securities, not later than the time of confirmation of the first transaction, and with any sales materials relating to UTP Exchange Traded Products. TXSE Rule 14.001(b)(2)(C) requires members to provide a prospectus to a customer requesting a prospectus.

²⁰⁵ TXSE Rule 14.001(b)(5) provides that Market Makers in a UTP Exchange Traded Product that is a Commodity-Related Security shall comply with TXSE Rule 17.127.

²⁰⁶ 15 U.S.C. 78l(f); 17 CFR 240.12f-5.

²⁰⁷ See 17 CFR 240.12f-5. See also Securities Exchange Act Release No. 35737 (Apr. 21, 1995), 60 FR 20891 (Apr. 28, 1995) (File No. S7-4-95) (adopting Rule 12f-5 under the Act).

subject to all Exchange rules applicable to trading on the Exchange, unless otherwise noted.” The provisions in TXSE Rule 14.001 are substantively the same as the existing rules of other national securities exchanges.²⁰⁸ Accordingly, pursuant to Section 12(f) of the Act and Rule 12f-5 thereunder, TXSE will be permitted to extend unlisted trading privileges to securities of the same class, subject to the trading rules of the Exchange.

F. Section 11(a) of the Act

Section 11(a)(1) of the Act²⁰⁹ prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, “covered accounts”), unless an exception applies. Rule 11a2-2(T) under the Act,²¹⁰ known as the “effect versus execute” rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2-2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2-2(T)’s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;²¹¹ (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the rule.

In a letter to the Commission, TXSE requested that the Commission concur with TXSE’s conclusion that Exchange Members that enter orders into the TXSE trading system satisfy the conditions of Rule 11a2-2(T).²¹² For the reasons set forth below, Exchange

Members entering orders into the TXSE trading system could satisfy the conditions of Rule 11a2-2(T).

First, Rule 11a2-2(T) requires that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission condition is met if a covered account order is transmitted from a remote location directly to an exchange’s floor by electronic means.²¹³ TXSE has represented that it does not have a physical trading floor, and the TXSE trading system will receive orders from Exchange Members electronically through remote terminals or computer-to-computer interfaces.²¹⁴ The TXSE trading system satisfies this off-floor transmission condition.

Second, Rule 11a2-2(T) requires that the member and any associated person not participate in the execution of its order after the order has been transmitted. TXSE represented that at no time following the submission of an order is an Exchange Member or an associated person of the Exchange Member able to acquire control or influence over the result or timing of the order’s execution.²¹⁵ According to TXSE, the execution of an Exchange Member’s order is determined solely by what quotes and orders are present in the system at the time the Exchange Member submits the order, and the order priority based on the TXSE rules.²¹⁶ Accordingly, an Exchange Member and its associated persons do not participate in the execution of an

order submitted to the TXSE trading system.²¹⁷

Third, Rule 11a2-2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this condition is satisfied when automated exchange facilities, such as the TXSE trading system, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.²¹⁸ TXSE has represented that the design of the TXSE trading system ensures that no Exchange Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to TXSE.²¹⁹ Based on TXSE’s representation, the TXSE trading system satisfies this condition.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2-2(T) thereunder.²²⁰ TXSE

²¹⁷ See, e.g., BATS Order, *supra* note 50, at 49505; and DirectEdge Exchanges Order, *supra* note 76, at 13164.

²¹⁸ See, e.g., BATS Order, *supra* note 50, at 49505; and DirectEdge Exchanges Order, *supra* note 76, at 13164. In considering the operation of automated execution systems operated by an exchange, the Commission stated that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution condition of Rule 11a2-2(T). See 1979 Release, *supra* note 213.

²¹⁹ See TXSE 11(a) Letter, *supra* note 212, at 4.

²²⁰ See, e.g., BATS Order, *supra* note 50, at 49505; and DirectEdge Exchanges Order, *supra* note 76, at 13164. In addition, Rule 11a2-2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. See 17 CFR 240.11a2-2(T)(d). See also 1978 Release, *supra* note 211 (stating “[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related

²⁰⁸ See, e.g., LTSE Rule 14.350 and MEMX Rule 14.1.

²⁰⁹ 15 U.S.C. 78k(a)(1).

²¹⁰ 17 CFR 240.11a2-2(T).

²¹¹ This prohibition also applies to associated persons. See 15 U.S.C. 78f(b)(8). The member may, however, participate in clearing and settling the transaction. See Securities Exchange Act Release No. 14563 (Mar. 14, 1978), 43 FR 11542 (Mar. 17, 1978) (regarding the NYSE’s Designated Order Turnaround System) (“1978 Release”).

²¹² See letter from Jeff Brown, Chief Legal Officer and General Counsel, TXSE, dated Sept. 5, 2025 (“TXSE 11(a) Letter”).

²¹³ See, e.g., Nasdaq Order, *supra* note 50; Securities Exchange Act Release Nos. 61419 (Jan. 26, 2010), 75 FR 5157 (Feb. 1, 2010) (SR-BATS-2009-031) (approving BATS options trading); 59154 (Dec. 23, 2008), 73 FR 80468 (Dec. 31, 2008) (SR-BSE-2008-48) (approving equity securities listing and trading on BSE); 57478 (Mar. 12, 2008), 73 FR 14521 (Mar. 18, 2008) (SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080) (approving Nasdaq Options Market options trading); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR-NYSE-90-52 and SR-NYSE-90-53) (approving NYSE’s Off-Hours Trading Facility); and 15533 (Jan. 29, 1979), 44 FR 6084 (Jan. 31, 1979) (“1979 Release”).

²¹⁴ See TXSE 11(a) Letter, *supra* note 212, at 3.

²¹⁵ See *id.* The Commission has stated that the non-participation condition is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. See 1978 Release, *supra* note 211 (stating that the “non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor”).

²¹⁶ See TXSE 11(a) Letter, *supra* note 212, at 3.

Members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.²²¹

IV. Exemption From Section 19(b) of the Act With Regard to Certain Rules Incorporated by Reference

TXSE proposes to incorporate by reference certain FINRA rules and Nasdaq Options Market LLC ("NOM") rules as TXSE rules.²²² Thus, for those TXSE rules, Exchange Members will comply with the TXSE rule by complying with the FINRA or NOM rule referenced therein. In connection with its proposal to incorporate FINRA and NOM rules by reference, TXSE requested, pursuant to Rule 0–12,²²³ an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those TXSE rules that are effected solely by virtue of a change to a cross-referenced FINRA or NOM rule.²²⁴ TXSE represents in its letter that, as a condition to the exemption, it will provide written notice to its Members whenever a proposed rule change to a FINRA or NOM rule that is incorporated by reference is proposed and whenever any such proposed change is approved by the Commission or otherwise becomes effective.²²⁵

compensation do so only after deciding that such arrangements are suitable to their interests").

²²¹ TXSE represented that it will advise its membership through the issuance of an Information Circular that those members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption. See TXSE 11(a) Letter, *supra* note 212, at 4.

²²² See Letter from Jeff Brown, Chief Legal Officer and General Counsel, TXSE, dated Sept. 5, 2025 ("Exemption Request Letter"). TXSE proposes to incorporate by reference the following FINRA rules and NOM rules: (1) FINRA Rule 2210 (Communications with the Public), via TXSE Rule 3.005 (Communications with the Public); (2) FINRA Rule 2241 (Research Analysts and Research Reports), via TXSE Rule 3.013(b)(3) (Payments Involving Publications that Influence the Market Price of Security); (3) FINRA Rule 4512(c) (Consolidated Audit Trail Definitions), via TXSE Rule 4.005(d) (Consolidated Audit Trail definitions); (4) FINRA Rule 2268 (Requirements when using Predispute Arbitration Agreements for Customer Accounts), via TXSE Rule 9.003 (Predispute Arbitration Agreements); (5) FINRA Rule 5320.03 (Riskless Principal Exception), via TXSE Rule 11.019(a)(2) (Retail Orders); (6) FINRA Rule 5270 (Front Running of Block Transactions), via TXSE Rules 12.014(a) and (b) (Front Running of Block Transactions); (7) NOM Rules at Options 4A, Section 4 (Designation of Narrow-Based and Micro-Narrow-Based Index Options), via TXSE Rule 17.111(a)(4)(A) and (B) (Trading of Certain Derivative Securities).

²²³ See 17 CFR 240.0–12.

²²⁴ See Exemption Request Letter, *supra* note 222.

²²⁵ See Exemption Request Letter, *supra* note 222, at 2. TXSE will provide such notice through a posting on the same website location where TXSE

Using its authority under Section 36 of the Act,²²⁶ the Commission is hereby granting TXSE's request for an exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that TXSE proposes to incorporate by reference.²²⁷ This exemption is conditioned upon TXSE providing written notice to its Members whenever FINRA or Nasdaq proposes to change a rule that TXSE has incorporated by reference. This exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rules of more than one SRO.

V. Conclusion

It is ordered that the application of TXSE for registration as a national securities exchange be, and it hereby is, granted.

It is further ordered that operation of TXSE is conditioned on the satisfaction of the requirements below:

A. *Participation in National Market System Plans.* TXSE must join the CT Plan, the Consolidated Tape Association Plan, the Consolidated Quotation Plan, and the Nasdaq UTP Plan (or any successors thereto); the National Market System Plan Establishing Procedures Under Rule 605 of Regulation NMS; the Regulation NMS Plan to Address Extraordinary Market Volatility; the Plan for the Selection and Reservation of Securities Symbols; and the National Market System Plan Governing the Consolidated Audit Trail.

B. *Intermarket Surveillance Group.* TXSE must join the Intermarket Surveillance Group.

C. *Minor Rule Violation Plan.* A MRVP filed by TXSE under Rule 19d–1(c)(2) must be declared effective by the Commission.²²⁸

D. *Rule 17d–2 Agreement.* An agreement pursuant to Rule 17d–2²²⁹

will post its own rule filings pursuant to Rule 19b–4 under the Act, within the required time frame. The website posting will include a link to the location on the FINRA website where FINRA's proposed rule change is posted. See *id.*

²²⁶ 15 U.S.C. 78mm.

²²⁷ The Commission previously exempted other exchanges from the requirement to file proposed rule changes under Section 19(b) of the Act. See, e.g., GIX Order, *supra* note 50; MX2 Order, *supra* note 50; 24X Order, *supra* note 50; MEMX Order, *supra* note 50; MIA Order, *supra* note 50; MIA Order, *supra* note 50; MIA Order, *supra* note 50; BATS Order, *supra* note 50; IEX Order, *supra* note 63; ISE Mercury Order, *supra* note 65; and DirectEdge Exchanges Order, *supra* note 76.

²²⁸ 17 CFR 240.19d–1(c)(2).

²²⁹ 17 CFR 240.17d–2.

that allocates regulatory responsibility for those matters specified above²³⁰ must be declared effective by the Commission, or TXSE must demonstrate that it independently has the ability to fulfill all of its regulatory obligations.

E. *Participation in Multi-Party Rule 17d–2 Plans.* TXSE must become a party to the multi-party Rule 17d–2 agreement concerning the surveillance, investigation, and enforcement of common insider trading rules and the agreement concerning certain Regulation NMS and Consolidated Audit Trail rules.

F. *RSA.* TXSE must finalize the provisions of the RSA with its regulatory services provider, as described above, that will specify the TXSE and Commission rules for which the regulatory services provider will provide certain regulatory functions, or TXSE must demonstrate that it independently has the ability to fulfill all of its regulatory obligations.

It is further ordered, pursuant to Section 36 of the Act,²³¹ that TXSE shall be exempted from the rule filing requirements of Section 19(b) of the Act with respect to the FINRA and NOM rules that TXSE proposes to incorporate by reference into TXSE's rules, subject to the conditions specified in this Order.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19314 Filed 10–1–25; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 12849]

Notice of 2024 Department of State Sanctions Actions Pursuant to the Executive Order Regarding Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters

SUMMARY: The Department of State is publishing the names of one or more persons that were placed on the Department of Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List) administered by the Office of Foreign Asset Control (OFAC) in 2024 based on the Department of State's determination, in consultation with other departments, as appropriate, that one or more applicable legal criteria of the Executive Order regarding blocking property of weapons of mass destruction

²³⁰ See *supra* notes 139–141 and accompanying text.

²³¹ 15 U.S.C. 78mm.

proliferators and their supporters were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on December 16, 2024. See **SUPPLEMENTARY INFORMATION** section for applicable date(s) in 2024.

FOR FURTHER INFORMATION CONTACT: Office of Counterproliferation Initiatives, Bureau of Arms Control and Nonproliferation, Department of State, Washington, DC 20520, tel.: (202) 647 7594, email: ACN_Sanctions@state.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>). The announcement for this action is available on the Department of State's website (<https://2021-2025.state.gov/u-s-sanctions-on-entity-and-individuals-providing-procurement-support-to-the-dprks-unlawful-ballistic-missile-program/>).

Notice of Department of State Actions

On December 16, 2024, the Department of State, in consultation with other departments, as appropriate, determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. KIM, Yon Hui, Shenyang, China; DOB 01 Dec 1979; nationality Korea, North; Gender Female; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 836238034 (Korea, North) (individual) [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by the Democratic People's Republic of Korea, a foreign country of proliferation concern.

2. RIM, Ryong Nam, Shenyang, China; Pyongyang, Korea, North; DOB 05 Dec 1978; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 836238033 (Korea, North) (individual) [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by the Democratic People's Republic of Korea, a foreign country of proliferation concern.

Entity

1. SECOND ACADEMY OF NATURAL SCIENCES FOREIGN AFFAIRS BUREAU (a.k.a. KOREA KURYONGGANG TRADING CORPORATION; a.k.a. KOREA KUWOLSAN TRADING CORPORATION; a.k.a. KOREA RYENHAP 2 TRADING CORPORATION; a.k.a. KOREA TANGUN TRADING CORPORATION; a.k.a. RYUNG SENG TRADING CORPORATION; a.k.a. RYUNGSENG TRADING CORPORATION; a.k.a. RYUNGSONG TRADING CORPORATION), Pyongyang, Korea, North; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Target Type Government Entity [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by the Democratic People's Republic of

Korea, a foreign country of proliferation concern.

Renee P. Sonderman,

Acting Deputy Assistant Secretary, Bureau of Arms Control and Nonproliferation, Department of State.

[FR Doc. 2025-19259 Filed 10-1-25; 8:45 am]

BILLING CODE 4710-27-P

DEPARTMENT OF STATE

[Public Notice: 12850]

Notice of 2024 Department of State Sanctions Actions Pursuant to the Executive Order Regarding Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters

SUMMARY: The Department of State is publishing the names of one or more persons that were placed on the Department of Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List) administered by the Office of Foreign Asset Control (OFAC) in 2024 based on the Department of State's determination, in consultation with other departments, as appropriate, that one or more applicable legal criteria of the Executive Order regarding blocking property of weapons of mass destruction proliferators and their supporters were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: These actions were issued on September 12, 2024 and December 18, 2024, respectively. See **SUPPLEMENTARY INFORMATION** section for applicable date(s) in 2024.

FOR FURTHER INFORMATION CONTACT: Office of Counterproliferation Initiatives, Bureau of Arms Control and Nonproliferation, Department of State, Washington, DC 20520, tel.: (202) 647 7594, email: ACN_Sanctions@state.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>). The announcements for these actions are available on the Department of State's website (<https://2021-2025.state.gov/united-states-continues-to-impose-sanctions-on-suppliers-to-pakistans-ballistic-missile-program/>; and <https://2021-2025.state.gov/u-s-announces-additional-sanctions-on-entities-contributing-to-pakistans-ballistic-missile-program/>).

Notice of Department of State Actions

On September 12, 2024, the
Department of State, in consultation

with other departments, as appropriate,
determined that the property and
interests in property subject to U.S.
jurisdiction of the following persons are

blocked under the relevant sanctions
authority listed below.

Entity

1. BEIJING RESEARCH INSTITUTE OF AUTOMATION FOR MACHINERY

INDUSTRY CO. LTD. (Chinese Simplified: 北京机械工业自动化研究有限

公司) (a.k.a. "RAIMB"; a.k.a. "RIAMB"), No. 1, Teaching Gate,

Deshengmenwai, Xicheng District, Beijing 100120, China; Target Type State-

Owned Enterprise; Registration Number 110000001661767 (China); Unified

Social Credit Code (USCC) 91110102400000018P (China) [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by Pakistan, a foreign country of proliferation concern.

Notice of Department of State Actions

On December 18, 2024, the
Department of State, in consultation
with other departments, as appropriate,
determined that the property and
interests in property subject to U.S.
jurisdiction of the following persons are
blocked under the relevant sanctions
authority listed below.

Entities

1. AFFILIATES INTERNATIONAL
(a.k.a. MS AFFILIATES
INTERNATIONAL), 9 Timber Pond,
Keamari P.O. Box 13139, Karachi,
Pakistan; 9/A, Timber Pound Kemari,
Karachi, Pakistan; Organization
Established Date 27 Oct 1995; Tax ID
No. 0287901 (Pakistan) [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering

such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by Pakistan, a foreign country of proliferation concern.

2. AKHTAR AND SONS PRIVATE LIMITED (a.k.a. AKHTAR AND SONS PVT LTD.; a.k.a. "AKHTAR AND SONS"), 10th Floor Emerald Tower, Main Clifton Road, Karachi 74000, Pakistan; Office # 1003, 10th Floor, Emerald Tower, G-19, Block 5, Do Talwar, Main Clifton Road, South Saddar Town, Karachi, Pakistan; 10th Floor, Emerald Tower, Main Clifton Road, Karachi 75600, Pakistan; Office # 206, Cotton Exchange Building, I.I. Chundrigar Road, South Saddar Town, Karachi, Pakistan; Organization Established Date 09 Nov 1995; Tax ID No. 0686371 (Pakistan) [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by Pakistan, a foreign country of proliferation concern.

3. NATIONAL DEVELOPMENT COMPLEX (a.k.a. NATIONAL DEFENSE COMPLEX; a.k.a. NATIONAL DEVELOPMENT CENTRE; a.k.a. "NDC"), Plot No. 94, NESCOM Complex (NDC), H-11/4, Islamabad, Islamabad Urban, Pakistan; Fateh Jang, Punjab, Rawalpindi, Pakistan; P.O Box 2216,

Islamabad, Pakistan; Target Type State-Owned Enterprise; Tax ID No. 9010629 (Pakistan) [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by Pakistan, a foreign country of proliferation concern.

4. ROCKSIDE ENTERPRISE (a.k.a. ROCKSIDE TRADING), House No. 44/1, Street No. 17, Khayaban-E-Mujahid, Phase-5 DHA, Karachi, Pakistan; 10th Floor, Emerald Tower, Main Clifton Road, Karachi 75600, Pakistan; Street 17, Karachi, Sindh, Pakistan; Tax ID No. 1295859 (Pakistan) [NPWMD].

Designated pursuant to section 1(a)(ii) of E.O. 13382 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by

Pakistan, a foreign country of proliferation concern.

Renee P. Sonderman,

Acting Deputy Assistant Secretary, Bureau of Arms Control and Nonproliferation, Department of State.

[FR Doc. 2025–19260 Filed 10–1–25; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Transportation Project in Georgia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitations on claims for judicial review.

SUMMARY: The FHWA, on behalf of the Georgia Department of Transportation (GDOT), is issuing this notice to announce actions taken by GDOT and other Federal agencies that are final agency actions. These actions relate to the proposed construction of a new interchange along Interstate 75 (I–75) at County Road (CR) 312/Bethlehem Road.

DATES: By this notice, the FHWA, on behalf of GDOT is advising the public of the final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency actions on the listed highway project will be barred unless the claim is filed on or before March 2, 2026. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

ADDRESSES: The Finding of No Significant Impact (FONSI) and additional project documents can be viewed and downloaded from the project website at: <https://i75-bethlehemrd-gdot.hub.arcgis.com/> or by contacting the GDOT Office of Environmental Services, 600 West Peachtree Street, 22nd Floor, Atlanta, Georgia 30308, during normal business hours from 8 a.m. to 5 p.m. (Eastern Standard Time), Monday through Friday, except State holidays.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Sabrina David, Division Administrator, Georgia Division; telephone 404–562–3630; email: Sabrina.David@dot.gov. FHWA's normal business hours are 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday. For GDOT: Mr. Russell McMurry, Commissioner; telephone

(404) 631–1990; email: RMcMurry@dot.ga.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, or approvals for the proposed highway improvement project in the State of Georgia. The actions taken by FHWA and other Federal agencies on the project, and the laws under which such actions were taken are described in the FONSI approved on September 5, 2025, and in other documents in the project records. The FONSI and other documents for the listed project are available by contacting FHWA or GDOT at the address provided above.

The project subject to this notice is:
Project Location: The project limits include I–75 at CR 312/Bethlehem Road between Bill Gardner Parkway and State Route (SR) 155/North McDonough Road in Henry County, Georgia. The project will construct a new interchange along I–75 at CR 312/Bethlehem Road, realign Bethlehem Road with a section consisting of four lanes, construct new bridges across I–75 and Bethlehem Bottoms, construct roundabouts at the new interchange and at each end of the newly aligned roadway, and provide additional access points to and from Bethlehem Road.

Project Actions: This notice applies to the FONSI and all other Federal agency licenses, permits, or approval for the listed project as of the issuance date of this notice including but not limited to:

1. **General:** National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128]; 23 CFR part 771.
2. **Air:** Clean Air Act [42 U.S.C. 7401–7671(q)].
3. **Noise:** Noise Control Act of 1972 [42 U.S.C. 4901–4918]; 23 CFR part 772.
4. **Land:** Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].
5. **Wildlife:** Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667d]; Migratory Bird Treaty Act [16 U.S.C. 703–712].
6. **Historic and Cultural Resources:** Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469c]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
7. **Social and Economic:** Civil Rights Act of 1964 [42 U.S.C. 2000(d)–

2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. **Wetlands and Water Resources:** Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

9. **Hazardous Materials:** Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. **Executive Orders:** E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13045 Protection of Children From Environmental Health Risks and Safety Risks; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1)).

Sabrina S. David,

Division Administrator, Federal Highway Administration.

[FR Doc. 2025–19266 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review.

SUMMARY: The FHWA, on behalf of the Texas Department of Transportation (TxDOT), is issuing this notice to announce actions taken by TxDOT and other Federal agencies that are final agency actions. The actions relate to various proposed highway projects in

the State of Texas. These actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, the FHWA, on behalf of TxDOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency actions on the highway projects listed below will be barred unless the claim is filed on or before March 2, 2026. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Patrick Lee, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 419-8604; email: Patrick.Lee@txdot.gov. TxDOT's normal business hours are 8 a.m. to 5 p.m. (Central Standard Time), Monday through Friday, except State holidays.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by the FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) issued in connection with the projects and in other key project documents. The CE, EA, or EIS and other key documents for the listed projects are available by contacting the local TxDOT office at the address or telephone number provided for each project below.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128]; 23 CFR part 771.

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Noise:* Noise Control Act of 1972 [42 U.S.C. 4901–4918]; 23 CFR part 772.

4. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; 23 CFR part 774; Land and Water Conservation Fund (LWCF) [54 U.S.C. 200302–200310]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

5. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and 1536], Marine Mammal Protection Act [16 U.S.C. 1361–1423h]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(f)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801–1891d], with Essential Fish Habitat requirements [16 U.S.C. 1855(b)(2)].

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archaeological Resources Protection Act of 1979 (ARPA) [16 U.S.C. 470(aa)–470(ii)]; Preservation of Historical and Archaeological Data [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013; 18 U.S.C. 1170].

7. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377] (Section 404, Section 401, Section 319); Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501–3510]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451–1466]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j–26]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 119(g) and 133(b)(3)]; Flood Disaster Protection Act [42 U.S.C. 4001–4130].

9. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O.

13175 Consultation and Coordination with Indian Tribal Governments; E.O. 13112 Invasive Species.

The projects subject to this notice are:

1. Rudeloff Road from Huber Road to SH 123, Guadalupe County, Texas. The project will construct an extension of Rudeloff Road from its existing terminus at Huber Road to SH 123. The facility will be a four-lane, divided, non-controlled access roadway with a separated median and shared use path. The project is 1.6 miles long. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on June 9, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT San Antonio District Office at 4615 NW Loop 410, San Antonio, TX 78229; telephone: (210) 615–5839.

2. Great Southwest Parkway from westbound IH 20 frontage road to eastbound IH 20 frontage road, Tarrant County, Texas. The project will consist of improvements along Great Southwest Parkway in Tarrant County, Texas, from south of the eastbound IH 20 frontage road to north of the westbound IH 20 frontage road, approximately 0.30 miles. The project will widen Great Southwest Parkway to add a 12-foot-wide lane in each direction. Intersections along the project will be modified to accommodate the added lane. The project will also construct 6-foot-wide sidewalks along the roadway north of the westbound frontage road and south of the eastbound frontage road and shared-use paths ranging from 10- to 16-foot wide along Great Southwest Parkway between the frontage roads. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on June 11, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Fort Worth District Office at 2501 S W Loop 820, Fort Worth, TX 76133; telephone: (817) 370–6744.

3. Spur 394 From IH 35 to FM 877, Ellis County, Texas. The project will construct a new roadway that will include four 12-foot wide lanes (two in each direction) divided by a 34-foot median. This project is approximately 1.7 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were

taken are described in the Categorical Exclusion Determination issued on June 23, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320-4480.

4. IH 30 from Ferguson Road to Bass Pro Drive, Dallas County, Texas. The project will widen the roadway to include three to six general purpose lanes in each direction, one to two reversible managed lanes, continuous two to three lane frontage roads in each direction, and reconstruction of ramps and bridge structures. This project is approximately 12 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on June 23, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320-4480.

5. Veloweb Trail Mike Lewis Park from the High River Road and Trinity Boulevard Intersection to Mike Lewis Park, Tarrant and Dallas Counties, Texas. The project will construct a multi-use concrete trail along Trinity Boulevard and Roy Orr Boulevard from the intersection of High River Road and Trinity Boulevard to Mike Lewis Park in the City of Grand Prairie. The project will include the construction of a multi-use, concrete-paved trail with at least a 5-foot offset from the edge of curb and a 2-foot-wide shoulder. The trail will begin at the High River Road and Trinity Boulevard intersection and continue along the west side of Trinity Boulevard for approximately 0.7 mile until its intersection with Roy Orr Boulevard. From there, the trail will turn south along the west side of Roy Orr Boulevard and continue for approximately 0.6 mile before crossing over to the east side of Roy Orr Boulevard, just south of the Oakdale Road and Roy Orr Boulevard intersection. The trail will continue south along the east side of Roy Orr Boulevard for approximately 0.4 mile until the southern project terminus, located approximately 60 feet north of Glacier Park Lane. The project will also include a 12-foot-wide pedestrian truss bridge for the trail crossing of the West Fork Trinity River and a connection to the existing trail within Mike Lewis Park. The trail will be approximately 1.8

miles long. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on June 24, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Fort Worth District Office at 2501 S W Loop 820, Fort Worth, TX 76133; telephone: (817) 370-6744.

6. Pecos East Relief Route, from US 285 north of Pecos to US 285 south of Pecos, Reeves County, Texas. The project will construct a relief route on the east side of Pecos. The south limit of the project will be located south of Pecos on US 285 approximately two miles south of FM 1450 and the north limit will be located north of Pecos on US 285 approximately one mile south of CR 402. The facility will consist of a four-lane divided highway with two 12-foot travel lanes in each direction, and two-lane, one-way frontage roads in each direction. Overpasses will be constructed at FM 1450, IH 20, BI-20/UPRR Crossing and FM 1216. The project length is approximately 9.9 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on June 30, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Odessa District Office at 3901 E Highway 80, Odessa, TX 79761; telephone: (432) 498-4697.

7. Blanco Road from Borgfeld Drive to the Bexar/Comal County Line, Bexar County, Texas. The project will widen the road from two to four lanes with a combination of a two-way center turn lane, dedicated left-turn lanes, dedicated right-turn lanes and a grassy center median. A sidewalk along the eastern side of the roadway and a bike lane in each direction will be provided. The project is approximately 2.5 miles long. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on June 30, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT San Antonio District Office at 4615 NW Loop 410, San Antonio, TX 78229; telephone: (210) 615-5839.

8. FM 551 from SH 276 to SH 66, Rockwall County, Texas. The project

will widen FM 551 for approximately 3.25 miles, from SH 276 to SH 66 within the City of Fate. From SH 276 to Black Oak Lane, FM 551 will be widened from a two-lane undivided roadway to a four-lane divided roadway. From Black Oak Lane to SH 66, the project will add a 14-foot wide continuous center turn lane between the two 12-foot wide travel lanes. In addition, a 10-foot wide shared use path is proposed along the entire project limits of FM 551. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on July 22, 2025, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320-6200.

9. US 90 from FM 563 to SH 61, Liberty County, Texas. The project will provide a four-lane highway between Liberty and Devers and a shared use path (SUP) in Liberty and Ames. The project will extend for approximately 11.37 miles from FM 563 in Liberty to SH 61 in Devers. The roadway will generally have two 12-foot-wide travel lanes in each direction with 4- to 10-foot-wide shoulders. Directions of travel will be separated by a median and left- and right-turn lanes will be present throughout the corridor with corresponding median breaks. A 10-foot-wide shared use path is proposed along the south side of US 90 between the western project limit and Tip Top Road, through Liberty and Ames, which will include crosswalks at road intersections as needed. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the final EA, Finding of No Significant Impact (FONSI) issued on July 8, 2025, and other documents in the TxDOT project file. The EA, FONSI and other documents in the TxDOT project file are available by contacting the TxDOT Beaumont District Office at 100 8350 Eastex Freeway, Beaumont, TX 77708; telephone: (409) 898-5745.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1)).

Ed Burgos-Gomez,

*Acting Director Program Development,
Federal Highway Administration.*

[FR Doc. 2025–19246 Filed 10–1–25; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Project—Point of the Mountain Transit Project, Salt Lake County and Utah County, Utah

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) regarding the Point of the Mountain Transit Project, Salt Lake County and Utah County, Utah. The purpose of this notice is to publicly announce FTA's environmental decisions on the subject project, and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: A claim seeking judicial review of FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before March 2, 2026.

FOR FURTHER INFORMATION CONTACT:

Kathryn Loster, Assistant Chief Counsel, Office of Chief Counsel, (202) 360–2322, or Saadat Khan, Environmental Protection Specialist, Office of Environmental Policy and Programs, (202) 366–6385. FTA is located at 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions subject to 23 U.S.C. 139(l) by issuing certain approvals for the public transportation project listed below. The actions on the project, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA environmental project files for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at <https://www.transit.dot.gov/about/regional-offices/regional-offices>.

This notice applies to all FTA decisions on the listed project as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA (42 U.S.C. 4321–4375), Section 4(f) requirements (49 U.S.C. 303), Section 106 of the National Historic Preservation Act (54 U.S.C. 306108), the Endangered Species Act (16 U.S.C. 1531), the Clean Water Act (33 U.S.C. 1251), the Uniform Relocation and Real Property Acquisition Policies Act (42 U.S.C. 4601), and the Clean Air Act (42 U.S.C. 7401–7671q). This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The project modifications and actions that are the subject of this notice follow:

Project Name and Location: Point of the Mountain Transit Project (Project), Salt Lake County and Utah County, Utah.

Project Sponsor: Utah Department of Transportation (UDOT) and Utah Transit Authority (UTA), Salt Lake City, Salt Lake County, Utah.

Project Description: The Project involves construction of an approximately 10-mile-long, high-capacity light rail transit system extending between the cities of Draper and Lehi in northern Utah and predominantly within the existing right-of-way. The Project also consists of construction of up to 11 stations, and other associated infrastructure improvements, such as supporting facilities. In addition, the Project includes construction of a full-service operations and maintenance facility located on an UTA-owned parcel in Draper, between Minuteman Drive and Marion Vista Boulevard, and adjacent to the existing rail corridor.

Final Agency Action: Section 106 Memorandum of Agreement, dated June 18, 2025; Section 4(f) *de minimis* determination dated September 6, 2024; Point of the Mountain Transit Project Finding of No Significant Impact (FONSI), dated September 19, 2025.

Supporting Documentation: Point of the Mountain Transit Project Environmental Assessment (EA), dated June 9, 2025. The EA, FONSI, and associated documents can be viewed and downloaded from: <https://udotinput.utah.gov/pointtransit>.

Authority: 23 U.S.C. 139(l)(1).

Megan Blum,

Deputy Associate Administrator for Planning and Environment.

[FR Doc. 2025–19247 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–57-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2025–0828]

Request for Comments on the Renewal of a Previously Approved Information Collection: MARAD Exercise Breakout Survey

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: MARAD invites public comments on its intention to request Office of Management and Budget (OMB) approval to renew an information collection in accordance with the Paperwork Reduction Act of 1995. The proposed collection OMB 2133–0550 titled *MARAD Exercise Breakout Survey* is being renamed “MARAD Mariner Preparedness Exercise Survey (Mariner PrepEx Survey)” to reflect the new name of the exercise program, which includes this survey. Since the last renewal, survey questions 1 and 2 are being updated to include additional modes of communication that may be restricted, while mariners are actively supporting Department of Defense Missions aboard MARAD ships. There was also an increase in the totals for respondents, responses, and burden hours. MARAD is required to publish this notice in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments must be submitted on or before December 1, 2025.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2025–0828 through one of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to www.regulations.gov including any personal information provided.

Comments are invited on: (a) whether the proposed collection of information is reasonable for the Department's

performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be lessened without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT:

Michael DaPonte, 202-366-7627, Division of Sealift Operations and Emergency Response (MAR-612), Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: michael.daponte@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: MARAD) Mariner Preparedness Exercise Survey (Mariner PrepEx Survey).

OMB Control Number: 2133-0550.

Type of Request: Extension with change of a currently approved collection.

Abstract: The Mariner PrepEx Survey is a component of MARAD's Mariner Preparedness Exercise Program. The survey will be conducted on a voluntary basis and provide vital information to the Ready Reserve Force (RRF) program. Periodic surveying is necessary in view of the dynamics that affect the RRF program, which include changes in the RRF fleet composition, readiness status, ship location, as well as changes to the seafaring manpower base. The survey is an integral part of the Mariner Preparedness Exercise Program and is designed to gauge mariner's training and military experience levels, willingness to participate in time of national need, and awareness of working in a contested environment.

Respondents: Merchant Mariners.

Affected Public: Individuals and households.

Estimated Number of Respondents: 1,750.

Estimated Number of Responses: 1,750.

Estimated Hours per Response: 0.0833 (5 minutes).

Annual Estimated Total Annual Burden Hours: 145.83/146 hours.

Frequency of Response: Once Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.49.)

By Order of the Maritime Administration.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2025-19297 Filed 10-1-25; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2025-0796]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V NAUTICAL BUOY'S II

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before November 3, 2025.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2025-0796 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a).)

By Order of the Maritime Administration.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2025–19296 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2025–0829]

Request for Comments on the Renewal of a Previously Approved Information Collection: Seamen's Claims, Administrative Action, and Litigation

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) invites public comments on its intention to request Office of Management and Budget (OMB) approval to renew an information collection in accordance with the Paperwork Reduction Act of 1995. The proposed collection OMB 2133–0522 (Seamen's Claims, Administrative Action, and Litigation) is used to evaluate injury claims made by seamen working aboard government-owned vessels. MARAD is required to publish this notice in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments must be submitted on or before December 1, 2025.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2025–0829 through one of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to www.regulations.gov including any personal information provided.

Comments are invited on: (a) whether the proposed collection of information is reasonable for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be lessened without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT:

Cameryn Miller, 202–641–5352, Office of Financial Approvals and Marine Insurance (MAR–770), U.S. Maritime Administration, 1200 New Jersey Avenue SE Washington, DC 20590, Email: Cameryn.miller@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Seamen's Claims, Administrative Action, and Litigation.
OMB Control Number: 2133–0522.

Type of Request: Extension, without change, of a previously approved collection.

Abstract: This information collection allows MARAD to accept claims from respondents pursuant to MARAD regulations 46 CFR part 327 for injury or illness sustained while serving as masters or members of a crew on board a vessel owned or operated by the United States. MARAD personnel will review respondent's information and determine the extent of any agency liability and corresponding payment.

Respondents: Seamen who suffered injury or illness while employed on U.S. owned or operated vessels, and/or surviving dependents, beneficiaries, and/or legal representatives of the officers or crew members who died aboard these vessels.

Affected Public: Individuals or households.

Estimated Number of Respondents: 15.

Estimated Number of Responses: 15.

Estimated Hours per Response: 12.5.

Annual Estimated Total Annual

Burden Hours: 188.

Frequency of Response: Once Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.49.)

By Order of the Maritime Administration.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2025–19295 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0091]

Pipeline Safety: Liquefied Natural Gas Facilities Public Meeting 2025

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a virtual public meeting on liquefied

natural gas (LNG) facilities titled “Liquefied Natural Gas Facilities Public Meeting 2025.” The purpose of the public meeting is to inform a forthcoming proposed rulemaking to update LNG facility safety regulations at 49 Code of Federal Regulations (CFR) part 193.

DATES: The LNG facilities public meeting will occur on October 22, 2025. Persons who would like to attend the virtual public meeting must register on the meeting web page no later than October 15, 2025. Individuals requiring accommodations, such as sign language interpretation or other aids, are asked to notify PHMSA no later than October 15, 2025.

ADDRESSES: The meeting will be held virtually; members of the public will not have the opportunity to attend the meeting in-person. The meeting agenda and instructions on how to attend virtually will be published once they are finalized on the public meeting web page at: <https://primis-meetings.phmsa.dot.gov/>.

Presentations: Presentations will be available on the public meeting web page and on the E-gov website, <https://www.regulations.gov> under docket number PHMSA–2019–0091 no later than 30 days following the meeting. PHMSA will endeavor to make available on the meeting web page in advance of the meeting date the meeting agenda and some or all presentations that will made during the meeting.

Submitting Comments or Questions: PHMSA notes that the purpose of this meeting is to provide the agency an opportunity to obtain stakeholder clarification or supplementation of comments previously received on PHMSA’s Advance Notice of Proposed Rulemaking soliciting stakeholder feedback on potential amendments to safety regulations governing LNG facilities at 49 CFR part 193.¹ PHMSA consequently discourages stakeholders from submitting comments repeating those previously submitted on the ANPRM. Stakeholders may submit for PHMSA’s consideration comments or questions, identified by Docket No. PHMSA–2019–0091, by any of the following methods:

- **E-Gov Web:** <http://www.regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any

agency. Follow the online instructions for submitting comments.

- **Mail:** Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- **Hand Delivery:** DOT Docket Management System: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.

- **Fax:** 202–493–2251.
- **Instructions:** Identify the Docket No. PHMSA–2019–0091, at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <http://www.regulations.gov>.

- **Note:** All comments received are posted without edits to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

- **Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

- **Confidential Business Information:** Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to provide confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as “Confidential;” (2) send PHMSA a copy of the original document with the CBI deleted along with the original, unaltered document; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential

under the Freedom of Information Act and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Brianna Wilson, Office of Pipeline Safety (PHP–30), Pipeline and Hazardous Materials Safety Administration (PHMSA), 2nd Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, or by email at brianna.wilson@dot.gov. Any materials PHMSA receives that is not specifically designated as CBI will be placed in the public docket.

- **Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. Alternatively, you may review the documents in person at the street address listed above.

FOR FURTHER INFORMATION CONTACT:

Brianna Wilson, Transportation Specialist, by phone at (771) 215–0969, or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: PHMSA will hold a public meeting to obtain clarification and supplementation of comments responding to an ANPRM soliciting stakeholder feedback on potential amendments to safety regulations governing LNG facilities at 49 CFR part 193. The public meeting will address topics set forth in PHMSA’s questions in the ANPRM and stakeholder responses thereto. The public meeting will consist of brief presentations and panel discussions by PHMSA, other Federal or State industry regulators, technical and economic/market subject matter experts with respect to LNG facilities, industry stakeholders, and other persons as PHMSA determines would be helpful to inform its development of a forthcoming notice of proposed rulemaking to update its 49 CFR part 193 regulations. Following each presentation or panel discussion, PHMSA may pose questions to speakers and panelists; as time permits, PHMSA may also provide a brief opportunity for members of the public to pose questions to speakers and panelists.

This meeting is not intended to replace a future meeting of the Gas Pipeline Advisory Committee (GPAC) meeting following the publication of a notice of proposed rulemaking, or any other meeting or consultation required by law.

¹ PHMSA, “Advance Notice of Proposed Rulemaking,” 85 FR 18949 (May 5, 2025) (ANPRM). PHMSA subsequently issued a “Notice of Intent to Prepare an Environmental Impact Statement” in connection with the same rulemaking proceeding. 90 FR 24088 (June 6, 2025) (NOI). The public meeting announced in this notice is not intended to focus on stakeholder comments on that NOI.

Issued in Washington, DC, on September 29, 2025, under authority delegated in 49 CFR 1.97.

Linda Daugherty,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 2025–19286 Filed 10–1–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Information Collection Revision; Submission for OMB Review; Bank Secrecy Act/Money Laundering Risk Assessment

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning a revision to its information collection titled, “Bank Secrecy Act/Money Laundering Risk Assessment,” also known as the Money Laundering Risk (MLR) System. The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by November 3, 2025.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0231, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include “OCC” as the agency name and “1557–0231” in your comment. In general, the OCC will publish comments on

www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. You can find this information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- **Viewing Comments Electronically:** Go to www.reginfo.gov. Hover over the “Information Collection Review” tab and click on “Information Collection Review” from the drop-down menu. From the “Currently under Review” drop-down menu, select “Department of Treasury” and then click “submit.” This information collection can be located by searching OMB control number “1557–0231” or “Bank Secrecy Act/Money Laundering Risk Assessment.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel’s Office, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR

1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks the OMB to extend its approval of the collection in this notice.

Title: Bank Secrecy Act/Money Laundering Risk Assessment.

OMB Control No.: 1557–0231.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The MLR System enhances the ability of examiners and bank management to identify and evaluate Bank Secrecy Act/Money Laundering and Office of Foreign Asset Control (OFAC) sanctions risks associated with banks’ products, services, customers, and locations. As new products and services are introduced, existing products and services change, and banks expand through mergers and acquisitions, banks’ evaluation of money laundering and terrorist financing risks should evolve as well. Consequently, the MLR risk assessment is an important tool for the OCC’s Bank Secrecy Act/Anti-Money Laundering and OFAC supervision activities because it allows the agency to better identify those institutions, and areas within institutions, that pose heightened risk and allocate examination resources accordingly. This risk assessment is critical for protecting U.S. financial institutions of all sizes from potential abuse from money laundering and terrorist financing. An appropriate risk assessment allows applicable control to be effectively implemented for the lines of business, products, or entities that would elevate Bank Secrecy Act/Money Laundering and OFAC compliance risks.

The OCC will collect MLR information for community banks and trust banks supervised by the OCC. The OCC’s annual Risk Summary Form (RSF) is fully automated making data entry quick and efficient and providing an electronic record for all parties. For 2025, the RSF will include three significant changes to the products, services, and customers (PSCs) collected:

1. The addition of one new PSC: bank-fintech partnerships.
2. The deletion of one existing PSC: payable through accounts.
3. The consolidation of fourteen existing PSCs into the following seven: Payable Upon Proper Identification (PUPID) wire transfers (domestic and international), foreign/international remote deposit capture, prepaid card program managers and providers, reloadable prepaid cards and card

programs, non-reloadable prepaid cards
and card programs, prepaid card

programs—bank sponsored, and prepaid
cardholders.

The net reduction of seven PSCs
decreases the number of data collection

points from 71 to 68 as shown in the
table below (* PSC changes are denoted
in *bold*):

No.	Existing PSCs	No.	New PSCs
1	Cash Transactions	1	Convenience Stores
2	Marijuana Related Businesses	2	Liquor Stores
3	ATM Operators	3	Independent ATM Owners/Operators
4	Crypto-Assets Custody	4	Domestic Charitable Organizations
5	Stablecoin Issuance	5	Jewelry, Gem & Precious Metal Dealers
6	Stablecoin Payments	6	Casinos
7	Convenience Stores	7	Car Dealers
8	Liquor Stores	8	Domestic Private Banking
9	Domestic Charitable Organizations	9	Domestic Commercial Letters of Credit
10	Jewelry, Gem and Precious Metals Dealers	10	Stand-by Letters of Credit
11	Casinos	11	Marijuana Related Businesses
12	Car Dealers	12	Customers/Accounts opened through the Internet, Mail, Wire or Phone (non-branch)
13	Domestic Private Banking	13	Domestic Deposit Brokers
14	Domestic Commercial Letters of Credit	14	Travel Agencies
15	Stand-by Letters of Credit	15	Broker Dealers
16	Customers/Accounts opened through the Internet, Mail, Wire or Phone (non-branch).	16	Telemarketers
17	Domestic Deposit Brokers	17	Remotely Created Check Customers
18	Travel Agencies	18	Domestic Remote Deposit Capture Customers
19	Broker Dealers	19	Third Party Senders
20	Telemarketers	20	Cash Transactions
21	Remotely Created Check Customers	21	Issuance of Traveler's Checks, Official Bank Checks & Money Orders
22	Domestic Remote Deposit Capture Customers	22	Domestic Wire Transfers
23	Third Party Senders	23	PUPID Wire Transfers (Domestic and International)
24	Issuance of Traveler's Checks, Official Bank Checks & Money Orders.	24	ACH
25	Domestic Wire Transfers	25	Remotely Created Checks
26	Domestic PUPID Wire Transfers	26	Domestic Remote Deposit Capture
27	ACH	27	Non-Resident Alien Accounts
28	Remotely Created Checks	28	Politically Exposed Persons
29	Domestic Remote Deposit Capture	29	Foreign Off-Shore Corporations
30	Non-Resident Alien Accounts	30	Foreign Deposit Brokers
31	Politically Exposed Persons	31	Foreign Charitable Organizations
32	Foreign Off-Shore Corporations	32	Import/Export
33	Foreign Deposit Brokers	33	Foreign/International Remote Deposit Capture
34	Foreign Charitable Organizations	34	Foreign Correspondent Accounts
35	Import/Export	35	Pouch Services
36	Foreign Remote Deposit Capture Customers	36	Foreign Bank Affiliate (e.g., Parallel Banks)
37	Foreign Correspondent Accounts	37	International Department
38	Payable Through Accounts	38	International Private Banking
39	Pouch Services	39	Embassy & Consulate Banking
40	Foreign Bank Affiliate	40	International Commercial Letters of Credit
41	International Department	41	International Bank Drafts
42	International Private Banking	42	International Wire Transfers
43	Embassy & Consulate Banking	43	Remittance Products
44	International Commercial Letters of Credit	44	Cross-Border ACH
45	International Bank Drafts	45	Domestic Casas de Cambio/Currency Exchange
46	International Wire Transfers	46	Foreign Casas de Cambio/Currency Exchange
47	International PUPID Wire Transfers	47	Money Transmitters
48	Remittance Products	48	Check Cashers
49	Cross-Border ACH	49	Issuers or Sellers of Traveler's Checks or Money Orders
50	International Remote Deposit Capture	50	Prepaid Card Providers and Managers
51	Domestic Casas de Cambio/Currency Exchange	51	Sellers of Prepaid Access
52	Foreign Casas de Cambio/Currency Exchange	52	Bank-Fintech Partnerships
53	Money Transmitters	53	Reloadable Prepaid Cards and Card Programs
54	Check Cashers	54	Non-Reloadable Prepaid Cards and Card Programs
55	Issuers or Sellers of Traveler Checks or Money Orders	55	Prepaid Card Programs—Bank Sponsored (Reloadable and Non-Reloadable)
56	Providers of Prepaid Access	56	Prepaid Cardholders (Reloadable and Non-Reloadable)
57	Sellers of Prepaid Access	57	Domestic Charitable Trusts & Foundations
58	Prepaid Cards	58	Foreign Charitable Trusts & Foundations
59	Prepaid Card Programs—Third Party Sponsored	59	Custodial Accounts
60	Prepaid Card Programs—Bank Sponsored	60	Investment Advisory Accounts
61	Prepaid Cardholders	61	Revocable Trusts
62	Prepaid Card Program Managers	62	Foreign Grantor or Beneficiaries
63	Domestic Charitable Trusts & Foundations	63	Loans to Closely Held Corporations
64	Foreign Charitable Trusts & Foundations	64	Brokerage Department/Operations

No.	Existing PSCs	No.	New PSCs
65	Custodial Accounts	65	Investment Advisory/Management
66	Investment Advisory Accounts	66	Crypto-Assets Custody
67	Revocable Trusts	67	Stablecoin Issuance
68	Foreign Grantor or Beneficiaries	68	Stablecoin Payments
69	Loans to Closely Held Corporations.		
70	Brokerage Department/Operations.		
71	Investment Advisory/Management.		

The OCC estimates the burden of this collection of information as follows:

Estimated Burden

Community bank population:

Estimated Number of Respondents:

609.

Estimated Number of Responses: 609.

Estimated Frequency of Response:
Annually.

Estimated Total Annual Burden:
3,350 hours.

Comments: On June 24, 2025, the OCC published a 60-day notice for this information collection. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Sarah Turney,

Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2025-19293 Filed 10-1-25; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Privacy of Consumer Financial Information

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, "Privacy of Consumer Financial Information." DATES: Comments must be received by December 1, 2025. ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.

- *Mail:* Chief Counsel's Office,

Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557-0216, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Fax:* (571) 293-4835.

Instructions: You must include "OCC" as the agency name and "1557-0216" in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of

publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:*

Go to www.reginfo.gov. Hover over the "Information Collection Review" tab and click on "Information Collection Review" from the drop-down menu. From the "Currently under Review" drop-down menu, select "Department of Treasury" and then click "submit." This information collection can be located by searching OMB control number "1557-0216" or "Privacy of Consumer Financial Information." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482-7340.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, Clearance Officer, (202) 649-5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor.

"Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of this collection.

Title: Privacy of Consumer Financial Information. *OMB Control No.:* 1557–0216.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The Gramm-Leach-Bliley Act (Act) (Pub. L. 106–102) requires this information collection. Regulation P (12 CFR part 1016), a regulation promulgated by the Consumer Financial Protection Board (CFPB), implements the Act's notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

The information collection requirements in 12 CFR part 1016 are as follows:

§ 1016.4(a) Initial privacy notice to consumers requirement—A national bank or Federal savings association must provide a clear and conspicuous notice to customers and consumers that accurately reflects its privacy policies and practices.

§ 1016.5(a)(1) Annual privacy notice to customers requirement—A national bank or Federal savings association must provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.

§ 1016.8(a) Revised privacy notices—A national bank or Federal savings association must not disclose any nonpublic personal information to a nonaffiliated third party in a way that is inconsistent with the notices previously given to a consumer unless the institution has provided the consumer with a clear and conspicuous revised notice of the institution's policies and practices, the institution has provided the consumer with a new opt out notice, the institution has given the consumer a reasonable opportunity to opt out of the disclosure, and the consumer has not opted out.

§ 1016.7(a) Form of opt out notice to consumers; opt out methods—Form of opt out notice—If a national bank or Federal savings association is required to provide an opt out notice under § 1016.10(a), it must provide to each of its consumers a clear and conspicuous notice that accurately explains the right to opt out under that section. The notice must state:

- That the national bank or Federal savings association discloses or reserves the right to disclose nonpublic personal information about its consumer to a nonaffiliated third party;
- That the consumer has the right to opt out of that disclosure; and

- A reasonable means by which the consumer may exercise the opt out right.

A national bank or Federal savings association provides a reasonable means to exercise an opt out right if it:

- Designates check-off boxes on the relevant forms with the opt out notice;
- Includes a reply form with the opt out notice;
- Provides an electronic means to opt out; or
- Provides a toll-free number that consumers may call to opt out.

§§ 1016.10(a)(1) and (2) and 1016.10(c)—Limits on disclosure of nonpublic personal information to nonaffiliated parties—A national bank or Federal savings association may not disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless the institution has provided the consumer with an initial notice under § 1016.4, the institution has provided the consumer with a opt out notice, the institution has given the consumer a reasonable opportunity to opt out of the disclosure, and the consumer has not opted out. A customer may direct one of the following forms of opt out:

- Opt out—Consumers may direct that the national bank or Federal savings association not disclose nonpublic personal information about them to a nonaffiliated third party, other than permitted by §§ 1016.13–1016.15.

- Partial opt out—Consumers may exercise partial opt out rights by selecting certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§§ 1016.7(h) and 1016.7(i) Continuing right to opt out and Duration of right to opt out—A consumer may exercise the right to opt out at any time. A consumer's direction to opt out is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal information collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the institution, the opt out direction that applied to the former relationship does not apply to the new relationship.

Estimated Burden

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 2,451,569.

Estimated Total Annual Burden: 625,291 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Eden Gray,

Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2025–19275 Filed 10–1–25; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on September 24, 2025. See **SUPPLEMENTARY INFORMATION** section for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 202–622–2490; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On September 24, 2025, OFAC determined that one or more persons identified below meet one or more of the criteria for the imposition of sanctions set forth in section 1(a)–(c) of Executive Order 14059 of December 15, 2021, “Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade,” 86 FR 71549 (E.O. 14059). OFAC has selected to impose blocking sanctions pursuant to section 2(a)(i) of E.O. 14059 on the persons identified below.

As a result, the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. SAYYED, Sadiq Abbas Habib (a.k.a. “ACOSTA, Jonathan”; a.k.a. “SHARMA, Rakesh”), India; DOB 08 Dec 1985; POB India; nationality India; citizen India; Gender Male; Digital Currency Address—TRX TDFtjtyLPgN3oWUoHh23oJox3T5V5nR11K (individual) [ILLICIT–DRUGS–EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

2. SHAIKH, Khizar Mohammad Iqbal, India; DOB 07 Jul 1991; POB Mumbai, India; nationality India; citizen India; Gender Male (individual) [ILLICIT–DRUGS–EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

Entity

1. KS INTERNATIONAL TRADERS (a.k.a. “KS PHARMACY”), Mumbai, Maharashtra 400095, India; website www.ksinternationalpharmacy.com; Organization Established Date 27 Dec 2022; Tax ID No. 27AAZFK8713F2ZQ (India) [ILLICIT–DRUGS–EO14059] (Linked To: SHAIKH, Khizar Mohammad Iqbal).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Khizar Mohammad Iqbal Shaikh, a person whose property and interests in property are blocked pursuant to E.O. 14059.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2025–19347 Filed 10–1–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Notice of OFAC Sanctions Actions**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons whose property and interests in property have been unblocked and who have been removed from the SDN List.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On September 3, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are unblocked and they have been removed from the SDN List.

1. LITVINIUK, Iryna (a.k.a. LITVINIUK, Hennadzievna; a.k.a. LITVINIUK, Irina Gennadiyevna), Mihaila Ptashuka 11–72, Minsk, Belarus; DOB 19 Nov 1990; POB Kobrin, Belarus; nationality Belarus; Gender Female; Passport MP4622471 (Belarus) expires 05 Jul 2031; alt. Passport MP3974861 (Belarus) expires 18 Apr 2027; alt. Passport AB2727384 (Belarus) expires 09 Jul 2023; National ID No. 4191190C002PB3 (Belarus) (individual) [GLOMAG].

2. WADI, Musbah Mohamad M (a.k.a. WADY, Mosbah Mohamed), Malta; Cyprus;

Omar Almohar, Tripoli, Libya; DOB 12 Jul 1993; POB Libya; nationality Libya; Gender Male; Passport 524945 (Libya); alt. Passport RL2957C0 (Libya) (individual) [LIBYA3]. (Authority: 31 CFR chapter V.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2025–19302 Filed 10–1–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Notice of OFAC Sanctions Action**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on September 25, 2025. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 202–622–2490; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On September 25, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. AUNG, Tin Myo, Burma; DOB 03 Dec 1972; POB Taungoo, Burma; nationality Burma; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea

Sanctions Regulations section 510.214; Passport MI361289 (Burma) expires 14 Dec 2028; National ID No. 7TANGANAN097221 (Burma) (individual) [DPRK] [BURMA–EO14014] (Linked To: ROYAL SHUNE LEI COMPANY LIMITED). Designated pursuant to section 1(a)(ii)(F) of Executive Order 13551 of August 30, 2010, “Blocking Property of Certain Persons With Respect to North Korea,” 75 FR 53937, (E.O. 13551), for having acted or purported to act for or on behalf of, directly or indirectly, ROYAL SHUNE LEI COMPANY LIMITED, a person whose property or interests in property are blocked pursuant to E.O. 13551. Designated pursuant to section 1(a)(iii)(D) of Executive Order 14014 of February 10, 2021, “Blocking Property With Respect to the Situation in Burma,” 86 FR 9431, (E.O. 14014), for having been a leader or official of ROYAL SHUNE LEI COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14014 as a result of activities related to the leader’s or official’s tenure.

2. MYINT, Kyaw Thu Myo, Burma; DOB 10 Jun 1980; nationality Burma; citizen Burma; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport MI418505 (Burma) expires 04 Jan 2029 (individual) [DPRK] [BURMA–EO14014].

Designated pursuant to section 1(a)(ii)(G) of E.O. 13551 for having attempted to, directly or indirectly, provide training, advice, or other services or assistance, or engage in financial transactions, related to the manufacture, maintenance, or use of any arms or related materiel to be imported, exported, or reexported to, into, or from North Korea, or following their importation, exportation, or reexportation to, into, or from North Korea.

Designated pursuant to section 1(a)(i) E.O. 14014 for operating in the defense sector of the Burmese economy.

3. OO, Aung Ko Ko, Burma; DOB 10 Jan 1971; nationality Burma; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport MI210885 (Burma); National ID No. 12/THAKATA(N)005901 (Burma) (individual) [DPRK] [BURMA–EO14014] (Linked To: ROYAL SHUNE LEI COMPANY LIMITED). Designated pursuant to section 1(a)(ii)(F) of E.O. 13551 for having acted or purported to act for or on behalf of, directly or indirectly, ROYAL SHUNE LEI COMPANY LIMITED, a person whose property or interests in property are blocked pursuant to E.O. 13551.

Designated pursuant to section 1(a)(iii)(D) E.O. 14014 for having been a leader or official of ROYAL SHUNE LEI COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14014 as a result of activities related to the leader’s or official’s tenure.

4. NAM, Chol Ung (Korean: 남철웅) (a.k.a. "NAM, Cho Hung"), Dalian, China; DOB 23 Feb 1969; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 108320231 (Korea, North) expires Aug 2023 (individual) [DPRK] (Linked To: RECONNAISSANCE GENERAL BUREAU).

Designated pursuant to section 1(a)(ii)(F) of E.O. 13551 for having acted or purported to act for or on behalf of, directly or indirectly, RECONNAISSANCE GENERAL BUREAU, a person whose property and interests in property are blocked pursuant to E.O. 13551.

5. KIM, Yong Ju (a.k.a. KIM, Yo’ng-chu), Beijing, China; DOB 23 Apr 1984; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 108110084 (Korea, North) (individual) [DPRK2] (Linked To: KOREA MINING DEVELOPMENT TRADING CORPORATION).

Designated pursuant to section 1(a)(v) of Executive Order 13687 of January 2, 2015, “Imposing Additional Sanctions With Respect To North Korea,” 80 FR 819, (E.O. 13687), for having acted or

purported to act for or on behalf of, directly or indirectly, KOREA MINING DEVELOPMENT TRADING CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13687.

Entity

1. ROYAL SHUNE LEI COMPANY LIMITED (a.k.a. PROGRESS TECHNOLOGY SUPPORT COMPANY; a.k.a. PROGRESS TECHNOLOGY SUPPORT COMPANY LIMITED; a.k.a. ROYAL SHUNE LEI; a.k.a. ROYAL SHUNE LEI COMPANY), Building 37, Room 6, Bahosi Housing, Lanmadaw Township, Yangon, Burma; No. 37, Room No. 10, Bahosi Housing 10 Ward, Lanmadaw, Yangon, Burma; No 34/C San Yae Twin Street, Bahan Township, Yangon, Burma; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions

Regulations section 510.214; Organization Established Date 24 Jun 2016; Business Registration Number 102842286 (Burma) [DPRK] [BURMA–EO14014].

Designated pursuant to section 1(a)(ii)(G) of E.O. 13551 for having attempted to, directly or indirectly, provide training, advice, or other services or assistance, or engage in financial transactions, related to the manufacture, maintenance, or use of any arms or related materiel to be imported, exported, or reexported to, into, or from North Korea, or following their importation, exportation, or reexportation to, into, or from North Korea.

Designated pursuant to section 1(a)(i) E.O. 14014 for operating in the defense sector of the Burmese economy.

(Authorities: E.O. 14014, E.O. 13551, E.O. 13687.)

Bradley T. Smith,
Director, Office of Foreign Assets Control.
[FR Doc. 2025–19273 Filed 10–1–25; 8:45 am]
BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in New York, NY or virtually via *Microsoft Teams*. The entire meeting will be closed.

DATES: The meeting will begin at 10:30 a.m. Eastern Time. The meeting will be held November 4, 2025.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held at 290 Broadway—Foley Square, New York, NY 10007 or virtually via *Microsoft Teams*.

FOR FURTHER INFORMATION CONTACT: Valeria B. Farr, 1835 Assembly Street, Suite 508 Columbia, SC 29201. Telephone (803) 312–7828 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1009, that a closed meeting of the Art Advisory Panel will be held at 290 Broadway—Foley Square, New York, NY 10007 or virtually via *Microsoft Teams*.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in sections 552b(c)(3), (4), (6), and (7), of the Government in the Sunshine Act, and that the meeting will not be open to the public.

John E. Hinding,
Acting Chief, Independent Office of Appeals.
[FR Doc. 2025–19287 Filed 10–1–25; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[Docket No. VA–2025–VACO–0002]

Response to Comments for the Department of Veterans Affairs To Assess Exposures and Conditions of Interest for Veterans Who Served at Karshi-Khanabad Air Base

AGENCY: Department of Veterans Affairs.

ACTION: Notice; response to comments.

SUMMARY: On November 27, 2024, the Department of Veterans Affairs (VA) solicited public comments on exposures and conditions of interest related to veterans who served at Karshi-Khanabad Air Base (K2). That notice provided an opportunity for veterans, caregivers, survivors, and the public to share relevant information with VA to inform decisions regarding presumptive benefits that could impact the roughly 16,000 veterans who served at K2 from 2001 to 2005. In this notice, VA provides responses to comments received.

FOR FURTHER INFORMATION CONTACT: William J. Culpepper, Ph.D., Director, K2 Surveillance Program, Health Outcomes of Military Exposures, Veterans Health Administration, (202) 821–5294.

SUPPLEMENTARY INFORMATION: K2, or Camp Stronghold Freedom, is a former Soviet air base located in Uzbekistan. The United States Army, Air Force, and Marine Corps used the base to support missions into Afghanistan. The base was 1 square mile in Southeastern Uzbekistan, near the border of Tajikistan, and Service members located at K2 may have been exposed to contaminants. For further information on K2 exposures, visit <https://www.publichealth.va.gov/exposures/karshi-khanabad.asp>.

On November 27, 2024, VA published a notice in the **Federal Register** to inform the public that it had plans to assess exposures and conditions of interest related to military service at K2. VA provided a 30-day public comment period, which ended on December 27, 2024, and received 185 comments from individuals and organizations. Overall, these comments supported VA's plan to assess the scientific literature and historical claims data regarding the determination of whether there is an association between military environmental exposure to toxic substances related to military service at K2 from 2001 to 2005 and medical conditions.

Comments From Veterans Service Organizations (VSO)

VA received two comments from VSOs describing a combination of K2 exposures as a “toxic soup”, and they requested many conditions be classified as presumptions. Specifically, the VSO requested presumptive status for 9 cancers; 18 conditions they categorized as immune dysregulation disorders; 2 immune suppression disorders, atopic dermatitis and numerous undiagnosed skin diseases; 33 “inflammatory diseases;” 12 neurological diseases; 16 hematological or bone type conditions; 14 endocrine conditions (including women's health concerns); “legacy issues” (such as congenital disorders); and 9 respiratory conditions including “breathing conditions.”

VA Response: Many of these conditions are currently covered under the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT) Act, Public Law 117–168, or are currently under consideration as a presumption following VA's new presumptive process. The K2 Surveillance Program (K2SP) is designed specifically to assess the health effects of those Veterans that deployed to K2 and is a key source of the scientific evidence base. Data from K2SP and from claims submitted to the Veterans Benefits Administration (VBA) will be reviewed to assess whether conditions not currently covered occur at sufficient rates to warrant a formal evaluation. Some conditions are non-specific and unable to be addressed, such as “endocrine conditions” and “inflammatory diseases.”

One VSO requested that VA provide more detailed data in future reports; specifically, a breakdown of studied conditions within major diagnostic groups and prevalence ratios of morbidity. The commenter suggested reviewing additional target organs and considering rare diseases not currently captured. The commenter also recommended an analysis of historical VBA K2 Veterans' claims data for valuable insight.

VA Response: VA is submitting a manuscript on the initial morbidity and all-cause mortality findings from K2SP for publication in a peer-reviewed scientific journal and will be publicly available in the future. VA has additional scientific papers currently underway for publication. K2SP updates data on an annual basis, which allows for morbidity and mortality analyses to be repeated at regular intervals as well as for rapid response to emerging health concerns. VA plans to maintain K2SP

for the next 10 or more years. A review of VBA claims data was used to aid in the selection of outcomes evaluated by K2SP. These data sets will be reviewed again prior to the next K2SP data extraction and analyses.

Comment From Stronghold Freedom Foundation

Stronghold Freedom Foundation, an organization focused on advocacy related to K2 exposures, commented that veterans who served at K2 have reported numerous health issues linked to environmental toxic exposures, including many of those identified by the two comments received from VSOs. Additionally, Stronghold Freedom Foundation requested that VA take four specific actions.

First, Stronghold Freedom Foundation asked VA to quickly publish an interim final rule establishing a presumption for K2 veterans for multiple conditions, including rare conditions. They requested that the rulemaking acknowledge exposure to all documented toxic substances and include all diseases plausibly associated with these exposures.

VA Response: K2SP is designed specifically to assess the health effects of those veterans who deployed to K2 and is a key source of the scientific evidence base.

Stronghold Freedom Foundation also requested that VA develop specialized training for VA health care practitioners on the synergistic effects of the “toxic soup” substances at K2.

VA Response: Training has been an integral part of PACT Act implementation, and as a requirement of the PACT Act, VA continues to refine and update training for its employees.

Stronghold Freedom Foundation further wanted VA to create a dedicated Toxic Exposure Risk Activity (TERA) K2 cohort to evaluate the long-term health impacts of these exposures.

VA Response: K2SP includes nearly all of the K2 veterans and is designed to assess and monitor health effects over the next 10 or more years. Additionally, VA published a proposed rule on October 1, 2024, which stated that VA would consider certain K2 exposures to be a TERA. 89 FR 79815, 79820.

Examples provided by VA in the proposed rule included exposure to jet fuel (as a result of leaking Soviet-era underground jet fuel distribution systems); volatile organic compounds found in air samples; particulate matter and dust; depleted uranium from non-U.S. ammunition destroyed in fires; asbestos roofing tiles and lead-based paint; and lead in water samples.

However, this rulemaking is not final and is subject to change.

Finally, Stronghold Freedom Foundation requested that VA engage an independent agency to correlate exposure data with reported illnesses and ensure unbiased assessments.

VA Response: K2SP was independently reviewed by the Centers for Disease Control and Prevention’s Agency for Toxic Substances and Disease Registry (ATSDR), which also convened an external review panel. Both ATSDR and the external review panel endorsed K2SP.

Comments From Veterans and Survivors on K2 Exposures

VA received comments from veterans and survivors expressing concerns with several substances such as blood, nerve, and other chemical agents; black goo; contaminated water; small burn pits; burning of trash and soil; aircraft fumes; smoke; dust; asbestos; fuels; particulate matter; and benzene. Additional concerns included the remains of a reported Russian rocket fuel dump, vaporizing chemicals, use of mefloquine (an anti-malarial drug), and insecticide exposures.

VA Response: A variety of contaminants were identified at K2. Additionally, ATSDR reevaluated all samples collected at K2 by comparing levels to modern standards. See www.publichealth.va.gov/docs/exposures/K2_Contaminants.pdf. K2SP used this information to augment the outcomes assessed to provide a comprehensive evaluation.

Although radiation is not an exposure confirmed by the Department of Defense (DoD), several veterans reported concerns with radiation exposures, including both depleted and enriched uranium. VA engaged with DoD regarding potential radiation exposure at K2. Additionally, there is no evidence that enriched uranium was present at K2.

Comments From Veterans and Survivors on Health Conditions

In addition to the exposure concerns summarized above, veterans and survivors provided comments related to specific health conditions including:

- Various cancers such as brain, breast, prostate, esophagus, renal, bladder, skin, lung, and testicular cancers, and multiple myeloma;
- Thyroid conditions;
- Bone and joint issues, including chondrosarcoma, chronic pain, severe foot pain, spinal degradation, rheumatoid arthritis, and fibromyalgia;
- Cognitive and mental disorders, including depression, brain fog, racing

thoughts, post-traumatic stress disorder, early dementia of unknown origin, and insomnia;

- Ruptured appendix;
- Liver conditions;
- Multiple skin conditions;
- Neurological issues, including burning sensations, peripheral neuropathy, severe neuropathies, tremors, seizures, and carpal tunnel syndrome;
- Undiagnosed illnesses;
- Gallbladder disease;
- Dental issues;
- Various tumors, such as those affecting the kidneys, eyes, skin, and chest;
- Myasthenia gravis;
- Monoclonal gammopathy of undetermined significance;
- Chronic fatigue;
- Hypertension;
- Endocrine disorders;
- Pancreatitis;
- Diabetes;
- Cataracts;
- Lung and respiratory conditions, including asthma, sinusitis, sleep apnea, lung nodules, chronic obstructive pulmonary disease (COPD), various coughs, chronic bronchitis, and a benign lung nodule;
- Hashimoto’s disease;
- Atrial fibrillation;
- Autoimmune diseases;
- Various gastrointestinal conditions, including gastroesophageal reflux disease, inflammatory bowel disease, colon polyps, Crohn’s disease, ulcerative colitis, and celiac disease;
- Erectile dysfunction;
- Brain aneurysms;
- Kidney stones and kidney disease;
- Gynecomastia;
- Dysfunctional eustachian tubes and tinnitus; and
- Metabolic disorders.

VA Response: Many of these conditions are covered under the PACT Act. VA will evaluate additional conditions as scientific evidence accrues to determine whether there is sufficient evidence to recommend presumption of exposure.

One veteran commented that military working dogs at K2 were always sick.

VA Response: In collaboration with DoD, VA has created a Military Working Dogs Database that includes morbidity, mortality, and post-mortem data. A total of 16 dogs have been identified as having deployed to K2, and preliminary analyses did not reveal any significant findings. Further analysis is ongoing.

Two veterans stated that they would be willing to undergo medical testing to further help K2 veterans. Several veterans requested that all military personnel who served at K2

automatically receive a service-connected disability rating, while other veterans commented that any condition they developed should be covered under a presumption.

In addition, one veteran commented that anyone who ever flew in or out of K2 deserves coverage. One veteran reported that their child had thyroid issues and connective tissue disease. Many commenters requested help for their conditions, stated that K2 veterans should receive benefits, or asked for additional research.

One commenter stated that K2 should be recognized as a TERA site; VA practitioners should be trained on the specific environmental concerns at K2; VA should conduct outreach and establish a K2 cohort; an independent review of the unique K2 toxic environment should be conducted; and VA should review the female cohort to investigate specific reproductive conditions. Finally, one commenter suggested that VA should reach out to the government of Uzbekistan on issues dealing with past chemical weapons.

VA further responds to these comments in the "Moving Forward" section below.

Comments Containing Documentation

VA received several photographs covering various topics, including a bag of medications; chemical agent warning signs; soil excavations; large puddles of water near tents; a dust cloud near heavy equipment in use; unknown yellow powder in soil being removed; a bottle of yellowish water; what may be a small inactive burn pit; two workers in hazardous materials suits; a smoke plume; what appears to be oil on the soil; heavy dust in the air at dusk; a "welcome to K2" sign with air pollution; and a female soldier using what appears to be a chemical agent detection kit.

One veteran provided a slide deck from the Center for Health Promotion and Preventive Medicine that listed radiation, fuels, and asbestos among other exposures, along with mitigation steps.

Additionally, the U.S. Military Exposure Research Organization submitted a document titled "Factors Contributing to Toxic Exposure Risk Activity at Camp Stronghold Freedom," which suggested in part that all veterans should get TERA benefits and health care; there was extensive flooding at K2; the validity of conclusions of K2 health risk assessments is questionable due to the inability to measure all exposures; and known health effects include exposures to particulate matter and other concerns. This document also

listed numerous possible chemical exposures.

VA responds to these comments in the following section.

Moving Forward

VA has considered, and will continue to consider, all comments that were received during the comment period. K2SP is ongoing and will continue to assess morbidity and mortality outcomes over the next 10 or more years. K2SP captures morbidity data from DoD and VA from 2000 to the present and compares disease outcomes, using similar data, to veterans who deployed in support of Operation Enduring Freedom during 2001 to 2005 but did not go to K2 and a separate group of veterans who served on active duty during the K2 occupation but never deployed anywhere in Southwest Asia. VA has submitted a report to Congress; provided VSOs with information about the mortality and morbidity study; and submitted a manuscript for publication to a peer-reviewed, scientific journal.

Many of the conditions that veterans addressed in their comments are assessed by K2SP. VA engaged with DoD regarding potential radiation exposure at K2. As mentioned previously, there is no evidence that enriched uranium was present at K2 at this time. VA is aware of potential exposures addressed by commenters, including depleted uranium, smoke, dust, contaminated surface water, and fuels. VA has received similar feedback from VSOs, veterans, and other stakeholders during public listening sessions. DoD completed a study on mortality¹ and preliminary findings from the K2SP have been reported by VA.² To date, there is no evidence to support an increased disease or mortality risk associated with service at K2. Epidemiologic research and scientific review of military environmental exposures is ongoing.

VA encourages all veterans who feel their military service has negatively impacted their health to submit a claim for disability compensation. VA will review the claims on a case-by-case basis. When determining eligibility for benefits, VA considers all avenues of service connection, which includes direct service connection, secondary service connection, and presumptive service connection. Service connection is not limited to potential exposures; service connection is potentially

warranted for chronic conditions manifesting to a compensable degree within the recognized time. All K2 veterans are eligible for VA benefits for the currently recognized conditions listed in 38 CFR 3.309(a) that manifest during service or within the recognized period. In addition, K2 veterans are also eligible for all conditions identified by the PACT Act for burn pit and other toxins. As noted previously, many of the conditions addressed by commenters are conditions currently covered as presumptive conditions for K2 veterans, including, but not limited to, asthma; sinusitis; rhinitis; COPD; chronic bronchitis; squamous cell carcinoma; and brain, reproductive, and respiratory cancers. A complete list of presumptive conditions related to burn pit exposure can be found at <https://www.va.gov/disability/eligibility/hazardous-materials-exposure/specific-environmental-hazards/#what-does-it-mean-to-have-a-pr>.

VA notes that between 2005 and March 2024, 73% of identified K2 veterans had filed a claim for disability compensation, and 68% of the total cohort (or 93% of those who had filed a disability compensation claim) received disability compensation benefits. For this cohort, the average number of service-connected issues claimed was over 20, and the number granted was 13.6. The average service-connected disability rating for this group is over 70%. Additionally, 84% of K2 veterans are enrolled in VA health care, and 91% are enrolled in either DoD or VA health care.

On August 9, 2024, VA announced several steps to expand access to VA benefits for veterans who served at K2, as well as their survivors.³ VA stated that it would consider all public comments received and assess if evidence supports additional recommendations. In October 2024, VA created a training module specific to K2 exposures, ensuring that toxic exposures and contaminants are fully accounted for in the VBA claims process. VA also updated TERA documents to ensure claims examiners are aware of exposure concerns and resources for K2 contaminants. From November 2024 through March 2025, VA conducted pre-decisional reviews, which included additional quality checks, to ensure K2 veterans receive all benefits to which they are entitled. VA reiterates that K2SP is ongoing and will reevaluate morbidity and mortality outcomes at regular intervals over the next 10 or

¹ <https://health.mil/Reference-Center/Publications/2024/06/01/K2-Mortality-Study>.

² www.publichealth.va.gov/docs/exposures/K2_AMSUS_24.pdf.

³ <https://news.va.gov/press-room/va-takes-steps-to-expand-access-to-benefits-for-Veterans-who-served-at-k2-and-their-survivors/>.

more years. These findings, along with continued evaluation of VBA claims data and review of pertinent scientific literature, will provide additional data for VA's ongoing assessment of health effects associated with K2 deployment.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 25, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication

electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

[FR Doc. 2025–19310 Filed 10–1–25; 8:45 am]

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Part II

Department of Labor

Employment and Training Administration

20 CFR Part 655

Adverse Effect Wage Rate Methodology for the Temporary Employment of
H-2A Nonimmigrants in Non-Range Occupations in the United States;
Final Rule

DEPARTMENT OF LABOR**Employment and Training
Administration****20 CFR Part 655****[DOL Docket No. ETA–2025–0008]****RIN 1205–AC24****Adverse Effect Wage Rate
Methodology for the Temporary
Employment of H–2A Nonimmigrants
in Non-Range Occupations in the
United States****AGENCY:** Employment and Training
Administration, Department of Labor.**ACTION:** Interim final rule, request for
comments.

SUMMARY: The Department of Labor (Department or DOL) is issuing this interim final rule (IFR) to amend its regulations governing the certification of agricultural labor or services to be performed by temporary foreign workers in H–2A nonimmigrant status (H–2A workers). Specifically, the Department is revising the methodology for determining the hourly Adverse Effect Wage Rates (AEWRs) for non-range occupations by using wage data reported for each U.S. state and territory by the Department's Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) survey. For the vast majority of H–2A job opportunities, the Department will use OEWS survey data to establish AEWRs applicable to five Standard Occupational Classification (SOC) codes combining the most common field and livestock worker occupations previously measured by the U.S. Department of Agriculture's (USDA) Farm Labor Survey (FLS), which covered six SOC codes. These AEWRs will be divided into two skill-based categories to account for wage differentials arising from qualifications contained in the employer's job offer. For all other occupations, the Department will use the OEWS survey to determine two skill-based AEWRs for each SOC code to reflect wage differentials. The threshold determination for assigning the SOC code(s) and applicable skill-based AEWR will be based on the duties performed for the majority of the workdays during the contract period and qualifications contained in the employer's job offer. Finally, to address differences in compensation between most U.S. workers and H–2A workers who receive employer-provided housing at no cost, the Department will implement a standard adjustment factor to the AEWR to account for this non-

monetary compensation that employers will apply when compensating H–2A workers under temporary agricultural labor certifications.

DATES: This rule is effective October 2, 2025. Interested persons are invited to submit written comments on this rule on or before December 1, 2025.

ADDRESSES: You may submit comments electronically by the following method: *Federal eRulemaking Portal: <https://www.regulations.gov>*. Follow the instructions on the website for submitting comments.

Instructions: Comments should be confined to issues pertinent to the interim final rule, identify the agency's name and public docket number ETA–2025–0008, explain the reasons for any recommended changes, and reference the specific section and wording being addressed, where possible.

Please be advised that the Department will post comments received that relate to this interim final rule to <https://www.regulations.gov>, including any personal information provided. The <https://www.regulations.gov> website is the Federal e-Rulemaking Portal and all comments posted there are available and accessible to the public. Please do not submit comments containing trade secrets, confidential or proprietary commercial or financial information, personal health information, sensitive personally identifiable information (for example, social security numbers, driver's license or state identification numbers, passport numbers, or financial account numbers), or other information that you do not want to be made available to the public. Should the agency become aware of such information, the agency reserves the right to redact or refrain from posting sensitive information, libelous, or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; or that contain hate speech. Please note that depending on how information is submitted, the agency may not be able to redact the information and instead reserves the right to refrain from posting the information or comment in such situations.

FOR FURTHER INFORMATION CONTACT: For further information regarding 20 CFR part 655, contact Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, email: OFLC.Regulations@dol.gov.

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Table of Acronyms and Abbreviations

AEWR	Adverse Effect Wage Rate
ALS	Agricultural Labor Survey
BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulations
CO	Certifying Officer
CPS	Current Population Survey
CY	calendar year
DHS	U.S. Department of Homeland Security
DOL	U.S. Department of Labor
DWL	deadweight loss
E.O.	Executive Order
ECI	Employment Cost Index
ETA	Employment and Training Administration
FLR	Farm Labor Report
FLS	Farm Labor Survey
FR	Final Rule
FY	Fiscal Year
GVW	Gross Vehicle Weight
H-2ALC	H-2A Labor Contractor
IFR	Interim Final Rule
INA	Immigration and Nationality Act
IRCA	Immigration Reform and Control Act of 1986
NAICS	North American Industry Classification System
NASS	National Agricultural Statistics Service
NPC	National Processing Center
NPRM	Notice of Proposed Rulemaking
O*NET	Occupational Information Network
OES	Occupational Employment Statistics
OEWS	Occupational Employment and Wage Statistics
OFLC	Office of Foreign Labor Certification
OIRA	Office of Information and Regulatory Affairs
OMB	Office of Management and Budget
Pub. L.	Public Law
RFA	Regulatory Flexibility Act of 1980
RIA	Regulatory impact analysis
SBA	Small Business Administration
SOC	Standard Occupational Classification

Stat. U.S. Statutes at Large
 SWA State Workforce Agency
 U.S. United States
 U.S.C. United States Code
 USCIS U.S. Citizenship and Immigration Service
 USDA U.S. Department of Agriculture
 WHD Wage and Hour Division

I. Introduction

A. Legal Authority

The Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), establishes an “H-2A” nonimmigrant visa classification for a worker “having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services . . . of a temporary or seasonal nature.” 8 U.S.C. 1101(a)(15)(H)(ii)(a); *see also* 8 U.S.C. 1184(c)(1) and 1188.¹ The term “[a]gricultural labor or services” includes the types of labor and services “defined by the Secretary of Labor in regulations,” as well as the Internal Revenue Code definition of “agricultural labor” at “section 3121(g) of title 26,” the Fair Labor Standards Act definition of “agriculture” at “section 203(f) of title 29,” and “the pressing of apples for cider on a farm” 8 U.S.C. 1101(a)(15)(H)(ii)(a).

The admission of foreign workers under this classification involves a multistep process before several Federal agencies. A prospective H-2A employer must first apply to the Secretary of Labor (Secretary) for a certification that:

(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and
 (B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

8 U.S.C. 1188(a)(1).

The INA prohibits the Secretary from issuing this certification—known as a “temporary labor certification”—unless both of the above referenced conditions are met, and none of the conditions in 8 U.S.C. 1188(b) applies concerning strikes or lock-outs, labor certification program debarments, workers’ compensation assurances, and positive recruitment.

The Secretary has delegated the authority to issue temporary agricultural labor certifications to the Assistant Secretary for Employment and Training, who in turn has delegated that authority

to ETA’s Office of Foreign Labor Certification (OFLC).² In addition, the Secretary has delegated to the Department’s Wage and Hour Division (WHD) the responsibility under sec. 218(g)(2) of the INA, 8 U.S.C. 1188(g)(2), to assure employer compliance with the terms and conditions of employment under the H-2A program.³ Since 1987, the Department has operated the H-2A temporary agricultural labor certification program under regulations promulgated pursuant to the INA. The standards and procedures applicable to the certification and employment of workers under the H-2A program are found at 20 CFR part 655, subpart B, and 29 CFR part 501.

When creating the H-2A visa classification, Congress charged the Department with, among other things, regulating the employment of nonimmigrant foreign workers in agriculture to guard against adverse impact on the wages of agricultural workers in the United States similarly employed. *See* 8 U.S.C. 1188(a)(1)(B). Congress, however, did not “define adverse effect and left it in the Department’s discretion how to ensure that the [employment] of farmworkers met the statutory requirements” while serving “the interests of both farmworkers and growers—which are often in tension.”⁴ Thus, the Department has discretion to determine the methodological approach that best allows it to meet its statutory mandate.⁵

Since the Supreme Court’s decision in *Loper-Bright Enterprises, et al. v. Raimondo*, 603 U.S. 369 (2024), courts have consistently found that the Department has discretion to determine the methods it uses to carry out its mandate to prevent adverse effect. In *Kansas, et al. v. U.S. Department of Labor* the district court noted the INA “affords the DOL considerable latitude to promulgate regulations that protect American workers from being adversely affected by the issuance of H-2A visas” and that the Department’s “choice of [AEWR] methodology is really a policy decision taken within the bounds of a rather broad delegation.”⁶ The court in

² *See* Secretary’s Order 06–2010 (Oct. 20, 2010), 75 FR 66268 (Oct. 27, 2010).

³ *See* Secretary’s Order 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014).

⁴ *AFL-CIO, et al. v. Dole*, 923 F.2d 182, 184, 187 (D.C. Cir. 1991). *See also Overdevest Nurseries v. Walsh*, 2 F.4th 977, 984 (D.C. Cir. 2021) (finding reasonable the Department’s definition of “corresponding employment” to prevent adverse effect on workers similarly employed).

⁵ *United Farmworkers v. Solis*, 697 F. Supp. 2d 5, 8–11 (D.D.C. 2010).

⁶ 749 F. Supp. 3d 1363, 1374–75 (S.D. Ga. 2024) (quoting *Dole* at 187).

¹ For ease of reference, sections of the INA are referred to by their corresponding section in the United States Code.

Teche Vermillion v. Sugar Cane Growers Ass'n Inc. v. Su similarly held that the INA “grants discretion to the DOL to implement a regulatory regime to address” adverse effect, does not “define the term ‘similarly employed,’” and “does not direct the DOL how to determine whether the employment of an H–2A worker will ‘adversely affect’ the wages and working conditions of domestic workers” similarly employed.⁷ Thus in *Teche* the court found that the INA “does not dictate the methodology that the DOL must use to determine the AEWR or otherwise limit the DOL to using a particular survey, such as the FLS,” and that “[t]he only statutory constraints are the boundaries set by section 1188(a)(1)(B).”⁸ While reiterating the Department’s obligation to “balance the competing goals of the statute—providing an adequate labor supply and protecting the jobs of domestic workers,” the “choice of [AEWR] methodology . . .” to achieve those twin aims “is really a policy decision taken within the bounds of a rather broad congressional delegation” provided to the Department.⁹

B. The Role of AEWRs in the H–2A Program

As explained in prior rulemakings, a “basic Congressional premise for temporary foreign worker programs . . . is that the unregulated use of [nonimmigrant foreign workers] in agriculture would have an adverse impact on the wages of U.S. workers, absent protection.”¹⁰ The AEWR is one of the primary ways the Department has historically met its statutory obligation to certify that the employment of H–2A workers will not have an adverse effect on the wages of agricultural workers in the United States similarly employed, while ensuring that employers can access legal agricultural labor. The AEWR is a regulatory mechanism to prevent—not compensate for—adverse effects. The AEWR is not backward-looking or remedial, meaning it is not “predicated on the existence of wage depression in the agricultural sector and [DOL] is not statutorily required to identify existing wage suppression prior

to establishing and requiring employers to pay an AEWR.”¹¹

Further, the INA does not require the Department to prove or rely on the existence of past adverse effect but instead is focused on prevent[ing] future adverse effect.¹² Regardless “of any past adverse effect that the use of low-skilled foreign labor may or may not have had on” wages, the AEWR is necessary to satisfy the Department’s “forward-looking need to protect U.S. workers whose low skills make them particularly vulnerable to even relatively mild—and thus very difficult to capture empirically—wage stagnation or deflation.”¹³ As the Department has noted in prior rulemaking, there is no “reliable method available” to determine the existence of adverse effect in a particular area and occupation or agricultural activity and the absence of such a finding would not mean there has been no adverse effect, but merely that “imposition of the AEWR heretofore has been successful in shielding domestic farm workers from the potentially wage depressing effects of overly large numbers of temporary foreign workers” into a particular area.¹⁴

In administering the H–2A program and carrying out the statutory mandate to prevent adverse effect, the INA does not require the Department to “determine the AEWR at the highest conceivable point, nor at the lowest, so long as it serves its purpose to guard against adverse impact on the wages of agricultural workers in the United States similarly employed.”¹⁵ Rather, the

“‘clear congressional intent was to make the H–2A program usable, not to make U.S. producers non-competitive’”. “‘Unreasonably high AEWRs could endanger the total U.S. domestic agribusiness, because the international competitive position of U.S. agriculture is quite fragile.’”¹⁶ The Department must also consider factors relating to the sound and effective administration of the H–2A program in deciding how to determine the most reasonable methodology for establishing the AEWR to effectuate its statutory mandate.¹⁷

C. Brief History of AEWR Methodologies

Concerns about the potential adverse impact resulting from a large influx of temporary foreign workers, and development of methods to determine and establish AEWRs to prevent it, date back to the establishment of the Bracero Program and were at one point reflected in international agreements that pre-date the 1986 IRCA.¹⁸ Since at least 1953, “employers seeking to import foreign nationals to work in various crop activities (in that case, under the Bracero program) were required to pay not less than a wage established by DOL.”¹⁹ The AEWR as a formal concept in the H–2 program was introduced in 1963, at which point the AEWR initially was based on the Census of Agriculture’s average earnings for each state, which was conducted by the U.S. Census Bureau and provided data for 11 East Coast H–2 user states and was expanded and periodically adjusted thereafter.²⁰ As time passed, the establishment of AEWRs became more formalized, and AEWRs were computed and set for the entire H–2 program, with corresponding public notice and comment. *See, e.g.,* 29 FR 19101–19102

numbers are within a zone of reasonableness, not whether its numbers are precisely right.’”) (quoting *WorldCom, Inc. v. FCC*, 238 F.3d 449, 462 (D.C. Cir. 2001)).

¹⁶ *Id.* at 12772 (quoting 54 FR 28037, 28046 (Jul. 5, 1989)).

¹⁷ 85 FR at 70450.

¹⁸ *See* 54 FR at 28039. The first Bracero Program allowed farmers in the western United States to employ temporary foreign workers from Mexico to work on farms and railroads beginning in May 1917. Under these agreements, employers were required to obtain a certification from their local Employment Service office that there were not sufficient U.S. workers to fill the jobs they offered, and the contracts with Mexican workers had to offer the same wages that were paid “for similar labor in the community in which the admitted aliens are to be employed.” *See* Emergency Immigration Legislation: Hearing before Committee on Immigration, United States Senate, 66th Congress, Third Session, on H.R. 14461, 66 Cong. 3 (1921) (citing Departmental Order of April 12, 1918, Concerning Admission of Agricultural Laborers. U.S. Department of Labor, Bureau of Immigration, Washington, April 12, 1918).

¹⁹ 54 FR at 28039.

²⁰ *Id.* at 28040.

¹¹ 85 FR at 70450; *see also, e.g.,* 75 FR 6884, 6895 (Feb. 12, 2010) (reiterating justification for protection against future adverse effect in 1989 rule); *id.* at 6891 (“By computing an AEWR to approximate the equilibrium wages that would result absent an influx of temporary foreign workers, the AEWR serves to put incumbent farm workers in the position they would have been in but for the H–2A program. In this sense, the AEWR avoids adverse effects . . .”); 73 FR 77110, 77167 (Dec. 18, 2008) (noting the D.C. Circuit observed there is no “statutory requirement to adjust for past wage depression”); 54 FR at 28046–47 (Jul. 5, 1989) (“IRCA only requires that the AEWR prevent future adverse effect from the use of foreign workers, not compensate for past effect.”)

¹² *See, e.g.,* 54 FR at 28046–47; 75 FR at 6895 (reiterating justification for protection against future adverse effect in 1989 rule); 73 FR at 77167 (Dec. 18, 2008) (noting the D.C. Circuit observed there is no “statutory requirement to adjust for past wage depression”).

¹³ 85 FR at 70450–70451.

¹⁴ *Id.* at 70451, citing 54 FR 28037, 28045 (July 5, 1989).

¹⁵ 88 FR 12760, 12761 (Feb. 28, 2023); *see also* 52 FR 11460, 11464 (Apr. 9, 1987) (“[T]he labor certification program is not the appropriate means to escalate agricultural earnings above the adverse effect level or to set an ‘attractive wage.’”); *Nat’l Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200, 214–15 (D.C. Cir. 2013) (noting that “an agency has ‘wide discretion’ in making line-drawing decisions and ‘[t]he relevant question is whether the agency’s

⁷ *Teche Vermillion Sugar Cane Growers Ass’n Inc. v. Su*, 749 F. Supp. 3d 697, 723 (W.D. La. 2024), *opinion clarified*, No. 6:23–CV–831, 2024 WL 4729319 (W.D. La. Nov. 7, 2024), and *amended*, No. 6:23–CV–831, 2025 WL 1969937 (W.D. La. July 16, 2025).

⁸ *Id.* at 33.

⁹ *Kansas, et al. v. U.S. Dep’t of Labor*, 749 F.Supp.3d 1363, 1374 (S.D. Ga., Aug. 26, 2024), citing *AFL–CIO v. Dole*, 923 F.2d 182, 187 (D.C. Cir. 1991).

¹⁰ 85 FR 70445, 70449 (Nov. 5, 2020) (citation omitted).

(Dec. 30, 1964); 32 FR 4569, 4571 (Mar. 28, 1967); and 35 FR 12394–12395 (Aug. 4, 1967).

Since 1987, following the IRCA amendments of 1986, the Department has operated the H–2A program under regulations promulgated pursuant to the INA and has, with brief interruption, set the AEWR for most agricultural workers at the average wage paid to similarly employed workers in a state or region, as determined by the USDA Farm Labor Survey (FLS). For more than two decades after IRCA, the Department's 1989 Final Rule governed the H–2A program.²¹ The 1989 Final Rule “dramatically expanded the use of the AEWR as a wage protection in the H–2A program in 49 States (excluding Alaska) and first began using the FLS to set the AEWR” as the average wage of farmworkers, which is the method still in use for most H–2A job opportunities.²² This methodology was selected after a thorough consideration of alternatives and litigation directing the Department to provide a reasoned explanation for the chosen AEWR methodology.²³ The Department noted that the use of the FLS to set statewide AEWRs based on actual earnings of similarly employed workers was preferable to the prior method of basing AEWRs on the 1950s Census of Agriculture “that had been adjusted upward by various methods over the years.”²⁴

For a brief period, under a 2008 final rule (73 FR 77110), the Department determined the AEWR to be based on the OEWS survey. The Department explained that under that rule, the AEWR was set “using the [SOC] taxonomy” to “set a different AEWR for each SOC [occupation] and localized area of intended employment.”²⁵ The Department also set the wage for each job opportunity at one of multiple wage levels “intended to reflect education and training,” similar to the Congressionally-mandated prevailing wage methodology in the H–1B program.²⁶ The Department suspended this rule in 2009 citing administrative challenges and concerns that U.S. workers may in the future experience wage depression as a result of

unchecked expansion of the demand for foreign workers.²⁷ Under the 2010 final rule (75 FR 6884), which has governed the program for more than a decade at various intervals, the Department returned to use of the FLS hourly wage data to determine the AEWR for field and livestock workers (combined), and produced “a single AEWR for all agricultural workers in a State or region, without regard to SOC code, and no AEWR in geographic areas not surveyed” (e.g., Alaska and Puerto Rico).²⁸

In response to public comments on previous proposed rules related to the methodology for determining the AEWRs, the Department considered and rejected several alternative methodologies, including: adding an enhancement to the USDA average wage;²⁹ tying the AEWR to an index like the Consumer Price Index or Employment Cost Index;³⁰ using various methods of setting AEWRs based on a uniform minimum wage untethered to labor market data, such as an enhanced federal minimum wage;³¹ eliminating AEWRs and instead using only prevailing wages based on specific crop activities;³² setting a cap or ceiling

on the AEWR employers must pay;³³ and using the highest AEWR among those reported by the FLS and OEWS at the local, state, and national levels,³⁴ among other suggested alternative methods.

D. Recent Rulemaking and Litigation

As part of a comprehensive NPRM published in 2019, the Department proposed to establish occupation-specific statewide hourly AEWRs for non-range occupations (i.e., all occupations other than herding and production of livestock on the range) using data reported by FLS for the SOC code in the State or region, if available, or data reported by the OES (now OEWS) survey for the SOC code in the State, if FLS data in the State or region was not available.³⁵ The Department explained that establishing AEWRs based on data more specific to the agricultural services or labor being performed under the SOC system would better protect against adverse effect on the wages of agricultural workers in the United States similarly employed. The Department expressed concern that the AEWR methodology under the 2010 Final Rule could have an adverse effect on the wages of workers in higher paid agricultural SOC codes, such as supervisors of farmworkers and construction laborers, whose wages may be inappropriately lowered by use of a single hourly AEWR based on the wage data collected for the six SOC codes covering field and livestock workers (combined) when the essence of the employer's job opportunity is equivalent to and should be treated like other jobs in the higher paid occupations outside of the field and livestock workers (combined) category.³⁶

On September 30, 2020, USDA announced its intent to discontinue the FLS and that it would not publish the FLS in November 2020. Litigation challenging USDA's cancellation of the FLS data collection and November annual report publication followed and,

²⁷ 74 FR 45906 (Sep. 4, 2009).

²⁸ 88 FR at 12793–12794.

²⁹ See, e.g., 54 FR at 28045, 28046–47, 28051 (rejecting use of an enhanced wage methodology for foreign workers because, absent data indicating a need to correct wage suppression, it could be inflationary and beyond the Department's authority.).

³⁰ See, e.g., 85 FR at 70455 (rejecting use of the CPI because it measured changes in consumer prices, not changes in wages); 88 FR at 12773 (rejecting use of the ECI “or other broad indices” because they would provide only “a general measure of changes in the cost of labor across the private sector,” rather than “actual wage data for agricultural workers in particular geographic areas.”).

³¹ See, e.g., 88 FR at 12773 (rejecting use of a minimum wage or an enhanced minimum wage because these “predetermined wages would be untethered from data on wages employers pay to” similarly employed workers and the method would “immediately and dramatically reduce the wages of many H–2A and similarly employed workers . . .”); 73 FR 77110, 77172 (Dec. 18, 2008) (rejecting a national uniform wage because it would “not reflect market wages” and “would prove to be below market rates in some areas and above market rates in other areas.”).

³² See, e.g., 54 FR at 28045, 28047 (rejecting use only of a crop-specific minimum wage and stating an average AEWR wage is necessary to address “pockets of past adverse effect” that are difficult to measure but may persist); 88 FR at 12768 (Feb. 28, 2023) (rejecting similar methods for similar reasons, and noting the AEWR functions as “a prevailing wage defined over a broader geographic area and over a broader occupational span”); See also 87 FR 61660, 61687, 61701 (Oct. 12, 2022) (explaining prevailing wage rates are not available for all crop activities and locations in every year and the Department will not issue a specific prevailing wage determination where a compliant state-issued survey prevailing wage is unavailable).

³³ See, e.g., 88 FR at 12773 (noting capped AEWRs would not reflect actual wage changes and “imposition of such a cap would produce wage stagnation” especially “in years when the wages of agricultural workers are rising faster . . .”).

³⁴ See, e.g., 88 FR at 12773–12774 (rejecting this method because it would increase regulatory complexity and unpredictability and would arbitrarily impose a wage that is highest among multiple data sources when the Department's preferred sources are available, without noting flaws in the methodology of the preferred sources or explaining how other sources would produce a more accurate wage, which may result in employers paying an “enhanced wage untethered to the best available information . . .” and “place unnecessary upward pressure on wages . . .”).

³⁵ See 84 FR at 36171 (Jul. 26, 2019).

³⁶ See 84 FR at 36180–36185.

²¹ See *id.* at 28037.

²² 84 FR 36168, 36186 (Jun. 26, 2019).

²³ See 54 FR at 28038 (discussing the Department's 1987 IFR methodology and related litigation and subsequent rounds of rulemaking to determine a reasoned AEWR methodology); See also 52 FR 20496 (Jun. 1, 1987) (1987 H–2A IFR); *AFL–CIO v. Brock*, 835 F.2d 912, 915 (D.C. Cir. 1987).

²⁴ *Id.* at 28039.

²⁵ 84 FR at 36180.

²⁶ *Id.*

on October 28, 2020, in *United Farm Workers, et al. v. Perdue, et al.*, No. 20-cv-01452 (E.D. Cal. filed Oct. 13, 2020), the court preliminarily enjoined USDA from giving effect to its decision to cancel the October 2020 FLS data collection and cancel its November 2020 publication of the FLS.³⁷ In light of USDA's action and subsequent litigation over the announcement, the Department determined it was necessary to bifurcate the 2019 H-2A NPRM's proposals and published an AEWL final rule on November 5, 2020 (2020 AEWL Final Rule), to establish a new hourly AEWL methodology with an effective date of December 21, 2020.³⁸

Under the 2020 AEWL Final Rule, the Department used the 2019 USDA FLS wage report as the baseline for establishing the 2021 AEWLs for all field and livestock workers (combined) occupations in all states with annual wage data except Alaska, which constituted more than 95 percent of H-2A job opportunities. After a two-year "freeze," these AEWLs would then be adjusted annually based on the 12-month percent change in the BLS Employment Cost Index (ECI) beginning in 2023; an index the Department continues to use to adjust the monthly AEWL for job opportunities in the herding or production of livestock on the range. For all other occupations and geographic areas not covered in the FLS report (*i.e.*, Alaska and U.S. territories), the 2020 AEWL Final Rule set AEWLs using the statewide average hourly gross wage for the occupation, as reported by the BLS OEWS survey at the state or national level. If the job opportunity is classified in more than one SOC system code, the AEWL will be the highest rate among the applicable occupational codes.

The Department's 2020 AEWL Final Rule was challenged in *United Farm Workers, et al. v. Dep't of Labor, et al.*, No. 20-cv-01690 (E.D. Cal. filed Nov. 30, 2020). The 2020 AEWL Final Rule was enjoined and subsequently vacated and remanded to the Department for further rulemaking consistent with the court's opinion.³⁹ As a result of this litigation, the Department reverted back to the methodology used in the 2010 H-

2A Final Rule and continued to do so until February 28, 2023, when the Department published the 2023 AEWL Final Rule (2023 AEWL Final Rule).⁴⁰

Under the 2023 AEWL Final Rule, the Department established the AEWLs based on the annual average hourly gross wage in the State or region reported from the USDA FLS or the BLS OEWS survey. The Department adjusted the AEWLs for each State or region at least once in each calendar year. The OFLC Administrator published an announcement in the **Federal Register** to update the AEWLs based on the FLS, effective on or about January 1, and a separate announcement in the **Federal Register** to update the AEWLs based on the OEWS survey, effective on or about July 1.

The Department determined the AEWL for the six most common occupations—those within the FLS field and livestock workers (combined) category⁴¹—using, as its primary wage source, the annual average gross hourly wage reported by the FLS for the State or region. Hourly wage rates were calculated based on employers' reports of total wages paid and total hours worked for all hired workers during a particular survey reference week each quarter. In the event the FLS could not report the annual average hourly gross wage for the field and livestock workers (combined) category in a particular geographic area (*e.g.*, in Alaska, which is not covered in FLS data) or in the unanticipated circumstance that the FLS survey became unavailable (*e.g.*, suspension of the survey), the Department would use, as its secondary source, the OEWS to determine a statewide AEWL for the field and livestock workers (combined) category. In circumstances where neither the FLS nor the OEWS survey reports a statewide annual average hourly gross wage for the field and livestock workers (combined) category in a particular State, or equivalent district or territory, the Department used the OEWS survey's national annual average hourly gross wage for the field and livestock workers (combined) category to determine the AEWL in that State.

For H-2A job opportunities that do not fall within the FLS field and livestock workers (combined) category,

the Department used only the OEWS survey to determine SOC-specific AEWLs. Under this methodology, the AEWL for all non-range SOC codes outside the field and livestock workers (combined) category were computed as the statewide annual average hourly gross wage for the SOC code, as reported by the OEWS survey. If the OEWS survey did not report a statewide annual average hourly gross wage for the SOC code, the AEWL for that State was determined as the national annual average hourly gross wage for the SOC code, as reported by the OEWS survey.

The 2023 AEWL Final Rule also required employers to pay the highest of all applicable AEWLs for job opportunities involving a combination of duties within multiple occupations, regardless of the amount of time a worker may spend performing such duties. Although the vast majority of H-2A job opportunities fall within the FLS field and livestock workers (combined) category and are subject to the single statewide AEWL determination, some H-2A job opportunities include duties that fall both within and outside of that category. In these circumstances and no matter how often a particular duty or work task is performed, the Department determined the AEWL based on the highest of the applicable FLS and OEWS rates that employers were required to advertise, offer, and pay for the entire work contract period.

Since its implementation on March 30, 2023, the Department has litigated substantive issues raised in lawsuits across several district courts challenging the methodology contained in the 2023 AEWL Final Rule. Generally, plaintiffs in these litigation matters claim that the methodology contained in the 2023 AEWL Final Rule exceeds the Department's statutory authority and is arbitrary and capricious. In *USA Farm Labor, Inc., et al. v. Su, et al.*, No. 1:23-cv-00096 (W.D. N.C. filed June 28, 2023), the plaintiffs include a group of 23 mostly small farms and agricultural businesses and one H-2A filing agent asserting that the Department violated the Administrative Procedure Act (APA) and that the 2023 AEWL Final Rule was arbitrary and capricious for the following reasons: (1) the Department exceeded its statutory authority in treating agricultural positions as being "similar" to nonagricultural positions for purposes of determining the AEWLs; (2) the Department failed to consider what a worker's primary job duties are in determining the AEWL in favor of a combination of duties rule where even minor or intermittent job duties would shift the determination from an FLS-based AEWL to an OEWS-based AEWL;

³⁷ *United Farm Workers, et al. v. U.S. Dep't of Labor, et al.*, 598 F.Supp.3d 878, 888 (E.D. Cal. Apr. 1, 2022); see also *United Farm Workers, et al. v. U.S. Dep't of Labor, et al.*, 509 F.Supp.3d 1225, 1255 (E.D. Cal. Dec. 23, 2020) (enjoining the Department from implementing the November 2020 Final Rule).

³⁸ Final Rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, 85 FR 70445, 70447–70465 (Nov. 5, 2020).

³⁹ *Id.*

⁴⁰ 88 FR 12760.

⁴¹ This currently includes the following 'big six' SOC occupational titles and codes: Farmworkers and Laborers, Crop, Nursery and Greenhouse (45–2092); Farmworkers, Farm, Ranch, and Aquacultural Animals (45–2093); Agricultural Equipment Operators (45–2091); Packers and Packagers, Hand (53–7064); Graders and Sorters, Agricultural Products (45–2041); and Agricultural Workers, All Other (45–2099).

and (3) the Department failed to consider the effect its chosen AEWR methodology will have on food prices and rule's effect on illegal immigration. Although plaintiffs' motion for a preliminary injunction was denied by the district court, the lawsuit remains an active appeal in the Fourth Circuit.

In *Florida Growers Association, Inc. et al.* (FGA),⁴² the plaintiffs included a group of small farms, one national association, and several Florida grower associations. In their complaint, plaintiffs asserted that the Department violated the APA and that the 2023 AEWR Final Rule was arbitrary and capricious for the following reasons: (1) the Department impermissibly used OEWS-based AEWRs for jobs involving a "mix of duties" falling both inside and outside of the FLS combined field and livestock workers category for the purpose of attracting U.S. workers to these job opportunities, rather than to prevent an adverse effect on the pay of similarly employed U.S. workers; (2) the Department should have confined its use of OEWS data by examining the primary or main duties of the work to be performed or, alternatively, applying the applicable wage to the specific work considered to be similar employment, rather than the highest applicable AEWR to all workers at all times under the contract; and (3) the USDA FLS data is flawed in that it includes total compensation paid by a farm, including overtime, Christmas or birthday bonuses, and piece-rate payments, rather than straight hourly rates, does not include farm labor contractors, and fails to consider non-wage expenses of H-2A employers that the Department requires them to provide, including but not limited to, international and local transportation and employer-provided housing. Based on testimony provided by expert economists, the plaintiffs further asserted that the FLS-based data provides an accurate count of the number of persons employed in agriculture and the average wage rate across all skill levels and occupations, but fails to provide an appropriate entry-level or starting wage for H-2A employment.⁴³ After the court denied plaintiffs' motion for preliminary injunction, the case was briefed for summary judgment but later stayed pursuant to the Department's motion.⁴⁴

In *Teche Vermilion Sugar Cane Growers Assoc. Inc., (Teche*

Vermilion),⁴⁵ the plaintiffs included two agricultural associations, a trade association, three farming businesses, and an individual owner and operator of two farms seeking preliminary and permanent injunctive relief against the rule's application and enforcement. In their complaint, the plaintiffs asserted that the Department exceeded its statutory authority and the 2023 AEWR Final Rule is arbitrary and capricious under the APA because the rule: (1) required employers to pay some H-2A workers' wages based on allegedly higher rates for "non-farm" U.S. workers not similarly employed; (2) failed to adequately address the rule's economic impact on small business, or consider other alternatives, under the Regulatory Flexibility Act (RFA); and (3) violated the Congressional Review Act mandate that the Department submit a rule exceeding an alleged \$100 million in economic impact to Congress at least 60 days prior to its effective date. On September 18, 2024, the district court issued a preliminary injunction enjoining the Department from applying the 2023 AEWR Final Rule to the named plaintiffs and members of the association plaintiffs with respect to the hiring of H-2A workers who grow, harvest, and process sugar cane in Louisiana. In its ruling, the court stated that it cannot conclude that the Department's "use of non-farm wage surveys, such as the OEWS, to supplement data from the FLS in setting the AEWR for H-2A workers exceeds the DOL's statutory authority as long as its methodology is based on workers who are 'similarly employed.'" ⁴⁶ However, the Court further noted that the Department failed to consider or adequately explain the basis for assigning the AEWR for non-farm heavy and tractor-trailer truck drivers to H-2A workers engaged in driving sugarcane trucks, including failing to assess any "differences in the 'work performed, skills, education, training, and credentials' of these two groups of workers." ⁴⁷ On August 21, 2025, plaintiffs in *Teche Vermilion* filed a Motion for Entry of Final Judgment requesting that the court convert its preliminary injunction into a final judgment and to accordingly vacate the

2023 AEWR Final Rule.⁴⁸ On August 25, 2025, the Western District of Louisiana granted plaintiffs' unopposed Motion for Entry of Final Judgment and ordered the 2023 AEWR Final Rule vacated.⁴⁹ As a result of the 2023 AEWR Final Rule being vacated, the Department currently establishes a single AEWR for each state and covering all H-2A job opportunities, except Alaska and the U.S. territories, using the 2010 final rule methodology that is based solely on the FLS hourly wage data for field and livestock workers (combined). On August 28, 2025, the Department published a notice on the OFLC website announcing the court's vacatur and stating that the AEWRs for all H-2A job opportunities will be set according to the methodology set forth in the 2010 final rule.

II. Good Cause Justification and Need for This IFR

A. The Good Cause Exception Under the APA, and the Two Separate and Independent Bases for the Department's Invocation of the Good Cause Exception

The Administrative Procedure Act (APA) provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(B). *See also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule"). Generally, the good cause exception for forgoing notice and comment rulemaking "excuses notice and comment in emergency situations, or where delay could result in serious harm." ⁵⁰ While emergency situations are the most common circumstances in which the good cause exception is invoked, the infliction of real harm that would result from delayed action even absent an emergency can be sufficient grounds to issue a rule without undergoing prior notice and comment.⁵¹

⁴⁸ Motion For Entry of Final Judgment, *Teche Vermilion Sugar Cane Growers Ass'n Inc. v. Su*, No. 6:23-cv-00831-RRS-CBW (W.D. La. Aug. 21, 2025), ECF No. 86.

⁴⁹ Judgment, *Teche Vermilion Sugar Cane Growers Ass'n Inc. v. Su*, No. 6:23-cv-00831-RRS-CBW (W.D. La. Aug. 21, 2025), ECF No. 87.

⁵⁰ *Jifry v. FAA*, 370 F.3d 1174, 1179 (D.C. Cir. 2004); *see also U.S. Corp. v. U.S. E.P.A.*, 595 F.2d 207, 214 (5th Cir. 1979) ("It is an important safety valve to be used where delay would do real harm.").

⁵¹ *Nat. Res. Def. Council, Inc. v. Evans*, 316 F.3d 904, 911 (9th Cir. 2003) ("[W]e have observed that

Continued

⁴² *Florida Growers Ass'n, Inc., et al. v. Su*, No. 8:23-cv-00889-CEH-CPT (M.D. Fla. 2024).

⁴³ Complaint, *Florida Growers Ass'n, Inc., et al. v. Su*, No. 8:23-cv-00889-CEH-CPT (M.D. Fla. Apr. 21, 2023), ECF No. 1.

⁴⁴ *Id.* at ECF No. 105.

⁴⁵ *Teche Vermilion Sugar Cane Growers Ass'n Inc. v. Su*, No. 6:23-CV-831 (W.D. La. 2023).

⁴⁶ *Teche Vermilion Sugar Cane Growers Ass'n Inc. v. Su*, 749 F. Supp. 3d 697 (W.D. La. 2024), opinion clarified, No. 6:23-CV-831, 2024 WL 4729319 (W.D. La. Nov. 7, 2024), and amended, No. 6:23-CV-831, 2025 WL 1969937 (W.D. La. July 16, 2025).

⁴⁷ *Id.* at 730-731.

And, as the D.C. Circuit noted, economic harm may be a basis on which the good cause exception may be invoked.⁵²

First, the Department has good cause to forgo the APA's notice-and-comment procedures and delayed effective date requirements under the "public interest" prong. Under the "public interest" prong of the good cause exception, "the question is not whether dispensing with notice and comment would be contrary to the public interest, but whether providing notice and comment would be contrary to the public interest."⁵³ This prong applies here because, as is explained in detail hereinafter, at Section II.B, the lack of a reasonable and viable AEWR methodology, when combined with the current and imminent labor shortage exacerbated by the near total cessation of the inflow of illegal aliens, increased enforcement of existing immigration law, and global competitiveness pressures described below, presents a sufficient risk of supply shock-induced food shortages to justify immediate implementation of this IFR (with a subsequent "final" final rule to follow the comment period).

There is ample data showing immediate dangers to the American food supply. The methodology for calculating AEWRs in the vacated 2023 AEWR Final Rule and even under current 2010 final rule, both of which used a single average gross hourly wage for the vast majority of H-2A jobs without regard to the qualifications of the employer's job offer or how much time a worker spends performing specific duties during a work contract period poses an imminent risk to the supply of agricultural labor by setting unreasonably high price floors on labor. This IFR addresses and solves this imminent threat by implementing an AEWR methodology that results in more precise market-based price floors that still serves its statutory function of protecting American workers, but also, ensures that American supermarkets and U.S. consumers will have access to safe, affordable and American-grown produce.

notice and comment procedures should be waived only when 'delay would do real harm.' . . . 'Emergencies, though not the only situations constituting good cause, are the most common.'") (citations omitted); see also *Buschmann v. Schweiker*, 676 F.2d 352, 357 (9th Cir. 1982) ("The notice and comment procedures in Section 553 should be waived only when 'delay would do real harm' . . . The good cause exception is essentially an emergency procedure.") (citations omitted).

⁵² *Sorenson Commc'ns v. F.C.C.*, 755 F.3d 702, 707 (D.C. Cir. 2014).

⁵³ *Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 95 (D.C. Cir. 2012).

These types of risks to the American food supply have supported good cause in the past and support them now.⁵⁴ As explained in detail below, any delay in implementing this revised AEWR policy would cause or exacerbate imminent and significant economic harm to employers in the U.S. agricultural sector, to authorized U.S. workers performing agricultural labor, and to U.S. consumers of domestic agricultural crops and commodities. Employers in the U.S. agricultural sector are facing a structural, not cyclical, workforce crisis driven by both the lack of an available legal workforce that is relatively mobile and able to adjust to changes in labor demands as well as an ever hastening loss of the mobile illegal alien workforce that had flowed in and out of the United States through a previously porous border.⁵⁵ Nationwide illegal crossings are now at a rate 93% lower than the peak level reached during the prior four years, a rate that has held steady since June of 2025. As discussed below and based on the Department's most recent NAWS data on U.S. crop workers, much of this illegal inflow artificially boosted the supply of labor at relatively lower costs compared to the labor costs associated with a legal workforce. The near total cessation of the inflow of illegal aliens combined with the lack of an available legal workforce, results in significant disruptions to production costs and threatening the stability of domestic food production and prices for U.S. consumers. Unless the Department acts immediately to provide a source of stable and lawful labor, this threat will grow as the tools Congress provided in H.R. 1, *One Big Beautiful Bill Act*, to enhance enforcement of the nation's immigration laws are deployed.

Second, as explained in Section II.C below, the Department has good cause

⁵⁴ See e.g., *Friendship Dairies, Inc. v. Butz*, 432 F. Supp. 508, 513 (E.D.N.Y.), aff'd, 573 F.2d 1290 (2d Cir. 1977) (finding that 10% increase in price of milk, among other things, was sufficient to support good cause because it evinced "substantial evidence of the serious problems confronting producers in the Order No. 2 area and of the potential for disruption of normal marketing channels . . . If the trend were allowed to continue, shortages of milk would have been the likely result"); see also *Am. Fed'n of Gov't Emp., AFL-CIO v. Block*, 655 F.2d 1153, 1157 (D.C. Cir. 1981) (approving good cause rescission of regulation requiring inspection of poultry because they would "ameliorate" "poultry shortages or increases in consumer prices").

⁵⁵ See CPB, *National Media Release: Trump Administration delivers 4 straight months of 0 releases at the border, nationwide crossings remain 93% lower than the peak under Biden Administration*, <https://www.cbp.gov/newsroom/national-media-release/trump-administration-delivers-4-straight-months-0-releases-border> [INSERT PERMA LINK] (last visited September 20, 2025).

under the "impracticability" prong to forgo the APA's notice-and-comment procedures and delayed effective date requirements due to USDA's decision to discontinue certain statistical surveys including the FLS, that was submitted to OIRA on August 11, 2025, and subsequently approved on August 12, 2025.⁵⁶ This discontinuation went into effect August 31, 2025, and created a regulatory gap for establishing the AEWRs under the H-2A program that this IFR will immediately fill. Under the 2010 H-2A Final Rule methodology that is currently in effect due to the court's vacatur of the 2023 AEWR Final Rule in *Teche Vermilion*, the Department relies on the annual results of the FLS published by USDA in November to establish the annual AEWRs on or before December 31 each year. USDA's August action to discontinue the FLS means the data collection for the October quarter, which captures employment and wage information for the July and October 2025 quarters, was canceled, as well as release of the annual report planned for the November 2025 cycle. Although the methodology to establish the AEWRs under this IFR is untethered from the continued use of annual FLS wage data, the Department notes that any delay implementing this IFR, in light of USDA's recent decision, will prevent the Department from complying with the regulatory requirement to establish new annual AEWRs.

Accordingly, because notice and comment rulemaking would be impracticable and against the public interest, the Department hereby promulgates this IFR pursuant to 5 U.S.C. 553(b)(3). For the same reasons, good cause exists for the IFR to take immediate effect, and therefore, the Department sets the Effective Date to October 2, 2025 pursuant to 5 U.S.C. 553(d)(3).⁵⁷

B. First, The Good Cause Exception Is Independently Supported Due to the Current Widespread and Novel Economic Hardship Faced by the Regulated Community

1. Background Regarding the Labor Market for Agricultural Work

On January 20, 2025, President Trump issued Executive Order 14159, *Protecting the American People Against Invasion*, 90 FR 8443 (Jan. 29, 2025), in

⁵⁶ The USDA later published notice of the discontinuation in the **Federal Register** on September 3, 2025, at 90 FR 42560.

⁵⁷ The Department further avers that the public is encouraged to engage in post-promulgation notice and comment, and that it intends to issue a "final" final rule wherein the Department will take consideration of the comments.

response to an “unprecedented flood of illegal immigration into the United States” in recent years under the Biden Administration. The Order directs federal agencies to “employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all inadmissible and removable aliens,” including those who committed illegal entry, have undocumented unlawful presence, or have final orders of removal. *Id.* at Section 3(b). The Order also calls for the efficient and expedited removal of aliens from the United States who are recent entrants (*i.e.*, arrived within the last two years), enforcement of civil fines and penalties, and detention of all “removable aliens” until their removal proceedings are resolved or their removal from the country.

As noted in Presidential Proclamation 10888, *Guaranteeing the States Protection Against Invasion*, “[o]ver the last 4 years, at least 8 million illegal aliens were encountered along the southern border of the United States, and countless millions more evaded detection and illegally entered the United States.” 90 FR 83334 (Jan. 29, 2025). In March 2025, the Department of Homeland Security (DHS) determined “that an actual or imminent mass influx of aliens is arriving at the southern border of the United States and presents urgent circumstances requiring a continued federal response.” *Finding of Mass Influx of Aliens*, 90 FR 13622, 13622 (Mar. 25, 2025). Additionally, DHS has initiated voluntary departure efforts, including the use of a new mobile application (“CBP Home app”), consistent with Presidential Proclamation 10935, *Establishing Project Homecoming*, 90 FR 20357 (May 14, 2025).⁵⁸

The size and scope of these recent emergency actions to secure the southern border of the United States and vigorously enforce the nation’s immigration laws to protect the American people is producing

measurable changes in migration and detention patterns. In its June 2025 monthly report, the United States Customs and Border Protection (CBP) reported historically low numbers of border encounters and parole releases, including zero illegal alien releases along the southwest border for the second consecutive month.⁵⁹ CBP also noted record lows of 25,228 nationwide encounters, 8,024 nationwide apprehensions by U.S. Border Patrol, and zero parole releases compared to 27,766 released in June 2024. And finally, CBP made only 136 apprehensions on June 28: the lowest single-day total in agency history. By August 12, 2025, CBP continued to report that zero illegal aliens were released into the country for the third consecutive month with illegal crossings in July 2025 dropping to the lowest level ever recorded.⁶⁰ This trend has continued, and illegal alien inflow stays at historic lows. On September 19, 2025, CBP reported a fourth straight month of zero releases at the border and illegal crossing rates remaining at 93% lower than the peak reached during the prior four years.⁶¹ Further, the U.S. Border Patrol has reported an average of 204 apprehensions per day, a rate 96% lower than the daily average reached during the prior four years.⁶² Finally, in addition to the near total cessation of illegal inflow, illegal aliens are self-deporting at a rate which has been increasing at a high rate each month. Because of the very nature of voluntary departure, it is difficult to ascertain the exact number of self-deportations, but the confirmed number of voluntary departures went from just 592 in February 2025, to 4,241 in July 2025.⁶³

⁵⁹ U.S. Custom Border and Protection, Department of Homeland Security, press release entitled “Most secure border in history: CBP reports major enforcement wins in June 2025,” July 15, 2025, available at <https://www.cbp.gov/newsroom/national-media-release/most-secure-border-history-cbp-reports-major-enforcement-wins-june> (last visited August 20, 2025).

⁶⁰ U.S. Custom Border and Protection, Department of Homeland Security, press release entitled “Another record-setting month at CBP: Border continues to be most secure in history,” August 12, 2025, available at <https://www.cbp.gov/newsroom/national-media-release/another-record-setting-month-cbp-border-continues-be-most-secure> (last visited September 18, 2025).

⁶¹ See CPB, *National Media Release: Trump Administration delivers 4 straight months of 0 releases at the border, nationwide crossings remain 93% lower than the peak under Biden Administration*, <https://www.cbp.gov/newsroom/national-media-release/trump-administration-delivers-4-straight-months-0-releases-border> [INSERT PERMA LINK] (last visited September 20, 2025).

⁶² *Id.*

⁶³ New ICE Data Shows Steady Rise in Immigrants Self-Deporting, Newsweek (Sept. 4, 2025, 3:08 p.m. EDT), updated (Sept. 5, 2025, 3:36 p.m. EDT) (last

This represents an increase of approximately 7.17 times over this period.

The efficacy of current immigration enforcement activities that prioritize a secure border is a direct result of the scope and speed of the federal government’s response to the unparalleled scale of the illegal immigration crisis facing the United States.⁶⁴ These enforcement efforts will imminently intensify following the enactment of H.R. 1, *One Big Beautiful Bill Act*, on July 4, 2025, under which Congress is immediately expanding federal investment in border security, detention capacity, and interior operations during fiscal years 2025 and 2026.⁶⁵ As these resources are deployed to further strengthen the U.S. Southern Border and enforce immigration laws, and as more illegal aliens choose voluntary departure in response, the Department anticipates an imminent and significant decline in the number of available illegal aliens who had, in significant part, previously worked unlawfully in the U.S. agricultural sector.

Agricultural employers, who have been incentivized to utilize illegal aliens for numerous reasons including the excessively high FLS-based AEWR, will imminently face severe challenges accessing a sufficient and legal supply of labor to sustain current food production levels. According to the Department’s National Agricultural Worker Survey (NAWS),⁶⁶ agricultural employers are disproportionately and increasingly dependent on illegal aliens with approximately 42 percent of crop workers surveyed reported lacking authorization to work in the United States during FY 2021–2022; compared to 36 percent in FY 2017–2018. These workers, both illegal aliens and authorized U.S. crop workers, are also

visited September 20, 2025), <https://www.newsweek.com/ice-data-immigrants-self-deportation-trump-administration-2124106>.

⁶⁴ Relevantly, U.S. Immigration and Customs Enforcement (ICE), which has responsibility for enforcing immigration laws within the interior of the United States, reported a record high of 56,816 in detention as of June 2025, and that number is expected to significantly increase. U.S. Immigration and Customs Enforcement, Department of Homeland Security, Detention Management Reports, FY 2025, available at <https://www.ice.gov/detain/detention-management#:~:text=Detention%20Statistics>. Of that group, 16,173, or 28 percent of the detained population, had a criminal conviction. An additional 13,891 people—24 percent—had pending criminal charges.

⁶⁶ Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic Employment Profile of United States Crop Workers (Sept. 2023). U.S. DOL, Employment and Training Administration. Available at: <https://www.dol.gov/sites/dolgov/files/ETA/news/pdfs/NAWSResearchReport17.pdf>.

⁵⁸ See CBP, *CBP Home: Assistance to Voluntarily Self-Depart*, <https://www.dhs.gov/cbphome> [<https://perma.cc/CK3X-QM79>] (last visited June 17, 2025). The CBP Home app allows aliens to register to depart the United States voluntarily, provide required biographical information, and notify DHS after they have departed. DHS also offers financial and travel document assistance for some aliens who request it, provides a \$1,000 stipend upon confirmation through the app that return has been completed, and rescinds civil monetary fines imposed for failure-to-depart after return has been completed. See also DHS, *DHS Announces It Will Forgive Failure to Depart Fines for Illegal Aliens who Self-Depart Through the CBP Home App* (June 9, 2025), <https://www.dhs.gov/news/2025/06/09/dhs-announces-it-will-forgive-failure-depart-fines-illegal-aliens-who-self-depart> [<https://perma.cc/8RBN-PACA>].

settled and relatively immobile. Data from NAWS further shows that, in 2021–2022, only 3 percent of all U.S. crop workers reportedly migrated by following the crops while 84 percent of these workers remain settled and did not migrate for work at all. U.S. crop workers are also aging, as approximately 36 percent of the crop workers interviewed were 44 years of age or older, compared to less than 15 percent in 2000, and they spent an average of 8 years working for the same employer, compared to 3 years in 2000.

In short, the agricultural sector is experiencing acute labor shortages and instability because it has long depended on a workforce with a high proportion of illegal aliens who previously cycled in and out of the U.S. through a porous border; now, however, those who might have cycled in cannot do so because of the now secure U.S. Southern Border. Further, the remaining workforce tends to be relatively immobile and unable to adjust quickly to shifting labor demands, resulting in significant disruptions to farmers' ability to meet seasonal labor needs.

Most concerning for the fragile agricultural workforce are the dwindling numbers of current U.S. crop workers who are planning to continue working in agriculture. According to the NAWS, just over one in every five U.S. crop workers surveyed were planning to remain in agriculture for up to 5 years, while approximately 53 percent reported that they could find a non-farm job within one month. Separately, with illegal border crossings at historic lows, agricultural employers that have historically relied on such illegal aliens, are experiencing economic harm caused by mounting labor shortages. According to available studies, a hypothetical decision to heighten immigration enforcement actions could further reduce the supply of agricultural labor with an estimated loss of, at a relatively modest estimate, 225,000⁶⁷ agricultural workers.⁶⁸

⁶⁷ The true number is likely much higher when accounting for illegal aliens who are not deported but choose not to work to avoid exposure to potential enforcement actions. See e.g., *Chloe East; Annie L. Hines; Philip Luck; Hani Mansour and Andrea Velasquez*, (2023), *The Labor Market Effects of Immigration Enforcement*, *Journal of Labor Economics*, 41, (4), 957–996.

⁶⁸ Rice University's Baker Institute for Public Policy noted in a March 26, 2025, article that "over 8 million undocumented immigrants currently work in the U.S., contributing to the economy in key industries. Mass deportations could worsen labor shortages, with estimates suggesting a reduction of 1.5 million in construction, 225,000 in agriculture, 1 million in hospitality, 870,000 in manufacturing, and 461,000 in transportation and warehousing. This would likely lead to higher costs, increased inflation, and slower economic

In addition, the Department does not believe American workers currently unemployed or marginally employed will make themselves readily available in sufficient numbers to replace large numbers of aliens no longer entering the country, voluntarily leaving, or choosing to exit the labor force due to the self-perceived potential for their removal based on their illegal entry and status. The supply of American agricultural workers is limited by a range of structural factors including the geographic distribution of agricultural operations, the seasonal nature of certain crops, and overall unemployment rate.⁶⁹ Furthermore, agricultural work requires a distinct set of skills and is among the most physically demanding and hazardous occupations in the U.S. labor market. These essential jobs involve manual labor, long hours, and exposure to extreme weather conditions—particularly in the cultivation of fruit, tree nuts, vegetables, and other specialty crops for which production cannot be immediately mechanized. Based on the Department's extensive experience administering the H–2A temporary agricultural visa program, the available data strongly demonstrates—a persistent and systemic lack of sufficient numbers of qualified, eligible and interested American workers to perform the kinds of work that agricultural employers demand. In the most recent five years, for example, employer demand for H–2A workers has increased by 36 percent from 286,900 workers requested in FY 2020 to nearly 391,600 workers requested in FY 2024, and the Department has consistently certified at least 97 percent of employer demand for agricultural workers based on a lack of qualified, eligible, and interested U.S. workers. For FY 2025 and as of July 1, 2025, employers seeking H–2A workers have requested more than 320,700 worker positions and the Department has certified 99 percent of the demand based on a lack of qualified and eligible U.S. workers. Despite efforts to broadly advertise agricultural jobs, as required by the Department's regulations at 20 CFR 655.144, 150, 153, and 154, the most recent data confirm that domestic applicants are not applying for

growth, with states like California, Texas, and Florida facing the greatest impact." See *Social and Economic Effects of Expanded Deportation Measures*, published by Tony Payan and José Iván Rodríguez-Sánchez of Rice University's Baker Institute for Public Policy at Social and Economic Effects of Expanded Deportation Measures | Baker Institute.

⁶⁹ See Kelly Lester, *Harvest on Hold*, John Locke Society, April 28, 2025, at pp. 5; 23–28 (<https://www.johnlocke.org/wp-content/uploads/2025/05/Agriculture-Crisis-Web.pdf>); see also,

agricultural positions in sufficient numbers to meet the temporary or seasonal workforce needs of employers. Thus, based on the available evidence, the Department concludes that qualified and eligible U.S. workers, whether unemployed, marginally employed, or employed seeking work in agriculture, will not make themselves immediately available in sufficient numbers to avert the irreparable economic harm to agricultural employers who no longer have access to a ready pool of illegal aliens to fulfill their labor needs.

2. Economic Forecasting Regarding Food Prices and Availability

With the historic near total cessation of illegal border crossings—the Department must take immediate action to provide agricultural employers with a viable workforce alternative while concurrently averting imminent economic harm. Labor shortages can have an immediate effect on farm operations. For example, one study found that a mere 10 percent decrease in the agricultural workforce can lead to as much as a 4.2 percent drop in fruit and vegetable production and a 5.5 percent decline in farm revenue.⁷⁰ Given that approximately 42 percent of the U.S. crop workforce are unable to enter the country, potentially subject to removal or voluntarily leaving the labor force, these impacts will likely be dramatically higher. The study further estimated that a 21 percent shortfall in the agricultural workforce would result in an overall \$5 billion loss just in terms of domestic fresh produce alone for U.S. consumers. Such significant economic impacts not only create tangible and imminent economic harms, but they structurally disrupt the ordinary operations of the U.S. agricultural sector, resulting in shortages of agricultural commodities that cannot be supplemented with imports in the near-term.

Given the scale, speed, and investment in the federal government's efforts to enforce immigration laws and restore the integrity of the U.S. border, the Department concludes that there will be significant labor market effects in the agricultural sector, which has long been pushed to depend on a workforce with a high proportion of illegal aliens. Because these illegal aliens often possess specialized skills suited to agricultural tasks and typically earn lower wages than authorized workers, their sudden and large-scale

⁷⁰ Zachariah Rutledge and Pierre Mérel, "Farm Labor Supply and Fruit and Vegetable Production," *American Journal of Agricultural Economics* 105, no. 2 (August 15, 2022): 644–73, <https://doi.org/10.1111/ajae.12332>.

departure is expected to significantly increase labor costs for employers. These cost increases are very likely to limit the ability of agricultural operations to maintain current production levels or expand employment, resulting in downstream impacts on food supply and pricing.

Labor expenses are already a major component of U.S. agricultural production costs, especially in the specialty crop sectors where relatively large numbers of illegal aliens are employed. According to USDA's Economic Research Service (ERS), labor expenses (including noncash employee compensation) are forecasted to reach a record high in 2025, rising \$2.9 billion (5.9 percent) in 2024 to \$51.7 billion and then increasing an additional \$1.8 billion (3.6 percent) to \$53.5 billion this year, driven by wage increases and ongoing labor shortages.⁷¹

Although hired domestic farmworkers only comprise less than 1 percent of all U.S. wage and salary workers, these workers are essential to U.S. agriculture. Without immediate action from the Department to assist employers in securing a reliable workforce alternative, labor shortages will likely intensify, driving up production costs, limiting output in key sectors such as fruits and vegetables, and increasing reliance on imported food products. USDA Economic Research Service (ERS) estimates that hired farm labor costs account for nearly 15 percent of total cash expenses across the sector, with labor-intensive sub-sectors, such as nurseries, greenhouses, and other specialty crop growers, devoting over 40 percent of their total cash expenses on labor.⁷²

These sub-sectors of U.S. agriculture, which are heavily dependent on illegal aliens, are especially vulnerable to labor market imbalances and cost volatility. At the same time, American agriculture is under intense global pressure. In

April 2025, for example, ERS reported that the number of farms in the United States continued its decline to 1.88 million in 2024, the lowest in more than a century, down from 2.04 million in 2017.⁷³ And finally, after decades of consistent trade surpluses, U.S. agriculture is expected to face the largest trade deficit on record at \$49.5 billion, driven in part by increased imports of labor-intensive commodities from countries with significantly lower production costs.⁷⁴

3. The Flaws in the AEWR Wage Policy That Restrict Labor Supply and Need for a New AEWR Methodology

As the U.S. agricultural workforce faces growing instability, employers' reliance on the H-2A visa program has expanded rapidly. Over the past decade, demand for nonimmigrant workers under the H-2A classification has quadrupled, and the program has become a critical legal workforce solution for employers, particularly in labor-intensive sectors such as specialty crops. However, the high costs to participate in the H-2A program—including the mandatory AEWRs on top of other non-wage costs such as housing, transportation, and fees—have become increasingly burdensome. These requirements go far beyond the compensation costs an employer would bear if they *could* hire enough qualified and eligible local U.S. workers, placing further financial strain on farming operations of all sizes in an industry already facing a record trade deficit⁷⁵ and overall grim financial outlook.

⁷³ USDA, Economic Research Service using data from USDA, National Agricultural Statistics Service, Census of Agriculture (through 2022) and Farms and Land in Farms: 2024 Summary (February 2025).

⁷⁴ Hill, Alexandra E. & Sayre, James E. As *Mexican Farmworkers Flock North, Will U.S. Farms Head South?* (Oct. 2024). Outlook for U.S. Agricultural Trade: May 2025. ARE Update 28(1): 9–12. Giannini Foundation of Agricultural Economics, University of California. ("In 2022, the average non-H-2A U.S. farm worker earned \$15 an hour; H-2A workers in California (the state with the highest AEWR that year) were required to be paid at minimum \$17.51; and H-2A workers in Alabama, Georgia, and South Carolina (the states with the lowest AEWR in 2022) were required to be paid at minimum \$11.99. By comparison, the average hired farmworker in Mexico earned the equivalent of \$1.59 an hour in 2022. In the highest wage-paying state in Mexico, Colima, the average worker earned \$2.53 an hour, a quarter of the minimum AEWR in that year."). Available at: https://s.giannini.ucop.edu/uploads/pub/2024/10/29/v28n1_3.pdf.

⁷⁵ Kaufman, J., Jiang, H., & Williams, A. (2025). Outlook for U.S. agricultural trade: May 2025 (Report No. AES-132). U.S. Department of Agriculture, Economic Research Service and U.S. Department of Agriculture, Foreign Agricultural Service. This forecast projects the largest agricultural trade deficit in U.S. history, with the first four months of the year resulting in a \$19.7 billion deficit that is expected to continue to grow.

Over the last 20 years, the national average FLS-based AEWR has more than doubled from \$8.56 in 2005 to \$17.74 in 2025. Between 2005 and 2018, the average annual increase in the AEWR was already 2.8 percent, but the pace of annual wage growth since that time has increased significantly. Since 2019, the average annual increase in the AEWR was 5.5 percent, nearly double the rate of change in the earlier period and far outpacing the 4.4 percent average annual hourly wage growth of all other non-farm private sector workers.⁷⁶ For 2025, the AEWRs across the country ranged from a low of \$14.83 in the Delta Region covering the states of Arkansas, Louisiana, and Mississippi to a high of \$19.97 in California. Notably, these rates *exceed* the local applicable minimum wage for domestic workers. These AEWR rates must be paid to workers in addition to the cost of other mandatory remuneration, benefits, and working conditions (e.g., housing, transportation) that workers receive under the H-2A program. AEWRs have risen substantially across all regions of the United States with the southeastern states experiencing a nearly 10 percent increase over 2024. More than 35 percent of states experienced an AEWR wage increase between 50 cents and 99 cents per hour while an additional 37 percent of states experienced an increase between \$1 and \$1.50 per hour. Nearly two-thirds of all states have an AEWR between \$17 and \$20 in 2025, which is well above federal and state minimum wage levels. Put another way, the national average AEWR increased by a total of \$4.40 per hour in the 15-year period from 2005 to 2019. However, the national average AEWR has increased by more than \$3.75 per hour within just the last 5 to 6 years.

In its most recent May 2025 data release, USDA estimates that the national average hourly wage for field and livestock workers combined was \$18.46 per hour based on data collected for the January 12–18 reference week, and \$18.43 per hour based on data collected for the April 6–12 reference week, yielding a weighted average of \$18.44 per hour, a further 4 percent increase over the current national average AEWR of \$18.12 per hour.⁷⁷ In a sector where profits margins are already thin, such increases place agricultural employers at a competitive

⁷⁶ *Average Hourly Earnings of All Employees, Total Private* (Jun. 2025). Federal Reserve Bank of St. Louis. Available at: <https://fred.stlouisfed.org/series/CEU0500000003>.

⁷⁷ See May 2025 Farm Labor Report, National Agricultural Statistics Service (NASS), Agricultural Statistics Board, United States Department of Agriculture, (May 21, 2025).

⁷¹ *Farm Sector Income & Finances: Farm Sector Income Forecast* (Feb. 2025). U.S. Department of Agriculture, Economic Research Service.

⁷² Subedi, Dipak & Giri, Anil K. (Oct. 2024). *Specialty Crop Farms Have Highest Labor Cost as Portion of Total Cash Expenses*. U.S. Department of Agriculture, Economic Research Service. Available at: <https://www.ers.usda.gov/data-products/charts-of-note/chart-detail?chartId=110172>. USDA ERS noted that farm wages have significantly increased both in absolute terms and relative to other occupations. For example, back in 1990, the average farm wage for nonsupervisory crop and livestock workers in real values was just over half the average real wage in the nonfarm sector for private nonsupervisory occupations. By 2022 the ratio had increased to 60 percent, as the gap between farm and nonfarm wages narrowed. "Farm Labor," Economic Research Service, United States Department of Agriculture (USDA), last updated August 7, 2023, <https://www.ers.usda.gov/topics/farm-economy/farm-labor/>.

disadvantage, particularly when compared to growers in Mexico paying approximately \$1 to \$2 per hour.⁷⁸

Additional upward pressure on labor costs—whether due to continued AEWR escalation or other regulatory requirements⁷⁹—threatens the viability of farming operations, especially as substantial numbers of illegal aliens are removed or voluntarily depart from the U.S. labor force.⁸⁰ Based on the

⁷⁸ For example, in 2023 and 2024, the U.S. farm sector reported overall declining profitability; the vast majority of farms earned \$1,000,000 or less in gross sales. Stephanie Rosch, Christine Whitt, *2023 and 2024 Farm Sector Profitability: Issues for Congress* (Dec. 21, 2024), available at <https://www.congress.gov/crs-product/R48278?>. U.S. farms that earned \$100,000 or less reported less than \$2,000 in average net cash farm income in 2023 and 2024, and reported negative average net cash farm income in 2019–2021. *Id.* With respect to production expenses, labor costs (including noncash employee compensation) are forecast to be a record high in 2025, rising \$2.9 billion (5.9 percent) in 2024 to \$51.7 billion. They are forecast to rise by an additional \$1.8 billion (3.6 percent) to \$53.5 billion in 2025. See U.S. Department of Agriculture, Economic Research Service. (2025, February 6). *Farm sector income & finances: Farm sector income forecast*.

⁷⁹ According to a recent study conducted as a cooperative research grant through the USDA's Office of the Chief Economist, researchers analyzed relevant non-wage costs on employers participating in the H-2A program, including fees, transportation, housing, and other recruitment expenses, finding that the minimum cost of nonwage expenses for H-2A workers is approximately \$10,000 per worker. For employers requesting 100 workers, the estimated DOL and DHS fees would cost \$15.60 per worker (\$11 per worker in labor certification and \$4.60 per worker in nonimmigrant worker petition), while applying for 10 workers would cost four times more. In addition, informal surveys of large H-2A employers suggest a typical recruitment fee of \$100–\$250 per worker and \$1,500–\$3,500 per application in U.S. agent costs. USDA estimates the cost of transporting H-2A workers to the United States from their home countries from \$400 to \$650 per worker with housing costs range between \$9,000 and \$13,000 per worker, making it the biggest nonwage expense for H-2A employers. See Marcelo Castillo, Philip Martin, and Zachariah Rutledge, *Whither the H-2A Visa Program: Expansion and Concentration*, published in *Choices Magazine*, Volume 39, Quarter 1 (June 2024) and available at <https://www.choices-magazine.org/choices-magazine/submitted-articles/whither-the-h-2a-visa-program-expansion-and-concentration> (last visited September 14, 2025).

⁸⁰ The Department is also aware of the extensive discussions in Congress on the AEWR and various bipartisan bills introduced to immediately alter the methodology for determining the AEWRs in the H-2A program. For example, on January 18, 2024, the Supporting Farm Operations Act of 2024 was introduced to freeze the AEWRs in effect on December 31, 2023, through the end of 2025. See Support Farm Operations Act. S. 3848, H.R. 7046, 118th Cong. (2024). Available at: <https://www.congress.gov/bills/118th-congress/senate-bill/874/text>; In January 2024, 75 members signed a letter to leadership on the House and Senate Committees on Appropriations requesting that an H-2A wage freeze be included in the Fiscal Year (FY) 2024 appropriations bill. See Rep. Bill Huizenga, et al. Letter to Members of the Committee on Appropriations (Jan. 11, 2024). Available at: https://huizenga.house.gov/uploadedfiles/jan_11_ltr_to_appropriators_re_h2a_wage_2024.pdf. On

Department's program experience, the combination of rapid increases in the AEWRs, additional non-wage costs to employ H-2A workers, and other increases in regulatory compliance costs has materially slowed the overall growth of employer labor demand in the last two years with respect to the total number of H-2A workers being requested for labor certification. For instance, for several years prior to 2023, the average annual rate of growth in employer demand for H-2A worker positions was almost 15 percent. However, the growth in employer demand for H-2A workers has dramatically slowed to 1.98 percent in 2023 (398,908), compared to 2022 (382,354), and a mere 0.42 percent in 2024 (391,590).⁸¹

Importantly, these rising AEWR levels have not resulted in a meaningful increase in new entrants of U.S. workers to temporary or seasonal agricultural jobs. Agricultural work remains physically demanding, often takes place in remote locations, carries health and safety risks, and typically lacks advancement opportunities—factors that continue to discourage participation by the domestic workforce. Despite rising wages, such jobs are still not viewed as viable alternatives for many workers. At the same time, U.S. demand for fresh fruits and vegetables continues to grow, and the vast majority of this labor remains non-automated. Decline in the illegal alien population will only exacerbate this already

May 22, 2025, more than 100 members of Congress once again wrote a similar letter to leaders on the House Subcommittee on Labor, HHS and Education urging an H-2A wage freeze be included in the FY 2026 appropriations legislation. Specifically, the House members noted that the “skyrocketing AEWR will only compound inflated input costs like energy and fertilizer, other guest worker expenses like transportation and housing, and burdens from several impending federal regulations and fees If we do nothing, many of our constituents will be forced to shutter their businesses, despite good-faith efforts to ensure our national food security and feed families across our nation.” See Rep. Bill Huizenga, et al. Letter to Chair and Ranking Member of the Subcommittee on Labor, HHS, and Education (Jan. 11, 2024). available at: https://huizenga.house.gov/uploadedfiles/final_h2a_wage_freeze_fy26.pdf.

⁸¹ Concerns regarding the negative effects of rapidly rising AEWRs in recent years were also noted by a bipartisan Agricultural Labor Working Group (ALWG), which was formed in 2023 by the House Committee on Agriculture. In its final report released on March 7, 2024, the ALWG noted that the “strictures of current law are driving up costs in the H-2A program and acting as barriers to entry for the program.” With unanimous support, the ALWG recommended a one-year freeze on the AEWRs and caps to increases and decreases to provide more stability and predictability related to an employer's wage obligations. See H. Rpt. Final Report with Policy Recommendations. House Committee on Agriculture, Agricultural Labor Working Group at 10. Available at: https://agriculture.house.gov/uploadedfiles/alwg_final_report_-3.7.23.pdf.

pressing mismatch in the agricultural labor market and deprive growers of a relatively cheaper labor supply on which they have become economically reliant. (A substantial body of research estimates that illegal alien workers earn between four percent and 24 percent less than similarly situated legal workers, giving employers a strong financial incentive to hire illegal labor.)⁸² Despite rising wages, there is no indication that unemployed or marginally attached U.S. workers are entering the agricultural labor force in meaningful numbers. Without swift action, agricultural employers will be unable to maintain operations, and the nation's food supply will be at risk.

Under such conditions, the current methodology for determining the AEWRs is an unworkable barrier to securing a legal agricultural workforce. The H-2A program should be a viable legal pathway—not a regulatory dead end. The Department has long recognized that “clear congressional intent was to make the H-2A program usable, not to make U.S. producers non-competitive” and that “[u]nreasonably high AEWRs could endanger the total U.S. domestic agribusiness, because the international competitive position of U.S. agriculture is quite fragile.”⁸³ The unreasonably high FLS-based AEWRs were only workable because agricultural employers could turn to low-priced illegal aliens, but that is no longer the case. U.S. agricultural employers need a legal and stable workforce to support their farming operations, and persistent labor shortages and increases in production costs will only harm U.S. competitiveness, threaten food production, drive up consumer prices, and create instability in rural communities.

Thus, the Department concludes, based on all available evidence and studies, that immediate reform to the H-2A program's minimum wage policy, or the AEWRs, is necessary to avoid imminent widespread disruption across the U.S. agricultural sector. Without prompt action, agricultural employers

⁸² See Borjas, George J., and Hugh Cassidy, *The wage penalty to undocumented immigration. Labour Economics* 61 (2019): 101757; Donato, Katharine M., and Douglas S. Massey. “Effect of the Immigration Reform and Control Act on the wages of Mexican migrants.” *Social Science Quarterly* (1993): 523–541; Kossoudji, Sherrie A., and Deborah A. Cobb-Clark. “Coming out of the shadows: Learning about legal status and wages from the legalized population.” *Journal of Labor Economics* 20, no. 3 (2002): 598–628; Rivera-Batiz, Francisco L. “Undocumented workers in the labor market: An analysis of the earnings of legal and illegal Mexican immigrants in the United States.” *Journal of Population Economics* 12, no. 1 (1999): 91–116.)

⁸³ 54 FR at 28046.

will face severe labor shortages, resulting in disruption to food production, higher prices, and reduced access for U.S. consumers, particularly to fresh fruit and vegetables. Further, the Department concludes that qualified and eligible U.S. workers will not make themselves available in sufficient numbers, even at current wage levels, to fill the significant labor shortage in the agricultural sector. As discussed in detail below, the reforms contained in this IFR of the H-2A program's wage policy are urgently needed to restore the usability of the H-2A program and to provide a practical, lawful workforce alternative to illegal aliens. These changes ensure that agricultural employers offer fair wages to legally authorized workers—consistent with wages paid in comparable farm and non-farm jobs—while maintaining compliance with immigration law and supporting the stability of the nation's food supply.

As the regulatory impact analysis indicates, the Department anticipates negative impacts for certain populations associated with this regulation. In particular, certain current H-2A workers may experience reductions in wages as a result of lower prevailing wage rates. However, the Department expects that this effect will be mitigated by an increase in the number of certified H-2A job opportunities, which will create additional employment for new H-2A workers who may otherwise lack access to lawful agricultural employment in the United States. The Department also acknowledges that illegal aliens currently employed in agriculture may be adversely affected as growers shift toward reliance on the lawful H-2A program rather than illegal aliens.

C. Second, the Good Cause Exception is Separately and Independently Supported by the Discontinuation of the FLS by the Department of Agriculture and the Court Ordered Vacatur of the 2023 AEW R Final Rule

As discussed above, in Section I.D., on August 21, 2025, plaintiffs in *Teche Vermilion* filed a Motion for Entry of Final Judgment requesting that the court convert its preliminary injunction into a final judgment and to accordingly vacate the 2023 AEW R Final Rule.⁸⁴ On August 25, 2025, the Western District of Louisiana granted plaintiffs' unopposed Motion for Entry of Final Judgment and ordered the 2023 AEW R Final Rule

vacated.⁸⁵ As a result of the vacatur, the methodology for determining the AEW Rs reverted back to the 2010 H-2A Final Rule which sets the AEW Rs based solely on the annual weighted average hourly wage for field and livestock workers (combined) as reported by the FLS and published in November each year by USDA.⁸⁶

However, on August 11, 2025, USDA made the determination, based on its own statutory authority, to discontinue surveys and further administration of the FLS program and the request was subsequently approved by OIRA on August 12, 2025, with an immediate effective date of August 31, 2025.⁸⁷ As a result of this determination, USDA canceled the October quarter's data collection for the FLS that collects employment and wage information for the July and October 2025 quarters from farm establishments. Without the October data collection, USDA cannot produce a November 2025 report containing the annual gross hourly wage rates for field and livestock workers (combined) for each state or region based on quarterly wage data collected from employers during calendar year 2025. Under the 2010 H-2A Final Rule methodology for establishing the AEW Rs, the November 2025 FLS report would be used to establish and publish the hourly AEW Rs for the next calendar year period on or before December 31, 2025, as required by the Department's regulations.⁸⁸

Because the methodology for establishing the AEW Rs under the 2010 H-2A Final Rule does not provide for the use of a data source other than USDA FLS, USDA's recent determination to discontinue administration of the FLS program created an imminent regulatory gap, leaving the Department without the means to establish updated AEW Rs for the 2026 calendar year period. Given the requirement to publish updated AEW Rs on or before December 31, 2025, immediate action is necessary.

In the absence of the FLS, the methodology for establishing the AEW Rs under the 2010 H-2A Final Rule provides the Department with no other mechanism for establishing the annual AEW Rs that it is required to publish pursuant to 29 CFR 655.120(c). Section 20 CFR 655.103 requires the

Department to base the AEW R on the FLS survey "as published annually" based on USDA's "quarterly wage survey." However, as explained above, these data will not be published due to USDA's discontinuation of its FLS. There are no other provisions establishing what an "AEW R" is for purposes of 20 CFR 655.120(c).

The Department seeks to fill this imminent regulatory gap and promote long-term stability in administering the H-2A program by immediately adopting revisions to the AEW R methodology that rely on the BLS OEWS as the sole source of employment and wage information for establishing more precise skill-based AEW Rs for all job opportunities specific to each state, which the FLS is not capable of reporting. Employers using the H-2A program depend on the existence of regularly published AEW Rs to understand their minimum wage obligations to workers, and the Department has a statutory mandate to protect the wages of similarly employed U.S. workers from adverse effect. The Department's inability to establish the AEW Rs for calendar year 2026 would lead to a regulatory collapse of minimum wage requirements in the H-2A program as employers would face significant economic uncertainty with respect to what minimum wage requirements would apply and be enforced by the Department under their work contracts with farmworkers.⁸⁹

In short, the status quo following the *Teche Vermilion* order to vacate the 2023 AEW R Final Rule and discontinuation of the FLS by USDA in August 2025 will lead to a disruptive and uncertain regulatory environment. This outcome would occur either if the Department did nothing, or if the Department opted to publish this rule via notice and comment instead of as an IFR. Therefore, good cause exists for the Department to provide a new methodology for determining the AEW Rs so the Department can publish new AEW Rs in time for employers to use by the start of 2026.

Recognizing the need to publish a notice in the **Federal Register** before the

⁸⁹ Moreover, in the absence of a FLS-based AEW R, the requirements set forth under the 2010 H-2A Final Rule at 20 CFR 655.120 provides that a regulated employer would have to offer the highest of "the AEW R [which no longer exists], the prevailing hourly wage or piece rate, the agreed-upon collective bargaining wage, or the Federal or State minimum wage, except where a special procedure is approved for an occupation or specific class of agricultural employment." While failure to publish an AEW R is problematic, in its own right, as a failure of the Department to satisfy a regulatory mandate, it would also lead to Federal or State minimum wages being the next highest rate in many instances.

⁸⁴ Motion For Entry of Final Judgment, *Teche Vermilion Sugar Cane Growers Ass'n Inc. v. Su*, No. 6:23-cv-00831-RRS-CBW (W.D. La. Aug. 21, 2025), ECF No. 86.

⁸⁵ Judgment, *Teche Vermilion Sugar Cane Growers Ass'n Inc. v. Su*, No. 6:23-cv-00831-RRS-CBW (W.D. La. Aug. 21, 2025), ECF No. 87.

⁸⁶ 20 CFR 655.103 (2010); 20 CFR 655.120(c) (2010).

⁸⁷ <https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=0535-0109#>; 90 FR 42560 (Sep. 3, 2025).

⁸⁸ 20 CFR 655.120(c) (2010).

end of calendar year 2025, the Department has considered but rejected relying on the 2024 AEWRS and later switching to the IFR’s proposed methodology. Crucially, because the FLS has been discontinued by USDA, there is no USDA data collection that could occur in time for the mandatory January 1, 2026 publication of the AEWRS. Because the Department will have to change to the OEWS in any event, it is clear that the benefits of making the switch immediately outweigh the minor costs. As explained in detail below, the Department has determined that the OEWS is a superior data source to the FLS for establishing more precise skill-based AEWRS covering all job opportunities specific to each state and will possess an even higher degree of superiority once the anticipated expansion of the OEWS to collect information from farm establishments begins during calendar year 2026. The Department sees no benefit in continuing to rely, even temporarily, on AEWRS established under the 2010 Final Rule using a methodology and data sources that cannot produce more precise estimates of the average wages paid to U.S. workers similarly employed based on the skills and qualifications required by employers who are seeking to employ H–2A nonimmigrant workers, and then instituting a new methodology shortly thereafter during the peak filing months of November through March and after many employers have business contracts in place.⁹⁰

Accordingly, in addition to, and as a separate and independent basis for good cause, (1) the *Teche* judgment that vacated the 2023 AEWRS Final Rule and replaced it with the 2010 AEWRS Final Rule, and (2) the discontinuance of the FLS creates a need for immediate action to ensure compliance with the regulatory requirement to establish updated AEWRS for 2026. The Department must take effective action by January 1, 2026, otherwise, the H–2A

application environment will be subject to disruption and uncertainty. The Department explains in great detail why the methodology that this IFR implements is the best possible methodology. There is simply no good reason why the Department should opt for a different methodology on a temporary basis before switching to the new one. Indeed, such oscillations on a short-term basis would be disruptive.

III. Implementation of This IFR

This IFR amends the AEWRS methodology announced in the 2010 H–2A Final Rule and amends the regulatory text in 20 CFR 655.120(b) which had not been amended after the vacatur of the 2023 AEWRS Final Rule. Any job orders for non-range job opportunities submitted to the OFLC National Processing Center (NPC) in connection with an *Application for Temporary Employment Certification* for H–2A workers before the effective date of this final rule will be processed using the 2010 H–2A Final Rule methodology, under which the AEWRS for all non-range H–2A job opportunities is equal to the annual average hourly gross wage rate for field and livestock workers (combined) in the State or region as reported by FLS. That means employers must pay the wage rate listed in a currently certified job order to all H–2A workers and all workers in corresponding employment for the duration of the work contract period provided it is still higher than the applicable AEWRS published under this IFR. See 20 CFR 655.120(b)(5)–(6). The methodology established by this IFR, as described in revisions adopted by the Department under 20 CFR 655.120(b)(1)(iii), applies to any job orders for non-range job opportunities submitted to the NPC in connection with an *Application for Temporary Employment Certification*, as set forth in 20 CFR 655.121, on and after the effective date of this IFR, including job orders filed concurrently with an *Application for Temporary Employment*

Certification to the NPC for emergency situations under 20 CFR 655.134.

In order for employers to understand their wage obligations upon the effective date of this IFR, the Department is listing below the statewide AEWRS for Skill Level I (Entry-Level) and Skill Level II (Experience-Level) qualifications applicable to the field and livestock workers (combined) category for each state pursuant to 20 CFR 655.120(b)(1)(i). In addition, the Department is listing in the last column the statewide downward compensation adjustments to the applicable AEWRS that can only be applied to H–2A workers who are provided with housing at no cost pursuant to 20 CFR 655.120(b)(3) of this IFR. For example, if employers are seeking to employ H–2A workers in Alabama for jobs in any of the five SOC codes encompassed by the “field and livestock workers (combined)” category, their job orders would specify in the job order (*i.e.*, Field A.8b of the Form ETA–790A) a wage offer to U.S. workers no less than \$11.25 per hour where the duties and qualifications are commensurate with a Skill Level I position. For any H–2A worker(s) employed under the associated temporary agricultural labor certifications, employers would specify in Field A.8e or Addendum A of the job order wage offers to H–2A workers no less than \$10.05 per hour (\$11.25 per hour for Skill Level I minus \$1.20 per hour adjustment).

Additionally, the Department has posted contemporaneously with the publication of this IFR, a Microsoft Excel file on the OFLC Foreign Labor Application Gateway (FLAG) System at <https://flag.dol.gov/wage-data/adverse-effect-wage-rates> enabling interested parties to locate, by State and SOC code, the AEWRS applicable for Skill Level I (Entry-Level) and Skill Level II (Experience-Level) qualifications covering all other non-range job opportunities pursuant to 20 CFR 655.120(b)(1)(ii) of this IFR.

TABLE—STATEWIDE HOURLY AEWRS DETERMINED UNDER § 655.120 (B)(1)(I) AND COMPENSATION ADJUSTMENT FOR H–2A WORKERS ONLY

State	Skill level I (entry-level)	Skill level II (experience-level)	H–2A adverse compensation adjustment
Alabama	\$11.25	\$14.95	– \$1.20

⁹⁰ Courts have frequently recognized that this kind of a “regulatory vacuum” militates in favor of finding good cause. See *e.g.*, *Am. Fed’n of Gov’t Emp., AFL–CIO v. Block*, 655 F.2d 1153, 1157 (D.C. Cir. 1981) (“Although the trial judge indicated that he was only voiding the status quo order and was not mandating the action to be taken by the Department to comply with his injunction, the

absence of specific and immediate guidance from the Department in the form of new standards would have forced reliance by the Department upon antiquated guidelines, thereby creating confusion among field administrators, and caused economic harm and disruption to those northeastern processors whose inspection lines ran at varying speeds.”); *Coal. for Parity, Inc. v. Sebelius*, 709 F.

Supp. 2d 10, 20 (D.D.C. 2010) (“courts within this Circuit have considered the need for regulatory guidance as one factor in assessing whether an agency has “good cause” to forego notice and comment.”) Indeed, as in *AFL–CIO v. Block*, the mere existence of an undesirable “backstop” does not weigh against a finding of good cause.

TABLE—STATEWIDE HOURLY AEWRS DETERMINED UNDER § 655.120 (B)(1)(I) AND COMPENSATION ADJUSTMENT FOR H-2A WORKERS ONLY—Continued

State	Skill level I (entry-level)	Skill level II (experience- level)	H-2A adverse compensation adjustment
Alaska	14.79	20.01	– 1.90
Arizona	15.32	18.01	– 2.10
Arkansas	13.40	16.18	– 1.13
California	16.45	18.71	– 3.00
Colorado	16.28	20.02	– 2.18
Connecticut	15.93	18.20	– 2.06
Delaware	14.61	19.63	– 1.85
District of Columbia	17.47	23.80	– 2.64
Florida	12.47	15.06	– 2.29
Georgia	12.27	16.22	– 1.75
Guam	9.70	10.89	– 2.35
Hawaii	14.36	18.49	– 3.18
Idaho	12.92	17.07	– 1.84
Illinois	15.48	18.75	– 1.79
Indiana	14.93	19.22	– 1.27
Iowa	14.20	18.87	– 1.15
Kansas	12.69	18.14	– 1.26
Kentucky	13.94	17.99	– 1.24
Louisiana	9.59	14.84	– 1.35
Maine	14.81	18.95	– 1.60
Maryland	15.35	18.21	– 2.31
Massachusetts	15.29	17.57	– 2.42
Michigan	13.78	17.47	– 1.32
Minnesota	14.60	19.33	– 1.68
Mississippi	9.74	14.92	– 1.15
Missouri	14.56	18.74	– 1.28
Montana	13.03	18.48	– 1.80
Nebraska	14.20	19.26	– 1.24
Nevada	14.54	18.40	– 2.15
New Hampshire	13.99	16.14	– 1.96
New Jersey	16.05	19.41	– 2.28
New Mexico	12.51	16.20	– 1.44
New York	15.68	18.75	– 2.40
North Carolina	12.78	16.39	– 1.69
North Dakota	12.31	18.98	– 1.27
Ohio	14.38	18.11	– 1.23
Oklahoma	11.27	16.01	– 1.22
Oregon	15.25	17.62	– 2.11
Pennsylvania	13.88	17.99	– 1.52
Puerto Rico	9.50	10.37	– 0.71
Rhode Island	14.15	17.17	– 1.87
South Carolina	12.14	15.92	– 1.54
South Dakota	13.19	17.48	– 1.20
Tennessee	12.44	16.64	– 1.60
Texas	11.81	15.67	– 1.84
Utah	12.48	16.86	– 1.84
Vermont	15.96	19.23	– 1.61
Virgin Islands	10.98	14.34	– 1.59
Virginia	13.90	18.40	– 2.08
Washington	16.53	19.00	– 2.49
West Virginia	12.00	16.15	– 1.12
Wisconsin	13.29	18.22	– 1.29
Wyoming	11.34	17.23	– 1.32

When the OFLC Administrator publishes subsequent updates to the AEWRS in the **Federal Register**, as required by 20 CFR 655.120(b)(4) of this final rule, the adjusted AEWRS will be effective as of the date of publication in the corresponding **Federal Register** notices. If the new AEWRS applicable to the employer's certified job opportunity is higher than the highest of six applicable wage rates—the previous

AEWR, the current prevailing hourly wage rate, the current prevailing piece rate, the current agreed-upon collective bargaining wage, the current Federal minimum wage rate, or the current State minimum wage rate, the employer must pay that adjusted AEWRS upon the effective date of the new rate. *See* 20 CFR 655.120(b)(5). Conversely, if an updated AEWRS for the occupational classification and geographic area is

published in the **Federal Register** during the work contract, and the updated AEWRS is lower than the rate guaranteed on the job order, the employer must continue to pay at least the rate guaranteed on the job order. *See* 20 CFR 655.120(b)(6).

The Department also acknowledges that there are four different parties with potential reliance interests that are likely to be impacted by this IFR: (1)

agricultural employers; (2) U.S. workers currently, or potentially, employed in the agricultural sector; (3) non-U.S. workers currently, or potentially, legally employed in the agricultural sector via the H-2A rules; and (4) the U.S. consumers of U.S.-grown agricultural commodities. The Department has carefully considered the impact of this IFR on each of these groups, especially in this IFR's economic analysis of transfers and rule familiarization costs. The Department acknowledges that the overall impact of this new methodology will be a reduction in the AEWRs, or minimum hourly wage rate floors for H-2A workers and workers in corresponding employment that are likely to result in wage transfers to employers as a result of adopting more precise skill-based AEWRs based on the actual qualifications of the job opportunity as well as the adverse housing adjustment factor. The Department acknowledges these reliance interests and has accounted for them in this IFR, but as an initial matter concludes that they are far outweighed by other reliance interests and other significant reasons that support the promulgation of this IFR.

First, the Department believes that, in many ways, the IFR serves these groups' reliance interests, including those of U.S. agricultural employers who, by virtue of being recurring seasonal users are the most likely participants in the H-2A system to have serious reliance interests. Most significantly, the discontinuation of the FLS by the USDA has created a regulatory vacuum that this IFR fills. The Department believes a key reliance interest among these recurring participants in the H-2A program is to have an AEWR that is published and can be used for facilitating the preparation of H-2A job orders and applications at the start of the calendar year, regardless of regulatory methodology that determines the AEWRs. By putting a new methodology in place before the start of the calendar year, this IFR ensures that this reliance interest is not damaged by the regulatory vacuum caused by the discontinuation of the FLS. The Department believes that the analysis of rule familiarization costs thoroughly accounts for the reliance interests of U.S. agricultural employers and demonstrates that they are offset by the benefits of an increased supply of H-2A workers.

Moreover, the Department has demonstrated that changes to the AEWR methodology are necessary to use a more reliable and robust source of data and that more accurately accounts for both the wide array of occupations in

the H-2A program, and the varying qualifications and skill levels of the work required by employers. Critically, the methodological changes contained in this IFR are more reflective of the market-based wages being paid to U.S. workers similarly employed, and reducing any distortion caused by the previous AEWR methodology that created exorbitant wages. Thus, the Department initially concludes that these changes will allow it to better carry out its statutory mandate in a manner that balances the needs and interests of workers and agricultural employers.

Turning to the potential reliance interest of U.S. workers in the current methodology, the evidence relied on throughout this IFR strongly indicates that such reliance is tethered to a labor market that is dramatically changing and increasingly unstable. As discussed, the current and imminent labor shortage and the subsequent natural correction of a labor market artificially impacted by illegal aliens cannot be avoided. The Department simply has no evidence of the existence of a substantial population of U.S. workers who are willing and able to accept wage rates that are reasonable and proportionate to agricultural work but are deterred from entering agricultural work by AEWR-priced H-2A workers. And such reliance interest is vitiated by the USDA's discontinuation of the FLS: even if the Department did nothing, the FLS will cease, thus making any reliance interest on it misplaced (and, as explained above, reinforcing the benefit of this IFR to reliance interests by filling the regulatory gap). Such a slight-to-nil reliance interest is far outweighed by the duty the Department has to address the now correcting labor market, and implement the AEWR methodology laid out here, for those lawful H-2A workers, and all of the other evidence and reasons that are set forth in this IFR.

As to H-2A workers, to the extent such reliance exists, it is based on voluntary participation in *temporary* and *seasonal* work contracts authorized under the H-2A program. The Department initially concludes that if such a reliance interest could even be said to exist, it is too highly attenuated and speculative to be given much if any weight. The Department also acknowledges that U.S. workers in corresponding employment may have similar reliance interests, but these interests are outweighed by the evidence and reasons that support this IFR. And, the Department expressly acknowledges the bottom-line reliance interest that these workers may have—their level of expected remuneration in

robust detail in this IFR's analysis of transfers. The Department has considered other potential reliance interests, such as a H-2A workers potential financial planning based on an expected level of compensation rooted in the FLS, but considers these of low weight for two reasons with respect to this IFR: first, because the USDA's discontinuation of the FLS already undermines this expectation regardless of this IFR; and second, because it is highly attenuated, relying on numerous logical steps for any particular individual. To the extent these are reliance interests at all, the Department does not consider them to rise to the level of serious reliance interests requiring further analysis but welcomes comment on this aspect of the IFR.

Finally, with respect to U.S. consumers of agricultural products, their potential reliance interests with respect to the H-2A program are that the program will supply a sufficient level of labor to maintain the production of agricultural commodities at a reasonable price. This IFR enhances this reliance interest by filling the aforementioned regulatory vacuum to ensure the stability of the H-2A system, by making the AEWR more precise and tethered to the real world skill-level requirements of jobs, thereby allowing market forces to dictate the cost of labor, while also eliminating the 2010 AEWR rule that set an artificially and unreasonably high price floor for H-2A labor.

The Department welcomes public comment on what, if any, reliance interests exist among these groups, among specific subgroups or individuals that compose these groups, any groups with reliance interests that have not been identified, and any evidence or data that has probative value of any of these issues.

IV. Discussion of Changes to the AEWR Methodology

A. The Department Will Use the OEWS to Determine Skill-Based AEWRs for all Job Opportunities

As noted in prior rulemaking, the Department has always sought to use the best available information on occupational wages representing workers in the United States similarly employed. For the reasons discussed below, and in light of the determination that immediate reform to the H-2A program's minimum wage policy, or the AEWRs, is necessary to avoid widespread disruption across the U.S. agricultural sector, the Department is amending its methodology to use the average hourly gross wage reported by the BLS OEWS as the sole source of

wages for establishing two skill-based AEWRs that account for wage differentials arising from qualifications contained in the employer's job offer for all job opportunities under the H-2A program. Although currently used to establish skill-based prevailing wages for all agricultural and nonagricultural job opportunities in other nonimmigrant and immigrant visa programs based on the collection of employment and wage information from non-farm establishments such as farm labor contractors, the Department is incorporating farm establishments into the OEWS sampling methodology beginning in FY 2026. Once data collection is initiated with the May 2026 semi-annual panel, the expanded OEWS survey collection may start to reflect occupational employment and wage information into the two skill-based AEWRs from farm establishments on and after the May 2027 release. The Department concludes that this change will ultimately provide more accurate wage information based on a much larger and robust sample of the employer establishments employing workers to perform agricultural related services or labor covering a broader survey reference period across all states where employers may seek labor certification to employ foreign workers for temporary or permanent employment in the United States. The adoption of the OEWS as the sole source of employment and wage information will provide the Department with a single source of data, within its control, that can consistently and more precisely establish skill-based prevailing wages, including AEWRs, for all job opportunities specific to each state, which the FLS is not capable of reporting.

For many years, the Department has noted that wage data available in the FLS and the OEWS represent the best information available for determining the AEWRs in the H-2A program. The FLS collected employment and wage information based on a survey of farm and ranch establishments, which included any establishment with \$1,000 or more in annual agricultural sales (or potential sales), semiannually in April and October.⁹¹ The survey was conducted primarily by mail or online, with telephone follow-ups to obtain responses from nonrespondents, or, if needed, to clarify written responses.

⁹¹ The NASS Agricultural Labor Survey is typically conducted semi-annually in April and October, in all surveyed states except California. For the current survey iteration, California labor data were collected on a quarterly basis, through the California Employment Development Department (EDD) program.

Beginning with the July and October 2021 timeframe, the FLS utilized a smaller national sample size of over 16,000 operations to align with reductions in funding for the statistical program and adjustments for declining survey participation rates. The survey requested that employers provide, in aggregate and by occupation, the total number of hired workers, the total hours worked by all hired workers, and the total weekly gross wages paid to all hired workers in each occupation during the second weeks of January, April, July, and October. Gross wages were defined as the total amount paid to workers before taxes and other deductions, including overtime, bonus pay, workers' shares of social security and unemployment insurance, and other in-kind payments (e.g., agricultural products provided in lieu of wages), but not including benefits such as housing, meals, or insurance. USDA used these data to estimate the employment, average hours, and gross wages for a subset of six occupational classifications covering field and livestock workers (combined) and other hired workers in January and April (published in May) and in July and October (published in November). Separate estimates were published for each of the six individual occupations and for farm managers and supervisors at the national level, but not for each state or farm production region due to insufficient sample sizes. Further, because it collects aggregate data related to the gross wages paid to all hired workers in each occupation, as opposed to the gross wages paid to each hired worker in each occupation during the reference period, the FLS is not capable of reporting more precise wage estimates for any occupation-specific wage distribution to approximate wage differentials paid to U.S. workers similarly employed in a particular occupation and state.

Separately, the BLS OEWS survey remains the largest ongoing statistical survey program of the federal government, producing employment and gross wage estimates for more than 830 SOC codes, and is used as the primary wage source for establishing skill-based prevailing wage determinations at local and state geographic areas in other nonimmigrant and immigrant visa programs administered by the Department.⁹² The OEWS survey primarily covers wage

⁹² See, e.g., 20 CFR 655.731(a)(2)(ii)(A) (H-1B program, for specialty (professional) workers) and 20 CFR 656.40(b)(2) (Permanent Labor Certification program, for permanent employment of foreign workers).

and salary workers in non-farm establishments and does not include the self-employed, owners and partners in unincorporated firms, household workers, or unpaid family workers.⁹³ Like the FLS, the survey is conducted primarily by mail, with telephone follow-ups to nonrespondents, or, if needed, to clarify written responses.⁹⁴ Each year, two semiannual panels of approximately 179,000 to 187,000 sampled establishments are contacted, one panel in May and the other in November. Thus, the OEWS employment and gross wage estimates are constructed from a sample of about 1.1 million establishments collected over a 3-year period, which allows the production of data at detailed levels of geography, industry, and occupation and accounts for approximately 57 percent of employers in the United States.⁹⁵ OEWS data are published annually with a May reference date. Wages are defined as straight-time, gross pay, including piece rates, but, unlike the FLS, excludes other forms of pay such as overtime, shift differentials, and non-production or any year-end bonuses.⁹⁶ Further, because it collects the gross wages paid to each worker in each occupation during the reference period, the OEWS can consistently report more precise wage estimates for any occupation-specific wage distribution to approximate wage differentials paid to U.S. workers similarly employed in a particular occupation and state.

As explained through extensive rulemaking, the Department seeks to rely on the best available information to carry out its statutory mandate and has acknowledged that neither the FLS nor the OEWS are perfect as both surveys

⁹³ Although the OEWS has not historically covered farm establishment, the survey was expanded in 2011 to cover farms as part of the Green Goods and Services program but subsequently cut as part of the sequestration due to the Budget Control Act of 2011. See Stella D. Fayer, "Agriculture: Occupational Employment and Wages," *Monthly Labor Review*, DOL, BLS, July 2014, <https://doi.org/10.21916/mlr.2014.25>. The President's budget request for FY 2024 includes \$1,137,000 to restore data collection for agricultural industries to the OEWS program. See Department of Labor, *FY 2024 Congressional Budget Justification, Bureaus of Labor Statistics*, <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V3-01.pdf>.

⁹⁴ *Id.*

⁹⁵ See *Occupational Employment and Wage Statistics Frequently Asked Questions*, BLS. Available at: https://www.bls.gov/oes/oes_ques.htm (last modified Aug. 13, 2021).

⁹⁶ The OEWS uses the term "mean." However, for purposes of this regulation the Department uses the term "average" because the two terms are synonymous, and the Department has traditionally used the term "average" in setting the AEWR from the FLS.

have shortcomings.⁹⁷ In a March 2024 study comparing occupational wage data collected across a wide array of government-based surveys, the Congressional Research Service (CRS) affirmed the Department's finding that the "FLS and the OEWS are the only data sources currently available that provide state- or region-level wage estimates for agricultural occupations."⁹⁸ In addition, in a survey of farm and ranch establishments that directly hire workers, CRS similarly observed that the FLS provides wage estimates only for field and livestock worker (combined) occupations and does not reflect wages paid by farm establishments for agricultural labor or services provided by workers who are employed by farm labor contractors, or non-farm support establishments, or any wage information for farm establishments in Alaska or the U.S. territories. Regarding the OEWS, CRS noted that the survey publishes wage estimates by occupation for a wide array of local, state, and national geographic areas across all non-farm industries, but does not publish wage estimates within the "Crop Production" or "Animal Production" industries that are generally covered by the FLS. However, with the discontinuation of the FLS by USDA and based on a determination to establish skill-based AEWRs that account for wage differentials arising from qualifications contained in the employer's job offer for all job opportunities under the H-2A program, the Department has determined that the OEWS survey is the best available alternative source of employment and wage information to use in determining the AEWRs. Accordingly, the Department has made corresponding revisions to 20 CFR 655.120 by

removing references to the USDA FLS.⁹⁹ The Department will use the OEWS as the sole wage source for determining two skill-based AEWRs for all SOC codes, including those covered by the field and livestock workers (combined) category and those not included like first-line supervisors of farm workers or construction laborers where the duties, skills, and qualifications are the same or substantially similar to U.S. workers employed by non-farm establishments.

In this IFR and in light of the determination by USDA to discontinue the FLS based on its own statutory authority, the Department affirms the strengths of using the OEWS as an authoritative source of employment and wage information for determining skill-based AEWRs. For many reasons, the Department has determined that the OEWS remains the most comprehensive, reliable, and stable source of occupational employment and wage information available for determining skill-based AEWRs in the H-2A program. First, as use of the H-2A program has broadened to include on-farm and off-farm employment, the multisector reach of the OEWS survey does a better job of accurately reflecting market wage rates for occupations where workers are primarily employed in jobs outside the field and livestock workers (combined) category, such as first-line supervisors, heavy truck drivers, and construction workers because, as the Department previously concluded, these occupations "inherently include work both in and outside the agricultural sector."¹⁰⁰

Second, unlike the FLS, the capability of the OEWS to consistently aggregate wage estimates at a statewide level will better protect against the potential for depressive wage effects, if any, that may occur due to large numbers of nonimmigrant agricultural workers employed in more concentrated local areas within a state. Specifically, when discussing its preference for using the OEWS because the survey reports wages for each occupational classification at a

geographic level above a specific crop activity, the Department concluded that an "AEWR based on an occupational classification that accounts for significantly different job duties but remains broader than a particular crop activity or agricultural activity in a local area may better protect U.S. workers."¹⁰¹ Thus, for many decades, the Department "consistently has set statewide AEWRs rather than substate . . . AEWRs because of the absence of data from which to measure wage depression at the local level" and because use of surveys reporting data at a broader geographic level "immunizes the survey from the effects of any localized wage depression that might exist."¹⁰² As previously discussed regarding its sampling structure and methodology, the OEWS is capable of producing employment and wage estimates consistently at the statewide level and for any particular occupation or group of occupations, which more precisely estimates the wages paid of U.S. workers similarly employed in that state. Conversely, the FLS cannot report wage estimates for each state, except for California, Florida, and Hawaii, and cannot report wage estimates at the state or regional levels for any occupation outside the field and livestock worker (combined) category of occupations. Therefore, the Department concludes that the more precise statewide data available from the OEWS, whether for a particular occupation or group of occupations, better protects the wages of U.S. workers similarly employed where employers may be seeking to employ H-2A workers in that same occupation(s) within the state.

Third, the OEWS methodology incorporates a much larger sample size of establishments (1.1 million total non-farm establishments)¹⁰³ and generates higher survey response rates (approximately 65 percent),¹⁰⁴ as compared to smaller sample size (estimated 16,000 total farm establishments) and lower response rates (approximately 44 percent) of the FLS, which provides greater confidence to the Department in the accuracy of the employment and wage estimates produced by the BLS. Fourth, due to its larger sample size and time series panel methodology, the OEWS has the capability of consistently providing employment and wage estimates by SOC code at a state, regional, and national level. Conversely, as mentioned previously, the FLS can only produce

⁹⁷ See 73 FR at 7713 where the Department notes that "the FLS and the OES survey are the leading candidates among agricultural wage surveys potentially available to the Department to set AEWRs. Neither survey is perfect. In fact, both surveys have significant shortcomings. On balance, however, the Department has concluded that in light of the current prevalence of illegal aliens in the agricultural labor market, AEWRs derived from OES survey data will be more reflective of actual market wages than FLS data, and thus will best protect the wages and working conditions of U.S. workers from adverse effects."

⁹⁸ The CRS study compared the agricultural wage data currently used in calculating the AEWR with the wage data available from the Agricultural Resources Management Survey (ARMS), the Census of Agriculture (COA), the American Community Survey (ACS), the Current Population Survey (CPS), the Quarterly Census of Employment and Wages (QCEW), the National Economic Accounts, and the National Agricultural Workers Survey (NAWS). See Elizabeth Weber Handwerker, *Measuring Wages in the Agricultural Sector for the H-2A Visa Program*, Congressional Research Service, Report No. R47944 (March 5, 2024). Available at: <https://www.congress.gov/crs-product/R47944>.

⁹⁹ The Department has acknowledged in prior rulemaking that USDA controlled administration of the FLS, suspended the survey several times in the past, and retained discretion to unilaterally revise the survey methodology. See *United Farm Workers v. Perdue*, No. 1:20-cv-01452-DAD-JLT, 17-18 (E.D. Cal. Oct. 28, 2020) (citing USDA-DOL MOU at 2-6). The possibility of future instability in administration of the FLS, was one reason the Department decided to leverage the OEWS as a secondary wage source for field and livestock workers (combined) job opportunities. See 88 FR at 12769 (Adopting proposal to "use the OEWS to determine a statewide AEWR" for field and livestock workers "in the unanticipated circumstance that the FLS survey becomes unavailable (e.g., suspension of the survey) . . .").

¹⁰⁰ *Id.* at 12770.

¹⁰¹ 84 FR at 36182 (*citation omitted*).

¹⁰² 75 FR at 6895.

¹⁰³ *Id.* at 6, 10.

¹⁰⁴ Handwerker at 6.

employment and wage estimates by SOC code at a national level due to its significantly reduced sample size and methodology.¹⁰⁵ Fifth, due to its robust capacity to produce estimates at broad geographic levels spanning a three-year aggregated timeseries collection, the OEWS data are more reliable, representative, and generally experience lower rates of volatility on a year-over-year basis. While the FLS calculates annual findings from quarterly estimates of data collected during one calendar year cycle, each set of OEWS estimates used across other nonimmigrant and immigration visa programs is calculated from six panels of survey data collected over three years, which tends to moderate year-over-year fluctuations in wage rates.

Sixth, unlike the FLS, the OEWS survey produces wage estimates based on straight-time, gross pay, and excludes monetary compensation related to overtime pay, on-call pay, severance pay, shift differentials, year-end and other nonproduction bonuses, and employer costs for supplementary benefits (e.g., uniform, tuition). As multiple states in recent years have enacted legislation requiring overtime pay for agricultural workers, employers have expressed concerns that the FLS is vulnerable to producing artificially high average wages because overtime pay and other forms of premium pay are not being excluded from the collection of gross compensation data from farm establishments. Thus, by adopting the OEWS as the wage source for estimating skill-based AEWRs, the Department is seeking to address this concern while achieving greater consistency in the computation of average hourly wage rates in the H-2A program with those already used in temporary and permanent visa programs where overtime pay is excluded from determining prevailing wages.

And finally, although it does not primarily survey farm establishments, farm labor contractors, which are covered by the OEWS, are increasingly utilized by agricultural employers, to employ workers to provide agricultural labor or services similar to that of workers employed by fixed-site agricultural employers thus making use of the OEWS data important to determining representative, market-based wages. Agricultural labor contractor employment has grown in

recent years¹⁰⁶ and H-2 labor contractors (H-2ALCs) represent an increasing share of the H-2A worker positions certified by the Department.¹⁰⁷ For example, from FY 2020 through FY 2023, the Government Accountability Office (GAO) found that H-2ALCs “accounted for 42 percent of the jobs approved during the period” in the H-2A program¹⁰⁸ and the USDA found that “the FLC share of H-2A workers increased from 15 percent to 42 percent from FY 2010 to FY 2019.”¹⁰⁹ FLC employment is increasingly common in specific sectors, such as the vegetable

¹⁰⁶ *Farm Labor* (Jan. 8, 2025). USDA (Noting From 2013 to 2023, agricultural employment increased most “in crop support services (which added about 17,400 jobs, a 6 percent increase). Available at: <https://www.ers.usda.gov/topics/farm-economy/farm-labor/NAWS-Data-Finder>: U.S. Crop Workers’ Employer Type, All Available Years. U.S. DOL, National Agricultural Workers Survey (indicating the total share of FLC employment in agricultural recently has risen from 14.99% in the 2014–18 period to 16.95% in the 2019–22 period). Available at: <https://www.dol.gov/agencies/eta/national-agricultural-workers-survey/news-data-table/news-data-finder-results>; 88 FR 12760, n. 71 (citations omitted) (noting the USDA Economic Research Service (ERS) reported that H-2ALCs (also known as Farm Labor Contractors (FLC)) have become the dominant employer type in the vegetable and melon sector—among the most labor-intensive agricultural sectors in the United States. Specifically, USDA ERS noted that “the number of certifications obtained by both individual employers and FLCs increased every year between 2011 and 2019; however, the number of certifications obtained by FLCs increased faster, which led contractors to overtake individual employers in 2016. The share of certifications obtained by FLCs steadily increased from 17 percent in 2011 to its maximum of 57 percent in 2018, decreasing slightly to 53 percent in both share and number in 2019.” Noting also that the Department’s own review of H-2A applications covering all agricultural sectors certified by OFLC during the most recent 3 fiscal years covering October 1, 2019, through September 1, 2022, indicated the proportion of H-2A worker positions certified for employers operating as H-2ALCs increased from 36 percent in FY 2020 to more than 43 percent in FY 2022. In FY 2020, of the 275,430 worker positions certified nationally, 99,505 (or 36.1 percent) were issued to H-2ALCs. From October 1, 2021, through September 1, 2022, for FY 2022, of the 352,103 worker positions certified nationally, 151,706 (or 43.1 percent) were issued to employers operating as H-2ALCs).

¹⁰⁷ 88 FR 12760, n. 60 (Noting, for example, the proportion of all H-2A worker positions certified by the Department for employment in non-range occupations with employers qualifying as H-2A Labor Contractors (i.e., farm labor contractors) has increased significantly from 33.1 percent in FY 2016 (54,787 positions out of 165,741 positions) to 42.6 percent in FY 2021 (135,314 positions out of 317,619 total positions) and 43.1 percent through August FY 2022 (151,439 positions out of 351,268 total positions)).

¹⁰⁸ *H-2A Visa Program: Agencies Should Take Additional Steps to Improve Oversight and Enforcement* (Nov. 2024), 9. U.S. Government Accountability Office. GAO-25-106389. Available at: <https://www.gao.gov/assets/gao-25-106389.pdf>.

¹⁰⁹ *Id.* (citing *Examining the Growth in Seasonal Agricultural H-2A Labor*, Economic Information Bulletin No. 226, U.S. Department of Agriculture, Economic Research Service (Washington, DC: Aug. 2021)).

crop sector (40%), and fruit and nut crop sector (57%)¹¹⁰ and data shows “vegetable and melon farming or fruit and tree nut farming accounted for most of the approved H-2A applications,” according to GAO and USDA research.¹¹¹ FLCs may also be more commonly employed in support of smaller farms, as “smaller farms turn to FLCs because H-2A visa programs can be difficult to navigate” for these employers.¹¹² Based on a review of the Department’s more recent public H-2A labor certification records for FY 2024 and FY 2025, H-2ALCs continued to account for a significant percent of all H-2A jobs certified as more than 163,200 of the 379,300 jobs, or 43 percent of the total, were approved during FY 2024 for H-2ALCs. In addition, from October 1, 2024, through June 30, 2025, more than 134,200 of the 317,400 H-2A jobs certified, or 42 percent of the total, were approved during FY 2025 for H-2ALCs.¹¹³ In comparison, the now-discontinued FLS suffered from the flaw of not surveying at all the large proportion of agricultural labor that is supplied by FLCs.¹¹⁴

The Department’s concern expressed in prior rulemaking that the OEWS, as currently administered, may not survey a sufficient cross-section of agricultural workers to represent market-based wages,¹¹⁵ is being addressed outside this IFR, as the Department will ensure long-term stability in determining the

¹¹⁰ See *Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic Employment Profile of United States Crop Workers* (Sept. 2023), 2, 26 (Finding H-2ALC employees now constitute 22 percent of all crop workers, 28% of all crop harvesters, 40% of vegetable crop sector workers, and 57% of fruit and nut crop workers). Available at: <https://www.dol.gov/sites/dolgov/files/ETA/news/pdfs/NAWS%20Research%20Report%2017.pdf>.

¹¹¹ *H-2A Visa Program: Agencies Should Take Additional Steps to Improve Oversight and Enforcement*, 10 (Nov. 2024). U.S. GAO, GAO-25-106389. Available at: <https://www.gao.gov/assets/gao-25-106389.pdf>; Castillo, et al. *Examining the Growth in Seasonal Agricultural H-2A Labor* (Aug. 2021), EIB-226, USDA, ERS (Finding the vegetable and melon sector is “the largest H-2A employer . . . since 2016,” and “FLC prominence” in this sector is due to “contract labor play[ing] an important role in production of these crops.” The report also found “fruit and tree nuts led other sectors . . . (behind vegetable and melons) in number of H-2A certifications . . . with an annual rate of growth of 20 percent . . .” and noted “FLCs are the dominant H-2A employers in fruit and tree nuts.”). Available at: https://ers.usda.gov/sites/default/files/_laserfiche/publications/102015/EIB-226.pdf?v=97406.

¹¹² *Id.*

¹¹³ Based on a review of public H-2A labor certification disclosure records certified by the Department and available on the OFLC Performance Data website for FYs 2024 and 2025, Quarter 3, at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

¹¹⁴ See e.g., 90 FR at 42561.

¹¹⁵ See e.g., 75 FR at 6899.

¹⁰⁵ *Id.* (Noting the FLS was expanded briefly from 2018–2020 to provide occupation-specific wages at a smaller geographic scale and with expanded sample sizes, but USDA reverted to smaller sample sizes and the prior survey scope after suspending the survey entirely in 2020).

AEWRs using a more comprehensive OEWS data set based on a more robust, accurate, and reliable set of wage data from farm establishments. Specifically, the Department is working collaboratively with USDA, due to its expertise in identifying farm establishments, to initiate expansion of the OEWS survey universe of employers in FY 2026 by incorporating employers in key agricultural industries, such as crop and animal production sectors, into its semi-annual sampling methodology and model estimation procedures. As the semi-annual panels begin to incorporate employment and wage estimates from these farm establishments on and after May 2026, the OEWS survey will increasingly strengthen its ability to provide more accurate and reliable information to the Department and the general public on the employment and average wages paid to U.S. workers similarly employed in agricultural related occupations. Taking into consideration the decision to establish more precise skill-based AEWRs for each state, the strengths of the OEWS to produce occupation-specific wages that accounts for wage differentials for every state, and planned expansion of the survey to incorporate farm establishment data into its time series methodology, the Department concludes that the resulting employment and wage estimates will better reflect wages paid to U.S. workers performing agricultural related labor or services across all types of establishments and covering a broad geographic area at the state level, leading ultimately to more comprehensive and accurate wage data that cannot be reported by the FLS.

As previously discussed, Congress has delegated broad discretion to the Department in determining the sources and methods that best allows it to meet its statutory mandate, while striking a reasonable balance between the statute's competing goals of providing employers with an adequate supply of legal agricultural labor and protecting the wages and working conditions of workers in the United States similarly employed. For all the reasons previously stated, the Department concludes that the policy decision to use the unique strengths of the OEWS for establishing skill-based AEWRs, which are not available through the FLS, and inclusive of its planned expansion to collect employment and wage information from farm establishments, will provide one comprehensive source of more accurate and representative market-based wages, based on samples of employers and

workers covering all agricultural related occupations and types of establishments, thereby better approximating the actual wages of U.S. workers similarly employed based on the duties and qualifications associated with the agricultural work being performed.

B. The Department Will Determine the AEWRs at Two Skill Levels To Better Reflect the Average Wages Paid to U.S. Workers Similarly Employed

As discussed in detail below, the Department will determine the AEWRs using the best available data from the OEWS that reasonably reflects labor market dynamics and most closely approximates the average wages earned by U.S. workers performing similar work and possessing the same or substantially similar qualifications (e.g., job requirements, experience, tools) as those employers expect of H-2A workers.

Under revisions adopted in this IFR at 20 CFR 655.120(b)(1)(i) and (ii) and (b)(2), the Department will determine the AEWRs for H-2A job opportunities using the annual average hourly gross wage in the U.S. state or territory according to two skill or qualification levels: Skill Level I (Entry-Level) and Skill Level II (Experience-Level). A Skill Level I AEWR is associated with job offers containing qualifications commensurate with entry-level positions where workers need no formal education or specialized training credentials. In addition, employers typically require no or very little work-related experience under the Occupational Information Network (O*NET)¹¹⁶ system (e.g., up to 2 months of related work experience cultivating diversified vegetable crops) or, alternatively, may require a short demonstration (e.g., several weeks of on-the-job training) on how to perform the work by a more experienced employee, lasting anywhere from a few days to a few weeks. Employers seeking employees for this level of position require them to follow instructions from a supervisor or team leader on the

employer's agricultural methods and practices, use common equipment and tools to successfully perform the work, and help others as part of a work crew. Work performed by these employees is closely monitored, tracked, and assessed for quality, accuracy, and production results. In accordance with new paragraph (b)(2)(i), a Skill Level I AEWR will be computed as the average hourly gross wage paid to the lower one-third of all workers in the five SOC codes comprising the field and livestock workers (combined) category or, for occupations outside of that category, the average hourly gross wage paid to the lower one-third of all workers in the specific SOC code assigned to the employer's job opportunity. A Skill Level I AEWR is computed at the equivalent of the 17th percentile of the occupational wage distribution, which is similar to the skill-based prevailing wages for other nonimmigrant and immigrant visa programs administered by the Department.

A Skill Level II AEWR is associated with job offers containing qualifications commensurate with experience-level or qualified employees who possess, either through education, training, or experience, demonstrated skills or knowledge to perform the work covering the SOC code(s). Depending on the occupational classification, these positions may normally require some formal education or training credentials or certificates. In addition, employers typically require work-related experience at a level that is normal for the occupation under the O*NET system (e.g., 3 months of related work experience harvesting apples) and generally do not require a short demonstration on how to perform the work by a more experienced employee. Employers who hire employees into this level of position may also expect workers to perform moderately complex tasks (e.g., harvesting "first pick" apples for firmness, color, and placement on the tree) and follow instructions from a supervisor or team leader on the employer's agricultural methods and practices, use common equipment and tools to successfully perform the work, and help others as part of a work crew. Work performed by these employees is not as closely monitored as employees in Skill Level I, but production may still require some level of tracking and assessment of quality when immediate delivery is to market. In accordance with new paragraph (b)(2)(ii), a Skill Level II AEWR will be computed as average hourly gross wage paid to all workers in the five SOC codes comprising the field and livestock

¹¹⁶ The O*NET system was created for the general public to provide broad access to the O*NET database of occupational information. O*NET is a database of information on skills, abilities, knowledges, work activities, and interests associated across more than 820 occupational classifications based on the 2018 version of the Standard Occupational Classification system. This information can be used to facilitate career exploration, vocational counseling, and a variety of human resources functions, such as developing job orders and position descriptions and aligning training with current workplace needs. Additional information on the O*NET system is available at <https://www.onetonline.org> (last visited August 21, 2025).

workers (combined) category or, for occupations outside of that category, the average hourly gross wage paid to all workers in the specific SOC code assigned to the employer's job opportunity. A Skill-Level II AEWR is computed at the equivalent of the 50th percentile of the occupational wage distribution, which is similar to the skill-based prevailing wages for other nonimmigrant and immigrant visa programs administered by the Department.

The description and application of each skill level adopted in this IFR is based on the totality of the circumstances of an employer's job offer and designed to be consistent with skill-based levels required under the INA and used by the Department in its prevailing wage determinations for employers seeking to hire H-1B temporary nonimmigrant workers and permanent immigrant workers, as discussed further below.¹¹⁷ In other words, if this same agricultural employer sought labor certification from the Department to sponsor a foreign worker for permanent year round work to support its farming operation, the Department would conduct a similar assessment of the qualifications contained in the employer's job offer and assign a market-based wage that best approximates the average wage paid to U.S. workers similarly employed in the geographic area. The Department concludes employers seeking temporary nonimmigrant workers under the H-2A visa classification should receive an AEWR determination that also takes into account the qualifications of the employer's job offer to better effectuate the requirement to, protect the wages of U.S. workers similarly employed and more closely align the wage standard in the H-2A program with the wage standards in other employment-based

immigration programs which use skill-based wage levels.¹¹⁸

For the reasons discussed below, and after the appropriate SOC code(s) are assigned to the job opportunity, the State Workforce Agency (SWA) and OFLC Certifying Officer (CO) will make an AEWR determination for the U.S. state or territory using one of two skill levels based on a comparison of the qualifications (e.g., education, and training) contained in the employer's job offer that it expects employees to possess for acceptable work performance. Although the vast majority of certified H-2A job opportunities are concentrated in the five field and livestock worker (combined) occupational category, the market for agricultural labor or services is far more diversified and covers a broad spectrum of occupations with differing degrees of job qualifications that generate different levels of wage compensation. Despite a common stereotype that agricultural jobs are "unskilled" and typically do not require formal education or training credentials or certificates like the specialty occupations in the H-1B temporary nonimmigrant and PERM immigrant program, the Department has previously noted, as far back as 2008, that the "farm labor market is not a monolithic entity," but is comprised of "a number of occupations and skills" distributed across "a matrix of markets" and a "spectrum of occupations, skill or experience levels . . ."¹¹⁹ In fact, based on a review of H-2A labor certification

records for FY 2024, the Department issued labor certifications across more than 60 different SOC codes containing a wide array of qualifications ranging from crop and nursery work to supervisors, animal trainers, equipment mechanics and technicians, heavy truck drivers, and commercial pilots.

The methodology adopted in this IFR also addresses some of the more substantial concerns expressed by users of the H-2A program—agricultural employers and associations—who have long contended that the AEWR cannot be an accurate reflection of market wages paid to similarly employed workers if the Department fails to differentiate wage data based on the "level of skill or experience required for a position."¹²⁰ Many stakeholders have urged the Department to adopt a tiered wage system, accounting for "experience, skill, responsibility, and difficulty variations within each occupation," similar to the system mandated by Congress in the H-1B nonimmigrant program.¹²¹ The Department agrees and acknowledges that it is generally accepted that differences in wages among workers within a given occupation can be attributed to a number of characteristics and qualifications such as education, work experience, complexity of tasks, training, and requirements like licensure, as well as characteristics like union v. non-union and full-time v. part-time or temporary.¹²² While it is administratively infeasible to precisely

¹¹⁷ See Section 212(p)(4) of the INA stating, in pertinent part, that "[w]here the Secretary of Labor uses, or makes available to employers, a governmental survey to determine the prevailing wage, such survey shall provide at least 4 levels of wages commensurate with experience, education, and the level of supervision." Although this provision was enacted in the context of the H-1B temporary nonagricultural visa classification, and also applies to the PERM immigrant visa program, it is the only paragraph in Section 212(p) that does not reference any specific immigration programs to which it applies, and there is no legislative history indicating that it was meant to apply only to the H-1B program. For more detailed information regarding the four skill levels utilized by the Department, please see *Employment and Training Administration Prevailing Wage Determination Policy Guidance Nonagricultural Immigration Programs*, Revised November 2009 located at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/NPWHC_Guidance_Revised_11_2009.pdf.

¹¹⁸ Under 8 U.S.C. 1182(a)(5)(A) of the Immigration and Nationality Act (INA or Act), certain aliens may not obtain immigrant visas for entrance into the United States in order to engage in permanent employment unless the Secretary of Labor has first certified to the Secretary of State and to the Secretary of Homeland Security that: (1) There are not sufficient United States workers who are able, willing, qualified and available at the time of application for a visa and admission into the United States and at the place where the alien is to perform the work; and (2) The employment of the alien will not adversely affect the wages and working conditions of United States workers similarly employed. Additionally, under 8 U.S.C. 1182(n)(1), no alien may be admitted or provided status as an H-1B nonimmigrant in an occupational classification unless the employer has filed with the Secretary of Labor an application stating the following: (A) The employer—(i) is offering and will offer during the period of authorized employment to aliens admitted or provided status as an H-1B nonimmigrant wages that are at least (I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or (II) the prevailing wage level for the occupational classification in the area of employment, whichever is greater, based on the best information available as of the time of filing the application, and (ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

¹¹⁹ 73 FR at 8550.

¹²⁰ 75 FR at 6899.

¹²¹ *Id.* at 6900.

¹²² See, e.g., *Introducing Modeled Wage Estimates by Grouped Work Levels*, U.S. DOL, BLS (noting "wages tend to increase along with the progression in work level" necessitating information about "differences in pay for entry, intermediate, and experienced work levels."). Available at: <https://www.bls.gov/opub/mlr/2022/article/introducing-modeled-wage-estimates-by-grouped-work-levels.htm>; *How Much Could I Be Earning? Using Occupational Employment and Wage Statistics Data During Salary Negotiations*, BLS ("Where an individual's wage should fall within the national distribution depends on a number of factors. Of course, experience and education are factors."). Available at: <https://www.bls.gov/oes/earnings.pdf>; *Modeled Wage Estimates for Entry, Intermediate, and Experienced Grouped Work Levels*, BLS (Explaining use of wage modeling to group "occupations like food preparation workers and nursing assistants" into two wage levels corresponding with "entry and experienced levels."). Available at: <https://www.bls.gov/mwe/factsheets/grouped-work-levels-factsheet.htm>; Torpey, Elka, *Same Occupation, Different Pay: How Wages Vary* (2015), BLS ("Large differences in wages may be the result of a combination of factors, such as industry of employment, geographic location, and worker skill.") Available at: <https://www.bls.gov/careeroutlook/2015/article/wage-differences.htm>; *Learn More, Earn More: Education Leads to Higher Wages, Lower Unemployment*, BLS. Available at: <https://www.bls.gov/careeroutlook/2020/data-on-display/education-pays.htm>.

pinpoint every reason that workers within a given occupation receive significantly different pay, the Department concludes that the existence of wage differences can be attributed, to a large degree, to these characteristics and qualifications possessed by incumbent workers performing work within a given occupation. This is supported by the Department's extensive experience assessing the duties and qualifications of job opportunities, including those from employers in the agricultural sector, applying for labor certification to employ foreign nationals temporarily under the H-1B visa classification or in permanent employment in the United States. Specifically, for more than 20 years, the Department has used one of four skill-based wage levels for a given occupational classification based on a comparison of the qualifications contained in the employer's permanent or temporary H-1B job offer related to the occupational duties or tasks, knowledge, skills, and specific vocational preparation (*i.e.*, education, training, and experience) generally required of prospective applicants for acceptable performance in the position. A detailed description of the tasks, knowledge, and skills in the employer's job opportunity, including level of complexity, judgement, supervision and understanding required to perform the duties, help determine the appropriate skill-based prevailing wage for these job opportunities. Further, information contained in the O*NET related to education, and training provides guidance in determining whether the job offer is for an entry-level, qualified, experienced, or fully competent employees; each of which corresponds to higher skill-based wage levels as minimum qualifications in the employer's job offer increases.

Additionally, the BLS has noted that work experience and training contributes to wage differentials, with "experienced workers usually earn[ing] more than beginners," and recent data suggests work experience may be a significant factor in within-occupation wage differentials in agriculture.¹²³

¹²³ Torpey (2015) ("Large differences in wages may be the result of a combination of factors, such as industry of employment, geographic location, and worker skill."). Available at: <https://www.bls.gov/careeroutlook/2015/article/wage-differences.htm>; *Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic Employment Profile of United States Crop Workers* (Sept. 2023), 28. U.S. DOL–ETA (A survey of agricultural workers indicated "[h]ourly wages increased with respondents' number of years working for their current employer" and varied from "\$13.72 per hour" for workers with 1–2 years of experience in the job to "\$15.56 per hour" for

Wages may also differ within an occupation based on required skills and the wage may increase where there is a requirement for "in-demand skills . . ." ¹²⁴ Additionally, workers who "hold professional certification or licensure may earn more than other workers in the same occupation . . ." ¹²⁵ Within a particular occupation, and even with the same employer, wages may also differ based on complexity of tasks and level of responsibility.¹²⁶ Even in lesser skilled occupations, the Department believes these factors can explain much of the identified within-occupation wage differentials.¹²⁷

Within the agriculture sector, the amount of time spent working on a farm and the number of years of experience performing agricultural work have a positive correlation to the average wages

workers with 11 or more years in the job.). Available at: <https://www.dol.gov/sites/dolgov/files/ETA/news/pdfs/NAWS%20Research%20Report%2017.pdf>; Sullivan, Paul, *Empirical Evidence on Occupation and Industry Specific Human Capital* (Jun. 2010), *Labour Economics*, 17:3 (In "occupations such as craftsmen . . . workers realize a 14% increase in wages after five years of occupation specific experience . . . sales workers . . . realize large wage gains as they accumulate general work experience."). Available at: <https://www.sciencedirect.com/science/article/abs/pii/S0927537109001286?via%3Dihub/>.

¹²⁴ *Id.*; Levenson, Alec & Zoghi, Cindy, *The Strength of Occupation Indicators as a Proxy for Skill* (Mar. 2007), 2, 8. BLS ("[T]here is considerable within occupation variation in skills . . . there are differences among workers in their ability to perform tasks of high complexity, and there are differences among jobs in the level of task complexity and responsibility bestowed on the worker."). Available at: <https://www.bls.gov/osmr/research-papers/2007/pdf/ec070030.pdf>.

¹²⁵ *Id.*

¹²⁶ See, e.g., Torpey (2015) (Stating "[j]obs for a specific occupation often have similar position descriptions, but individual tasks may vary" and "jobs involving more complex tasks or greater responsibility may have higher wages than those that don't . . ."); Autor, David H. and Handel, Michael J. (2013), *Putting Tasks to the Test: Human Capital, Job Tasks and Wages*, National Bureau of Economic Research ("Job tasks . . . vary substantially within and between occupations, are significantly related to workers' characteristics, and are robustly predictive of wage differentials both between occupations and among workers in the same occupation."). Available at: <https://ideas.repec.org/a/ucp/jlabec/doi10.1086/669332.html>.

¹²⁷ *National Compensation Survey* (May 2013), 60. BLS (Stating job levels for blue collar jobs may increase progressively based on factors like required knowledge of "rules, materials, processes, procedures, operations, and tools necessary" to perform tasks like "fabricat[ing], install[ing], repair[ing], maintain[ing] . . ." equipment and should be increased most significantly when the job requires, for example, knowledge of complex procedures and methods "gained through job experience to permit independent performance of nonstandard assignments . . ." or requires "specialized training or experience . . ."). Available at: <https://www.bls.gov/mwe/factsheets/ncl-leveling-guide-for-evaluating-your-firms-jobs-and-pay.pdf>.

or earnings received.¹²⁸ Based on a review of the evidence available, the Department concludes that wage differentials within a given agricultural occupation do exist, and that varying degrees of work-related experience among employed U.S. agricultural workers are reflected by differences in wages paid to such workers by employers. For example, the most recent data available from the NAWS for 2021–2022 indicates that "[h]ourly wages increased with respondents' [crop workers] number of years working for their current employer." The report noted that workers "who had been with their current employer 1 to 2 years earned an average of \$13.72 per hour, those working for their current employer 3 to 5 years earned an average of \$14.53 per hour, and those with 6 to 10 years earned an average of \$14.81 per hour . . ." and workers "who had worked for their current employer 11 years or more earned the highest hourly wage, an average of \$15.56 per hour." ¹²⁹ Additionally, the report indicates that 23 percent of workers had worked at least 11 or more years with their current employer and the average number of years worked with the current employer was 8 years.¹³⁰

This suggests that relying on unsegmented aggregate OEWS data (*i.e.*, the arithmetic mean of all hired workers in a given occupational wage distribution) would tend to overstate wages for similarly employed American agricultural workers with less experience and understate wages for similarly employed American agricultural workers with more experience. Within the OEWS data set that covers a far larger sample size of employer establishments than both the NAWS and FLS discussed previously, BLS publishes an occupational profile containing the average wage paid to all workers in the SOC code and shows a distribution of wages in percentiles, which provides information on the spread of wages based on the percentage of workers earning at or below a given percentile. The wages presented at different points within an occupational wage distribution positively correlate to important worker characteristics such as education and experience. As the BLS describes, "someone new to the field may expect wages near the 10th or 25th

¹²⁸ *Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic Employment Profile of United States Crop Workers* (Sept. 2023), at 28. U.S. DOL ETA. Available at: <https://www.dol.gov/sites/dolgov/files/ETA/news/pdfs/NAWS%20Research%20Report%2017.pdf>.

¹²⁹ *Id.* at 28.

¹³⁰ *Id.* at 32.

percentile, whereas those with more experience and education could expect wages near the 75th or 90th percentile.”¹³¹ To further illustrate the point that material wage differentials

exist within agricultural occupations, the table below displays the national average OEWS-based hourly wage rates associated with the top 10 SOC codes typically certified in the H-2A program

at the 10th, 25th, 50th, and 75th percentiles in the occupational wage distribution.

Occupation title (SOC code)	National average hourly wage distribution, May 2024			
	10th Percentile	25th Percentile	50th Percentile	75th Percentile
Farmworkers and Laborers, Crop, Nursery, and Greenhouse (45–2092)	\$15.51	\$16.48	\$17.16	\$18.73
Agricultural Equipment Operators (45–2091)	15.02	17.62	20.47	23.41
Farmworkers, Ranch, and Aquacultural Animals (45–2093)	13.03	15.01	17.38	21.29
Heavy Truck and Tractor-Trailer Drivers (53–3032)	18.58	22.71	27.62	31.50
Construction Laborers (47–2061)	16.44	18.32	22.47	28.32
Shuttle Drivers and Chauffeurs (53–3053)	13.21	15.13	17.63	21.40
Graders and Sorters, Agricultural Products (45–2041)	14.66	16.13	17.03	18.28
Helpers—Carpenters (47–3012)	15.16	17.24	20.00	22.49
Helpers—Installation, Maintenance and Repair Workers (49–9098)	13.83	16.23	18.68	22.40
Packers and Packagers, Hand (53–7064)	13.01	15.13	17.10	19.69

Upon review, the data in the table clearly demonstrates that material wage differentials are present in both common higher-skilled agricultural SOC codes, such as heavy truck and tractor-trailer drivers and first-line supervisors of farm workers, and the relatively lower-skilled occupations that make up the five most common field and livestock workers (combined) category of occupations, which includes Farmworkers and Laborers, Crop, Nursery and Greenhouse Workers (45–2092), Farmworkers, Farm, Ranch, and Aquacultural Animals (45–2093), Agricultural Equipment Operators (45–2091), Packers and Packagers, Hand (53–7064), and Graders and Sorters, Agricultural Products (45–2041). For example, the wage estimates for heavy

truck drivers (SOC 53–3032) range from \$22.71 per hour at the 25th percentile to \$27.62 per hour at the 50th percentile, or mean, of all workers in the occupational distribution. The wage differential is significant at more than \$4.91 per hour between these two wage measurement points in the occupational wage distribution. In the field and livestock worker (combined) category of occupations, the wage data at these same percentiles indicates more narrow wage differentials for crop farmworker occupation (45–2092) ranging from \$16.48 to \$17.16 per hour, with a differential of \$0.68 per hour; wages for agricultural equipment operators (45–2091) ranging from \$17.62 to \$20.47, with a differential of \$2.85 per hour; and wages for ranch and aquacultural

farmworkers (45–2093) ranging from \$15.01 to \$17.38 per hour, with a differential of \$2.37 per hour.

The Department also notes that evidence exists that wage differentials are present at a statewide geographic level and even for the most common occupation certified in the H-2A program, Farmworkers and Laborers, Crop, Nursery, and Greenhouse (45–2092). As an example, the table below displays the statewide average OEWS-based hourly wage rates associated with SOC code 45–2092 for the top 10 states of certified employment in the H-2A program at the 10th, 25th, 50th, and 75th percentiles in the occupational wage distribution.

U.S. State of certified employment	Statewide average hourly wage distribution farmworkers and laborers, crop, nursery, and greenhouse (45–2092)			
	10th Percentile	25th Percentile	50th Percentile	75th Percentile
Florida	\$12.64	\$13.36	\$14.32	\$16.19
Georgia	12.00	13.37	13.94	17.96
California	16.34	16.72	17.20	18.63
Washington	16.44	16.67	17.83	21.00
North Carolina	13.28	14.44	16.20	17.31
Michigan	13.94	15.58	17.52	18.80
Louisiana	10.96	12.86	14.50	16.06
Texas	11.10	12.97	15.28	16.76
Arizona	14.84	16.21	16.43	17.45
New York	15.78	17.20	18.93	21.98

Upon review, the data in the table above also shows that wage differentials are present in the most common agricultural occupation certified under the H-2A program. Across the top 10 states of intended employment for H-2A workers, the average wage differential

between the 25th and 50th percentiles for the Farmworkers and Laborers, Crop, Nursery, and Greenhouse occupation is approximately \$1.28 per hour. These wage differentials are more salient in most, but not all, of the top 10 states. For example, the wage estimates for this

occupation in Texas range from \$12.97 per hour at the 25th percentile to \$15.28 per hour at the 50th percentile, or mean, of all workers in the occupational distribution. The wage differential is significant at more than \$2.31 per hour between these two wage measurement

¹³¹ See *How Much Could I Be Earning? Using Occupational Employment and Wage Statistics*

Data During Salary Negotiations, BLS, <https://www.bls.gov/oes/earnings.pdf>.

points in the occupational wage distribution. In addition, a wage differential of more than \$1.00 per hour is also present for workers performing similar agricultural work within the states of Washington, North Carolina, Michigan, Louisiana, and New York. However, Arizona shows a narrower wage differential of \$0.22 per hour where wage estimates showed \$16.21 per hour at the 25th percentile and \$16.43 per hour at the 50th percentile or mean.

Thus, based on the broad distribution of wages paid to U.S. workers similarly employed across the most common occupations and geographic areas certified under the H-2A program, the Department can reasonably conclude that material wage differences within agricultural occupations exist and are positively correlated with differences in the characteristics and qualifications of incumbent workers employed by employers in these occupations. Accordingly, continued use of a single average hourly wage for all workers for a given occupation is not appropriate when the employer's need for the agricultural labor or services to be performed does not require qualifications commensurate with the average of all incumbent workers employed who may possess eight or more years of experience. In other words, imposing a single AEWR computed based on all workers paid within the occupation, regardless of the qualifications contained in an employer's job offer, is not sufficiently precise to reflect market-based wages paid to U.S. workers similarly employed, resulting in a wage floor that is either artificially too high or too low in relation to the nature of the employer's qualifications. As previously discussed, due to its sampling size and methodology that allows for collecting employment and gross wages paid to each worker in each occupation during the reference period, the OEWS can consistently report more precise wage estimates for any occupation-specific wage distribution to approximate wage differentials paid to U.S. workers similarly employed in a particular occupation and state, which the FLS cannot report at any level.

When AEWRs are artificially set too far above market conditions in relation to the agricultural duties and qualifications required by employers, the resulting increases in production costs can harm U.S. workers similarly employed as employers scale down or, worse yet, shut down operations and become "priced out" of participating in the H-2A program. Conversely, when the AEWRs are set artificially below

market conditions in relation to the minimum job qualifications required by employers, U.S. workers similarly employed may be harmed by employers choosing not to hire qualified and eligible U.S. workers in favor of H-2A workers, which may lead to requiring that U.S. workers accept below-market wages as a condition of employment.

The Department notes that the policy rationale for adopting two skill levels is to approximate, as accurately as possible and using the best available information, the average of wages paid to U.S. workers similarly employed in the occupation and geographic area based on the qualifications contained in the employer's job offer for which the services of H-2A workers are being requested for temporary agricultural labor certification. When the average wages better reflect these market conditions, they do not represent below-average AEWRs. Rather, these AEWRs reflect the actual average wages that are prevailing in the occupation and geographic area for that particular kind of job. The Department's use of a single AEWR for work performed within a particular occupation or category of occupations, regardless of qualifications, fails to account for the fact that individual jobs within a broad occupational classification require relatively more or less experience and skill to perform than others and may adversely affect U.S. workers who are similarly employed performing such jobs.

The Department also concludes that adoption of this AEWR methodology will address concerns raised in the recently settled *Teche Vermilion* litigation regarding the 2023 AEWR Final Rule's methodology under 8 U.S.C. 1188(a)(1)(B) and the lack of clarity or nuance regarding the way the Department determines whether a "H-2A job . . . ha[s] sufficient common characteristics with a non-H-2A job" such that "the wages and working conditions of one job impact the wages and working conditions of the other."¹³² As previously explained, the Court noted the INA "does not require that DOL base the AEWR on average wage rates for jobs or occupations that are the same or identical," but does require "that the jobs be sufficiently comparable that the wage rates and working conditions of the H-2A job at issue can adversely impact the wage rates and working conditions of

domestic workers employed in the non-H-2A job," thereby assuring the AEWR "correlate[s] to whether the employment of an H-2A worker adverse[ly] impacts similarly employed domestic workers."¹³³ In considering whether workers are similarly employed when establishing AEWRs, the court concluded the Department should consider factors like duration of time spent in duties, the work environment, the totality of required tasks, and required credentials to determine whether the jobs have "sufficient common characteristics" or if "the nature of the work, qualifications, and experience required for jobs performed by two groups of workers are sufficiently different . . ."¹³⁴ The Court issued an injunction in that case because it determined that plaintiffs were likely to succeed on their claim that the Department exceeded its statutory authority because it failed to explain how non-agricultural heavy truck drivers and agricultural sugar cane haulers in Louisiana are similarly employed. Specifically, the court thought that the Department failed to consider whether there are "material difference[s] between the 'work performed, skills, education, training, and credentials' between the jobs . . ."¹³⁵ and whether "the nature of the work, qualifications, and experience required for jobs performed by two groups of workers are sufficiently different," such that "the wages and working conditions of one group of workers is not likely to adversely affect the wages and working conditions of the other group of workers."¹³⁶

Although the OEWS "captures no information about actual skills or responsibilities of the workers whose wages are being reported . . ." the Department has extensive experience issuing skill-based wage levels by evaluating the employer's job opportunity in relation to detailed occupational information contained in the O*NET system as well as educational requirements in sources like the BLS, with the generally accepted principle that workers in jobs possessing relatively higher qualifications tend to earn higher wages than workers in those same jobs that possess lower levels of qualifications.¹³⁷ The AEWR methodology adopted in this IFR is administratively similar to the current prevailing wage determination methodology utilized in the H-1B

¹³² *Teche Vermilion Sugar Cane Growers Ass'n Inc. v. Su*, 749 F. Supp. 3d 697 (W.D. La. 2024), opinion clarified, No. 6:23-CV-831, 2024 WL 4729319 (W.D. La. Nov. 7, 2024), and amended, No. 6:23-CV-831, 2025 WL 1969937 (W.D. La. July 16, 2025).

¹³³ *Id.* at 724, 729.

¹³⁴ *Id.*

¹³⁵ *Id.* at 729.

¹³⁶ *Id.* at 724.

¹³⁷ See 76 FR at 3453.

temporary nonimmigrant and PERM immigrant visa programs, where an assessment of the employer's job duties, qualifications, and nature of the work are the primary determinants of a four-tiered wage level determination. The use of a four-tiered wage level structure that is currently in effect for these visa programs is mandated by Congress in the H-1B Visa Reform Act of 2004.¹³⁸ Both Congress and the Department's regulations and guidance require the use of four wage levels that most reasonably reflect the qualifications (*i.e.*, education, experience, and level of supervision) contained in the employer's job offer.

In order to implement the INA's four-tier prevailing wage provision, the Department published comprehensive Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs, first in 2005 and revised guidance in 2009, which expanded the existing two-tier OEWS wage level system to provide four "skill levels": Level I "entry level," Level II "qualified," Level III "experienced," and Level IV "fully competent."¹³⁹ Although the higher-skilled specialty occupations of the H-1B and PERM visa program possess much greater variation in salaried wages based on experience, education, and levels of supervision for Congress to mandate no less than a four-tiered wage level structure, the Department's experience reviewing agricultural job orders shows that many occupations are primarily differentiated based on prior related experience, credentials or certificates necessary to utilize equipment, tools, and supplies, and the level of communication and close supervision workers need to

perform the work. Given that four levels of distinction may present challenges to administer due to the unique nature of agricultural job opportunities, as compared to other higher-skilled specialty occupations, the Department has decided to adopt the two most pertinent skill levels of the existing four-tiered wage level structure when determining the AEWRs based on the qualifications contained in an employer's H-2A job offer: the Level I "entry level" that represents the mean of the lower one-third of workers in a given occupational wage distribution, and the Level III "experienced" that represents the mean of all workers in a given occupational wage distribution, which is a computation that has been used to set AEWRs in the H-2A program for many decades to determine the AEWRs. Because the statute uniquely mandates that qualifications contained in an employer's job offer must be "normal and accepted qualifications required by non-H-2A-employers in the same or comparable occupations and crops," a Level III wage will continue to provide the most reasonable computation of the AEWRs in circumstances where the employer's desired qualifications align with what is normally required for a given occupation based on the O*NET system.

Thus, the Department concludes that use of an AEWR determination methodology that takes into account the qualifications contained in the employer's job offer—similar to the assessment conducted in determining prevailing wages in the permanent and H-1B programs—provides a more reasonable, consistent, and administratively feasible approach that better reflects market-based wages paid to U.S. workers similarly employed than the current methodology of providing a single average hourly gross wage without any consideration of the qualifications required by employers who are seeking temporary agricultural labor certification to employ H-2A nonimmigrant workers.

C. The Department Will Assess the Duties and Qualifications of the Employer's Job Offer When Assigning the Most Applicable SOC Code(s)

1. Consideration of Duties Performed for the Majority of the Workdays During the Contract Period

To reduce the potential for inconsistent assignments of a SOC code(s) to the employer's job opportunity by SWAs and COs, address concerns raised in recent litigation against the 2023 AEWR Final Rule, and promote a more effective administration

of the H-2A program, the Department is adopting in this IFR, standards by which the SWAs and COs will determine the appropriate SOC code(s) based on the duties performed for the majority (meaning more than 50 percent) of the workdays during the contract period, including those duties closely and directly related, and qualifications contained in the employer's job offer. Specifically, as described in new paragraph (b)(7), when the employer identifies on the H-2A job order (Form ETA-790A) the duties that it expects workers to perform for the majority of the workdays during the contract period, the SWA and CO will assess such duties and, in combination with any necessary job qualifications, assign the SOC code that best represents the employer's job opportunity.

For many decades, the assessment of job duties and qualifications contained in the employer's job offer by the SWA and CO, and assignment of the SOC code, was based on the occupational classification that best represented most of the work to be performed for purposes of appraising prospective qualified and eligible U.S. workers of the job opportunity. The assignment of the SOC code did not have an impact on the employer's wage obligations because a single AEWR based on the field and livestock worker (combined) category of occupations was determined for all H-2A job opportunities, regardless of duties to be performed and level of skill or qualifications required in the job offer. However, under the 2023 AEWR Final Rule, the Department bifurcated the determination of the AEWRs by issuing an FLS-based AEWR when the duties identified in the H-2A job order covered one or more of the SOC codes encompassed by the field and livestock workers (combined) category of occupations under the FLS. When the duties identified in the H-2A job order were not encompassed by one or more SOC codes within the FLS-based field and livestock workers (combined) category of occupations, the Department began issuing an OEWS-based AEWR for that specific SOC code assigned to the employer's job opportunity. In addition, when the duties identified in the H-2A job order could not be encompassed within a single SOC code, the employer was required to offer, advertise, and pay all workers performing such duties the highest AEWR across all the applicable SOC codes, regardless of the amount of time a worker(s) spent performing such duties during the certified period of employment. See § 655.120(b)(5). In other words, although the vast majority

¹³⁸ Consolidated Appropriations Act, 2005, Public Law 108-447, div. J, tit. IV, 423; 118 Stat. 2809 (Dec. 8, 2004), (Mandating that "[w]here the Secretary of Labor uses, or makes available to employers, a governmental survey to determine the prevailing wage, such survey shall provide at least 4 levels of wages commensurate with experience, education, and the level of supervision." The legislation mandates how the four levels for H-1B prevailing wages are to be calculated by mathematically by manipulating the Department's then-existing two level wages). the amendment provided that where the "survey has only 2 levels, 2 intermediate levels may be created by dividing by 3, the difference between the 2 levels offered, adding the quotient thus obtained to the first level and subtracting that quotient from the second level. See 8 U.S.C. 1182(p)(4); See also 73 FR at 77177 (Noting "that the skills-based wage levels are not determined by surveying the actual skill level of workers, but rather by applying an arithmetic formula" and that "Congress has explicitly endorsed the use of such an arithmetic approach . . .").

¹³⁹ Employment and Training Administration; Prevailing Wage Determination Policy Guidance, Nonagricultural Programs (Rev. Nov. 2009). Available at: https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/NPWHC_Guidance_Revised_11_2009.pdf.

of H-2A job opportunities certified by the Department are encompassed within one or more SOC codes covered by field and livestock workers (combined) category of occupations under the FLS and are subject to the single statewide AEWL determination, still other H-2A job opportunities include duties that fall both within and outside of the field and livestock workers (combined) category and, no matter how often a particular duty or work task is performed by a worker, the Department determines the AEWL based on the highest of the applicable FLS and OEWS-based wage rates that must be paid to workers employed under the temporary agricultural labor certification for the entire certified period of employment.

The Department has determined that the standards associated with the assignment of a SOC code(s) to the employer's job opportunity, which is inextricably linked to the AEWL determination that imposes substantive wage obligations on employers, needs revision. In *USA Farm Labor, Inc.*, plaintiffs expressed concern that the 2023 AEWL Final Rule standards required the SWAs and COs to assign a SOC code with a higher AEWL to an employer's job opportunity, such as construction laborer or heavy truck driver, even where a worker(s) will only be expected to perform such work on a minor or intermittent basis, and that any "job duty consistent with a higher paid occupation will trigger a higher AEWL without regard to how much time a worker spends performing that duty."¹⁴⁰ Plaintiffs in *Florida Growers Association, Inc.*, raised similar concerns with the court and suggested the Department confine its use of OEWS-based AEWL determinations by examining the primary or main duties of the work to be performed or, alternatively, applying the applicable wage to the specific work considered to be similar employment, rather than the highest applicable AEWL to all workers at all times under the contract. And finally, in *Teche Vermilion*, the court determined the plaintiffs were "likely to succeed on the merits of their claim that the Final Rule exceeds DOL's authority under section 1188(a)(1)(B) because it bases its revised AEWL methodology for H-2A sugarcane truck drivers on the average of wages of domestic, non-farm transportation workers who are not similarly employed."¹⁴¹

Upon careful consideration, the Department agrees that assigning a SOC code and determining the AEWL for an employer's job opportunity based solely on any duty to be performed, regardless of the amount of time a worker(s) is expected to perform such duty during a certified period of employment and without a full consideration of the qualifications necessary to perform such work, has led to stakeholder concerns regarding inconsistent SOC code assignments from the SWA and the CO that are not reflective of wages paid to U.S. workers similarly employed, and has resulted in the imposition of excessively higher wage obligations on employers covering the entire certified period of employment that cannot be reasonably justified. It is the Department's view that the standards contained in the 2023 AEWL Final Rule must be reconsidered. Assignment of a SOC code and determination of the applicable FLS or OEWS-based AEWL should not be based on *any* duty identified in the employer's job offer while essentially disregarding the preponderance of other duties and qualifications the employer expects workers to perform and possess to meet the needs of its agricultural operations. Upon review, the Department thinks that the approach in the 2023 AEWL Final Rule was insufficiently justified and not necessary for the Department to protect against adverse effects. The Department reasoned that assignment of higher-skill, higher-paid SOC code(s) was necessary whenever *any* job duty performed for *any* amount of time fell, for example, outside of the field and livestock workers (combined) category of occupations because: (1) an FLS-based AEWL for this job would adversely affect workers in higher paid occupations like construction or heavy trucking;¹⁴² (2) employers may combine two job opportunities into one application and have certain workers perform exclusively the higher-skill duties;¹⁴³ and (3) the policy is simpler and more administratively feasible and

would not require additional recordkeeping on employers.¹⁴⁴

Upon review, the Department has concluded that the 2023 AEWL Final Rule did not adequately explain similarly employed workers' wages would be impacted if an H-2A worker whose duties involve mostly performing field and livestock work with a minimal amount spent hauling crops using trucks, for example, were paid the FLS-based AEWL without considering the amount of time or duration workers spent performing such tasks and the qualifications identified in the employer's job offer. Further, this standard was not consistent with the Department's stated intent in the 2023 AEWL Final Rule to undertake a "case-by-case" review of the "totality of the information in an H-2A application and job order" based on a consideration of whether the "qualifications, requirements, and other factors are consistent with that occupation" like "the type of equipment involved . . . [and] the location where the work will be performed . . ."¹⁴⁵

The Department has also reconsidered its reasoning from the 2023 AEWL Final Rule that payment of a higher-skill occupation wage for the entire employment period is necessary in all cases where a minor duty falls within that category in order to prevent misclassification of the employer's job opportunity. The central inquiry in assigning one or more SOC code(s) to an employer's job opportunity and determining the AEWL is whether two sets of workers (*i.e.*, H-2A and U.S. workers) are or will be similarly employed, such that employment of the H-2A workers below the AEWL would adversely affect U.S. workers similarly employed. The Department's existing regulatory mechanisms to enforce prohibitions on misclassification of workers are adequate and appropriate, and the lack of objective data or other evidence supporting concerns about misclassification of workers or misrepresentation of a job opportunity supports such conclusion.¹⁴⁶

¹⁴⁴ *Id.* at 12783 ("[U]se of the highest applicable wage imposes a lower recordkeeping burden than if the Department permitted employers to pay different AEWLs for job duties falling within different SOC codes on a single *Application for Temporary Employment Certification*." A "percentage per duty" disclosure requirement would increase administrative burden for employers (*e.g.*, substantial recordkeeping to ensure that the actual work each worker performed aligns with the percentages disclosed) . . .").

¹⁴⁵ *Id.* at 12780.

¹⁴⁶ In addition, the Department's regulations have long required an H-2A employer to pay at least the AEWL to any U.S. worker who in fact performs the same work as the H-2A workers for time so spent, regardless of the worker's qualifications or skill

¹⁴⁰ *USA Farm Labor, Inc. v. Su*, Memorandum in Support of Plaintiff's Motion for Summary Judgment at 3, No. 1:23-cv-00096-MR-WCM (W.D.N.C. 2023).

¹⁴¹ *Id.* at 43.

¹⁴² 88 FR at 12783 ("Use of the highest applicable wage in these cases reduces the potential for employers to offer and pay workers a wage rate that, while appropriate for the general duties to be performed, is not appropriate for other, more specialized duties the employer requires.").

¹⁴³ *Id.* at 12781 ("[A]ssigning an SOC code based on the 'primary duties' or the percentage of time identified for each duty in an employer's job opportunity description could permit or encourage employers to combine work from various SOC codes, interspersing higher-skilled, higher-paying work among many workers so that the higher-paying work is never a duty performed by any one employee more than the specified percentage.").

Additionally, without objective data or other evidence supporting the aforementioned concerns, the Department believes there is insufficient grounds for assigning an employer's job opportunity to a SOC code with an excessively higher AEWL based on a single statement of duties or use of a particular vehicle, regardless of the amount of time a worker(s) may spend performing such duties or the relative importance of that duty to the broader job opportunity.

And finally, the Department concludes that imposition of the standard in the 2023 AEWL Final Rule based on ease of employer recordkeeping burdens was not sufficiently justified in comparison to the actual wage obligations being imposed on employers impacted by the application of this standard. The Department agrees with the court's reasoning in *Teche Vermillion* that the standard of assigning the SOC code to the employer's job opportunity warranted more careful consideration of the unrecoverable compliance costs imposed on employers relative to the non-quantified benefits discussed by the Department in the vacated 2023 AEWL Final Rule.

For the reasons discussed above, the Department is adopting a revised standard to ensure that SOC code assignments and AEWL determinations for employer job orders are based on an assessment of the duties performed for the majority of the workdays during the contract period, including those closely and directly related duties, and the qualifications necessary for workers to perform the work. This standard will provide a straightforward method for the SWAs and COs to use when assigning SOC code(s) and will more effectively ensure occupational classifications are based on consideration of the totality of the circumstances related to the employer's job opportunity. Specifically, when the employer identifies on the H-2A job order the duties that it expects workers to perform for more than 50 percent of the workdays during the contract period and such duties, or a combination thereof, fall within one or more SOC codes within the field and livestock workers (combined) category, the SWA and CO will assess such duties and, taking into consideration any necessary job qualifications, assign the SOC code that best represents the employer's job opportunity within that category. When

the job duties performed for the majority of the workdays during the contract period are within the field and livestock workers (combined) category and the employer's job order discloses duties from other occupations that are not encompassed by this category of occupations, the job opportunity will still be assigned a SOC code within the field and livestock workers (combined) category, provided that these other duties are performed for less than the majority of the workdays during contract period. The Department reminds stakeholders that all job duties disclosed on the job order, regardless of the amount of time workers are expected to perform them, must still qualify as agricultural labor or services as defined in the statute and regulations. *See generally* 8 U.S.C.

1101(a)(15)(H)(ii)(a) (limiting H-2A eligibility to "agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of Title 26, agriculture as defined in section 203(f) of Title 29, and the pressing of apples for cider on a farm, of a temporary or seasonal nature").

As an example, where a fixed-site grower identifies on the H-2A job order that workers will perform duties related to the planting, cultivating, and harvesting of sugarcane for the majority of the workdays during the contract period, which is typically assigned SOC code 45-2091 (Agricultural Equipment Operators) within the field and livestock worker (combined) category with one AEWL, and occasionally transport harvested sugarcane using heavy trucks along public roads to local processing mills, which was assigned SOC code 53-3032 (Heavy and Tractor-Trailer Truck Drivers) under the 2023 AEWL Final Rule with a different and higher AEWL, the fact that the workers may be expected to operate and drive heavy trucks for any amount of work time during the certified period of employment will no longer be dispositive in assigning the SOC Code and determining the AEWL for the employer's job opportunity. Rather, the Department will consider the totality of circumstances of the employer's job opportunity, including the nature and duration of the duties to be performed and the qualifications that workers must possess to perform the duties prescribed. Under this IFR, consideration of duties disclosed on the job order that the employer expects workers to perform for the majority of the workdays during the contract period will ensure an appropriate

consideration of the totality of the H-2A job opportunity, with a clear focus on the majority duties of the job and the relation of job duties to each other, and establish a method SWAs and COs can use to more clearly make determinations of similarly employed workers for the purpose of determining the wage rate necessary to prevent adverse effect on those workers.

The Department also notes that adoption of this standard is similar to the assessment performed by the SWA and the CO when determining whether an employer's job opportunity qualifies under the standards and procedures, including a determination of the applicable monthly AEWL, for employers seeking to hire foreign temporary agricultural workers for job opportunities in herding and production of livestock on the range. Specifically, under 20 CFR 655.210(b), the employer's job order must include, among other required conditions, a statement that workers will spend the majority (meaning more than 50 percent) of the workdays during the contract period engaged in the herding or production of livestock on the range. Any job duties performed at a place other than the range (e.g., a fixed site farm or ranch) must be performed on no more than 50 percent of the workdays in a work contract period, and duties at the ranch must involve the production of livestock, which includes duties that are closely and directly related to herding and/or the production of livestock. Provided that an employer's job offer meets this majority of workdays standard, the SWA and CO will typically assign SOC code 45-2093 (Farmworkers, Farm, Ranch, and Aquacultural Animals) to the employer's job opportunity and evaluate the wage offer based on a determination of the monthly AEWL applicable to work performed on the range.

Further, adoption of this standard is similar (but not identical) to the primary duties assessment stipulated by WHD regulations and guidance related to FLSA exemptions. For example, the Department uses a primary duties test in determining whether an employee is exempt from the FLSA's minimum wage and overtime pay requirements because the employee is employed in a bona fide executive, administrative, or professional capacity. *See* 29 U.S.C. 213(a)(1). The FLSA regulations at 29 CFR part 541 define a "primary duty" as "the principal, main, major or most important duty that the employee performs . . . with the major emphasis on the character of the employee's job

level, further protecting against the potential harm from misclassification. *See* 20 CFR 655.103(b) (definition of *corresponding employment*); *Overdevest*, 2 F.4th 977.

as a whole.” 29 CFR 541.700(a).¹⁴⁷ WHD notes in its regulations that the “amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee” and thus “employees who spend more than 50 percent of their time performing exempt work will generally satisfy the primary duty requirement,” though the amount of time an employee spends on exempt duties alone “is not the sole test.” 29 CFR 541.700(b). When “an employee concurrently (or simultaneously) performs both exempt and nonexempt duties,” the “character of the employee’s job as a whole” determines the primary duty.¹⁴⁸ For example, an employee would not qualify for the FLSA exemption for executive employees if the employee’s “primary duty is ordinary production work or routine, recurrent, or repetitive tasks . . . even if they also have some supervisory responsibilities.”¹⁴⁹ Additionally, in determining whether an employee’s primary duty is exempt work, WHD also considers ordinarily non-exempt duties to be exempt under the FLSA if they are “directly and closely related” to exempt duties, meaning “relate[d] to exempt work and contribut[ing] to or facilitat[ing] performance of exempt work,” such as duties that “arise out of exempt duties and routine work without which exempt work cannot be performed properly.”¹⁵⁰ Finally, the FLSA primary duty standard looks at “whatever length of time is appropriate to capture the character of the employee’s job as a whole, not a day-by-day scrutiny of the tasks performed.”¹⁵¹

The adoption of a majority duties standard in this IFR will be administratively feasible and not impose unnecessary recordkeeping burdens on employers. To implement this new standard, the Department will provide guidance in the form of

¹⁴⁷ See also 5 CFR 831.802 (OPM regulations) (stating that “if an employee spends an average of at least 50 percent of his or her time performing a duty or group of duties, they are his or her primary duties” and defining primary duties as duties “paramount in influence or weight . . . that . . . constitute the basic reasons for the existence of the position . . . Occupy[ing] a substantial portion of the individual’s working time over a typical work cycle” and “assigned on a regular and recurring basis.”).

¹⁴⁸ WHD Field Operations Handbook, Ch. 22, *Executive, Administrative, Professional, Computer, and Outside Sales Exemptions: FLSA Section 13(a)(1)* (29 U.S.C. 213(a)(1)), § 22b01(c)(1), available at https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FOH_Ch22.pdf; 29 CFR 541.106.

¹⁴⁹ WHD Field Operations Handbook at § 22b01(c)(3).

¹⁵⁰ *Id.* at § 22a06(d).

¹⁵¹ *Id.* at § 22a03.

frequently asked questions that can help employers understand how to use the existing the H-2A job order form to specify the majority duties, including those closely and directly related duties, and then distinguish those from other duties that the worker(s) are expected to perform during the period of employment. The frequently asked questions the Department will provide to employers seeking temporary agricultural labor certification are procedural and non-substantive clarifications of existing OMB-approved information collection that will help employers better organize and identify the duties and tasks already being disclosed on the H-2A job order that will assist the SWA and CO in assigning the SOC code that best represents the employer’s job opportunity. The requirement that employers keep accurate and adequate records with respect to each worker’s earnings, including records showing the nature and amount of the work performed, and make these records available for inspection and transcription by the Department and by the worker and representatives designated by the worker, in accordance with § 655.122(j)(1)–(2) remains unchanged. As provided in the Department’s existing regulations, depending on the nature of the violation, failure to maintain and produce compliant records or failure to accurately describe the nature and extent of job duties may result in debarment under § 655.182(d)(1)(vi), (vii), and (d)(4) or (d)(5). See also 29 CFR 501.20.

In summary, the Department concludes that adoption of a majority duties standard, including those duties closely and directly related, together with the clarification of the SOC coding process, will help to ensure consistent coding based on consideration of the totality of the employer’s job opportunity and will provide more reasonable determinations of workers who are similarly employed. More consistent occupational classification, in turn, will ensure AEWR determinations and corresponding wage obligations of employers are accurate with the “clear congressional intent . . . to make the H-2A program usable, not to make U.S. producers non-competitive” and that “[u]nreasonably high AEWRs could endanger the total U.S. domestic agribusiness, because the international competitive position of U.S. agriculture is quite fragile.”¹⁵²

¹⁵² 88 FR at 12772 (citing 54 FR 28037, 28046 (Jul. 5, 1989)).

2. Additional Guidance on Assigning SOC Codes Based on the Duties and Qualifications in the Employer’s Job Opportunity

To address the need for consistent occupational coding related to an employer’s job opportunity, the Department is providing additional guidance regarding the methods by which the CO will assign H-2A job opportunities to one or more SOC occupation codes based on an assessment of the duties that employers expect workers to perform for the majority of the workdays during the contract period, including those duties closely and directly related, and qualifications contained in the employer’s job order seeking temporary agricultural labor certification to employ H-2A workers. When determining the AEWR, the SWA and the CO must first determine the appropriate occupational classification, or SOC code(s), for the employer’s job opportunity by comparing the duties and requirements contained in the employer’s job order to the SOC definitions, skill requirements, and tasks that are listed in O*NET.¹⁵³ The Department is taking the opportunity in this rulemaking to clarify how the CO and SWA will evaluate the scope of duties identified within an employer’s job offer for purposes of determining the applicable SOC code(s), particularly as it relates to certain driving, supervisory, and other farm maintenance duties performed by workers.

Prior to the 2023 AEWR Final Rule, assignment of SOC codes was less significant to the employer’s AEWR obligations because all job opportunities were issued an FLS-based AEWR covering the field and livestock workers (combined) occupations. The assignment of SOC codes became more significant in AEWR determinations under the 2023 AEWR Final Rule, which specified that when the employer’s job requires duties that cannot be encompassed within a single SOC occupational classification, the employer must pay the highest AEWR for the applicable SOC codes. For example, if the employer’s job order required heavy trucking duties and crop harvesting duties, the Department assigned two SOC codes—53–3032 encompassing heavy truck drivers and 45–2092 encompassing crop farmworkers—and assigned the highest AEWR, which in most cases was the occupation-specific OEWS wage applicable to SOC 53–3032, rather than the FLS field and livestock workers

¹⁵³ 88 FR at 12779.

(combined) wage applicable to SOC 45–2092. The Department concluded that for “these mixed job opportunities . . . using the AEWR for the higher paid SOC code is necessary to prevent adverse effects on the wages of workers in the United States similarly employed resulting from inaccurate SOC code assignment.”¹⁵⁴

However, the statute does not define or dictate how the Department is to apply the term “similarly employed” for purposes of ensuring no adverse effect on wages and working conditions and does not require that such a determination be predicated on workers employed in an identical job. It does, however, specify that the Secretary “shall apply the normal and accepted qualifications required by non-H–2A employers in the same or comparable occupations and crops.”¹⁵⁵ When evaluating an employer’s job offer, the Department has historically interpreted the term “qualification” to mean a characteristic, excluding the job duties or work tasks to be performed, that is necessary to the individual’s ability to perform the job in question. Such characteristics include, but are not limited to, the ability to use specific tools, vehicles, or equipment as well as any education or training required for performing duties or work tasks under the employer’s job opportunity.¹⁵⁶

In the absence of other reliable and objective sources of information related to the job qualification of a specific crop, the Department has a long-standing practice of using O*NET’s SOC-based taxonomy for assessing whether an employer’s job qualification is bona fide and consistent with the normal job qualifications of employers and workers performing substantially similar work in jobs covered by a particular occupational classification. This analysis can further aid the Department in assigning an appropriate AEWR, better tailored to protecting workers in the U.S. similarly employed than the considerations used under the 2023 AEWR Final Rule. Specifically, duties and responsibilities in an H–2A employer’s job opportunity that have common characteristics and qualifications (e.g., work tasks, requirements, tools), or those that are substantially alike in substance or essentials, as the duties and responsibilities performed by workers employed in jobs covered by a particular SOC code, would indicate (among other factors as described herein) that the particular SOC code is

appropriate to assign to the H–2A job opportunity. Conversely, if the job duties or work tasks, requirements, tools, or other qualifications in the employer’s job opportunity seeking temporary labor certification to employ H–2A workers are substantially different from those identified in a specific SOC code within the O*NET taxonomy, that SOC is unlikely to be appropriate to assign to the H–2A job opportunity.

O*NET remains a primary reference source used by the CO and SWA to assess the scope of duties and qualifications identified within an employer’s H–2A job opportunity for purposes of determining its occupational classification (i.e., SOC code). O*NET “was first conceived of as a conceptual model of information on occupational and worker requirements and attributes . . . designed to replace the outdated *Dictionary of Occupational Titles* . . .” the predecessor to O*NET, and was first released as the O*NET ‘98 database.¹⁵⁷ O*NET is a taxonomy of occupational characteristics organized around job-oriented and worker-oriented descriptors, such as detailed work tasks or activities, job requirements (e.g., education, training, licensure, experience), organizational context, and tools and technology that are common to the occupation and may influence the scope of work performed and the capacity to acquire knowledge and skills required for effective work performance.¹⁵⁸ Detailed occupational information is collected using multiple independent methods such as surveying a national sample of employer establishments and their workers; surveying samples of occupational experts; and collecting data from occupational analysts, who are provided with updated data from surveys of workers.

¹⁵⁷ Boes, Ron, Frugoli, Pam, Lewis, Phil, and Litwin, Karen (Oct. 2001), *O*NET Database Release 4.0: Content Model and Database Summary, The Evolution of O*NET*, 2. National O*NET Consortium. Available at: https://www.onetcenter.org/dl_files/summary_only.pdf.

¹⁵⁸ See *The O*NET Content Model* (explaining the O*NET content model, which “provides a framework that identifies the most important types of information about work and integrates them into a theoretically and empirically sound system” that “allows occupational information to be applied across jobs, sectors, or industries (cross-occupational descriptors) and within occupations (occupational-specific descriptors)” and “enable the user to focus on areas of information that specify the key attributes and characteristics of workers and occupations.”). Available at: <https://www.onetcenter.org/content.html>. For a detailed description of the development of the Content Model, see Peterson, N.G., et al. (1999). *An Occupational Information System for the 21st Century: The Development of O*NET*. American Psychological Association.

The O*NET structure allows occupational information to be aggregated and applied across multiple jobs, sectors, or industries where the work tasks and activities performed by workers, as well as the requirements to perform such work, are substantially similar.¹⁵⁹ For example, SOC code 45–2092 (Farmworkers and Laborers, Crop, Nursery, and Greenhouse) includes a wide range of distinct jobs such as field irrigation workers, greenhouse workers, and orchard workers, where the underlying characteristics of work (i.e., tasks, requirements, tools) across these distinct jobs are substantially similar to one another. Thus, although workers under any particular SOC code may be performing work across dozens of different job titles and in potentially different sectors or industries, the characteristics and qualifications of the work performed are common or substantially alike in substance or essentials.

In addition, the O*NET provides relevance and importance scores for specific work tasks that reflect the percentage of current workers who believe that a particular duty or work task is relevant and important to his or her current job. For purposes of classifying an employer’s job opportunity under one or more SOC codes, these scores provide an understanding of the full scope of job duties considered “core” or primary tasks to the occupation, and which tasks are “supplemental” or directly and closely associated to workers similarly employed in the occupational classification. O*NET classifies tasks as “core” when at least 67 percent of current workers surveyed believe that the task is relevant and which the average current worker believes the task is important to extremely important (i.e., ≥ 3.0 based on a scale where 1 = Not Important to 5 = Extremely Important) to their job. Supplemental tasks are those tasks performed within the occupational classification where less than 67 percent of current workers surveyed believe that the task is relevant and which the average current worker

¹⁵⁹ See, e.g., *A Database for a Changing Economy: Review of the Occupational Information Network (O*NET)* (2010), 22–23. National Research Council, Washington, DC: National Academies Press (Describing the O*NET content model as “a taxonomy of occupational descriptors” with “occupations as the unit of analysis . . . rather than the job or position” and noting the occupation “is broader than a specific job or specific position,” “is not idiosyncratic to a particular organization, industry, or setting,” and may “include several jobs if the general responsibilities, activities, and requirements for the various jobs are substantially similar.”).

¹⁵⁴ *Id.* at 12777.

¹⁵⁵ See 8 U.S.C. 1188(c)(3)(A)(ii).

¹⁵⁶ See 80 FR 24062.

believes is relatively less important to their job.

For example, the task of “load agricultural products into trucks, and drive trucks to market or storage facilities” is considered a core task to the SOC code 45–2092 (Farmworkers and Laborers, Crop, Nursery, and Greenhouse) with a relevance score of 78 and an importance score of 3.3. This means that 78 percent of current Farmworkers and Laborers surveyed reported that this task is relevant, and the average worker believed it is frequently important to their job but not necessarily performed on a day-to-day basis. However, the task of “move containerized shrubs, plants, and trees, using wheelbarrows or tractor” is considered supplemental because, although the average worker believed it is an important task, only 37 percent of current Farmworkers and Laborers surveyed reported this task as relevant to their day-to-day work. Thus, the combination of the “core” and “supplemental” work tasks identified in O*NET for a particular SOC code helps establish a data-driven foundation for evaluating the scope of duties that are normally performed by workers, even across multiple distinct jobs, who are similarly employed under that occupational classification.

Finally, O*NET collects information pertaining to “tools and technology” that are deemed essential to effective performance within a distinct job under the SOC code. In other words, the machines, equipment, vehicles, software, and other tools identified are specific to the occupational classification, reflect those items necessary for an incumbent worker to carry out the tasks, whether “core” or “supplemental,” and expressed in a language understood by workers who perform work in the job, sector, or industry. In addition, the identified tools and technology often have an expectation of a training requirement that can range from a short-term demonstration of use or on-the-job training to more formal education or vocational training. For example, SOC code 45–2091 (Agricultural Equipment Operators) identifies a combination of more than 64 different categories of tools that workers may use to perform their jobs, including a wide array of harvesting equipment, trucks and tractor-trailers, spreaders, and loaders, where employees in this occupational classification need anywhere from a few days to a few months of training, and accordingly a more experienced incumbent worker usually provides a short demonstration on proper use and care of the equipment. Thus, when all

these components within the taxonomy are considered in their totality, O*NET represents the best available information for the CO and SWA to use in evaluating an employer’s job opportunity for purposes of classifying the agricultural labor or services into one or more SOC codes and determining the applicable AEWR.

In determining the appropriate occupational classification, the CO will continue to evaluate each job opportunity on a case-by-case basis, considering the totality of the information in an H–2A application and job order, to determine the appropriate SOC code. In making a determination of the SOC code(s), the CO and SWA will continue to compare the duties and qualifications contained in the job order with the definitions, work tasks, job requirements, and tools that are listed in O*NET’s SOC-based taxonomy. Where similar information appears in more than one SOC code (*i.e.*, overlapping work tasks), such as transporting workers or agricultural commodities or maintaining and repairing farm buildings or equipment, the CO and SWA will continue to consider other factual qualifications presented in the job order (*e.g.*, types of vehicles or minimum experience or licensure requirements) that can provide context for determining which SOC code or codes best represent the employer’s job opportunity. To the maximum extent practicable, where the duties performed for the majority of the workdays during the contract period, including those duties closely and directly related, and qualifications presented in the job order are sufficiently comparable to agricultural work performed on or off farm (*e.g.*, workers primarily engaged in harvesting sugarcane and will also transport the cut cane off farm to a mill for processing), the CO and SWA will assign one SOC code contained within an agricultural-related major occupational grouping (*e.g.*, 45–0000 Farming, Fishing, and Forestry Occupations) or other grouping of specific occupations directly and closely associated with the agriculture, forestry, fishing, and hunting industry sector (*i.e.*, North American Industry Classification System code 11¹⁶⁰) or the cluster of agricultural careers¹⁶¹

¹⁶⁰ O*NET classifies occupations according to industry groups where businesses or organizations have similar activities, products, or services. The occupations designated by O*NET as falling within the Agriculture, Forestry, Fishing, and Hunting Industry are based on the percentage of workers employed in that industry. For more information, see the O*NET website at <https://www.onetonline.org/find/industry?i=11>.

¹⁶¹ Based on the National Career Clusters® Framework, O*NET organizes occupations

identified by O*NET. Job duties or work tasks presented in the job order that are characterized as irregular, sporadic, or intermittent will not be considered by the CO and SWA for purposes of determining its occupational classification or SOC code.

For job opportunities involving driving duties, the CO and SWA will continue to look at qualifications such as the type of equipment involved (*e.g.*, pickup trucks, custom combine machinery, or semi tractor-trailer trucks; makes and models of machines to be used), the location where the work will be performed (*e.g.*, on a farm or off), and any other requirements contained in the job order to determine the appropriate SOC code and applicable AEWR. Based on a review of the O*NET core and supplemental work tasks, an employer’s job opportunity can specify a wide array of driving responsibilities across one or more of the five SOC codes comprising field and livestock worker occupations (combined) that would continue to be subject to a single AEWR. Workers employed in jobs covered by these SOC codes are primarily engaged in agricultural work (*e.g.*, planting, cultivating, harvesting) and perform other tasks that are directly and closely related, such as driving duties.

Specifically, a worker engaged in harvesting, whether by hand or machinery, is typically performing other relevant and important tasks covered by the field and livestock worker (combined) category of occupations, such as “load[ing] agricultural products into trucks and drive trucks to market or storage facilities,” which is encompassed by SOC code 45–2092 (Farmworkers and Laborers, Crop, Nursery, and Greenhouse); “driv[ing] trucks to haul crops, supplies, tools, or farm workers,” which is encompassed by SOC code 45–2091 (Agricultural Equipment Operators); and “patrol[ing] grazing lands and driv[ing] trucks or tractors to distribute feed to animals or move equipment and animals from one location to another,” which is encompassed by SOC code 45–2093 (Farmworkers, Farm, Ranch, and Aquacultural Animals). With respect to

containing the same field of work that require similar skills into career clusters as a taxonomy that helps inform the design and implementation of education, employment and job training programs that can help focus program planning towards individuals obtaining the necessary knowledge, competencies, and training for success in a particular career pathway. For more information on the occupations organized into the Agriculture Career Cluster, see the O*NET website at <https://www.onetonline.org/find/career?c=050100>. For more information on the National Career Clusters Framework, see the Advance CTE website at <https://careertech.org/career-clusters>.

the types of equipment (*i.e.*, tools), O*NET identifies as necessary for the performance of duties associated with these work tasks includes operating All-Terrain-Vehicles, sport utility vehicles, light trucks (*i.e.*, less than 26,001 Gross Vehicle Weight), multi-purpose agricultural tractors, dump trucks, and heavy tractor-trailers (*i.e.*, at least 26,001 Gross Vehicle Weight). Finally, performance of these driving duties and operation of the types of equipment identified do not normally require formal education (*e.g.*, post-secondary) or training (*e.g.*, apprenticeship) or credentialing (*e.g.*, CDL license) under these SOC codes. Therefore, where the work tasks presented in an employer's job order require workers to be engaged in agricultural work for the majority of the workdays during the contract period and perform driving duties using any of the types of equipment identified without the requirement for formal education, training, or credentialing and possess three months or less of related experience, the CO and SWA will, absent additional job details that might indicate otherwise, assign one of the five SOC codes comprising field and livestock worker occupations (combined), as applicable, that best represents the employer's job opportunity and subject to a single AEW.

In contrast, a H-2A job opportunity that requires a worker to possess a CDL with more than three months to one year of related experience and whose duties, including those duties closely and directly related, for the majority of the workdays during the contract period involve driving a heavy tractor-trailer combination to deliver agricultural products over public roads through weigh stations to storage or market, including other essential work tasks such as checking all load-related documentation for completeness and accuracy, operating Citizen Band radios or Global Positioning System equipment to exchange necessary information with supervisors or other drivers, coupling and uncoupling trailers, maintaining vehicle logs, and obtaining customer signatures for delivery of goods, may be assigned SOC code 53-3032 (Heavy and Tractor-Trailer Truck Drivers) even if such worker is also expected to perform some hand-harvesting work during a minor portion of the work contract period. In this scenario, the requirement under paragraph (b)(7) applies when determining the employer's H-2A wage obligation as the AEW applicable to SOC code 53-3032, absent additional job details that might indicate otherwise, best represents the

agricultural labor or services to be performed under the employer's job opportunity.

For job opportunities that involve driving farmworkers from place to place from assigned housing to and from the farm property, the CO will consider factors such as the type of vehicle (*e.g.*, a farm truck or van or a hired van or bus, such as a Calvans vehicle), the location where the farmworker transport will be performed (*e.g.*, around the farm, including on private roads, or on public roads), and any qualifications and requirements for the transport (*e.g.*, type of driver's licensure, gross vehicle weight, vehicle maintenance responsibilities, paperwork requirements) to determine the appropriate SOC code to assign to the employer's job opportunity. For instance, the Department notes that it is a common practice for employers to provide workers with multi-purpose vehicles (*e.g.*, sport utility vehicles, heavy or light trucks) for use in transporting crops, supplies, equipment, tools, or other farmworkers, including vehicles needed to drive from employer-provided housing to the worksites on an as-needed basis, during the work contract period. These vehicles typically have a capacity of less than 13 tons and do not require the equivalent of a commercial drivers' license to operate on or off the farm properties. Therefore, driving duties associated with these types of qualifications are all within the five SOC codes comprising field and livestock worker occupations (combined). In addition, the fact the workers may also use these same vehicles, at their discretion, to transport themselves to the grocery store, bank, or laundry facilities, is not a relevant factor that would warrant the CO and SWA assigning another SOC code outside of the five SOC codes comprising field and livestock worker occupations (combined).

In contrast, an H-2A job opportunity that requires a worker to possess more than three months to one year of related experience and whose duties, including those duties closely and directly related, for the majority of the workdays during the contract period involve picking up farmworkers, according to a regular schedule, from employer-provided housing or a centralized pick-up point, in a van or bus used only for passenger transport, on public roads (*e.g.*, from a motel to the farm), driving them to the place(s) of employment to perform hand-harvest work, and communicating with other drivers and/or farm supervisors to receive information and coordinate vehicle movements for passenger pick-up/drop-off services,

may be assigned SOC code 53-3053 (Shuttle Drivers and Chauffeurs) even if such worker is also expected to perform some hand-harvesting work. In this scenario, the requirement under paragraph (b)(7) applies when determining the employer's H-2A wage obligation as the AEW applicable to SOC code 53-3053, absent additional job details that might indicate otherwise, best represents the agricultural labor or services to be performed under the employer's job opportunity.

For job opportunities involving supervisory duties, O*NET core and supplemental work tasks associated with the five SOC codes comprising field and livestock worker occupations (combined) provide a reasonable degree of flexibility for workers to direct, monitor and oversee the work of other workers employed in the job opportunity without the higher-skills and requirements associated with formal supervision. For instance, workers employed in jobs covered by these SOC codes who are engaged in field and livestock related work can also perform tasks identified by O*NET, such as "direct and monitor the work of work crews, casual and seasonal help during planting, weeding, and harvesting; inform farmers or farm managers of crop progress; record information about crops, livestock, plants, pesticide use, growth, production, and costs; and maintain inventory and order materials," which are all encompassed, in some manner, by SOC codes 45-2091 (Agricultural Equipment Operators), 45-2092 (Farmworkers and Laborers, Crop, Nursery, and Greenhouse), and 45-2093 (Farmworkers, Farm, Ranch, and Aquacultural Animals). Directing, monitoring and overseeing the work of other workers commonly means assisting the farmer or farm managers in assigning tasks, issuing equipment, communicating in a manner that ensures the effective performance of work; collecting and recording worker productivity or progress using paper or electronic devices; and performing basic training or direction to workers on agricultural techniques, as necessary. Therefore, where the work tasks presented in an employer's job opportunity require workers to be engaged in field and livestock related work for the majority of the workdays during the contract period and perform other supervisory related duties, the CO and SWA will, absent additional job details that might indicate otherwise, assign one or the five SOC codes comprising field and livestock worker

occupations (combined) that best represents the employer's job opportunity and subject to a single AEWR.

In contrast, an H-2A job opportunity that requires a worker to possess one or two years related experience for the purpose of performing duties for the majority of the workdays during the contract period involving the planning or scheduling work crews according to personnel and equipment availability, including transportation to-and-from worksite(s), training and monitoring workers to ensure that safety regulations are followed, warning or disciplining those who violate safety regulations, preparing and maintaining time, attendance, or payroll reports, recording and maintaining personnel actions, such as performance evaluations, hires, promotions, or disciplinary actions, and conferring with farmers and farm managers to evaluate weather or soil conditions and develop or modify work schedules and activities, may be assigned SOC code 45-1011 (First-Line Supervisors of Farming, Fishing, and Forestry Workers) even if such worker is also expected to perform some hand-harvesting work. In this scenario, the requirement under paragraph (b)(7) applies when determining the employer's H-2A wage obligation as the AEWR applicable to SOC code 45-1011, absent additional job details that might indicate otherwise, best represents the agricultural labor or services to be performed under the employer's job opportunity.

For job opportunities involving farm maintenance duties, O*NET core and supplemental work tasks associated with the five SOC codes comprising field and livestock worker occupations (combined) permit a worker primarily engaged in performing field and livestock related work to also perform other relevant and important tasks such as "adjust, repair, and service farm machinery and notify supervisors when machinery malfunctions," which is encompassed by SOC code 45-2091 (Agricultural Equipment Operators); "repair and maintain farm vehicles, implements, and mechanical equipment; maintain and repair irrigation and climate control systems, and repair farm buildings, fences, and other structures," which are encompassed by SOC code 45-2092 (Farmworkers and Laborers, Crop, Nursery, and Greenhouse); and "inspect, maintain, and repair equipment, machinery, buildings, pens, yards, and fences," which is encompassed by SOC code 45-2093 (Farmworkers, Farm, Ranch, and Aquacultural Animals). With respect to

the types of equipment, O*NET identifies a wide array of tools necessary for the performance of maintenance duties ranging from basic hand tools, plows and posthole diggers to backhoes, land levelers and power tools. Further, performance of these tasks and use of these tools do not require any formal education or training and, in many cases, are commonly used on farms and ranches to build, maintain, and repair minor agricultural structures such as livestock pens, existing farm buildings, and temporary or permanent fencing around the property. Therefore, where the work tasks presented in an employer's job opportunity require workers to be engaged for the majority of the workdays during the contract period in field and livestock related work and perform related maintenance duties, including building minor agricultural structures and fencing around the property, using any of the types of equipment identified and without the requirement for formal education, training, or extensive work-related experience, the CO and SWA will, absent additional job details that might indicate otherwise, assign one or the five SOC codes comprising field and livestock worker occupations (combined) that best represents the employer's job opportunity and subject to a single AEWR.

However, the Department continues to receive H-2A applications, for example, related to ranch livestock confinement or grain bin elevator construction on farms that require a few months to one year of previous experience where workers are expected to perform duties such as reading and following plans and measurements; aligning and sealing structural components (e.g., walls and pipes), sometimes by welding; building frameworks (e.g., walls, roofs, joists, studding, and window and door frames); installing metal siding, windows, ceiling tiles, and insulation; and pouring concrete. These construction duties are consistent with SOC code 47-2061 (Construction Laborers), not with SOC code 45-2093 where the duties involve maintaining and repairing farm buildings. In addition, the location of the work—on a farm or off a farm—or type of structure to be constructed—a livestock confinement building or a retail building—does not alter the essential duties, skills, and other qualifications required of the worker. In this scenario, where a H-2A job opportunity's tasks, qualifications, and requirements indicate skilled construction work will be performed, the requirement under

paragraph (b)(7) applies when determining the employer's H-2A wage obligation as the AEWR applicable to SOC code 45-2067, absent additional job details that might indicate otherwise, best represents the agricultural labor or services to be performed under the employer's job opportunity.

With respect to the maintenance of farm equipment or other vehicles, the Department reiterates that some on-farm mechanics may perform only the type of routine maintenance consistent with the O*NET work tasks and other qualifications (e.g., tools and job requirements) encompassed by the five SOC codes comprising field and livestock worker occupations (combined). The Department continues to receive H-2A applications for mechanics and service technicians where workers are expected to possess one or two years related experience for the purpose of being engaged for the majority of the workdays during the contract period in duties such as the following: diagnose, repair, and overhaul engines, transmissions, components, electrical and fuel systems, etc. on tractors, irrigation systems, generators and/or other farm equipment; make major mechanical adjustments and repairs on farm machinery; repair defective parts using welding equipment, grinders, or saws; repair defective engines or engine components; replace motors; fabricate parts, components, or new metal parts using drill presses, engine lathes, welding torches, and other machine tools (grinders or grinding torches); test and replace electrical circuits, components, wiring, and mechanical equipment using test meters, soldering equipment, and hand tools; read inspection reports, work orders, or descriptions of problems to determine repairs or modifications needed; and maintain service and repair records. The Department notes that duties of this type and scale, whether performed on equipment or other vehicles (e.g., trucks, automobiles, and buses used to support the farming operations) that are powered by diesel or gas, are encompassed within 49-3041 (Farm Equipment Mechanics and Service Technicians), and not within the routine general maintenance or repair tasks identified by O*NET associated with the five SOC codes comprising field and livestock worker occupations (combined).

Finally, as in current practice, if the CO determines that the employer's wage offer is less than the wage rate that must be offered to satisfy H-2A program requirements (e.g., the wage offer is less than the highest of the wage sources

listed in 20 CFR 655.120(a), including the AEWR determination applicable to the H-2A job opportunity), the CO will issue a Notice of Deficiency alerting the employer to the issue and providing an opportunity for the employer to amend its wage offer. If the employer chooses not to amend its wage offer, the CO will deny the application for failure to satisfy criteria for certification, and the employer may appeal the final determination. If the SOC code assigned to the H-2A job opportunity is material to the CO's final determination, the employer may contest the SOC code assessment on appeal.

The Department anticipates the additional clarifying guidance contained in this interim final rule regarding occupational classification in the H-2A program will reduce the risk of CO or SWA misclassification of job opportunities, ensure greater consistency and predictability for employers to prepare their job offers, and provide more accurate, market-based wages are used to determine the AEWRs that protect the wages paid to agricultural workers in the H-2A program reflect market wages paid to workers in the U.S. similarly employed.

D. The Department Will Determine a Single AEWR Covering the Five Most Common Field and Livestock Worker (Combined) Occupations

Under the 2023 AEWR Final Rule, the Department determined a single AEWR for any job opportunity where the duties to be performed cover one or more of the following six SOC codes reported by the FLS: Farmworkers and Laborers, Crop, Nursery and Greenhouse Workers (45-2092); Farmworkers, Farm, Ranch, and Aquacultural Animals (45-2093); Agricultural Equipment Operators (45-2091); Packers and Packers, Hand (53-7064); Graders and Sorters, Agricultural Products (45-2041); and All Other Agricultural Workers (45-2099). In adopting this approach, the Department reasoned that the broad, overlapping nature of tasks listed in the Occupational Information Network (O*NET) for these six field and livestock workers (combined) SOC codes is consistent with the most common tasks performed by workers in agricultural operations and the variety of duties employers may require of field and livestock workers during a typical workday or intermittently during the period of employment. Further, in response to public comments, the Department concluded that establishing a single AEWR for this group of six SOC codes provided a reasonable amount of flexibility with respect to the type of duties a field and livestock worker may

perform without added recordkeeping, administrative burden, or uncertainty regarding wage obligations.

Although this IFR affirms the policy decision to establish a single AEWR covering the most common field and livestock worker (combined) occupations, for the reasons stated below, the Department is making a minor change to remove SOC code 45-2099, All Other Agricultural Workers, from the AEWR computations. Specifically, the Department is removing reference to the USDA FLS under 655.120(b)(1)(i) in determining the AEWR for the field and livestock workers (combined) category and concludes that this change will produce more accurate wage estimates of workers in the United States performing agricultural work that is encompassed by the most common field and livestock worker (combined) occupations for which employers are seeking temporary agricultural labor certification.

First, based on how the SOC system is administered, the employment and wage information associated with workers classified within 45-2099, All Other Agricultural Workers, represents too broad a spectrum of jobs that are not common or prevalent in the agricultural labor market. According to the BLS, for example, the SOC system is used "to classify workers and jobs into occupational categories for the purpose of collecting, calculating, analyzing, or disseminating data."¹⁶² Jobs within the labor market that have similar duties, and in some cases, similar skills, education, and/or training, are organized into a distinct detailed SOC code.¹⁶³ Under the SOC system, workers are assigned a SOC code based on the job duties or work tasks performed and, in some cases, on the skills, education or training needed to perform the work.¹⁶⁴

Because the goal of the SOC system is to classify all jobs into an occupational classification where work is performed for pay or profit, there are circumstances in which the duties and tasks performed by workers are too diverse, less prevalent or emerging within the labor market where assignment to a detailed occupation is not practicable. When these circumstances occur and workers do not perform job duties described in any distinct detailed occupation, the SOC system classifies the worker's duties performed as one contained within an "All Other" SOC code.¹⁶⁵ For

example, the SOC code 45-2099, Agricultural Workers, All Other, which broadly covers all agricultural workers not otherwise captured by the more detailed SOC codes in the entire 45-0000 series of farming, fishing, and forestry related occupations, provides no sample job titles or any other detailed description to understand what kind of field or livestock work duties, if any, are being performed by workers and classified within this "All Other" SOC code.

Further, based on the May 2024 OEWS data release, the 45-2099 SOC code only accounted for 4,980 jobs nationwide; approximately 1.1% of the estimated 442,050 jobs in the 45-0000 series that encompasses all farming, fishing, and forestry occupations. Similarly, according to the FLS November 2024 annual report, the 45-2099 SOC code only accounted for an average of 7,000-8,000 jobs nationwide; approximately 1.1% of the estimated 710,000-720,000 field and livestock worker (combined) employment during the July and October 2024 reference quarters. Thus, the relevant data demonstrate that employment of workers classified within this "All Other" SOC code are not common or prevalent within the agricultural labor market.

Second, because the 45-2099, Agricultural Workers, All Other SOC code covers a broad spectrum of jobs that are not common in the agricultural labor market, the Department cannot effectively determine whether an employer's job qualification(s) and requirement(s) to perform work that could be classified under this SOC code and are normal and accepted qualifications required by employers that do not use H-2A workers in the same or comparable occupations and crops, as required by statute and regulations. See 8 U.S.C. 1188(c)(3); 20 CFR 655.122(b). Specifically, O*NET, which is based on the SOC system and collects detailed occupational data related to common work tasks, skills, licensure, education, experience, and other job qualifications and requirements, is an essential tool of independent worker-centric information the Department has historically used to evaluate whether the job qualifications and requirements contained in an employer's job offer are normal and accepted qualifications required by employers that do not use H-2A workers in the same or comparable occupations and crops, as required by statute and regulations. See 8 U.S.C. 1188(c)(3); 20 CFR 655.122(b). Because the work performed contains too wide a range of characteristics that do not fit

¹⁶² See 2018 SOC Manual, 1. Available at: https://www.bls.gov/soc/2018/soc_2018_manual.pdf.

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 23.

¹⁶⁵ *Id.*

into any other detailed occupational code, the O*NET does not consistently report such essential information for "Agricultural Workers, All Other" that can be used to effectively determine compliance with program requirements. Although the employer may be required to submit documentation to substantiate the appropriateness of any job qualification, the lack of such essential information in the O*NET prevents the CO and the SWA from determining whether the employer's documentation is sufficient to meet program requirements, as there is no independent source of data the CO and the SWA can use to assess any particular job qualification or requirement specified in the employer's job offer.

Finally, due to the way the SOC coding system is administered and the lack of essential information in O*NET to assess whether job qualifications or requirements specified in the employer's job offer meet program requirements, the 45–2099, Agricultural Workers, All Other SOC code offers very little practical utility for OFLC and the SWA with respect to classifying the duties or work tasks for which employers are requesting temporary labor certification. Based on a review of public H–2A labor certification records submitted under the 2023 AEWR Final Rule on and after April 1, 2023, through March 30, 2025, OFLC issued 44,014 temporary agricultural labor certifications covering more than 742,600 worker positions classified within approximately 75 different SOC codes. Of these totals, only 20 H–2A labor certification records covering 125 worker positions were granted temporary agricultural labor certification where the duties or work tasks to be performed were classified as SOC 45–2099, Agricultural Workers, All Other. However, based on careful quality review of these H–2A labor certification records, each of these applications were improperly coded by OFLC and the SWA and the duties or work tasks to be performed should have been more appropriately classified within one of the detailed occupations within the SOC system. Therefore, the change being made through this IFR should have little to no impact on the wages required to be paid to H–2A workers and other workers in corresponding employment.

Thus, based on how the SOC coding system is administered, relevant data, and the experience of OFLC processing employer job orders in the H–2A program, the Department concludes that employment and wage information associated with workers classified

within SOC code 45–2099, All Other Agricultural Workers, does not provide practical utility for its continued use in the field and livestock workers (combined) category due to the broad spectrum of unknown duties and tasks performed by workers classified within this SOC code. In addition, due to the significantly small percentage of employment this SOC code represents within the agricultural labor market, the Department concludes that the removal of this SOC code will not have an adverse effect on the amount of flexibility an employer needs with respect to the type of duties a field and livestock worker may perform without added recordkeeping, administrative burden, or uncertainty regarding wage obligations. Even with the removal of SOC code 45–2099 (Agricultural Workers, All Other), the Department maintains that each of the remaining five SOC codes constituting field and livestock workers (combined) already encompass a wide array of work tasks and responsibilities, some of which overlap and mutually support one another (*i.e.*, the same or substantially similar duties, requirements, or tools are included in more than one of the five SOC codes).

Accordingly, under this IFR, the Department has modified paragraph (b)(1)(i)(A) to state that it will determine a single statewide AEWR at two skill levels for any job opportunity where the duties to be performed cover one or more of the following five SOC codes representing the field and livestock workers (combined) category: Farmworkers and Laborers, Crop, Nursery and Greenhouse Workers (45–2092); Farmworkers, Farm, Ranch, and Aquacultural Animals (45–2093); Agricultural Equipment Operators (45–2091); Packers and Packagers, Hand (53–7064); and Graders and Sorters, Agricultural Products (45–2041). In the rare circumstances in which there is no statewide wage reported by OEWS field and livestock workers (combined) category, the Department will use the national annual average gross hourly wage reported by the OEWS for the particular SOC code and skill level, which will ensure an AEWR determination can be made each year. Thus, the Department has also revised paragraph (b)(1)(i)(B) to reflect use of a national annual average gross hourly wage reported by the OEWS in these circumstances and, with this modification, has removed paragraph (b)(1)(i)(C).

E. The Department Will Determine a SOC-Specific AEWR for All Other Occupations

For H–2A job opportunities that do not fall within the five SOC codes that constitute the field and livestock workers (combined) category, the Department will use the OEWS survey to determine SOC-specific AEWRs. Under this IFR and as described in revised paragraph (b)(1)(ii)(A), the AEWRs at two skill levels for all non-range SOC codes where the primary duties, including those duties that are directly and close related, that fall outside the field and livestock workers (combined) category will be the statewide annual average hourly gross wage for the SOC code, as reported by the OEWS survey. If the OEWS survey does not report a statewide annual average hourly gross wage for the SOC code and at the skill level, as described in paragraph (b)(1)(ii)(B), AEWR for that State and skill level will be the national annual average hourly gross wage for the SOC code, as reported by the OEWS survey.

As previously discussed, the OEWS has practical utility to the agency in circumstances where the agricultural labor or services to be performed qualify under the H–2A program but are not adequately represented by the five most common field and livestock worker (combined) occupational wages. For instance, as discussed in the 2023 AEWR Final Rule, the OEWS is a useful wage source for those occupations that constitute a small percentage of agricultural labor or services and a larger subset of non-agricultural labor or services (*e.g.*, construction workers) or provide agricultural support services to farms (*e.g.*, farm equipment mechanics) or where the work is generally not performed on farms or ranches such that wages are not representative of those covered by the most common farm and livestock worker (combined) occupations (*e.g.*, logging occupations). These positions are often filled as contract positions through non-farm establishments, rather than direct on-farm hired positions, for which the OEWS survey consistently covers in its sampling frames, and for which the cross-industry reach of this survey inherently covers the same or substantially similar work both in and outside the agricultural sector. And finally, H–2ALC participation in the H–2A program has grown significantly since 2010 and the employment of H–2A workers by non-farm establishments remains a high percentage of all H–2A

worker positions certified by the Department.¹⁶⁶

As discussed previously, the available program data supports the Department's determination that OEWS wage data collected from non-farm establishments, such as farm labor contractors or H-2ALCs, who employ workers to perform duties not covered by the five field and livestock workers (combined) category SOC codes, is an appropriate source of actual market wages in agriculture to determine the AEWRs for all other SOC codes. The Department's decision to expand the OEWS survey to cover farm establishments will further strengthen the survey for positions that are outside the field and livestock worker (combined) SOC codes by ensuring that the employment and wages associated with any direct on-farm employees are incorporated into the annual wage estimates. The more robust employment and wage estimates resulting from this expansion will have a corollary benefit of enhancing the accuracy of prevailing wage determinations in the H-2B temporary non-agricultural labor certification program, and other nonimmigrant and immigrant programs, where workers are performing the same or substantially similar work for employers who otherwise cannot qualify under the H-2A program and where prevailing wage determinations are predominantly based on the wages collected from non-farm establishments. Where the primary duties, including those duties closely and directly related, fall outside the five field and livestock worker (combined) category, the Department recognizes that the AEWRs determined for these SOC codes, even at two skill levels, may result in higher

wages, depending upon geographic location and the specific SOC code. These relatively higher AEWRs, however, will most likely be the result of administering a more robust and accurate set of occupational data from the OEWS that is better representative of the actual wages paid to workers in these relatively higher skill jobs, and thus will provide appropriate protection against adverse effect.

Finally, the Department will continue to determine the AEWRs for the SOC covering a statewide geographic area. In the temporary nonimmigrant and permanent immigrant programs, the Department generally establishes prevailing wages based on the OEWS for the SOC in one or more metropolitan or non-metropolitan areas or statewide in circumstances where localized prevailing wages cannot be reported due to small sample sizes. For the H-2A program, however, the Department will use a statewide wage both to more closely align with the geographic areas historically used by the Department under the H-2A program and to protect against potential wage depression from a large influx of nonimmigrant workers that is most likely to occur at the local level.

As explained in prior rulemakings, the concern about localized wage depression is more pronounced in the H-2A program due to both the vulnerable nature of agricultural workers and the fact that the H-2A program is not subject to a statutory cap, which allows a potentially unlimited number of nonimmigrant workers to enter a given local area.¹⁶⁷ In the rare circumstances in which there is no statewide wage, use of the national annual average gross hourly wage reported by the OEWS for the particular SOC code and skill level will ensure an AEWR determination can be made each year for each SOC code outside of the field and livestock workers (combined) category.

F. The Department Will Establish a Standard AEWR Adjustment To Account for Non-Wage Compensation Benefits Provided to H-2A Workers

Under this IFR, the Department is implementing a standard downward adjustment to the hourly AEWRs that accounts for the compensation disparity U.S. workers face when H-2A workers are being paid for work performed under the same work contract but, unlike most U.S. workers, receive additional non-wage compensation in the form of free housing. Those U.S. workers who are reasonably able to

return to their permanent places of residence at the end of each workday, must continue to bear these essential costs from their wages, despite often being offered and often paid the same wages as H-2A workers. Thus, the result is an adverse disparity in compensation where the effective wage rate of U.S. workers is lower than that mandated for H-2A workers under the same work contract, which the Department views as prohibited by the statute that this IFR seeks to correct.

The evidence available to the Department supports a conclusion that U.S. workers face significant burdens for housing costs from their earned wages. Specifically, domestic farm workers face significant challenges finding and maintaining affordable housing. Rural housing that is close in proximity to agricultural operations is often in short supply and decades of underdevelopment and regulatory requirements have contributed to rising costs, and available evidence demonstrates that this situation is placing an increasing burden on domestic farmworker family incomes. Due to the unique nature of agricultural work, employers face significant costs investing in housing units for temporary workers that may only be used during specific seasons of the year and, where H-2A workers are employed, employers are required to provide housing at no charge to H-2A workers and any migrant domestic farm workers. See 20 CFR 655.122(d)(1). Unfortunately, local domestic farmworkers, who may want to seek out temporary agricultural jobs where H-2A workers will be employed, are competing in an uneven playing field as they must accept employment under at least the same terms of the work contract—often at the same wage—while continuing to pay and maintain their own housing out of their earned wages. Therefore, as discussed in detail below, the Department seeks to address this adverse compensation effect due to the importation of H-2A workers while ensuring that the wage offers to any U.S. workers to perform the same agricultural labor or services are protected.

While it is challenging to obtain accurate data, the most recent data from the NAWS offers some practical evidence in favor of a wage policy that can account for the adverse compensation effect domestic farm workers face when H-2A workers are admitted into the United States to perform the same agricultural labor or services and provided housing at no cost. In 2021–2022, approximately 90 percent of crop workers reported living in housing not owned or administered

¹⁶⁶ A recent Government Accountability Office (GAO) report noted that “from FY 2020 through FY 2023, direct-hire employers submitted most of the applications (84 percent, on average) that OFLC approved, which accounted for 57 percent of the jobs approved during the period. Farm labor contractors (FLC) submitted 15 percent of approved applications and accounted for 42 percent of the jobs approved during the period.” GAO further found “that the average number of jobs per approved application was over four times higher for FLCs (54 jobs) when compared to direct-hire employers (13 jobs).” Government Accountability Office, *H-2A Visa Program: Agencies Should Take Additional Steps to Improve Oversight and Enforcement*, GAO-25-106389 (Nov. 14, 2024). More recently and based on a review of H-2A applications covering all agricultural sectors certified by OFLC covering October 1, 2023, through June 30, 2025, the proportion of H-2A worker positions certified for employers operating as H-2ALCs remained high. In FY 2024, of the 384,865 worker positions certified nationally, 163,844 (or 43 percent) were issued to H-2ALCs. From October 1, 2024, through July 1, 2025, for FY 2025, of the 317,459 worker positions certified nationally, 134,209 (or 42.3 percent) were issued to employers operating as H-2ALCs. See <https://www.dol.gov/agencies/eta/foreign-labor/performance> (accessed July 28, 2025).

¹⁶⁷ See, e.g., 75 FR at 6895.

by their current employer, and only 7 percent of crop workers who do not migrate live in employer-provided housing free of charge. In fact, even among crop workers who migrate, only 12 percent reported living in employer-provided housing free of charge, signaling that the vast majority of crop workers across the United States pay for their housing costs, including those that cannot return to their primary residence after the end of the workday.¹⁶⁸

Among crop workers who reported paying for their housing, approximately 61 percent paid \$600 or more per month, 21 percent paid \$400–\$599 per month, and another 56 percent interviewed reported living in housing rented from someone other than their employer (e.g., non-employer or non-relative).¹⁶⁹ With more than 85 percent of crop workers reporting an hourly wage as the basis for their pay and earning an average of \$14.53 per hour,¹⁷⁰ the available evidence from the NAWS demonstrates that the majority of crop workers are paying the equivalent of \$138 per week (\$600 housing cost per month divided by 4.345 weeks per month) or \$3.45 per hour of their average hourly wage (\$138 per week divided by 40 hours of work per week) for their housing. Housing is generally considered affordable when a person spends 30 percent or less of their income on housing. With nearly 41 percent of crop workers reportedly earning less than \$25,000 annually and most paying more than \$600 or more per month, domestic farm workers are experiencing a significant housing cost burden that is not similarly born by H–2A workers.

Other available reports and studies covering specific state or local areas also support the conclusion that housing poses a significant cost burden on the earnings of domestic farm workers. For example, based on an assessment of historical NAWS data and a survey of farm workers, the Housing Assistance Council (HAC) found that farm workers face challenges locating and retaining affordable housing. Specifically, due to their low wages, HAC found that farm workers pay a median monthly housing cost of approximately \$380 with “approximately 34 percent of these farmworkers were cost-burdened, paying more than 30 percent of their monthly income for housing. Among all surveyed cost-burdened households,

over 85 percent included children.”¹⁷¹ Within California, the National Farm Worker Ministry, which is a faith-based organization dedicated to advancing the rights of farm workers, recently observed that in “Santa Maria, Santa Barbara County, California, an area with a high number of farm workers, the median rent was \$2,999 in March 2024. The average annual pay of a farm worker in Santa Barbara County in 2024 was \$41,031 or \$82,062 per year for two working parents. This means half of a family’s income is going towards rent.”¹⁷²

In another study measuring the impact of housing on domestic farm workers conducted by the University of California at Davis, economists utilized a 5-year sample from the American Community Survey to identify farm workers by industry and occupation for the purpose of measuring housing affordability at the state and county in California for comparison to the NAWS data. These economists found that “sixty-seven percent of farmworker families live in rented housing units, and 27.5 percent are severely rent burdened paying more than 50 percent of their income. We find that 54.5 percent of farmworker families are rent cost burdened.”¹⁷³ And finally, in a 2023 report sponsored by the Oregon Housing and Community Services, researchers conducted a survey of farm workers in Hood River, Marion, Morrow, and Yamhill counties of Oregon and found that “nearly all farmworker households are cost burdened” by housing across the four counties.¹⁷⁴

Employers have likewise cited the high costs associated with the

employment of H–2A workers as one of the primary challenges to using the program. The employment of H–2A workers is generally more costly than hiring local domestic farm workers due to the other program costs and non-wage compensation benefits employers provide, which includes paying for transportation from the foreign worker’s home country and return, daily transportation of foreign workers from housing to the worksites, and the costs associated with housing H–2A workers. These costs and non-wage compensation benefits provided to H–2A workers, which are not afforded to local U.S. workers, are above and beyond paying H–2A workers at least the hourly AEWR, which is almost always greater than federal and state minimum wage rates and often greater than any local or regional market-based wages for similar agricultural work.

Given the evidence presented that U.S. workers face an adverse compensation effect relative to the employment of H–2A workers, who are provided housing at no charge, the Department is adopting a standard adjustment factor to the AEWRs that accounts for this non-monetary compensation benefit. Specifically, under 20 CFR 655.120(b)(3) of this IFR, the OFLC Administrator is establishing a downward annual AEWR compensation adjustment factor for each State, which can only be applied to H–2A workers sponsored under the *Application for Temporary Employment Certification*, and computed as an equivalent hourly rate based on the weighted statewide average of Fair Market Rents (FMRs) for a four-bedroom housing unit available from the Department of Housing and Urban Development (HUD).¹⁷⁵ Further, to ensure this downward adjustment is reasonable and not unduly burdensome on the earnings of H–2A workers, the standard hourly adjustment factor will not exceed 30 percent of the hourly AEWR determined for the employer’s job opportunity. The policy rationale behind the 30 percent standard adopted in this IFR is to ensure the AEWRs that will apply to H–2A workers are set at a level that best approximates the maximum value of compensation these workers may be provided by employers related to their housing. Within federal

¹⁷¹ Housing Assistance Council, *No Refuge from the Fields*, a report of HAC’s farmworker housing survey, available at <https://www.ruralhome.org>, (last visited August 10, 2025).

¹⁷² National Farm Worker Ministry, *Issues Affecting Farm Workers: Housing*, available at <https://nfwm.org/farm-workers/farm-worker-issues/housing>, (last visited August 10, 2025).

¹⁷³ Alexis Vivas Flores and Timothy Beatty, *Measuring Housing Affordability for Domestic Farmworkers in California: Are They Facing a Housing Affordability Crisis?*, Selected Paper prepared for presentation at the 2024 Agricultural & Applied Economics Association Annual Meeting, New Orleans, LA, July 28–30, 2024, available through AgEcon Search at <http://ageconsearch.umn.edu> (last visited August 10, 2025).

¹⁷⁴ Jamie Stamberg, Beth Goodman, Jennifer Cannon, and Ariel Kane, *Cultivating Home: A Study of Farmworker Housing* (Oregon: Oregon Housing and Community Services, May 2023). The researchers note that, on average, farmworker households have incomes of between approximately 25 percent and 37 percent of the Median Family Income (MFI) covering this geographic area, and typically, a household needs to earn about 60% of MFI to afford market-rate rent. This fact alone led the researchers to conclude that nearly all farmworker households were cost-burdened by their housing.

¹⁶⁸ *Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic Employment Profile of United States Crop Workers* (Sept. 2023), pg. 20–21.

¹⁶⁹ *Id.* at pg. 22, 84.

¹⁷⁰ *Id.* at pg. 3.

¹⁷⁵ The Department recognizes that some U.S. workers in corresponding employment may reside in H–2A employer-provided housing but believes that such circumstances are uncommon and these workers face similar adverse compensation effects as local U.S. workers. Accordingly, the Department will not apply the downward adjustment to the AEWR for non-H–2A workers, even if these workers reside in employer-provided housing.

housing programs, this standard is a widely accepted benchmark for defining housing affordability and identifying households experiencing housing cost burden.¹⁷⁶ Within its Section 8 Housing Choice Voucher Program, HUD uses this standard as a basis for paying housing subsidies where program beneficiaries pay a limited percentage of their adjusted gross incomes (*i.e.*, typically 30 percent) for rent, with the balance of the rent paid by the federal program. And finally, to ensure employers continue to offer and pay any U.S. worker the full market-based AEWR determined under 20 CFR 655.120(b)(1)(i) and (ii), the standard hourly adjustment factor will only apply to the AEWR established separately for H-2A workers sponsored under the *Application for Temporary Employment Certification*.

In establishing this annual adverse compensation adjustment, the Department is relying on the weighted statewide average of Fair Market Rents (FMRs) for a four-bedroom housing unit available from HUD. FMRs represents the most comprehensive and reliable data on housing rental costs and are consistently published annually by HUD's Office of Policy Development and Research, in collaboration with the Economic and Market Analysis Division, using a combination of local surveys and the American Community Survey (ACS). For its low-income affordable housing programs, HUD establishes FMRs at various percentiles, including the 50th, percentile of gross rents, taking into account both rent and the cost of necessary utilities (except telephone, cable or satellite television, and internet services).¹⁷⁷ With limited

exceptions, HUD provides estimates for FMRs for all OMB-defined Metropolitan Statistical Areas (MSAs) and any non-metropolitan area counties, which provides the Department with the most comprehensive set of data upon which to estimate the average rental payments for housing. Because 56 percent of U.S. crop workers interviewed for the 2021–2022 NAWs reported living in housing rented from someone other than their employer (*e.g.*, non-employer or non-relative), the Department can conclude that FMRs available through HUD represents the most reasonable source of housing data to use in computing an annual adverse compensation adjustment under this IFR.

The Department notes that HUD publishes population-weighted FMR's for one-bedroom, two-bedroom, three-bedroom or four-bedroom housing units covering all MSA and non-MSA areas. The Department is adopting FMRs associated with 4-bedroom housing units with a reasonable assumption of 2 beds per room for a maximum occupancy capacity of 8 individuals. The selection of this housing unit size and capacity is consistent with the average occupancy per housing unit in the H-2A program. Based on an analysis of H-2A housing data associated with labor certification applications processed from FY 2020 through FY 2024, the average occupancy capacity per housing unit, which includes all forms of housing, was approximately 7 to 8 individuals.¹⁷⁸ The adjustment value per week will be calculated by dividing the applicable weighted average statewide FMR (at the 50th percentile) by 4.345 (average number of weeks per month), and then the proceeding value will be divided by 8 (assumption of two workers per bedroom in a four-bedroom home). The adjustment per worker per week will then be divided by 40 hours (industry

adopted standard work week) to arrive at the hourly adjustment rate. This hourly adjustment rate will be subtracted from the appropriate AEWR (depending on state, SOC code, and experience level) to arrive at the final hourly rate to be applied each pay period. In addition, the Department is adopting an average FRM across each state because employer-provided housing for workers employed under temporary agricultural labor certifications are commonly located in non-metropolitan and metropolitan statistical areas. For example, among employers in the 10 largest states employing H-2A workers during FY 2024, more than 67 percent of all housing units used to house approximately 60 percent of all H-2A workers were located in metropolitan statistical areas while the remaining 33 percent were located in rural non-metropolitan statistical areas.¹⁷⁹

Although precise and local market-based data specific to the costs of temporary agricultural housing in rural areas is limited, the Department believes that the FMRs serve as a reasonable proxy for estimating housing costs. While FMRs vary across any given state, most agricultural workers are typically mobile across a wide area of intended employment, which often covers a number of counties, and the complexities associated with estimating multiple local area based FMRs would make such an option almost impracticable for the Department to administer and enforce. Of note, HUD publishes the FMRs at both the 40th and 50th percentiles. Although HUD utilizes the 40th percentile for purposes of administering its housing voucher programs, the Department has chosen in this IFR to use the statewide average of

¹⁷⁶ See McCarty, Maggie and Daniels, Mary and Keightley, Mark, "Housing Cost Burdens in 2023: In Brief," Congressional Research Service, Report No. R48450 (March 11, 2025). The report notes that "federal housing policies typically deem housing to be 'affordable' if it costs no more than 30% of family income (adjusted for family size). According to this metric, families that pay more are considered to be 'cost burdened,' and those that pay more than half of their incomes are considered 'severely cost burdened.'" For a more comprehensive discussion on the history of the 30 percent standard, see Pelletiere, Danilo and Pelletiere, Danilo, *Getting to the Heart of Housing's Fundamental Question: How Much Can a Family Afford? A Primer on Housing Affordability Standards in U.S. Housing Policy*. Available at SSRN: <https://ssrn.com/abstract=1132551> or <http://dx.doi.org/10.2139/ssrn.1132551>.

¹⁷⁷ Fair Market Rents (FMRs) are used to determine payment standard amounts for the Housing Choice Voucher program, initial renewal rents for some expiring project-based Section 8 contracts, initial rents for housing assistance payment (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy program (Mod Rehab), rent ceilings for rental units in both the HOME Investment Partnerships program and the Emergency Solutions Grants program, maximum award amounts for Continuum of Care

recipients and the maximum amount of rent a recipient may pay for property leased with Continuum of Care funds, and flat rents in Public Housing units. For a more information, see the HUD Office of Policy Development and Research website at <https://www.huduser.gov/portal/datasets/fmr.html>. (last visited August 11, 2025).

¹⁷⁸ Based on OFLC public disclosure data, the Department has computed the following: FY 2020, 15,191 housing records covering 45,552 units at 379,114 occupancy capacity for an estimated 8 persons per unit; FY 2021, 19,212 housing records covering 74,367 units at 472,506 occupancy capacity for an estimated 6 persons per unit; FY 2022, 22,299 housing records covering 77,088 units at 536,238 occupancy capacity for 7 persons per unit; FY 2023, 22,716 housing records covering 67,515 units at 528,784 occupancy capacity for 8 persons per unit; and FY 2024, 26,998 housing records covering 77,464 units at 600,582 occupancy capacity for 8 persons per unit. See <https://www.dol.gov/agencies/eta/foreign-labor/performance> (last visited August 11, 2025).

¹⁷⁹ During FY 2024, more than 67 percent of all certified H-2A worker positions and employer-provided housing for these workers were in metropolitan statistical areas across the following 10 largest states using the H-2A program: Florida (75 percent or 11,979 units with a maximum occupancy of 90,837 persons); Georgia (12 percent or 342 units with a maximum occupancy of 4,698 persons); California (97 percent or 3,765 units with a maximum occupancy of 21,716 persons); Washington (71 percent or 9,661 units with a maximum occupancy of 74,112 persons); North Carolina (51 percent or 3,062 units with a maximum occupancy of 30,398 persons); Michigan (49 percent or 1,437 units with a maximum occupancy of 11,787 persons); Louisiana (71 percent or 847 units with a maximum occupancy of 9,804 persons); Texas (19 percent or 413 units with a maximum occupancy of 2,123 persons); Arizona (97 percent or 2,549 units with a maximum occupancy of 13,579 persons); and New York (79 percent or 831 units with a maximum occupancy of 8,196 persons). Based on an analysis of public H-2A labor certification records from the DOL Office of Foreign Labor Certification at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

the 50th percentile FMRs, as calculated by HUD, and weighted based on state population. This methodological approach reasonably reflects the central tendency of FMRs across a given state without being influenced by outliers in certain local or regional area housing costs and is an easily understood statistical concept. As such, the Department proposes using a statewide average FMR to set a uniform “adverse effect adjustment” to the AEWRs. This will provide H–2A employers within a given state or region, with a predictable, consistent rate that better accounts for non-wage compensation.

The Department recognizes that 20 CFR 655.122(d)(1) currently requires that employers “provide housing at no cost to the H–2A workers and those workers in corresponding employment who are not reasonably able to return to their residence within the same day.” Unlike the statute’s express mandate that the Secretary deny labor certification to employers who fail to provide workers’ compensation insurance at no cost to the worker, no similar statutory mandate exists with respect to the provision of housing. Compare 8 U.S.C. 1188(b)(3) with 8 U.S.C. 1188(c)(4). Rather, Section 218(c)(4) of the INA, 8 U.S.C. 1188(c)(4), requires only that H–2A employers “furnish housing in accordance with regulations” and permits them to satisfy this obligation either by providing housing that meets applicable Federal temporary labor camp standards or by securing housing that meets local rental or public accommodation standards. The statute does not expressly require that such housing be provided at no cost to the worker as a condition of labor certification.

However, given the evidence presented in this IFR that U.S. workers face adverse effect in their wages relative to H–2A workers who are provided housing at no charge, the Department is adopting a standard adjustment factor to the AEWRs to account for this non-monetary compensation benefit. The Department clarifies that this downward AEWR adjustment factor, computed annually for each State under 20 CFR 655.120(b)(3), is not inconsistent with § 655.122(d)(1). The adjustment does not authorize an employer to charge workers rent or otherwise deduct housing costs from the wages of H–2A workers or of workers in corresponding employment who are not reasonably able to return to their residence within the same day. Rather, it ensures that the AEWR reflects the value of this non-wage compensation benefit, so that the effective level of compensation does not

create adverse effect on the wages of U.S. workers similarly employed, consistent with 8 U.S.C. 1188(a)(1)(B).

In adopting this approach, the Department also invites public comment on whether the regulatory “no cost” mandate under § 655.122(d)(1) remains appropriate in light of the rising costs and other obstacles (e.g., zoning restrictions, permits) faced by employers in locating sufficient and affordable worker housing. The Department also seeks comment on whether alternative approaches would better align with the statutory text while continuing to ensure that the wages of U.S. workers similarly employed are not adversely affected by the employment of H–2A workers.

G. The Department Will Publish OEWS-Based AEWRs To Coincide With the BLS Publication Schedule

Under the 2023 AEWR Final Rule, the OFLC Administrator was required to publish, at least once in each calendar year, on a date to be determined by the OFLC Administrator, an update to each AEWR as a notice in the **Federal Register**. The OFLC Administrator published the updated AEWRs through two announcements in the **Federal Register**, one for the FLS-based AEWRs (i.e., effective on or about January 1) and a second for the OEWS-based AEWRs (i.e., effective on or about July 1), due to the different time periods for release of these two wage surveys. The publication of two distinct AEWR updates within a single calendar year cycle, combined with other regulatory requirements (e.g., payment of the highest AEWR across all applicable SOC codes regardless of time spent performing any duty), created burden and costs on some employers with respect to their wage obligations to workers.

Given the policy decision to determine the AEWRs for all H–2A job opportunities using occupational wage data reported by the OEWS, the Department will now simplify publication of the updated AEWRs for non-range occupations through a single **Federal Register** Notice on or about July 1 each year. Although the Department typically discloses updated OEWS data on the BLS website in May each year, the BLS requires a short amount of time to create customized wage data files that are required by the OFLC Administrator to administer the revised AEWR methodology in this IFR and the prevailing wage requirements covering other immigrant and nonimmigrant employment-based visa programs.

In addition, with the adoption of an annual statewide AEWR compensation

adjustment for housing that is provided to H–2A workers at no charge, the Department will align the timeframes for obtaining the FMR data from HUD and computing the statewide equivalent hourly rates for publication in the same notice in the **Federal Register** as the AEWRs. Accordingly, the Department has made minor modifications to 20 CFR 655.120(b)(4) to state that the OFLC Administrator will publish a notice in the **Federal Register**, at least once in each calendar year, on a date to be determined by the OFLC Administrator, establishing each AEWR and corresponding housing compensation adjustment for each State that will become effective as of the date of publication of the notice in the **Federal Register**.

H. The Department Requests Comments on All Aspects of Its Revised Methodology for Establishing the AEWRs

The Department invites comments on all aspects of the AEWR methodology changes contained in this IFR. In particular, the Department is interested in comments on the use of the OEWS and the combined use of occupational wages collected for farm and non-farm establishments through the OEWS, determining the AEWRs at two skills levels based on job qualifications and the thresholds (the lower one-third and the average wage); the conditions for assigning the most representative SOC code based on the primary and directly and closely related duties and qualifications contained in the employer’s job offer, including any alternative sources of reliable and comprehensive occupational information beyond the O*NET system; modifying the most common field and livestock workers (combined) occupations for assigning a single AEWR by removing SOC code 45–2099, Agricultural Workers All Other; and the use of a non-wage compensation factor, the specifications for adopting a standard non-wage compensation adjustment factor to the AEWR that employers may offer only to H–2A workers provided housing at no charge, the data source used to establish the adjustment factor, and the level at which the adjustment factor has been sent. Comments supported by reliable and objective data or other quantifiable studies will be more helpful to the Department in drafting a final rule than comments consisting of qualitative anecdotal evidence. The Department is open to making changes in the final rule based on the comments it receives on this IFR.

V. Severability

To the extent that any portion of this IFR is declared invalid or unenforceable by a court, the Department intends for all other parts of this IFR that can operate in the absence of the specific portion that has been invalidated, to remain in effect. Thus, the Department notes that the existing severability clause under 20 CFR 655.190¹⁸⁰ applies because each provision within this IFR is capable of operating independently from one another. The assignment of the SOC code(s) for the employer's job opportunity specified at 20 CFR 655.120(b)(7), which involves a comparison the duties and qualifications contained in the job order to the SOC definitions, skill requirements, and tasks that are listed in the O*NET system, is an independent assessment performed by the SWA and the CO before determining the applicable AEWR and that assessment has no impact on the actual computation of the AEWRs by the BLS. Further, computation of the AEWRs at two skill levels, as specified in 20 CFR 655.120(b)(2), using the OEWS survey is a statistical process conducted by the BLS annually that is independent of any other provision contained in this IFR. And finally, the standard adjustment factor to the AEWRs specified at 20 CFR 655.120(b)(3) is based on annual data obtained from HUD and used to independently compute an equivalent hourly rate based on the weighted statewide average of FMRs for a four-bedroom housing unit. The implementation of these statewide equivalent hourly rate adjustments, which apply only to the minimum wages offered to H-2A workers, has no influence on the assignment of the SOC code(s) by the SWA and the CO for the employer's job opportunity and does not affect the computation of the AEWRs by the BLS.

Thus, even if a court decision invalidating a portion of this IFR results in a partial reversion to the current regulations or to the statutory language itself, the Department intends that the rest of this IFR continue to operate, to the extent possible, in tandem with the

reverted provisions, as specified in 20 CFR 655.190. It is the Department's intent that the remaining provisions of the regulations should continue in effect if any provision or provisions are held to be invalid or unenforceable. It is of great importance to the Department and the regulated community that even if a portion of this IFR were held to be invalid or unenforceable that the larger program could operate consistent with the expectations of employers and workers.

VI. Administrative Information

A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and 14192 (Unleashing Prosperity Through Deregulation)

1. Introduction

Under E.O. 12866, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive Order and review by OMB. Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a "significant regulatory action" as an action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for a regulatory action that is significant under section 3(f)(1). OIRA has reviewed this rule and designated it a significant regulatory action under 3(f)(1) of E.O. 12866.

The Secretary of Homeland Security, in consultation with the Secretary of Labor and Secretary of Agriculture, has approved this rule consistent with section 301(e) of the Immigration Reform and Control Act of 1986, 8 U.S.C. 1188.¹⁸¹

¹⁸¹ Although this provision vests approval authority in the "Attorney General," the Secretary of Homeland Security now may exercise this

E.O. 13563 directs agencies to, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. Improving Regulation and Regulatory Review, 76 FR 3821, 3821 (Jan. 21, 2011), E.O. 13563 recognizes that some costs and benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. *Id.*

This IFR also furthers the goals of E.O. 14192, *Unleashing Prosperity Through Deregulation*.¹⁸² In relevant part, the E.O. articulates the executive branch policy to "be prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens placed on the American people." This executive branch policy is advanced by federal agencies reassessing their regulations and eliminating unnecessary and burdensome requirements that are not squarely authorized by Federal law to "significantly reduce the private expenditures required to comply with Federal regulations to secure America's economic prosperity and national security and the highest possible quality of life for each citizen."¹⁸³ Specifically, the E.O. directs federal agencies, including the Department, to "ensure that the total incremental cost of all new regulations, including repealed regulations, being finalized this year, shall be significantly less than zero, as determined by the Director of the Office of Management and Budget (Director), unless otherwise required by law or instructions from the Director."¹⁸⁴ This IFR is expected to be an E.O. 14192 deregulatory action, generating \$246 million in annual cost savings (taking the form of reduced deadweight loss). The primary purpose of this IFR is to implement or interpret the immigration laws of the United States (as described in section 101(a)(17) of the INA, 8 U.S.C. 1101(a)(17)) or any other function

authority. See 6 U.S.C. 202(3)–(4), 251, 271(b), 291, 551(d)(2), 557; 8 U.S.C. 1103(c) (2000).

¹⁸² See 90 FR 9065 (Jan. 31, 2025).

¹⁸³ *Id.* sec. 1.

¹⁸⁴ *Id.* sec. 3(b).

¹⁸⁰ The Department acknowledges that it has proposed retaining the severability provision in the Notice of Proposed Rulemaking, *Recission of Final Rule: Improving Protections for Workers in Temporary Agricultural Employment in the United States*, published July 2, 2025. 90 FR 28919. The Department will review any relevant comments received in connection with that NPRM and, prior to finalizing, will consider whether any changes or amendments need to be made to the provision. As described below, however, the existing 655.190 applies to this IFR because each provision is capable of operating independently from one another.

performed by the United States Federal Government with respect to aliens.¹⁸⁵

2. Summary of the Analysis

The Department estimates that the IFR will result in costs and transfers. It also anticipates the IFR will generate economic benefits that substantially outweigh these costs. As shown in Exhibit 1, the IFR will impose an annualized cost of \$0.78 million and a total 10-year cost of \$0.55 million (7 percent discount rate). The IFR will generate annualized transfers from H-2A workers to H-2A employers of \$2.46 billion and total 10-year transfers of \$17.29 billion (7 percent discount rate).

EXHIBIT 1—ESTIMATED MONETIZED COSTS AND TRANSFERS OF THE FINAL RULE

[\$2025 millions]

	Costs	Transfers
Undiscounted 10-Year Total	\$0.55	\$24,157.10
10-Year Total with a Discount Rate of 3 percent	0.55	20,781.20
10-Year Total with a Discount Rate of 7 percent	0.55	17,296.86
10-Year Average Annualized at a Discount Rate of 3 percent ...	0.05	2,415.71
Annualized with at a Discount Rate of 7 percent	0.06	2,436.23
	0.08	2,462.68

The total cost of the IFR reflects only rule familiarization. Transfers arise from changes to the AEWR methodology, specifically establishing new AEWRs for non-range H-2A occupations based on employee skill level, and adjustments for employer-provided housing. See the costs and transfers subsections below for a detailed explanation.

The Department expects the IFR to generate significant economic benefits well in excess of familiarization costs. Assuming a relatively elastic supply of H-2A labor for the relevant wage ranges,¹⁸⁶ the Department estimates that

the IFR’s lower AEWR would lead farmers to hire approximately 119,000 additional H-2A workers producing \$0.2 billion in annual economic benefits resulting from new, mutually beneficial transactions that otherwise would not have occurred. In other words, the Department anticipates substantial incompletely-quantified benefits, including avoiding crop losses, preserving farm viability, stabilizing the food supply, supporting rural economies, and facilitating workforce transition.

3. Need for Regulation

As discussed above, Executive Order 14159 directs agencies to “employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all inadmissible and removable aliens,” including those who entered illegally, lack lawful status, or are subject to final orders of removal.

Agricultural employers are facing immediate challenges due to the expected lack of availability of illegal aliens. According to the Department’s National Agricultural Worker Survey (NAWS) ¹⁸⁷ agricultural employers are disproportionately dependent on illegal aliens: approximately 42 percent of crop workers reported lacking authorization to work in the United States during FY 2021–2022. With illegal border crossings at record lows—agricultural employers, who have historically been incentivized to rely on such workers because of high AEWRs mandated to use the H-2A program, will experience economic harm caused by mounting labor shortages.

In addition, the Department does not believe American workers currently unemployed or even marginally employed will make themselves readily available in sufficient numbers to replace the departing illegal aliens. The supply of American agricultural workers is limited by structural factors including the geographic distribution of agricultural operations, and the seasonal nature of certain crops, and the relatively low unemployment rate.¹⁸⁸

perfect elasticity of labor when assessing the effect of AEWRs. See, e.g., Zachariah Rutledge, et. al, Adverse Effect Wage Rates and US Farm Wages, Amer. J. of Agr. Econ. June 9, 2025, available at: <https://onlinelibrary.wiley.com/doi/10.1111/ajae.12557>.

¹⁸⁷ Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic Employment Profile of United States Crop Workers (Sept. 2023). U.S. DOL, Employment and Training Administration. Available at: <https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWSResearchReport17.pdf>.

¹⁸⁸ See Diane Charlton, (“The Farm Workforce Modernization Act and warnings from previous immigration reforms. Applied Economic Perspectives, August 2023, at pp. 6–7, The Farm

Furthermore, agricultural work requires a distinct set of skills and is among the most physically demanding and hazardous occupations in the U.S. labor market. These essential jobs involve manual labor, long hours, and exposure to extreme weather conditions—particularly in the cultivation of fruit, tree nuts, vegetables, and other specialty crops for which production cannot be immediately mechanized. Based on the Department’s extensive experience administering the H-2A temporary agricultural visa program, the available data strongly demonstrate—even absent intensified enforcement—a persistent and systemic shortage of qualified and eligible American workers.

Despite efforts to broadly advertise agricultural jobs as required by regulation, the most recent data confirm that domestic applicants are not applying in sufficient numbers to meet employer demand. Thus, based on the available evidence, the Department concludes that qualified and eligible U.S. workers—whether unemployed, marginally employed, or employed and seeking work in agriculture—will not make themselves immediately available in sufficient numbers to avert the potential adverse consequences to the stability of the United States food supply and irreparable economic harm to agricultural employers as the illegal alien labor force decreases.

4. Analysis

a. Analysis Considerations

The Department estimated the costs and transfers associated with the IFR relative to the existing baseline, which reflects current practices under the H-2A program as stipulated in 20 CFR part 655, subpart B and 29 CFR part 501. The existing baseline aligns with the 2023 AEWR Final Rule,¹⁸⁹ which uses the average annual hourly wage for field and livestock workers (combined) as determined by the U.S. Department of Agriculture’s (USDA) Farm Labor Survey (FLS). Furthermore, the AEWRs are established using statewide or national average annual hourly wages derived from the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) program, particularly for non-

Workforce Modernization Act and warnings from previous immigration reforms).

¹⁸⁹ There is virtually no difference between aligning the baseline with the 2023 AEWR Final Rule versus the 2010 AEWR as baseline because they used the same methodology to set the AEWR for the vast majority of job. Under the recently vacated 2023 AEWE, which still appears in the E-CFR, 98 percent of H-2A jobs would continue to be assigned the FLS-based AEWR and a few high-skilled agricultural jobs would be subject to the OEWS-based AEWR.

¹⁸⁵ See OMB Memorandum M-25–20, Guidance Implementing Section 3 of Executive Order 14192, titled “Unleashing Prosperity Through Deregulation” at 5–6 (Mar. 26, 2025).

¹⁸⁶ The supply of H-2A workers is considered highly elastic because the Adverse Effect Wage Rate (AEWR) offered in the United States is significantly higher than the wages these workers could earn in their home countries for similar work. This large wage differential creates a strong incentive for foreign agricultural workers to enter the U.S. labor market whenever positions are available. Economists routinely and uncontroversially assume

range agricultural occupations that are underrepresented or inadequately reported by the FLS.

In accordance with the regulatory analysis guidance specified in OMB's Circular A-4 and consistent with methodologies used in prior rulemakings, this analysis emphasizes the probable effects of the IFR, particularly concerning costs and transfers borne by affected entities. The analysis encompasses a ten-year period (2025 through 2034) to adequately capture significant costs and transfers that may manifest over time. The Department expresses all quantifiable impacts in 2025 dollars, using discount rates of 3 percent and 7 percent, as prescribed by Circular A-4.

EXHIBIT 2—NUMBER OF AFFECTED ENTITIES BY TYPE
[CY 2015–2024 average]

Entity type	No.
Annual unique H-2A applicants	8,530

Growth Rate

To derive realistic growth rates, the Department applied an autoregressive

integrated moving average (ARIMA) model to H-2A program data from FY 2015 to FY 2024. This model forecasts growth in both the number of workers and applications while estimating geometric growth rates. The Department executed multiple ARIMA models for each dataset and evaluated performance using standard goodness-of-fit metrics. The varying models yielded comparable measures, allowing projection of workers and applications through 2034.

The resulting average geometric growth rate is estimated at 5.41 percent for H-2A applications and 3.34 percent for certified H-2A workers. The Department applied these estimates to historical program data from FY 2015 to 2024 for H-2A applications and certified H-2A workers (see Exhibit 3). These growth rates were then used to project H-2A program participation and the associated costs and transfers under the final rule. To the extent that recent and ongoing migration- and immigration-opposing government interventions have spillover effects on the H-2A program, this approach to quantifying costs, transfers and benefits will yield overestimates.

EXHIBIT 4—COMPENSATION RATES
[2025]

Occupation	Base hourly wage rate	Loaded wage factor	Overhead costs	Hourly compensation rate
	(a)	(b)	(c)	(d = a + b + c)
HR Specialist	\$38.33	\$16.10 (\$38.33 × 0.42)	\$6.52 (\$38.33 × 0.17)	\$60.95

b. Subject-by-Subject Analysis

In this section, the Department reviews rule familiarization costs, unquantifiable costs, transfers from H-2A workers to U.S. employers, and partially-quantified benefits arising from the IFR.

Costs

This section summarizes the costs associated with the IFR.

Quantifiable Costs

Rule Familiarization

Upon implementation of the IFR, H-2A employers will be required to review

and understand the new regulatory framework. This requirement will incur a one-time cost in the first year of enforcement. To project the first-year costs of rule familiarization, the Department applied the growth rate of H-2A applications (6.7%) to the average annual unique H-2A applicants from 2015 to 2024 (8,530), resulting in an estimate of 9,102 unique H-2A applicants. This figure was multiplied by the estimated time required for rule review (1 hour)¹⁹³ and then multiplied by the hourly compensation rate of Human Resources Specialists (\$60.95 per hour). This calculation yields a one-time undiscounted cost of \$554,689 in

¹⁹⁰ BLS, Occupational Employment and Wage Statistics, SOC Code 13-1071, May 2024, Occupational Employment and Wage Statistics (last visited August 21, 2025).

¹⁹¹ BLS, "National Compensation Survey, Employer Costs for Employee Compensation," <https://www.bls.gov/ecec/data.htm> (last visited

August 21, 2025). For private sector workers, wages averaged \$31.10 per hour worked in 2024, while benefit costs averaged \$13.10, which is a benefits rate of 42 percent.

¹⁹² Cody Rice, U.S. Environmental Protection Agency, "Wage Rates for Economic Analyses of the Toxics Release Inventory Program," June 10, 2002,

EXHIBIT 3—HISTORICAL H-2A PROGRAM DATA

Fiscal year	Applications certified	Workers certified
2015	9,516	162,156
2016	10,705	194,595
2017	11,628	232,230
2018	13,180	262,791
2019	14,040	271,686
2020	13,580	283,845
2021	15,606	315,695
2022	17,432	355,894
2023	20,061	366,995
2024	21,633	370,836

Hourly Compensation Rates

The Department used the hourly compensation rate presented in Exhibit 4 to estimate rule familiarization costs (see Subject-by-Subject Analysis). BLS's OEWS data show that the mean hourly wage of Human Resources Specialists is \$38.33.¹⁹⁰ The Department applied a 42-percent benefits rate¹⁹¹ and a 17-percent overhead rate,¹⁹² resulting in a fully loaded hourly wage of \$60.94 [= \$38.33 + (\$38.33 × 42%) + (\$38.33 × 17%)].

the first year of the rule's enactment. The annualized cost over the ten-year span is projected at approximately \$65,026 (3% discount rate) and \$78,975 (7% discount rate).

Unquantifiable Costs

Payroll and Other Transition Costs

The implementation of the IFR will result in new AEWR wage rates for certain Standard Occupational Classification (SOC) codes and geographic combinations, diverging from the baseline. H-2A employers will need to revise payroll systems to incorporate these new AEWR wage rates. The Department does not quantify

<https://www.regulations.gov/document/EPA-HQ-OPPT-2014-0650-0005> (last visited May 8, 2025).

¹⁹³ This estimate reflects the nature of the final rule. As a rulemaking to amend parts of an existing regulation, rather than to create a new rule, the 1-hour estimate assumes a high number of readers familiar with the existing regulation.

this cost, anticipating it to be de minimis, as employers must already update payrolls in response to the annual release of AEW wage rates. Consequently, employers are adequately equipped to make these updates swiftly and at minimal cost when AEW wage rates change.

Furthermore, the IFR may incur additional transition costs for certain employers in terms of recruitment and training if they choose to hire U.S. workers for positions traditionally filled by H-2A workers.

Transfers Associated With the AEW Housing Adjustment

This section outlines the transfers resulting from IFR revisions to the AEW wage structure. Transfers are defined as reallocation of payments between groups without changing total societal resources. (or, if resources do change, it is through incentive effects captured through more extensive analysis). Specifically, this analysis identifies wage transfers from H-2A workers to U.S. employers, resulting from the changes outlined in this IFR.

As articulated in Section 218(a)(1) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. 1188(a)(1), the admissibility of an H-2A worker is contingent upon the Secretary of Labor’s determination that “there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.” In compliance with this statutory requirement, the Department, per 20 CFR 655.120(a) and 655.122(l), mandates that employers offer and pay a wage that is the highest among the AEW, the prevailing wage, the agreed-upon collective bargaining wage, the Federal minimum wage, or the State minimum wage. The IFR maintains this broad wage-setting framework but introduces modifications to the methodology employed in establishing AEWs.

Another source of transfers arises from the Department’s implementation of a downward adjustment to the hourly AEW to account for the disparity in compensation between U.S. workers and H-2A workers, the latter of whom receive non-wage compensation in the form of employer-provided lodging.

To address this disparity, the Department established a standardized AEW adjustment factor reflecting the value of employer-provided housing. The calculation for the housing adjustment is derived from annual fair market rents data published by the U.S. Department of Housing and Urban Development (HUD).¹⁹⁴ Since HUD releases this data by county, the Department utilizes county population weights to derive statewide average Fair Market Rents (50th Percentile Rents). Exhibit 5 demonstrates the Department’s methodology using 2014 housing figures as an example. The Department’s approach assumes an occupancy of 8 individuals in a four-bedroom accommodation and 172 hours worked per worker on average per month.

EXHIBIT 5—HOUSING ADJUSTMENT EXAMPLE
[\$2025]

Year	Fair market rent (4-bedroom unit) (\$)	Number of occupants	Monthly hours worked	Hourly housing adjustment (\$)
	(a)	(b)	(c)	d = a/(b*c)
2014	\$1,390	8	172	\$1.07

Utilizing the aforementioned formula, the estimated hourly employer compensation from the housing premiums for the fiscal years 2014 through 2024 are presented in Exhibit 6.

EXHIBIT 6—ANNUAL HOUSING PREMIUM BY YEAR
[FYs 2014–2024 \$2025]

Year	Hourly housing (\$)	Baseline annual national AEWs (\$) ¹⁹⁵
2014	1.07	10.54
2015	1.12	10.83
2016	1.17	11.32
2017	1.24	11.73
2018	1.29	11.99
2019	1.35	12.58
2020	1.43	13.25
2021	1.48	13.79

¹⁹⁴ <https://www.huduser.gov/portal/datasets/fmr.html>.

¹⁹⁵ The Department calculated Average Annual AEWs using annual reported state AEWs reported in the **Federal Register** and weighing the state-level figures based on the number of certified

EXHIBIT 6—ANNUAL HOUSING PREMIUM BY YEAR—Continued
[FYs 2014–2024 \$2025]

Year	Hourly housing (\$)	Baseline annual national AEWs (\$) ¹⁹⁵
2022	1.54	14.63
2023	1.70	15.81
2024	1.89	16.66

To project total housing premiums, the Department multiplied the hourly housing cost by the total number of certified H-2A workers, calculated over 40 hours per week for 26 weeks.¹⁹⁶ The preliminary estimate for the total housing premium in 2024 is approximately \$729 million. To project future housing transfers, the Department

H-2A workers in each state to create a national estimate. For example, see. **Federal Register**, *Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2014 Adverse Effect Wage Rates*.

applied an ARIMA model, utilizing data from the H-2A program spanning FY 2014 to 2024.¹⁹⁷ The forecast incorporates geometric growth rates derived from certified H-2A workers and applications. Each model specification is fitted to historical data to generate out-of-sample forecasts for the subsequent decade. The compound annual growth rate (CAGR) for each model is computed between the first forecast year (2025) and the last (2034), and the average CAGR across all models is taken to smooth out model-specific discrepancies, providing a singular and robust estimate of anticipated long-term growth. The average growth rate is then applied to the most recent observed value (2024) using the formula:

¹⁹⁶ 40 represents the average number of hours worked per week and 26 the average duration of work (in weeks) of an H-2A worker.

¹⁹⁷ To forecast future housing costs, we estimate a set of ARIMA models with alternative lag structures: (0,2,0), (0,2,1), (0,2,2), (1,2,1), (1,2,2), (2,2,2).

$$Future\ Value_t = Base\ Value_{2024} \times (1 + \bar{r})^{t-2024}$$

Where $\bar{r}$ signifies the average CAGR. This methodology results in a consistent

projection path for 2025–2034 that reflects the central tendency of the ARIMA forecasts while maintaining smooth year-to-year progressions. The

results indicate an average CAGR of 6.56 percent for housing and 3.34 percent for workers.

EXHIBIT 7—ESTIMATED ANNUAL HOUSING TRANSFERS BY YEAR
[FYs 2025–2034 \$2025]

Year	Estimated hourly housing (\$)	Estimated H–2A workers certified	Estimated housing transfers (\$)
2025	2.00	383,210	798,987,601
2026	2.13	395,996	877,978,389
2027	2.27	409,209	964,778,490
2028	2.41	422,863	1,060,159,962
2029	2.56	436,973	1,164,971,190
2030	2.73	451,554	1,280,144,432
2031	2.90	466,620	1,406,704,115
2032	3.08	482,190	1,545,775,944
2033	3.28	498,279	1,698,596,914
2034	3.49	514,905	1,866,526,315

The Department employed multiple ARIMA models across the dataset, assessed fit using standard metrics, and found consistent results across specifications. The total estimated housing transfer over a ten-year period is approximately \$12.66 billion (undiscounted), with discounted values at \$10.88 billion (3%) and \$9.03 billion (7%). The annualized transfer over this period totals approximately \$1.28 billion (3%) and \$1.29 billion (7%).

Transfers Associated With AEWR Determination Methodology

The second category of transfers arises from modifications to the AEWR methodology to account for qualifications specified in employers' job offers. The existing baseline aligns with the 2023 AEWR Final Rule, which uses the average hourly gross wage for

field and livestock workers (combined) as determined by the U.S. Department of Agriculture's (USDA) Farm Labor Survey (FLS). The Department believes that this revised approach provides a more consistent, market-based assessment of wages paid to similarly employed U.S. workers. Under this policy, the Department will establish AEWRs for H–2A positions using the state or territorial average hourly wage, separated into two qualification levels: Skill Level I (Entry-Level) and Skill Level II (Experience-Level).

This dual-skill level policy seeks to approximate average wages paid to U.S. workers engaged in similar occupations within the relevant geographic area based on the qualifications specified in the employers' job offers for which H–2A workers are sought for temporary

agricultural labor certification. Skill Level I AEWR corresponds with entry-level positions where workers are expected to have no formal education or specialized training. Conversely, Skill Level II AEWR corresponds with offers requiring qualifications reflective of experienced or trained employees.

To estimate total wage transfers, the Department used OEWS state wage data. The analysis first estimated the mean of the lower third of the wage distribution, which may approximately equal the 17th percentile. Since the Bureau of Labor Statics does not publish the 17th percentile data directly, an approximation is calculated using a linear interpolation between the 10th and 25th percentile. Therefore, the full wage for the entry level is calculated as follow:

$$Wage_{Entry} = AEWR - \left[H_{10} + \frac{17 - 10}{25 - 10} * (H_{25} - H_{10}) \right]$$

Where H_{10} and H_{25} are equal to the 10th and 25th percentile.

The experienced-worker wage is determined as the difference between the baseline AEWR and the mean wage:

$$Wage_{Experience} = AEWR - H_{MEAN}$$

The overall total wage is a weighted average of these entry-level and experienced wages, with 92% weight on the entry-level wage and 8% on the experienced-worker wage:

$$Total\ Wage = 0.92 \times Wage_{ENTRY} + 0.08 \times Wage_{Experience}$$

We chose 92% given the fact that roughly 92% of all H–2A Visas were paid the AEWR.

We then assume the other 8% would be paid the higher wage level.

EXHIBIT 8—WAGE TRANSFER ESTIMATES
[\$2025]

Year	Total H–2A workers certified	Hourly wage entry (\$)	Hourly wage experience (\$)	Hourly wage total (\$)	Total wage transfers (\$)
2014	137,601	1.96	– 0.73	1.74	249,400,656
2015	162,156	2.02	– 0.69	1.80	304,092,787
2016	194,595	2.15	– 0.52	1.94	392,496,418

EXHIBIT 8—WAGE TRANSFER ESTIMATES—Continued
[2025]

Year	Total H-2A workers cer- tified	Hourly wage entry (\$)	Hourly wage experience (\$)	Hourly wage total (\$)	Total wage transfers (\$)
2017	232,230	2.20	− 0.56	1.98	477,327,411
2018	262,791	2.18	− 0.81	1.94	530,625,900
2019	271,686	2.49	− 0.68	2.23	631,308,989
2020	283,845	2.55	− 0.52	2.30	679,910,519
2021	315,695	2.30	− 0.66	2.06	676,814,801
2022	355,894	1.82	− 1.24	1.58	583,474,128
2023	366,995	2.02	− 1.02	1.77	677,384,528
2024	370,836	2.13	− 0.89	1.89	727,237,161

Wage transfers for 2024 are approximately \$727 million. Forecasting for subsequent years, the Department

applied the same methodology to project H_{17} , H_{MEAN} and $AEWR$ with

respective CAGRs of 4.1, 3.9, and 4.15 percent, respectively.

EXHIBIT 9—PROJECTED WAGE TRANSFER ESTIMATES
[2025]

Year	Estimated H-2A workers certified	Estimated wage entry (\$)	Estimated wage experience (\$)	Estimated wage total (\$)	Estimated total wage transfers (\$)
2025	383,210	2.21	− 0.90	1.96	783,018,058
2026	395,996	2.32	− 0.90	2.06	847,914,598
2027	409,209	2.42	− 0.89	2.16	918,150,315
2028	422,863	2.53	− 0.89	2.26	994,161,745
2029	436,973	2.65	− 0.88	2.37	1,076,420,926
2030	451,554	2.77	− 0.87	2.48	1,165,438,271
2031	466,620	2.90	− 0.85	2.60	1,261,765,674
2032	482,190	3.03	− 0.84	2.72	1,365,999,865
2033	498,279	3.17	− 0.82	2.85	1,478,786,038
2034	514,905	3.32	− 0.80	2.99	1,600,821,767

The total estimated skill-level wage transfer over the ten-year period is projected at approximately \$11.5 billion

(undiscounted), with discounted values of \$939 billion (3%) and \$8.26 billion

(7%). Annualized transfers are \$1.16 billion (3%) and \$1.176 billion (7%).

EXHIBIT 10—TOTAL TRANSFERS
[2025]

Year	Estimated total housing transfers (\$)	Estimated total wage transfers (\$)	Estimated total transfers (\$)
2025	798,987,601	783,018,058	1,582,005,658
2026	877,978,389	847,914,598	1,725,892,987
2027	964,778,490	918,150,315	1,882,928,805
2028	1,060,159,962	994,161,745	2,054,321,707
2029	1,164,971,190	1,076,420,926	2,241,392,116
2030	1,280,144,432	1,165,438,271	2,445,582,703
2031	1,406,704,115	1,261,765,674	2,668,469,789
2032	1,545,775,944	1,365,999,865	2,911,775,809
2033	1,698,596,914	1,478,786,038	3,177,382,952
2034	1,866,526,315	1,600,821,767	3,467,348,082

Results indicate average annual undiscounted transfers of \$2.42 billion. Over 10 years, transfers total \$24.16 billion undiscounted, or \$20.78 billion (3%) and \$17.3 billion (7%). Annualized totals are \$2.43 billion (3%) and \$2.46 billion (7%).

The decrease (or increase) in the AEWRs also represents a wage transfer from corresponding workers, not only H-2A workers. However, the Department lacks sufficient information about the number of corresponding workers or their wage structures to

measure these impacts.¹⁹⁸ Recruitment

¹⁹⁸ The Department considers corresponding workers to be U.S. workers employed by an H-2A employer in any work included in the ETA-approved job order or in any agricultural work performed by the H-2A workers during the period of the job order. U.S. workers may include individuals who are either born in the United States, or individuals who are naturalized U.S.

reports submitted for certification cover only the initial recruitment period (through 50% of the contract period) and do not capture all potentially affected workers already employed.

Because available data are limited, the Department cannot reasonably quantify transfer impacts to corresponding workers. Likewise, it cannot estimate how much of the transfer remains within the U.S. economy, although it is likely that a substantial share does, as employers reinvest in land, equipment, crop diversification, and local supply chain activities.

The Department invites comments on data sources or methods to better estimate corresponding worker impacts

and transfer effects under the revised AEWR methodology.

Quantitative Benefits Analysis

The Department further expects the IFR to generate substantial economic benefits that exceed familiarization costs. To quantify these benefits, the Department must adopt several key assumptions. First, the Department assumes that lowering the AEWR increases H-2A employment—growers employ more H-2A workers when the cost of doing so falls because the demand for H-2A labor can be assumed to be downwardly sloped.¹⁹⁹ Given the large wage differential between U.S. farm jobs and typical wages in workers' home countries, the supply of foreign

labor can reasonably be modeled as perfectly elastic at the competitive wage. In this framework, lowering the AEWR does not reduce labor supply, but instead allows employers to hire more workers.²⁰⁰ Second, we assume that farms can expand output along a linear demand curve (see diagram below); diminishing marginal returns on a fixed farm reflect the sector's capacity to expand production when affordable labor is available. Under these assumptions lower wages would translate into new employment opportunities for H-2A workers. The associated increase in output can be estimated by applying an empirical estimate of demand elasticity.



We have assumed perfect elasticity of labor supply and a long-run labor demand elasticity of -0.8 , and seek comment on whether this figure is realistic. lowering the AEWR from \$17.35 to \$13.38 would raise projected employment from about 383,000 to 502,000 workers, an increase of roughly 119,000 workers. To get the total number of increased workers following

formula is used (where $AEWR_{avg}$ is the average of $AEWR_{new}$ and $AEWR_{old}$):

$$\text{Increased workers} = 1 - 0.8 \cdot (\text{Projected workers}) \cdot (AEWR_{new} - AEWR_{old}) / AEWR_{avg}$$

Given the new AEWR change of \$3.97/hour ($= \$17.35/\text{hour} - \$13.38/\text{hour}$), the net deadweight loss reduction per worker-hour would be approximately \$1.99.²⁰¹ Multiplying by

the additional 123 million hours yields an estimated annual benefit of \$246 million.

The same effect could, alternatively, be quantified with a more itemized approach, estimating revenue changes and then subtracting off various categories of opportunity cost associated with the production process that ultimately yields the sales revenue.

citizens. Authorized workers in the H-2A program refers to either a U.S. citizen/national, a lawful permanent resident, or a foreign national who is not an "unauthorized alien" and holds a valid H-2A visa classification. Unauthorized workers are individuals who are not legally permitted to work in the United States under the H-2A program.

¹⁹⁹ See, Zachariah Rutledge, et. al, Adverse Effect Wage Rates and U.S. Farm Wages, *Amer. J. of Agr. Econ.* June 9, 2025, available at: <https://online.library.wiley.com/doi/10.1111/ajae.12557>.

²⁰⁰ See Paik, Song YI. 2021. *The impacts of agricultural minimum wage on U.S. agricultural employment.*

²⁰¹ This estimate reflects a linear demand curve, as diagrammed above, and would have a tendency toward overstatement of deadweight loss if the underlying demand curve is instead non-linear.

Under a standard 40-hour workweek and a 26-week employment schedule, an increase of 119,000 H–2A workers corresponds to an additional 123 million hours of farm labor. According to MacDonald et al. (2018),²⁰² specialty crop farms in 2015 required 14.4 hours of labor to generate \$1,000 in sales, implying an average revenue of about \$69 per labor hour. An additional 123 million hours of farm labor each year could therefore produce \$8.54 billion in additional farm revenue. This revenue estimate may have a tendency toward understatement, as cash grain farms are approximately 288% more productive per hour than specialty crop farms.²⁰³ Itemized estimates of associated production-process costs are not available for this alternative quantification’s necessary next step of subtraction.

Extended (Qualitative) Discussion of Benefits

The Department also anticipates several significant benefits, that are incompletely quantified due to the use, above, of a *long-run* labor demand elasticity. The first is the avoidance of irreversible crop losses. By potentially lessening near-term wage spikes that can render hiring prohibitively expensive, farms are better positioned to maintain adequate staffing levels during crucial planting, growing, and harvesting periods. This reduces the risk of irreversible crop destruction and protects food security.

The rule also plays a vital role in the preservation of farm viability. By mitigating unsustainable short-term wage increases, the rule can help prevent farm closures, bankruptcies, and asset liquidations—particularly for small and mid-sized operations that often lack substantial financial reserves.

Maintaining farm stability preserves agricultural diversity. Furthermore, the adjustment contributes to the stabilization of food supply chains. Ensuring that agricultural production remains uninterrupted supports not only farmers but also downstream industries, including food processing, transportation, and retail. This continuity is essential for minimizing the likelihood of shortages, price volatility, and disruptions throughout the supply chain, which can affect consumers and businesses alike.

The IFR also offers significant support for rural economies. By preventing sudden contractions in farm payrolls, the rule helps sustain local spending, tax revenues, and business activity, vital to rural communities.

Lastly, the IFR facilitates an orderly workforce transition. By moderating wage adjustment, the rule provides time for farms to recruit, relocate, and train authorized domestic workers without destabilizing production. This aligns with the long-term goal of fostering a fully authorized agricultural workforce, effectively shifting reliance away from illegal labor practices and enhancing the stability and legality of the agricultural labor market.

The Department believes that the anticipated benefits of the IFR exceed its costs.

c. Regulatory Alternatives

The Department considered two regulatory alternatives. The first alternative would apply the Skill Level I (Entry-Level) AEWR rate to all positions, rather than using the two-skill AEWR methodology in the IFR. In this alternative, the transfer estimates applied to the majority of H–2A workers in are also applicable to the remaining

H–2A workers that would be considered experienced workers under the Department’s preferred methodology. To calculate the total impact of the first regulatory alternative, the Department used the same methodology described in the Transfers Associated with AEWR Determination Methodology section, resulting in estimated average annual undiscounted transfers of \$2.55 billion. The total transfer over the 10-year period was estimated at \$25.50 billion (undiscounted), or \$21.95 billion (3%) and \$18.27 billion (7%). Annualized transfer over ten years are \$2.57 billion (3%) and \$2.60 billion (3%).

Under the second regulatory alternative, the Department would replace the 4-bedroom fair market rent with the 0-bedroom (*i.e.*, efficiency) fair market rent for 2 people. For 2024, this change would increase the housing premium to \$3.54, which is approximately \$613 per month—closer to *Farmers.gov* housing cost estimates²⁰⁴ of approximately \$9,000 to \$13,000 per worker per year. Under the IFR methodology, the Department estimated a housing premium of \$1.75, which is equal to a rent of approximately \$70 per week and \$300 per month. The Department estimated average annual undiscounted transfers of \$3.88 billion. The total transfer over the 10-year period was estimated at \$ 38.82 billion undiscounted, or \$33.31 billion (3%) and \$27.64 billion (7%). Annualized transfer over ten years are \$3.91 billion (3%) and \$3.94 billion (3%).

Exhibit 11 summarizes the estimated transfers associated with the three considered revised wage structures over the 10-year analysis period. Transfers under the IFR and both regulatory alternatives are transfers from H–2A employees to H–2A employers.

EXHIBIT 11—ESTIMATED MONETIZED TRANSFERS OF THE INTERIM FINAL RULE
[\$2025 Millions]

	Interim final rule (transfers from employees to employers)	Regulatory alternative 1 (transfers from employees to em- ployers)	Regulatory alternative 2 (transfers from employees to employers)
Total 10-Year Transfer	\$24,157.10	\$25,503.49	\$38,817.90
Total with 3% Discount	20,781.53	21,946.32	33,314.66
Total with 7% Discount	17,296.86	18,273.50	27,642.21
Annualized Undiscounted Transfer	2,415.71	2,550.35	3,881.79
Annualized Transfer with 3% Discount	2,436.23	2,575.78	3,905.49
Annualized Transfer with 7% Discount	2,462.68	2,601.74	3,935.63

²⁰² MacDonald, J.M., Hoppe, R.A., & Newton, D. (2018). Three decades of consolidation in U.S.

agriculture. *Economic Information Bulletin*. <https://doi.org/10.22004/ag.econ.276247>.
²⁰³ *Id.*

²⁰⁴ <https://www.farmers.gov/working-with-us/h2a-visa-program>.

The Department prefers the chosen approach of the IFR because it better accounts for the wages of workers in higher skilled positions and is more representative of lodging conditions for H-2A workers.

B. Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996, and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)
Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, as amended by Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121 (Mar. 29, 1996), hereafter jointly referred to as the RFA, requires agencies to prepare an initial regulatory flexibility analysis (IRFA) when proposing, and a final regulatory flexibility analysis (FRFA) when issuing, regulations that will have a significant economic impact on a substantial number of small entities.

Because public notice was not required for this IFR, the Department was not obligated to prepare a regulatory flexibility analysis.²⁰⁵ Nonetheless, The Department conducted the analysis below of the effect on small entities from the IFR and, based on that analysis, concludes that this rule will have a significant economic impact on small farms that employ H-2A workers.

Initial Regulatory Flexibility Analysis (IRFA)

1. Why action is being considered

As described throughout the preamble for this IFR, in the Department's view, immediate reform to the H-2A program's minimum wage policy, or the AEWRs, is necessary to avoid widespread disruption across the U.S. agricultural sector. Without prompt action, agricultural employers will face severe labor shortages, resulting in disruption to food production, higher prices, and reduced access for U.S. consumers. Further, the Department initially finds that qualified and eligible U.S. workers will not make themselves available in sufficient numbers, even at current wage levels, to fill the significant labor shortage in the agricultural sector that will result from the sealing of the border and potential further enforcement of immigration laws. The reforms contained in this IFR

of the H-2A program's wage policy are urgently needed to restore the usability of the H-2A program and to provide a practical, lawful workforce alternative to illegal aliens being removed. These changes ensure that agricultural employers offer wages to legally authorized workers that are consistent with wages paid in comparable farm and non-farm jobs, while maintaining compliance with immigration law and supporting the stability of the nation's food supply.

2. Objective of the IFR

The primary objectives of the IFR are to restore the usability of the H-2A program, ensure a stable food supply for the United States, and (relevant to the RFA) avert irreparable economic harm to agricultural employers as large numbers of illegal aliens exit the labor force.

(3) Class of Small Entities

A small entity is one that is independently owned and operated and that is not dominant in its field of operation. 5 U.S.C. 601(3); 15 U.S.C. 632. The definition of small entity varies from industry to industry to properly reflect industry size differences. 13 CFR 121.201. An agency must either use the SBA definition for a small entity or establish an alternative definition for the industry.

Using the U.S. Department of Agriculture (USDA) farm size definitions and data, the Department has conducted a small entity impact analysis. This analysis is focused on farms because over three quarters of affected entities are primarily engaged in growing crops and raising animals for sale. The Department lacks data on individual entities that participate in the H-2A program. Therefore, the Department is using USDA data as a proxy for H-2A participants. USDA data includes the number of farms that hire farm workers, number of hired farm workers, and annual revenue disaggregated farm size. Using this data allows the Department to estimate the per-small farm rule familiarization cost and the cost savings of the IFR as a percent of revenue. The Department notes that all hired farm workers are not H-2A workers and that only a small share of U.S. farms utilize the H-2A program.

(4) Impact on Small Entities

a. Familiarization With Regulatory Change

Upon effective implementation of the IFR, H-2A employers will be required to become acquainted with the new regulatory framework. The Department

estimated this cost for a hypothetical small entity by multiplying the time required to read the new rule (1 hour) by the average hourly compensation rate of a human resources specialist (\$60.95, as calculated above). Thus, the resulting cost per small entity is \$60.95 (\$60.95 × 1 hour). This cost occurs only in the year the IFR is published.

b. Cost Savings

As explained in the E.O. 12866 section above, the Department identified wage transfers from H-2A workers to U.S. employers that will result from the following provisions in the IFR:

- Wage transfers that account for the compensation disparity U.S. workers face when H-2A workers are paid for work performed under the same work contract but, unlike U.S. workers, receive additional non-wage compensation in the form of free housing.

- Wage transfers associated with modifications to the AEWR determination methodology that account for different skill levels delineated in employers' job offers.

The Department estimated that the above provisions will result in annualized transfers of \$2.46 billion discounted at 7 percent over 10 years. The Department also estimated that there will be an annual average of 446,180 certified H-2A workers over the next 10 years. This translates into a wage transfer from the average H-2A worker to U.S. employers of \$5,513 per year.

Method Used To Estimate the Impact on Small Entities

The Department used the following steps to estimate the cost of the IFR per small entity as a percentage of annual receipts. First, the Department used the USDA size definitions to determine the size thresholds of small entities. The USDA defines a "small family farm" as a farm having a gross cash farm income (GCFI) of less than \$350,000 per year. Next, the Department obtained data on the number of farms and annual revenue by size from the USDA's 2022 Census of Agriculture.²⁰⁶ Then, the Department divided the estimated first-year cost per entity (\$60.95) by the average annual receipts per small farm (\$47,062) to determine whether the IFR rule familiarization cost would have a significant economic impact on small entities.²⁰⁷

²⁰⁶ U.S. Department of Agriculture, "2022 Census of Agriculture."

²⁰⁷ For purposes of this analysis, the Department used a 3-percent threshold for "significant economic impact." The Department has used a 3-percent threshold in prior rulemakings.

²⁰⁵ See, e.g., *Oregon Trollers Ass'n v. Gutierrez*, 452 F.3d 1104, 1124 (9th Cir. 2006) ("When the agency validly invokes the 'good cause' exception, the RFA does not apply.").

To estimate the cost savings per small farm, the Department first determined the average number of hired farm workers per small farm (2.5) by dividing the number of hired farm workers on small farms (669,690) by the number of small farms that hire farm labor (268,931). The Department then estimated the average number of hired H-2A workers per small farm (0.41) by multiplying the average number of hired farm workers per small farm (2.5) by the percent of the farm workforce that are H-2A workers (16.3%).²⁰⁸ The Department then multiplied the average

number of hired H-2A workers per small farm (0.41) by the annualized discounted cost savings per H-2A worker (\$5,513) to estimate the savings per small farm (\$2,238). Then, the Department divided the estimated cost savings per small farm by the average receipts per small farm to determine whether the IFR will have a significant economic impact on small farms. Estimated Impact of the IFR on Small Entities

As shown in Exhibit 12, the first-year cost for rule familiarization is not expected to have a significant economic

impact (3 percent or more) on small farms. The first-year cost for rule familiarization is estimated to be 0.1 percent of the average receipts per small farm. As also shown in Exhibit 12, the annualized cost savings are estimated to have a significant economic impact on small farms that employ H-2A workers. The annualized cost savings are estimated to be 4.8 percent of the average receipts per small farm. The Department therefore estimates the total annualized transfers for small farms that hire farm labor to be \$601.8 million or 24.5% of total transfers.

Exhibit 12: Crop and Animal Production									
Small Business Size Standard: GCFI less than \$350,000									
	Number of Farms ¹	Annual Receipts ²	Average Receipts per Farm ³	Average Number of H-2A Farm Workers per Farm ^{4, 5}	Annualized Transfer per H-2A Worker ⁶	First Year Cost per Farm	First Year Cost per Farm as Percent of Receipts ⁷	Annualized Savings per Small Farm with 7% Discounting ⁸	Annualized Savings per Small Farm as Percent of Receipts ⁹
Enterprises with GCFI below \$350,000	1,614,764	\$75,993,303,000	\$47,062	0.41	\$5,513	\$61	0.1%	\$2,238	4.8%
¹ Source: U.S. Department of Agriculture, Census of Agriculture.									
² Source: U.S. Department of Agriculture, Census of Agriculture. Receipts are defined by gross cash farm income (GCFI).									
³ Annual receipts ÷ Number of farms									
⁴ Number of hired farm workers on small farms (669,690) ÷ Number of small farms that hire farm labor (268,931) x Percent of the farm workforce that are H-2A workers (16.3%)									
⁵ Source: U.S. Department of Agriculture, Census of Agriculture.									
⁶ Total annualized savings with 7% discounting (\$2,460,000,000) ÷ Average number of H-2A workers (446,180)									
⁷ First year cost per firm with 7% discounting ÷ Average receipts per small farm									
⁸ Average number of H-2A farm workers per small farm (0.41) x Annualized transfer per H-2A worker (\$5,513)									
⁹ Annualized savings per small farm with 7% discounting ÷ Average receipts per small farm									

(5) Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Proposed Rule

The Immigration and Nationality Act requires a prospective employer seeking to employ foreign nationals in agricultural employment of a temporary or seasonal nature to first apply to the Department for a labor certification. When creating the H-2A visa classification, Congress charged the Department with, among other things, a unique responsibility to regulate the employment of nonimmigrant foreign nationals in agriculture to guard against adverse impact on the wages of agricultural workers in the United States similarly employed. Thus, the statute delegates broad discretion to the Department in determining the sources and methods that best allows it to meet

its statutory mandate, which this IFR adopts through the determination of AEWRs applicable only to employers seeking temporary agricultural labor certification under the H-2A visa classification. As such, the standards adopted in this IFR do not duplicate, overlap, or conflict with any other Federal rules.

(6) Alternatives to the Proposed Rule

As explained in the RIA, the Department considered two regulatory alternatives. The first alternative would apply the Skill Level I (Entry-Level) AEWR rate to all positions, rather than using the two-skill AEWR methodology in the IFR. The Department estimated that this alternative would result in annualized transfers of \$2.60 billion discounted at 7 percent over 10 years.

Given the projected annual average number of certified H-2A workers over the next 10 years (446,180), the Department estimated a wage transfer from the average H-2A worker to U.S. employers of \$5,831 per year. The Department then multiplied the average number of hired H-2A workers per small farm (0.41) by the annualized discounted cost savings per H-2A worker (\$5,831) to estimate the cost savings per small farm from this alternative (\$2,367). As shown in Exhibit 13, the annualized cost savings of this alternative are estimated to have a significant economic impact on small farms that employ H-2A workers. The annualized cost savings of this alternative are estimated to be 5.0 percent of the average receipts per small farm.

²⁰⁸ The percent of the farm workforce that are H-2A workers (16.3%) was derived by dividing the number of H-2A workers in 2022 (355,894) by the number of hired farm workers in 2022 (2,184,493).

Exhibit 13: Crop and Animal Production							
Small Business Size Standard: GCFI less than \$350,000							
	Number of Farms ¹	Annual Receipts ²	Average Receipts per Farm ³	Average Number of Hired Farm Workers per Farm ^{4, 5}	Annualized Transfer per H-2A Worker ⁶	Annualized Savings per Small Farm with 7% Discounting ⁷	Annualized Savings per Small Farm as Percent of Receipts ⁸
Enterprises with GCFI below \$350,000	1,614,764	\$75,993,303,000	\$47,062	0.41	\$5,831	\$2,367	5.0%
¹ Source: U.S. Department of Agriculture, Census of Agriculture.							
² Source: U.S. Department of Agriculture, Census of Agriculture. Receipts are defined by gross cash farm income (GCFI).							
³ Annual receipts ÷ Number of firms							
⁴ Number of hired farm workers on small farms (669,690) ÷ Number of small farms that hire farm labor (268,931) x Percent of the farm workforce that are H-2A workers (16.3%)							
⁵ Source: U.S. Department of Agriculture, Census of Agriculture.							
⁶ Total annualized savings with 7% discounting (\$2,601,700,000) ÷ Average number of H-2A workers (446,180)							
⁷ Average number of H-2A farm workers per small farm (0.41) x Annualized transfer per H-2A worker (\$5,831)							
⁸ Annualized savings per small farm with 7% discounting ÷ Average receipts per small farm							

Under the second regulatory alternative, the Department would replace the 4-bedroom fair market rent with the 0-bedroom (*i.e.*, efficiency) fair market rent for 2 people. The Department estimated that this alternative would result in annualized transfers of \$3.94 billion discounted at 7 percent over 10 years. Given the projected annual average number of

certified H-2A workers over the next 10 years (446,180), the Department estimated a wage transfer from the average H-2A worker to U.S. employers of \$8,821 per year. The Department then multiplied the average number of hired H-2A workers per small farm (0.41) by the annualized discounted cost savings per H-2A worker (\$8,821) to estimate the cost savings per small farm from this

alternative (\$3,580). As shown in Exhibit 14, the annualized cost savings of this alternative are estimated to have a significant economic impact on small farms that employ H-2A workers. The annualized cost savings of this alternative are estimated to be 7.6 percent of the average receipts per small farm.

Exhibit 14: Crop and Animal Production							
Small Business Size Standard: GCFI less than \$350,000							
	Number of Farms ¹	Annual Receipts ²	Average Receipts per Farm ³	Average Number of Hired Farm Workers per Farm ^{4, 5}	Annualized Transfer per H-2A Worker ⁶	Annualized Savings per Small Farm with 7% Discounting ⁷	Annualized Savings per Small Farm as Percent of Receipts ⁸
Enterprises with GCFI below \$350,000	1,614,764	\$75,993,303,000	\$47,062	0.41	\$8,821	\$3,580	7.6%
¹ Source: U.S. Department of Agriculture, Census of Agriculture.							
² Source: U.S. Department of Agriculture, Census of Agriculture. Receipts are defined by gross cash farm income (GCFI).							
³ Annual receipts ÷ Number of firms							
⁴ Number of hired farm workers on small farms (669,690) ÷ Number of small farms that hire farm labor (268,931) x Percent of the farm workforce that are H-2A workers (16.3%)							
⁵ Source: U.S. Department of Agriculture, Census of Agriculture.							
⁶ Total annualized savings with 7% discounting (\$3,935,630,000) ÷ Average number of H-2A workers (446,180)							
⁷ Average number of H-2A farm workers per small farm (0.41) x Annualized transfer per H-2A worker (\$8,821)							
⁸ Annualized savings per small farm with 7% discounting ÷ Average receipts per small farm							

The Department prefers the chosen approach of the IFR because it better accounts for the wages of workers in higher skilled positions and is more representative of lodging conditions for H-2A workers.

C. Review Under the Paperwork Reduction Act

The purpose of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, includes minimizing the paperwork burden on affected entities. The PRA requires certain actions before

an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of

information in accordance with the PRA. See 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information

unless it is approved by the Office of Management and Budget (OMB) under the PRA and it displays a currently valid OMB control number. The public is also not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

The Department has determined that the changes adopted in this IFR will not result in changes to the information collection covered under H-2A Temporary Agricultural Labor Certification Program, OMB Control Number 1205-0466 (OMB 1205-0466), which would not require soliciting public comments in order to seek OMB approval of any clarifying changes and de minimis adjustment in burden the proposed changes might cause to existing information collection tools covered under this control number. The Department intends to collect the information it currently requires in order to process H-2A job orders and applications for agency decision making and will provide a set of frequently asked questions that will be available on the agency website to help respondents better organize information related to job duties and requirements that employers already disclose on existing fields in the forms.

D. Review Under Executive Order 13132

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

The Department has examined this IFR and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

E. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

The Department has reviewed this IFR in accordance with E.O. 13175 and has determined that it does not have tribal implications. This proposed rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and tribal governments.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, codified at 2 U.S.C. 1501 *et seq.*) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. UMRA requires Federal agencies to assess a regulation's

effects on State, local, and tribal governments, as well as on the private sector, except to the extent the regulation incorporates requirements specifically set forth in law. Title II of the UMRA requires each Federal agency to prepare a written statement assessing the effects of any regulation that includes any Federal mandate in a proposed or final agency rule that may result in \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. By its terms, however, UMRA does not apply to rules issued without notice and comment. Accordingly, the requirements of UMRA are not applicable to this IFR.

H. Review Under Executive Order 12630

Pursuant to E.O. 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*, 53 FR 8859 (Mar. 18, 1988), the Department has determined that this IFR would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

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

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

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

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Employment, Employment and training, Enforcement, Foreign workers, Forest and forest products, Fraud, Health professions, Immigration, Labor, Passports and visas, Penalties, Reporting and recordkeeping requirements, Unemployment, Wages, Working conditions.

For the reasons stated in the preamble, the DOL amends 20 CFR part 655 as follows:

**PART 655—TEMPORARY
EMPLOYMENT OF FOREIGN
WORKERS IN THE UNITED STATES**

■ 1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n), and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); and 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C.

1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n), and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

■ 2. Amend § 655.120 by revising paragraph (b) to read as follows:

§ 655.120 Offered wage rate.

* * * * *

(b) *AEWR determinations.* (1) Except for occupations governed by the procedures in §§ 655.200 through 655.235, the OFLC Administrator will determine the AEWRs as follows:

(i) For occupations included in the field and livestock workers (combined) category:

(A) If a statewide annual average hourly gross wage in the State at each skill level, as required by paragraph (b)(2) of this section, is reported by the Occupational Employment and Wage Statistics (OEWS) survey, that wage shall be the AEWR for the State; or

(B) If a statewide annual average hourly gross wage in the State at either skill level is not reported by the OEWS, the AEWR for the occupations shall be the national annual average hourly gross wage at that skill level, as reported by the OEWS survey.

(ii) For all other occupations:

(A) The AEWR for each occupation shall be the statewide annual average hourly gross wage for that occupation in the State at each skill level, as reported by the OEWS survey; or

(B) If a statewide annual average hourly gross wage in the State at either skill level is not reported by the OEWS survey, the AEWR for each occupation shall be the national annual average hourly gross wage for that occupation at that skill level, as reported by the OEWS survey.

(iii) The AEWR methodologies described in paragraphs (b)(1)(i) and (ii) of this section shall apply to all job orders submitted, as set forth in § 655.121, on or after October 2, 2025, including job orders filed concurrently with an *Application for Temporary Employment Certification* to the NPC for emergency situations under § 655.134.

(iv) For purposes of this section, the terms *State* and *statewide* include the 50 States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

(2) The OFLC Administrator shall determine the AEWRs described in paragraphs (b)(1)(i) and (ii) of this section at two skill levels.

(i) Skill level I shall be computed as the arithmetic mean of the first one-third of the wage distribution for the occupation(s); and

(ii) Skill level II shall be computed as the arithmetic mean of the entire wage distribution for the occupation(s).

(3) Notwithstanding 20 CFR 655.122(d), the OFLC Administrator shall establish a downward annual AEWR compensation adjustment for each State computed as an equivalent hourly rate based on the weighted statewide average of fair market rents for a four-bedroom housing unit available from the Department of Housing and Urban Development, provided that such adjustment shall not exceed 30 percent

of the AEWRs determined under paragraphs (b)(1)(i) and (ii) of this section. The statewide annual hourly AEWR based on this compensation adjustment shall be determined separately and only apply to H–2A workers sponsored under the *Application for Temporary Employment Certification*.

(4) The OFLC Administrator will publish a notice in the **Federal Register**, at least once in each calendar year, on a date to be determined by the OFLC Administrator, establishing each AEWR and corresponding housing compensation adjustment under this section. The updated AEWR and corresponding housing compensation adjustment under this section will be effective as of the date of publication of the notice in the **Federal Register**.

(5) If an updated AEWR for the occupational classification and geographic area is published in the **Federal Register** during the work contract, and the updated AEWR is higher than the highest of the previous AEWR; a prevailing wage for the crop activity or agricultural activity and, if applicable, a distinct work task or tasks performed in that activity and geographic area; the agreed-upon collective bargaining wage; the Federal minimum wage; or the State minimum wage, the employer must pay at least the updated AEWR beginning on the date the updated AEWR is published in the **Federal Register**.

(6) If an updated AEWR for the occupational classification and geographic area is published in the **Federal Register** during the work contract, and the updated AEWR is lower than the rate guaranteed on the job order, the employer must continue to pay at least the rate guaranteed on the job order.

(7) The occupational classification and applicable AEWR shall be determined based on the majority (meaning more than 50 percent) of the workdays during the contract period the worker will spend performing the agricultural labor or services, including duties that are closely and directly related, and the qualifications on the job order.

* * * * *

Susan Frazier,

Acting Assistant Secretary for Employment and Training, Labor.

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Part III

The President

Notice of September 30, 2025—Continuation of the National Emergency
With Respect to the Situation in and in Relation to Syria

Presidential Documents

Title 3—

Notice of September 30, 2025

The President

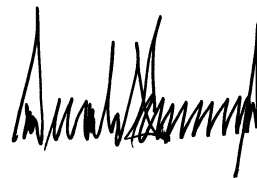
Continuation of the National Emergency With Respect to the Situation in and in Relation to Syria

On October 14, 2019, by Executive Order 13894, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in and in relation to Syria. On January 15, 2025, the President issued Executive Order 14142 in view of changing circumstances on the ground in Syria and in order to take additional steps with respect to the national emergency declared in Executive Order 13894.

On June 30, 2025, I issued Executive Order 14312 to expand the scope of the national emergency declared in Executive Order 13894 and to take additional steps to ensure meaningful accountability for perpetrators of war crimes, human rights violations and abuses, and the proliferation of narcotics trafficking networks in and in relation to Syria during the former regime of Bashar al-Assad and by those associated with it, as perpetrators of such actions threaten to undermine the peace, security, and stability in the region, among other things.

The situation in and in relation to Syria undermines the campaign to defeat the Islamic State of Iraq and Syria, or ISIS, endangers civilians, and further threatens to undermine the peace, security, and stability in the region. Furthermore, additional steps must be taken to ensure meaningful accountability for perpetrators of war crimes, human rights violations and abuses, and the proliferation of narcotics trafficking networks in and in relation to Syria during the former regime of Bashar al-Assad and by those associated with it. Perpetrators of such actions continue to threaten to undermine the peace, security, and stability in the region. This situation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13894 of October 14, 2019, with respect to which additional steps were taken in Executive Order 14142 of January 15, 2025, and which was expanded in scope in Executive Order 14312 of June 30, 2025, must continue in effect beyond October 14, 2025. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13894 with respect to the situation in and in relation to Syria.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

A handwritten signature in black ink, appearing to be a stylized name, possibly "Donald Trump", written in a cursive, slanted style.

THE WHITE HOUSE,
September 30, 2025.

[FR Doc. 2025–19458
Filed 10–1–25; 2:00 pm]
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