AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 90 Monday,

No. 224 November 24, 2025

Pages 52847–53194

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 90 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Printed on recycled paper.

Contents

Federal Register

Vol. 90, No. 224

Monday, November 24, 2025

Agriculture Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52911

Bureau of Consumer Financial Protection
NOTICES
Hearings, Meetings, Proceedings, etc.:
Consumer Advisory Board, 52921

Centers for Medicare & Medicaid Services
RULES
Medicare Program:
End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model, 53068–53142
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52954–52957

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Trafficking Victim Assistance Program Data, 52957–52958

Coast Guard
RULES
Drawbridge Operations:
Bass River, Beverly, MA, 52882–52883
Navigation and Navigable Waters, and Shipping:
Technical, Organizational, and Conforming Amendments, 52867–52882

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Stress Testing Rules for National Banks and Federal Savings Associations, 53059–53060

Defense Department
NOTICES
Request for Information:
2027 Department of Defense State Policy Priorities Impacting Service Members and Their Families, 52921–52925

Defense Nuclear Facilities Safety Board
PROPOSED RULES
Freedom of Information Act, 52893–52897

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52925–52926
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Migrant Student Information Exchange Minimum Data Elements, 52926

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
RULES
Assistance to Foreign Atomic Energy Activities, 52847–52849
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52926–52927

Energy Information Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52927–52928

Environmental Protection Agency
PROPOSED RULES
National Emission Standards for Hazardous Air Pollutants:
Secondary Lead Smelting Technology Review, 52908–52910
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Emission Standards for Hazardous Air Pollutants for Radionuclides, 52952–52953

Federal Aviation Administration
RULES
Airworthiness Directives:
The Boeing Company Airplanes, 52851–52853
PROPOSED RULES
Airspace Designations and Reporting Points:
Ralph Wien Memorial Airport, Kotzebue, AK, 52899–52901
Wilkes-Barre, PA, 52901–52902
Airworthiness Directives:
Bell Textron Canada Limited Helicopters, 52897–52899
NOTICES
Draft FAA Order 8000.95D, Change 1, Regarding Individual Designee Management Policy, 53045–53046

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 52953–52954

Federal Energy Regulatory Commission
PROPOSED RULES
Five-Year Review of the Oil Pipeline Index, 52902–52908
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52939–52940, 52949–52951
Application:
Ashuelot River Hydro, Inc., 52935–52937
Lewis Ridge Pumped Storage, LLC, 52942–52943
Pine Valley Hydroelectric Power Co., LLC, 52947–52948
Robertson Power Co., LLC, 52944–52945

Village of Saranac Lake, 52941–52942
Wiscons8, LLC, 52930–52931
Combined Filings, 52928–52930, 52937, 52943–52944
Declaration of Intention:
City of Chignik, 52935
Environmental Assessments; Availability, etc.:
California Department of Water Resources, 52934–52935
Eastern Gas Transmission and Storage, Inc., Appalachian Reliability Project, 52952
Great Basin Gas Transmission Co., Gabs Lateral NASF Relocation Project, 52931–52932
Nueva Era Dos, LLC, Nueva Era Dos Pipeline Project, 52937–52938
TTC Connector, LLC, TTC Connector Project, 52951
Environmental Issues:
Mountain Valley Pipeline, LLC, Proposed MVP Boost Project, 52932–52934
Transcontinental Gas Pipe Line Company, LLC, Proposed North Padre Island Lateral Abandonment Project, 52945–52947
Filing:
Western Area Power Administration, 52939
Hearings, Meetings, Proceedings, etc.:
Reliability Technical Conference; Post-Technical Conference Comments, 52938
Wildfire Risk Mitigation Technical Conference; Notice Inviting Post-Technical Conference Comments, 52944
Institution of Section 206 Proceeding and Refund Effective Date:
Carroll County Energy LLC, 52931
Ohio Power Partners, LLC, 52940–52941
Preliminary Determination of a Qualifying Conduit Hydropower Facility:
St. Marys Area Water Authority, 52948–52949
Revised Procedural Schedule:
Green Mountain Power Corp., 52944

Federal Motor Carrier Safety Administration
NOTICES
Exemption Application:
Commercial Driver's License; Agri-Tech Aviation, 53049–53051
Commercial Driver's License; Electronic Logging Device Requirements: Diamond Excursions Ladies Edition d/b/a Project Gap, 53048–53049
Parts and Accessories Necessary for Safe Operation; Atlantic Aviation Orlando, LLC, 53046–53048

Federal Railroad Administration
NOTICES
Review of Quiet Zone in Miami, FL, 53051–53053

Federal Reserve System
RULES
Reserve Requirements of Depository Institutions (Regulation D), 52849–52851

Federal Trade Commission
NOTICES
Performance Review Board Members, 52954

Fish and Wildlife Service
NOTICES
Environmental Assessments; Availability, etc.:
California Department of Parks and Recreation, Oceano Dunes District, San Luis Obispo County, CA; Incidental Take Permit Application; Draft Habitat Conservation Plan, 52993–52994

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
510(k) Third-Party Review Program, 52971–52972
Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization, 52960–52961
Emergency Use Authorization of Medical Products, 52962–52965
Human Drug Compounding under the Federal Food, Drug, and Cosmetic Act, 52965–52967
Hearings, Meetings, Proceedings, etc.:
Improving Anaphylaxis Outcomes: Approaches for Enhancing Access to Epinephrine; Public Workshop, 52958–52960
Reauthorization of the Biosimilar User Fee Act, 52967–52969
Tobacco Products Scientific Advisory Committee, 52969–52971
Patent Extension Regulatory Review Period:
Altius Direct Electrical Nerve Stimulation System, 52974–52976
Envision Mammography Platform, 52972–52974
Withdrawal of Approval of Drug Application:
Ocaliva (Obeticholic Acid) Tablets, 5 Milligrams and 10 Milligrams, and Three Abbreviated New Drug Applications for Obeticholic Acid Tablets, 5 Milligrams and 10 Milligrams, 52976–52977

Foreign Assets Control Office
NOTICES
Sanctions Action, 53061–53063

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Performance Review Board Members, 52977–52979

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection
See U.S. Immigration and Customs Enforcement

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Self-Help Homeownership Opportunity Program, 52991–52992

Indian Affairs Bureau
NOTICES
Helping Expedite and Advance Responsible Tribal Homeownership Act Approval:
Shivwits Band of Paiutes Leasing Ordinance, 52994–52995
Indian Gaming:
Approval by Operation of Law of the Amendment to the Sac and Fox Nation of Missouri in Kansas and Nebraska Kansas Class III Gaming Compact, 52995–52996

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Ocean Energy Management Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Excise Tax on Repurchase of Corporate Stock, 53144–53190
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Timely Mailing Treated as Timely Filing, 53063

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Acetone from the Republic of Korea, 52914–52916
Large Diameter Welded Pipe from the Republic of Turkiye; Correction, 52913
Hearings, Meetings, Proceedings, etc.:
Environmental Technologies Trade Advisory Committee, 52912–52913
Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty, 52916–52917
Requests for Nominations:
District Export Council, 52911–52912
Sales at Less Than Fair Value; Determinations, Investigations, etc.:
Silicon Metal from Angola; Correction, 52913–52914
Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States, 52914

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Float Glass Products from China and Malaysia, 52999
Hard Empty Capsules from Brazil, China, India, and Vietnam, 52999

Justice Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Drug Enforcement Administration Voluntary Wellness Program Healthcare Provider Clearance, 53000–53001
Drug Use Statement, 53001–53002
Hearings, Meetings, Proceedings, etc.:
Religious Liberty Commission, 53000

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Occupant Anthropometry and Seating, 53053–53057

National Institutes of Health
NOTICES
Hearings, Meetings, Proceedings, etc.:
Center for Scientific Review, 52979–52982
National Heart, Lung, and Blood Institute, 52981–52982
National Institute of Environmental Health Sciences; Cancellation, 52979

National Oceanic and Atmospheric Administration
NOTICES
Determination:
Size Standard Review, 52917–52921

National Science Foundation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Small Business Innovation Research/Small Business Technology Transfer Pre-Award Information Collection, 53002–53003

Nuclear Regulatory Commission
NOTICES
Guidance:
Treatment of Certain Loss-of-Coolant Accident Locations as Beyond-Design-Basis Accidents, 53009–53010
Licenses; Exemptions, Applications, Amendments, etc.:
Constellation Energy Generation, LLC; Calvert Cliffs Nuclear Power Plant, Unit 2, 53006–53009
Vistra Operations Company LLC, Davis-Besse Nuclear Power Station, Unit No. 1, 53003–53006

Ocean Energy Management Bureau
NOTICES
11th National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program: 1st Analysis and Proposal MAA104000, 52996–52999

Pipeline and Hazardous Materials Safety Administration
NOTICES
Permits; Applications, Issuances, etc.:
Pipeline Safety; Southern Natural Gas Co., LLC, 53057–53059

Postal Service
RULES
Postmarks and Postal Possession, 52883–52892

Presidential Documents
ADMINISTRATIVE ORDERS
Nicaragua; Continuation of National Emergency (Notice of November 20, 2025), 53191–53193

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 53012–53013, 53015–53016
Application:
Willow Tree Capital Corp., et al., 53028–53029
Meetings; Sunshine Act, 53034–53035
Order:
Cancelling Registration of Municipal Advisor, Melio and Co., LLC, 53010
Self-Regulatory Organizations; Proposed Rule Changes:
24X National Exchange LLC, 53020–53023
BOX Exchange LLC, 53029–53037
Cboe BZX Exchange, Inc., 53043–53044
Cboe Exchange, Inc., 53013–53015, 53018–53020
Investors Exchange LLC, 53037–53042
MEMX LLC, 53023–53028
Nasdaq BX, Inc., 53016–53018
Nasdaq PHLX LLC, 53010–53012

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 53044–53045

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Junta's Anti-Democratic Efforts Act Questionnaire, 53045
Designation as Terrorist or Global Terrorist:
Cartel de los Soles, 53045

Substance Abuse and Mental Health Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52982–52988

Surface Mining Reclamation and Enforcement Office
RULES
Grants for Certified States and Indian Tribes, 52865–52867
Minimum Program Make Up Funds, 52860–52862
Prior Balance Replacement Funds, 52855–52860, 52862–52865
Scope of Federal Regulations Implementing the Surface Mining Control and Reclamation Act, 52853–52855

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
NOTICES
Hearings, Meetings, Proceedings, etc.:
United States Department of Transportation Advisory Board, 53059

Treasury Department
See Comptroller of the Currency
See Foreign Assets Control Office
See Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Primary Dealer Meeting Agenda, 53063–53064

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Drawback Regulations, 52989–52990
Lien Notice, 52989

U.S. Immigration and Customs Enforcement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
ICE Mutual Agreement Between Government and Employers, 52990–52991

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Department of Veterans Affairs Acquisition Regulation Clauses 852.237-70, Indemnification and Medical Liability Insurance; 852.228-71, Indemnification and Insurance, 53064–53065
Establishing Property Suitability for VA Specially Adapted Housing, 53066
Priority Processing Request, 53065
Performance Review Board Members, 53065–53066

Separate Parts In This Issue

Part II
Health and Human Services Department, Centers for Medicare & Medicaid Services, 53068–53142

Part III
Treasury Department, Internal Revenue Service, 53144–53190

Part IV
Presidential Documents, 53191–53193

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Notices:

Notice of November 20, 2025 53193

10 CFR

810 52847

Proposed Rules:

1703 52893

12 CFR

204 52849

14 CFR

39 52851

Proposed Rules:

39 ..... 52897, 52899

71 (2 documents) 52899, 52901

18 CFR

Proposed Rules:

342 52902

26 CFR

1 53144

58 53144

30 CFR

700 52853

872 (5 documents) 52855, 52856, 52858, 52860, 52862

874 52862

875 52862

879 52862

885 52865

886 52862

887 52862

33 CFR

1 52867

26 52867

62 52867

66 52867

67 52867

95 52867

97 52867

100 52867

107 52867

114 52867

115 52867

116 52867

117 (2 documents) 52867, 52882

118 52867

133 52867

151 52867

155 52867

159 52867

164 52867

165 52867

174 52867

39 CFR

111 52883

40 CFR

Proposed Rules:

63 52908

42 CFR

413 53068

512 53068

46 CFR

2 52867

3 52867

4 52867

7 52867

11 52867

15 52867

24 52867

26 52867

58 52867

62 52867

68 52867

90 52867

108 52867

110 52867

118 52867

125 52867

126 52867

131 52867

132 52867

133 52867

147 52867

169 52867

177 52867

181 52867

182 52867

188 52867

Rules and Regulations

Federal Register
Vol. 90, No. 224
Monday, November 24, 2025

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

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

DEPARTMENT OF ENERGY

10 CFR Part 810

RIN 1994–AA06

Assistance to Foreign Atomic Energy Activities

AGENCY: National Nuclear Security Administration (NNSA), Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: On September 4, 2025, the Secretary of Energy (''Secretary'') issued a Determination generally authorizing the destinations of the Philippines and Singapore for exports of controlled nuclear technology and assistance under DOE's regulation on *Assistance to Foreign Atomic Energy Activities.* Accordingly, DOE is issuing this final rule to add the Philippines and Singapore to the generally authorized destinations list in appendix A.

DATES: This rule is effective on November 24, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Goorevich, Assistant Deputy Administrator, Office of Nonproliferation and Arms Control (NPAC), National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 586–6836, *richard.goorevich@nnsa.doe.gov;* Mr. Stephen Markus, Office of the General Counsel, GC–74, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (240) 243–3387, *stephen.markus@hq.doe.gov;* or Mr. Zachary Stern, Office of the General Counsel, National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 586–8627, *zachary.stern@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of Final Rule
II. Good Cause for Dispensing With Notice and Comment
III. Regulatory Review
IV. Approval of the Office of the Secretary

I. Background and Discussion of Final Rule

On September 4, 2025, the Secretary issued a ''determination and authorization pursuant to section 57 b.(2) of the *Atomic Energy Act of 1954,* as amended, regarding exports of nuclear technology and assistance to the Philippines and Singapore,'' which was published in the **Federal Register** on September 16, 2025 (90 FR 44651). Section 57b.(2) of the *Atomic Energy Act of 1954,* as amended (''AEA'') (42 U.S.C. 2077(b)(2)), enables peaceful nuclear trade by helping to assure that nuclear technology exports from the United States will not be used for non-peaceful purposes.

Part 810 of title 10, Code of Federal Regulations (''part 810'') implements section 57 b.(2) of the AEA, pursuant to which the Secretary has granted a general authorization for certain categories of activities that the Secretary has found to be non-inimical to the interest of the United States—including assistance or transfers of technology to the generally authorized destinations listed in appendix A to part 810. In light of the Secretary's Determination to generally authorize the Philippines and Singapore to cover exports of part 810-controlled nuclear technology and assistance, DOE is amending the generally authorized destinations list in appendix A by adding the Philippines and Singapore.

II. Good Cause for Dispensing With Notice and Comment

In accordance with the *Administrative Procedure Act* (APA), an agency may waive the notice and comment procedure if it finds, for good cause, that it is ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b). Additionally, 5 U.S.C. 553(d) provides that an agency may waive the 30-day delayed effective date upon finding of good cause.

DOE finds good cause that notice and comment for this rule is unnecessary due to the nature of the revisions. This final rule simply makes ministerial changes to appendix A by adding the Philippines and Singapore to the generally authorized destinations list. Comments cannot alter the regulation given that the generally authorized destination status for the Philippines and Singapore has already been made effective through the Secretarial Determination issued on September 4, 2025 and published on September 16, 2025, at 90 FR 44651.

Accordingly, DOE has concluded that there is good cause to publish this final rule without prior opportunity for public comment because the action merely aligns appendix A with the Secretarial Determination. A delay in effective date is unnecessary for these same reasons. Therefore, these amendments are published as final and are effective November 24, 2025.

III. Regulatory Review

A. Executive Order 12866 and 13563

Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011) requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (''OMB'') has emphasized that such techniques

may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final rule is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this regulatory action does not constitute a ''significant regulatory action'' under E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866

B. Additional Executive Orders and Presidential Memoranda

DOE has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154 ''Unleashing American Energy,'' E.O. 14192, ''Unleashing Prosperity Through Deregulation,'' and Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.''

C. National Environmental Policy Act

DOE has determined that this rule is covered under the Categorical Exclusion found in DOE's *National Environmental Policy Act* regulations at paragraph A5 of appendix A to subpart D, 10 CFR part 1021, which applies to a rulemaking that amends an existing rule or regulation and that does not change the environmental effect of the rule or regulation being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

D. Regulatory Flexibility Act

The *Regulatory Flexibility Act* (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that, by law, must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As discussed previously, DOE has determined that providing notice and opportunity for public comment on this final rule is unnecessary. Therefore, no regulatory flexibility analysis has been prepared for this final rule.

The changes to appendix A are summarized in section I of this document. DOE has reviewed the changes under the provisions of the *Regulatory Flexibility Act* and the procedures and policies published on February 19, 2003. The changes update the list of generally authorized destinations. They do not expand the scope of activities currently regulated under part 810.

DOE estimates that approximately 10 percent of the entities impacted by part 810 are small businesses, which generally fall within two North American Industry Classification System codes: engineering services (541330) and computer systems designs services (541512). Often, their requests for authorization include the transfer of computer codes or other similar products. Generally speaking, small businesses reported that their initial filing of a part 810 request for authorization required up to 40 hours of legal assistance, but follow-on reporting and requests required significantly less assistance.

The requirements for small businesses exporting nuclear technology abroad would not substantively change because the revisions to this rule do not add new burdens or duties to small businesses. The obligations of any person subject to the jurisdiction of the United States who engages directly or indirectly in the development or production of special nuclear material outside the United States have not changed in a manner that would provide any significant economic impact on small businesses. This rulemaking change no longer requires such persons to obtain specific authorization before making such transfers to the Philippines and Singapore, and this change is not expected to have any significant impact. This rulemaking no longer requires such persons to obtain specific authorization before making such transfers to the Philippines and Singapore, which is expected to ease the burden on small businesses.

On the basis of the foregoing, DOE certifies this final rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking.

E. Paperwork Reduction Act

This final rule imposes no information collection or recordkeeping requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For regulatory actions likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a),(b)). DOE examined this rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal government, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

G. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this final rule and has determined that it would not preempt State law and 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. No further action is required under Executive Order 13132.

H. 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 rulemaking that may affect family well-being. This final rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any significant energy action. A ''significant energy

action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of this final rule prior to the effective date set forth at the outset of this rule. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801 804(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 810

Foreign relations, Nuclear energy, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on September 4, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on November 20, 2025.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, the Department of Energy amends part 810 of chapter III of title 10 of the Code of Federal Regulations as set forth below.

PART 810—ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

■ 1. The authority citation for part 810 continues to read as follows:

Authority: Secs. 57, 127, 128, 129, 161, 222, and 232 AEA, as amended by the Nuclear Nonproliferation Act of 1978, Pub. L. 95–242, 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2272, 2280, 2282), and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458, 118 Stat. 3768, and sec. 3116 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115–232; Sec. 104 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Sec. 301, Department of Energy Organization Act, Pub. L. 95–91; National Nuclear Security Administration Act, Pub. L. 106–65, 50 U.S.C. 2401 *et seq.,* as amended.

Appendix A to Part 810 [Amended]

■ 2. Appendix A to part 810 is amended by:

■ a. Adding ''The Philippines'' between ''Norway'' and ''Poland.''; and

■ b. Adding ''Singapore'' between ''Romania'' and ''Slovakia''.

[FR Doc. 2025–20788 Filed 11–21–25; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1881; RIN 7100–AH13]

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to reflect the annual indexing of the reserve requirement exemption amount and the low reserve tranche for 2026. The annual indexation of these amounts is required notwithstanding the Board's action in March 2020 of setting all reserve requirement ratios to zero. The Board is amending Regulation D to set the reserve requirement exemption amount at $39.2 million (increased from $37.8 million in 2025) and the amount of the low reserve tranche at $674.1 million (increased from $645.8 million in 2025). The adjustments to both of these amounts are derived using statutory formulas specified in the Federal Reserve Act (the ''Act''). The annual indexation of the reserve requirement exemption amount and low reserve tranche is required by statute but will not affect depository institutions' reserve requirements, which will remain zero.

DATES: *Effective date:* December 24, 2025.

Compliance dates: The new exemption amount and low reserve tranche will apply beginning January 1, 2026.

FOR FURTHER INFORMATION CONTACT: Benjamin Snodgrass, Special Counsel (202/263–4877), Legal Division; Kristen Payne, Lead Financial Institution and Policy Analyst (202/306–9573), Division of Monetary Affairs; for users of TTY/TRS, please call 711 from any telephone, anywhere in the United States, or (202/263–4869); Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations, for the purpose of implementing monetary policy. The Board's actions with respect to this provision are discussed below.

I. Reserve Requirements

Section 19(b) of the Act authorizes different ranges of reserve requirement ratios depending on the amount of transaction account balances at a depository institution. Section 19(b)(11)(A) of the Act (12 U.S.C. 461(b)(11)(A)) provides that a zero percent reserve requirement ratio shall apply at each depository institution to total reservable liabilities that do not exceed a certain amount, known as the reserve requirement exemption amount.

Section 19(b)(11)(B) provides that, before December 31 of each year, the Board shall issue a regulation adjusting the reserve requirement exemption amount for the next calendar year if total reservable liabilities held at all depository institutions increase from one year to the next. The Act requires the percentage increase in the reserve requirement exemption amount to be 80 percent of the percentage increase in total reservable liabilities of all depository institutions over the one-year-period that ends on the June 30 prior to the adjustment. No adjustment is made to the reserve requirement exemption amount if total reservable liabilities held at all depository institutions should decrease during the applicable time period.

Total reservable liabilities of all depository institutions increased by 4.5 percent, from $20,200 billion to $21,118 billion, between June 30, 2024, and June 30, 2025.[1] Accordingly, the Board is amending Regulation D to set the reserve requirement exemption amount for 2026 at $39.2 million, an increase of $1.4 million from its level in 2025.[2]

Pursuant to Section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)), transaction account balances maintained at each depository institution over the reserve requirement exemption amount and up to a certain amount, known as the low reserve tranche, may be subject to a reserve requirement ratio of not more than 3 percent (and which may be zero). Transaction account balances over the low reserve tranche may be subject to a reserve requirement ratio of not more than 14 percent (and which may be zero). Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The Act requires the adjustment in the low reserve tranche to be 80 percent of the percentage increase or decrease in total transaction accounts of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Net transaction accounts of all depository institutions increased 5.5 percent, from $16,133 billion to $17,016 billion, between June 30, 2024, and June 30, 2025.[3] Accordingly, the Board is amending Regulation D to set the low reserve tranche for net transaction accounts for 2026 at $674.1 million, an increase of $28.3 million from 2025.

The new reserve requirement exemption amount and low reserve tranche will be effective for all depository institutions beginning January 1, 2026.

Effective March 26, 2020, the Board reduced reserve requirement ratios on all net transaction accounts to zero percent, eliminating reserve requirements for all depository institutions. The annual indexation of the reserve requirement exemption amount and the low reserve tranche for 2026 is required by statute but will not affect depository institutions' reserve requirements, which will remain zero.

II. Regulatory Analysis

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments prescribed by statute and by the Board's policy concerning reporting practices. The adjustments in the reserve requirement exemption amount and the low reserve tranche serve to reduce regulatory burdens on depository institutions. Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[4] As noted previously, the Board has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[5] the Board reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 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 204.4 is amended by revising paragraph (f) to read as follows:

§ 204.4 Computation of required reserves.

* * * * *

(f) For all depository institutions, Edge and Agreement corporations, and United States branches and agencies of foreign banks, required reserves are computed by applying the reserve requirement ratios in table 1 to this paragraph (f) to net transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities of the institution during the computation period.

TABLE 1 TO PARAGRAPH (f)

Reservable liability	Reserve requirement
Net Transaction Accounts:	
$0 to reserve requirement exemption amount ($39.2 million)	0 percent of amount.
Over reserve requirement exemption amount ($39.2 million) and up to low reserve tranche ($674.1 million).	0 percent of amount.
Over low reserve tranche ($674.1 million)	$0 plus 0 percent of amount over $674.1 million.
Nonpersonal time deposits	0 percent.
Eurocurrency liabilities	0 percent.

[1] The June 30th value for 2024 may differ from the value used in the previous year's calculation because depository institutions may revise their deposit data to correct for inaccuracies.

[2] Consistent with Board practice, the low reserve tranche and reserve requirement exemption amounts have been rounded to the nearest $0.1 million.

[3] The June 30th value for 2024 may differ from the value used in the previous year's calculation because depository institutions may revise their deposit data to correct for inaccuracies.

[4] 5 U.S.C. 603 and 604.

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

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Monetary Affairs under delegated authority.

Benjamin W. McDonough,

Deputy Secretary of the Board.

[FR Doc. 2025–20744 Filed 11–21–25; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–5031; Project Identifier AD–2025–01681–T; Amendment 39–23203; AD 2025–23–53]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Emergency Airworthiness Directive (AD) 2025–23–51, which applied to all The Boeing Company Model MD–11 and MD–11F airplanes. Emergency AD 2025–23–51 was prompted by an accident where the left-hand engine and pylon detached from the airplane during takeoff. Emergency AD 2025–23–51 prohibited further flight until the airplane is inspected and all applicable corrective actions are performed using a method approved by the FAA. Since the FAA issued Emergency AD 2025–23–51, the FAA has determined additional airplane models are subject to the same unsafe condition. This emergency AD continues to require the actions in AD 2025–23–51 and adds the Model MD–10–10F, MD–10–30F, DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes to the applicability. The FAA previously sent an emergency AD to all known U.S. owners and operators of these airplanes. The FAA is issuing this emergency AD to address the unsafe condition on these products.

DATES: This AD is effective on December 1, 2025. Emergency AD 2025–23–53, issued on November 14, 2025, which contains the requirements of this amendment, was effective with actual notice.

The FAA must receive comments on this AD by January 8, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2025–5031; 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.

FOR FURTHER INFORMATION CONTACT: Brian Knaup, Manager, AIR–520, Continued Operational Safety Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *OperationalSafety@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2025–5031; Project Identifier AD–2025–01681–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,* 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 Brian Knaup, Manager, AIR–520, Continued Operational Safety Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *OperationalSafety@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued Emergency AD 2025–23–51, on November 8, 2025 (Emergency AD 2025–23–51), to address an unsafe condition on all The Boeing Company Model MD–11 and MD–11F airplanes. The FAA sent the emergency AD to all known U.S. owners and operators of these airplanes. Emergency AD 2025–23–51 prohibited further flight until the airplane was inspected and all applicable corrective actions were performed using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA. Emergency AD 2025–23–51 was prompted by an accident where the left-hand engine and pylon detached from the airplane during takeoff. The cause of the detachment is currently under investigation. This condition could result in loss of continued safe flight and landing. The FAA published the **Federal Register** version of Emergency AD 2025–23–51, Amendment 39–23193, on November 14, 2025 (90 FR 51019).

Actions Since Emergency AD 2025–23–51 Was Issued

Since the FAA issued Emergency AD 2025–23–51, the FAA has determined additional airplane models are subject to the same unsafe condition. The engine-pylon structure of the Model MD–11 and MD–11F airplanes is similar in design to that of the Model MD–10–10F, MD–10–30F, DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes. The FAA, therefore, is superseding Emergency AD 2025–23–51 to add these additional airplane models to the applicability of this emergency AD.

FAA's Determination

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

AD Requirements

This emergency AD prohibits further flight until the airplane is inspected and all applicable corrective actions are performed using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA.

Interim Action

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

FAA's Justification 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 forgo 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 required the immediate adoption of Emergency AD 2025–23–53 issued on November 14, 2025, to all known U.S. owners and operators of these airplanes. The FAA found that the risk to the flying public and safety in air commerce justified forgoing notice and comment prior to adoption of this rule because the severity of the unsafe condition necessitates prohibiting further flight until the airplane is inspected and the applicable corrective actions are performed. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons. Given the significance of the risk presented by this unsafe condition, it must be immediately addressed. 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 emergency AD affects 167 airplanes of U.S. registry. The FAA has no definitive data on which to base the cost estimates for the inspection and corrective actions specified in this emergency 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, 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.

Adoption of 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 Emergency Airworthiness Directive (AD) 2025–23–51, Amendment 39–23193 (90 FR 51019, November 14, 2025); and

■ b. Adding the following new AD:

2025–23–53 The Boeing Company: Amendment 39–23203; Docket No. FAA–2025–5031; Project Identifier AD–2025–01681–T.

(a) Effective Date

The FAA issued Emergency Airworthiness Directive (AD) 2025–23–53 on November 14, 2025, directly to affected owners and operators. As a result of such actual notice, that emergency AD was effective for those owners and operators on the date it was received. This emergency AD contains the same requirements as that emergency AD and, for those who did not receive actual notice, is effective on December 1, 2025.

(b) Affected ADs

This emergency AD replaces Emergency AD 2025–23–51, Amendment 39–23193 (90 FR 51019, November 14, 2025) (AD 2025–23–51).

(c) Applicability

This emergency AD applies to all The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1) through (3) of this emergency AD.

(1) Model MD–11 and MD–11F airplanes.

(2) Model MD–10–10F and MD–10–30F airplanes.

(3) Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Unsafe Condition

This emergency AD was prompted by an accident where the left-hand engine and pylon detached from the airplane during takeoff and a determination that additional airplane models are subject to the same unsafe condition. The cause of the detachment is currently under investigation. The unsafe condition could result in loss of continued safe flight and landing.

(f) Compliance

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

(g) Inspection and Other Actions

(1) For airplanes identified in paragraph (c)(1) of this emergency AD: As of December 1, 2025 (the effective date of Emergency AD 2025–23–51), further flight is prohibited until the airplane is inspected and all applicable corrective actions are performed using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA.

(2) For airplanes identified in paragraphs (c)(2) and (3) of this emergency AD: As of the effective date of this emergency AD, further flight is prohibited until the airplane is inspected and all applicable corrective actions are performed using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA.

(h) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed unless approved in accordance with the procedures specified in paragraph (i)(1) of this emergency 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 emergency 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 emergency 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 local flight standards district office/certificate holding district office.

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this emergency 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 emergency AD.

(j) Additional Information

For more information about this emergency AD, contact Brian Knaup, Manager, AIR–520, Continued Operational Safety Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *OperationalSafety@faa.gov.*

(k) Material Incorporated by Reference

None.

Issued on November 20, 2025.

Lona C. Saccomando,

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

[FR Doc. 2025–20804 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 700

[Docket No. OSM–2025–0021; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AD02

Scope of Federal Regulations Implementing the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule revises the Federal regulations to rescind obsolete regulations related to the scope of the regulations implementing the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

DATES: The final rule is effective January 23, 2026, unless significant adverse comments are received by December 24, 2025. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule that responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov* and search for Docket Number OSM–2025–0021. Follow the instructions for submitting comments.
- *By hard copy:* Submit by U.S. mail to Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Attn: James Tyree, 1849 C Street NW, Mail Stop 4557, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* 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: The Federal regulations at 30 CFR 700.1 describe the structure and organization of the regulations contained in chapter VII of 30 CFR. Each subsection of § 700.1 lists the contents and a brief description of a subchapter within chapter VII. Included within this list is subsection (n), which explains that ''Subchapter S sets forth the regulations that apply to grants for mining and mineral research institutes and grants for mineral research projects.'' However, subchapter S was removed from chapter VII in 1989, when, pursuant to Secretary's Order 3073, the Secretary of the Interior transferred responsibility and operation for that program to the Bureau of Mines.[1] *See* 54 FR 38377 (Sept. 18, 1989). Thus, subchapter S is currently reserved and contains no content; therefore, the Department of the Interior (Department) and OSMRE have determined that this subsection should be rescinded because it is obsolete.

The Department has determined that this reason, independently and alone, justifies rescission of 30 CFR 700.1(n). The Department has no interest in maintaining rules that are obsolete.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551–559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* § 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the recission of the regulations and raise, alone or in combination, (1) reasons why the recission of the regulations is inappropriate, including challenges to the recission's underlying premise, or (2) serious unintended consequences of the recission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains

[1] The regulations related to the Bureau of Mines were later vacated and removed from the CFR. *See* 67 FR 30803 (May 8, 2002).

how this direct final rule would be ineffective without the addition.

Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under Executive Order 12630. The rule rescinds obsolete regulatory provisions; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is not required.

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Executive Order 12988—Civil Justice Reform

This direct final rule complies with the requirements of Executive Order 12988. Among other things, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13132—Federalism

Under the criteria of section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule 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. A federalism summary impact statement is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under Executive Order 13175 and the Department's consultation policies and determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove obsolete regulatory language.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions ''that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act. OMB previously approved the information collection activities contained in the existing regulations and assigned OMB control number 1029–0054. This rule does not impose an information collection burden because the Department is not making any changes to the information collection requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of $100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove obsolete language that is no longer used. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 700

Administrative practice and procedure, Reporting and recordkeeping

requirements, Surface mining, Underground mining.

Leslie Shockley Beyer,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR part 700 as follows:

PART 700—GENERAL

■ 1. The authority citation for part 700 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 700.1 [Amended]

■ 2. Amend § 700.1 by removing paragraph (n).

[FR Doc. 2025–20835 Filed 11–21–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

[Docket No. OSM–2025–0012 S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AC95

Prior Balance Replacement Funds

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule revises the Federal regulations to rescind provisions that required the distribution and awarding of prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress.

DATES: The final rule is effective January 23, 2026, unless significant adverse comments are received by December 24, 2025. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule that responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov* and search for Docket Number OSM–2025–0012. Follow the instructions for submitting comments.
- *By hard copy:* Submit by U.S. mail to Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Attn: James Tyree, 1849 C Street NW, Mail Stop 4557, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* 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: The Federal regulations at 30 CFR 872.30 describe how the Office of Surface Mining Reclamation and Enforcement (OSMRE) distributes and awards prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress. Section 411(h)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) required OSMRE to distribute prior balance replacement funds to eligible States and Tribes for seven years, beginning October 1, 2008. As the distribution of prior balance replacement funds is complete, the Department of the Interior (Department) and OSMRE have determined that 30 CFR 872.30 should be rescinded because it is obsolete. To the extent States or Tribes may have any unspent prior balance replacement funds, those funds will be governed by the regulations that were in place at the time of the initial grant award.

The Department has determined that this reason, independently and alone, justifies the rescission of 30 CFR 872.30. The Department has no interest in maintaining a rule that is obsolete.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551–559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* § 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the recission of the rule and raise, alone or in combination, (1) reasons why the recission of the rule is inappropriate, including challenges to the recission's underlying premise, or (2) serious unintended consequences of the recission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under Executive Order 12630. The rule rescinds obsolete regulatory language; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is not required.

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Executive Order 12988—Civil Justice Reform

This direct final rule complies with the requirements of Executive Order 12988. Among other things, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13132—Federalism

Under the criteria of section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule 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. A federalism summary impact statement is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under Executive Order 13175 and the Department's consultation policies and determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove obsolete regulatory language.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions ''that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act. OMB previously approved the information collection activities contained in the existing regulations and assigned OMB control number 1029–0054. This rule does not impose an information collection burden because the Department is not making any changes to the information collection requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of $100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove obsolete language that is no longer used. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 872

Indians—lands, Surface mining, Underground mining.

Leslie Shockley Beyer,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR part 872 as follows:

PART 872 MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

■ 1. The authority citation for part 872 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.,* Pub. L. 117–58.

§ 872.30 [Removed]

■ 2. Remove § 872.30.

[FR Doc. 2025–20830 Filed 11–21–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

[Docket No. OSM–2025–0011; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AC94

Prior Balance Replacement Funds

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule revises the Federal regulations to rescind regulations related to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress. Additionally, this rule will rescind the regulations that detail how prior balance replacement funds may be used.

DATES: The final rule is effective January 23, 2026, unless significant adverse comments are received by December 24,

2025. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule that responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov* and search for Docket Number OSM–2025–0011. Follow the instructions for submitting comments.
- *By hard copy:* Submit by U.S. mail to Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Attn: James Tyree, 1849 C Street NW, Mail Stop 4557, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* 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: The Federal regulations at 30 CFR 872.29 define prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress. Section 411(h)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) required the Office of Surface Mining Reclamation and Enforcement (OSMRE) to distribute prior balance replacement funds to eligible States and Tribes for seven years, beginning October 1, 2008. In addition, the Federal regulations at 30 CFR 872.31 detail the restrictions on how prior balance replacement funds may be used. As the distribution of prior balance replacement funds is complete, the Department of the Interior (Department) and OSMRE have determined that these regulations should be rescinded because they are obsolete. To the extent States or Tribes may have any unspent prior balance replacement funds, those funds will be governed by the regulations that were in place at the time of the initial grant award.

The Department has determined that this reason, independently and alone, justifies rescission of 30 CFR 872.29 and 30 CFR 872.31. The Department has no interest in maintaining rules that are obsolete.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551–559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* § 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the recission of the regulations and raise, alone or in combination, (1) reasons why the recission of the regulations is inappropriate, including challenges to the recission's underlying premise, or (2) serious unintended consequences of the recission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under Executive Order 12630. The rule rescinds obsolete regulatory provisions; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is not required.

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Executive Order 12988—Civil Justice Reform

This direct final rule complies with the requirements of Executive Order 12988. Among other things, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13132—Federalism

Under the criteria of section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule 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. A federalism summary impact statement is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under Executive Order 13175 and the Department's consultation policies and determined that it has no substantial direct effects on Federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove obsolete regulatory language.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions ''that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act. OMB previously approved the information collection activities contained in the existing regulations and assigned OMB control number 1029–0054. This rule does not impose an information collection burden because the Department is not making any changes to the information collection requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of $100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove obsolete language that is no longer used. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 872

Indians—lands, Surface mining, Underground mining.

Leslie Shockley Beyer,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR part 872 as follows:

PART 872 MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

■ 1. The authority citation for part 872 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.,* Pub. L. 117–58.

§§ 872.29 and 872.31 [Removed]

■ 2. Remove §§ 872.29 and 872.31.

[FR Doc. 2025–20828 Filed 11–21–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

[Docket No. OSM–2025–0013 S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AC93

Prior Balance Replacement Funds

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule revises the Federal regulations to rescind language identifying obsolete funds as part of the moneys that the Office of Surface Mining Reclamation and Enforcement (OSMRE) must distribute to eligible States and Tribes each fiscal year. The existing regulations refer to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress.

DATES: The final rule is effective January 23, 2026, unless significant adverse comments are received by December 24, 2025. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule that responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov* and search for Docket Number OSM–2025–0013. Follow the instructions for submitting comments.
- *By hard copy:* Submit by U.S. mail to Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Attn: James Tyree, 1849 C Street NW, Mail Stop 4557, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* 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: The Federal regulations at 30 CFR 872.13 outline the moneys that OSMRE must distribute to eligible States and Tribes each fiscal year. Existing 30 CFR 872.13(a)(5) refers to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress. Section 411(h)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) required OSMRE to distribute prior balance replacement funds to eligible

States and Tribes for seven years, beginning October 1, 2008. As the distribution of prior balance replacement funds is complete, the Department of the Interior (Department) and OSMRE have determined that existing 30 CFR 872.13(a)(5) should be rescinded because it is obsolete.

The Department has determined that this reason, independently and alone, justifies rescission of existing 30 CFR 872.13(a)(5). The Department has no interest in maintaining a rule that is obsolete.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551–559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* § 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the recission of the regulatory language and raise, alone or in combination, (1) reasons why the recission of the regulatory language is inappropriate, including challenges to the recission's underlying premise, or (2) serious unintended consequences of the recission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under Executive Order 12630. The rule rescinds an obsolete regulatory provision; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is not required.

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Executive Order 12988—Civil Justice Reform

This direct final rule complies with the requirements of Executive Order 12988. Among other things, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13132—Federalism

Under the criteria of section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule 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. A federalism summary impact statement is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under Executive Order 13175 and the Department's consultation policies and determined that it has no substantial direct effects on Federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove obsolete regulatory language.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions ''that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act. OMB previously approved the information collection activities contained in the existing regulations and assigned OMB control number 1029–0054. This rule does not impose an information collection burden because the Department is not making any changes to the information collection requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed

rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of $100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove an obsolete provision that is no longer used. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subject in 30 CFR Part 872

Indians—lands, Surface mining, Underground mining.

Leslie Shockley Beyer,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR part 872 as follows:

PART 872—MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

■ 1. The authority citation for part 872 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.,* Pub. L. 117–58.

■ 2. In § 872.13, revise paragraph (a) to read as follows:

(a) Under Title IV of SMCRA, each Federal fiscal year we must distribute to you, the States and Indian tribes with approved reclamation plans, the moneys listed in this section. We distribute all Fund moneys and other moneys from the Treasury that have been designated for mandatory distribution. We provide information to you showing how we calculated your distribution. We distribute the following moneys:

(1) State share funds to uncertified States as described in § 872.14;

(2) Tribal share funds to uncertified Indian tribes as described in § 872.17;

(3) Historic coal funds to uncertified States and Indian tribes as described in § 872.21;

(4) Minimum program make up funds to eligible uncertified States and Indian tribes as described in § 872.26; and

(5) Certified in lieu funds to certified States and Indian tribes as described in § 872.32.

* * * * *

[FR Doc. 2025–20827 Filed 11–21–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

[Docket No. OSM–2025–0014; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AC98

Minimum Program Make Up Funds

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule revises the Federal regulations to remove references to prior balance replacement funds and to rescind the phase-in schedule for minimum program make up fund distributions between October 1, 2007, and October 1, 2010.

DATES: The final rule is effective January 23, 2026, unless significant adverse comments are received by December 24, 2025. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule that responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov* and search for Docket Number OSM–2025–0014. Follow the instructions for submitting comments.
- *By hard copy:* Submit by U.S. mail to Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Attn: James Tyree, 1849 C Street NW, Mail Stop 4557, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* 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: The Federal regulations at 30 CFR 872.27(a)(1) and (2) refer to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress. Section 411(h)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) required the Office of Surface Mining Reclamation and Enforcement (OSMRE) to distribute prior balance replacement funds to eligible States and Tribes for seven years, beginning October 1, 2008. As the distribution of prior balance replacement funds is complete, the Department of the Interior (Department) and OSMRE have determined that the references to prior balance replacement funds should be removed and that the remaining language in each paragraph should be lightly edited to improve clarity and ensure correct grammar and punctuation. To the extent States or Tribes may have any unspent prior balance replacement funds, those funds will be governed by the regulations that were in place at the time of the initial grant award.

In addition, the Federal regulations at 30 CFR 872.27(a)(2)(i) and (ii) contain the phase-in schedule for minimum program make up fund distributions between October 1, 2007, and October 1, 2010. Minimum program make up funds are moneys that OSMRE distributes to eligible States and Tribes to make up the difference between their total distribution of other funds and $3 million. Section 401(f)(5)(B) of SMCRA required OSMRE to phase in the amount of minimum program make up funds distributed to eligible States and Tribes over four years, beginning October 1, 2007. As the phase-in dates for minimum program make up funds have passed, the Department and OSMRE have determined that these provisions should be rescinded because they are obsolete. Existing paragraphs (a)(2)(iii) and (a)(2)(iv) will be redesignated as paragraphs (a)(2)(i) and (a)(2)(ii).

The Department has determined that these reasons, independently and alone, justify amending 30 CFR 872.27(a)(1) and (2) and rescinding 30 CFR 872.27(a)(2)(i) and (ii). The Department has no interest in maintaining a rule that is obsolete.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551–559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' Id. § 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the amendment or recission of the regulatory language and raise, alone or in combination, (1) reasons why the amendment or recission of the regulatory language is inappropriate, including challenges to the amendment's or recission's underlying premise, or (2) serious unintended consequences of the amendment or recission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under Executive Order 12630. The rule revises the Federal regulations to amend or remove obsolete regulatory language; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is not required.

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Executive Order 12988—Civil Justice Reform

This direct final rule complies with the requirements of Executive Order 12988. Among other things, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13132—Federalism

Under the criteria of section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule 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. A federalism summary impact statement is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under Executive Order 13175 and the Department's consultation policies and determined that it has no substantial direct effects on Federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to amend or remove obsolete regulatory language.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions ''that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act. OMB previously approved the information collection activities contained in the existing regulations and assigned OMB control number 1029–0054. This rule does not impose an information collection burden because the Department is not making any changes to the information collection requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of $100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to amend or remove obsolete regulatory language. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 872

Indians—lands, Surface mining, Underground mining.

Leslie Shockley Beyer,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR part 872 as follows:

PART 872—MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

■ 1. The authority citation for part 872 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.,* Pub. L. 117–58.

■ 2. In § 872.27, revise paragraphs (a)(1) and (2) to read as follows:

§ 872.27 How does OSM distribute and award minimum program make up funds?

(a) * * *

(1) We calculate your total distribution under this part by adding your applicable State or Tribal share funds distribution (§ 872.14 or § 872.17) and your historic coal funds distribution (§ 872.21). If the sum of these funds is less than $3 million, we calculate the amount of minimum program make up funds to add to your distribution under this section to increase it to that level.

(2) For each Federal fiscal year, we add minimum program make up funds to your combined distribution of State or Tribal share and historic coal funds as shown in the following table:

For each of the Federal fiscal years beginning . . .	The amount of minimum program make up funds we add to your distribution will be . . .
(i) October 1, 2011 and continuing through September 30, 2035.	100 percent of the amount that we calculated should be added under paragraph (a)(1) of this section as long as you have at least $3 million of Priority 1 and 2 coal problems remaining.
(ii) October 1, 2035 and thereafter	to the extent funds are available, 100 percent of the amount that we calculated should be added under paragraph (a)(1) until you have less than $3 million of Priority 1 and 2 coal problems remaining.

* * * * *

[FR Doc. 2025–20826 Filed 11–21–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 872, 874, 875, 879, 886, and 887

[Docket No. OSM–2025–0016; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AD00

Prior Balance Replacement Funds

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule revises the Federal regulations to rescind references to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress, and to make minor conforming language changes.

DATES: The final rule is effective January 23, 2026, unless significant adverse comments are received by December 24, 2025. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule that responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov* and search for Docket Number OSM–2025–0016. Follow the instructions for submitting comments.
- *By hard copy:* Submit by U.S. mail to Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Attn: James Tyree, 1849 C Street NW, Mail Stop 4557, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* 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: The Federal regulations at 30 CFR chapter VII, subchapter R contain various references to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress. Section 411(h)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) required the Office of Surface Mining Reclamation and Enforcement (OSMRE) to distribute prior balance replacement funds to eligible States and Tribes for seven years, beginning October 1, 2008. As the distribution of prior balance replacement funds is complete, the Department of the Interior (Department) and OSMRE have determined that all remaining references to prior balance replacement funds in 30 CFR chapter VII, subchapter R should be rescinded and that the remaining language in 30

CFR 872.21(b) should be lightly edited to improve clarity and ensure correct grammar and punctuation. To the extent States or Tribes may have any unspent prior balance replacement funds, those funds will be governed by the regulations that were in place at the time of the initial grant award.

In addition, the Federal regulations at 30 CFR 872.35(a) currently refer to a $490 million cap on the amount of funds available each fiscal year to be transferred by the Secretary of the Treasury to the Secretary of the Interior for payments under section 402(i) of SMCRA. However, the Bipartisan American Miners Act of 2019 amended section 402(i) of SMCRA to raise the cap on the amount of Treasury funds available for transfer from $490 million to $750 million. The Department and OSMRE have determined that 30 CFR 872.35(a) should be amended to be consistent with SMCRA and accurately reflect the $750 million cap.

The Department has determined that these reasons, independently and alone, justify amending the regulatory language and rescinding all remaining references to prior balance replacement funds in 30 CFR chapter VII, subchapter R. The Department has no interest in maintaining rules that are obsolete or inconsistent with applicable law.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551–559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* § 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the amendment or rescission of the regulatory language and raise, alone or in combination, (1) reasons why the amendment or recission of the regulatory language is inappropriate, including challenges to the amendment's or recission's underlying premise, or (2) serious unintended consequences of the amendment or recission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under Executive Order 12630. The rule amends and rescinds obsolete regulatory language; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is not required.

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Executive Order 12988—Civil Justice Reform

This direct final rule complies with the requirements of Executive Order 12988. Among other things, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13132—Federalism

Under the criteria of section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule 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. A federalism summary impact statement is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under Executive Order 13175 and the Department's consultation policies and determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove or amend obsolete regulatory language.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions ''that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act. OMB

previously approved the information collection activities contained in the existing regulations and assigned OMB control numbers 1029–0054, 1029–0113, 1029–0103, 1029–0059, and 1029–0107. This rule does not impose an information collection burden because the Department is not making any changes to the information collection requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of $100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove or amend obsolete regulatory language that is no longer used. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects

30 CFR Part 872

Indians—lands, Surface mining, Underground mining.

30 CFR Part 874

Indians—lands, Surface mining, Underground mining.

30 CFR Part 875

Indians—lands, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 879

Indians—lands, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 886

Grant programs—natural resources, Indians—lands, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 887

Grant programs—natural resources, Insurance, Surface mining, Underground mining.

Leslie Shockley Beyer,

Assistant Secretary, Land and Minerals Management

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR parts 872, 874, 875, 879, 886, and 887 as follows:

PART 872—MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

■ 1. The authority citation for part 872 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.,* Pub. L. 117–58.

■ 2. In § 872.21, revise paragraph (b) to read as follows:

* * * * *

(b) Historic coal funds also include:

(1) Moneys we reallocated under section 411(h)(1)(A)(ii) of SMCRA, which will be available to supplement grants beginning with Federal fiscal year 2036; and

(2) Moneys we reallocate based on certified in lieu funds distributed under sections 401(f)(3)(A)(i) and 411(h)(4) of SMCRA and § 872.32 of this chapter, which will be available to supplement grants in Federal fiscal years 2009 through 2035.

■ 3. In § 872.26, revise paragraphs (b)(3) and (b)(4) to read as follows:

* * * * *

(b) * * *

(1) * * *

(2) * * *

(3) The total amount you receive annually from State share funds (§ 872.14) or Tribal share funds (§ 872.17) and historic coal funds (§ 872.21) must be less than $3 million; and

(4) You must need more than the total of funds you will receive from State or Tribal share and historic coal funds to reclaim Priority 1 and 2 coal problems under sections 403(a)(1) and (2) of SMCRA in your State or on Indian lands within your jurisdiction.

* * * * *

■ 4. In section 872.35, revise paragraph (a) to read as follows:

§ 872.35 When will OSMRE reduce the amount of certified in lieu funds distributed to you?

(a) In any fiscal year in which the amount of Treasury funds required to be transferred under § 872.33 of this chapter and under section 402(i)(1) of SMCRA exceeds the maximum annual limit of $750 million, we will adjust the amount of these payments to reduce them to the level of the cap. Each distribution or transfer for the FY will be reduced by the same percentage.

* * * * *

PART 874—GENERAL RECLAMATION REQUIREMENTS

■ 5. The authority citation for part 874 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 6. In § 874.12, revise paragraphs (c) and (e) to read as follows:

* * * * *

(c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal government, or as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys from the Fund may be used.

* * * * *

(e) An uncertified State or Indian tribe may expend funds made available under paragraphs 402(g)(1) and (5) of SMCRA for the reclamation and abatement of any site eligible under paragraph (d) of this section, if the State or Indian tribe, with the concurrence of the Secretary, makes the findings required in paragraph (d) of this section and the State or Indian tribe determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for the lands and water eligible under paragraphs (a), (b), or (c) of this section that qualify as a Priority 1 or 2 site under section 403(a) of SMCRA.

* * * * *

PART 875—CERTIFICATION AND NONCOAL RECLAMATION

■ 7. The authority citation for part 875 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 8. In § 875.11, revise paragraph (b)(2) introductory text to read as follows:

* * * * *

(b) * * *

(1) * * *

(2) You may use certified in lieu funds distributed to you under section 411(h)(2) of the Act to—

* * * * *

■ 8. In § 875.14, revise paragraph (b) to read as follows:

* * * * *

(b) If eligible coal problems are found or occur after certification, you must submit to us a plan that describes the approach and funds that will be used to address those problems in a timely manner. You may address any eligible coal problems with the certified in lieu funds that you have already received or will receive from § 872.32 of this chapter. Any coal reclamation projects that you do must conform to sections 401 through 410 of SMCRA and part 874 of this chapter.

PART 879—ACQUISITION, MANAGEMENT, AND DISPOSITION OF LANDS AND WATER

■ 9. The authority citation for part 879 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 10. In § 879.11, revise paragraphs (a)(2) and (b) introductory text to read as follows:

(a) * * *

(1) * * *

(2) You, an uncertified State or Indian tribe or a certified State or Indian tribe conducting noncoal reclamation projects under part 875 of this chapter, may acquire land adversely affected by past coal mining practices with moneys from the Fund or with certified in lieu funds provided under § 872.32 of this chapter, provided that we first approve the acquisition in writing.

* * * * *

(b) You, an uncertified State or Indian tribe or a certified State or Indian tribe conducting noncoal reclamation projects under part 875 of this chapter, if approved in advance by us, may acquire coal refuse disposal sites, including the coal refuse, with moneys from the Fund and with certified in lieu funds provided under § 872.32 of this chapter. We, OSMRE, also may use moneys from the Fund to acquire coal refuse disposal sites, including the coal refuse.

* * * * *

PART 886—RECLAMATION GRANTS FOR UNCERTIFIED STATES AND INDIAN TRIBES

■ 11. The authority citation for part 886 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 12. In § 886.12, revise paragraph (c) to read as follows:

* * * * *

(c) You may use grant funds as established in this chapter for each type of funds you receive in your AML grant. You may use State share funds as provided in § 872.16 of this chapter; Tribal share funds as in § 872.19 of this chapter; historic coal funds as in § 872.23 of this chapter; minimum program make up funds as in § 872.28 of this chapter; and Federal expense funds as in § 872.25 of this chapter and in the appropriation.

* * * * *

■ 13. In § 886.20, revise paragraph (a)(3) to read as follows:

(a) * * *

(1) * * *

(2) * * *

(3) We make unused funds of all other types available for re-award to the same State or Indian tribe to which they were originally distributed. This includes historic coal funds under § 872.21 of this chapter and minimum program make up funds under § 872.26 of this chapter.

* * * * *

PART 887—SUBSIDENCE INSURANCE PROGRAM GRANTS

■ 14. The authority citation for part 887 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 15. Revise § 887.11 to read as follows:

You are eligible for grants under this part if you are a State or Indian tribe with a reclamation plan approved under part 884 of this chapter. If you are uncertified, you must have State share funds available under § 872.14 of this chapter or Tribal share funds available under § 872.17 of this chapter. If you have certified completion of coal reclamation under section 411(a) of SMCRA, you must have certified in lieu funds available under § 872.32 of this chapter, if the State legislature or Tribal council has established this purpose.

[FR Doc. 2025–20831 Filed 11–21–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 885

[Docket No. OSM–2025–0019; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AC96

Grants for Certified States and Indian Tribes

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule revises the Federal regulations to rescind language identifying obsolete funds as part of the moneys that the Office of Surface Mining Reclamation and Enforcement (OSMRE) must distribute to eligible States and Tribes each fiscal year. The existing regulations refer to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress.

DATES: The final rule is effective January 23, 2026, unless significant adverse comments are received by December 24, 2025. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule that responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov* and search for Docket Number OSM–2025–0019. Follow the instructions for submitting comments.
- *By hard copy:* Submit by U.S. mail to Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Attn: James Tyree, 1849 C Street NW, Mail Stop 4557, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* 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: The Federal regulations at 30 CFR 885.12 describe how certified States and Tribes may use funds awarded to them by OSMRE under title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Existing 30 CFR 885.12(b)(2) and (b)(4)(ii) refer to prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but never appropriated by Congress. Section 411(h)(1) of SMCRA required OSMRE to distribute prior balance replacement funds to eligible States and Tribes for 7 years, beginning October 1, 2008. As the distribution of prior balance replacement funds is complete, the Department of the Interior (Department) and OSMRE have determined that the references to prior balance replacement funds should be rescinded because they are obsolete. To the extent States or Tribes may have any unspent prior balance replacement funds, those funds will be governed by the regulations that were in place at the time of the initial grant award.

The Department has determined that this reason, independently and alone, justifies rescinding the references to prior balance replacement funds in existing 30 CFR 885.12(b)(2) and (b)(4)(ii). The Department has no interest in maintaining a rule that is obsolete.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551–559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the recission of the regulatory language and raise, alone or in combination, (1) reasons why the recission of the regulatory language is inappropriate, including challenges to the recission's underlying premise, or (2) serious unintended consequences of the recission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under Executive Order 12630. The rule revises the Federal regulations to remove obsolete regulatory language; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is not required.

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Executive Order 12988—Civil Justice Reform

This direct final rule complies with the requirements of Executive Order 12988. Among other things, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13132—Federalism

Under the criteria of section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule 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. A federalism summary impact statement is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under Executive Order 13175 and the Department's consultation policies and determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove obsolete regulatory language.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions ''that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Paperwork Reduction Act

This rule does not impose any new information collection burden under the Paperwork Reduction Act. OMB previously approved the information collection activities contained in the existing regulations and assigned OMB control number 1029–0059. This rule does not impose an information collection burden because the Department is not making any changes to the information collection requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of $100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove obsolete regulatory language. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 885

Grant programs—natural resources, Indians—lands, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Leslie Shockley Beyer,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR part 885 as follows:

PART 885 GRANTS FOR CERTIFIED STATES AND INDIAN TRIBES

■ 1. The authority citation for part 885 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. In § 885.12, revise paragraph (b) to read as follows:

* * * * *

(b)(1) You may use grant funds as established for each type of funds you receive.

(2) You may use certified in lieu funds as provided under § 872.34 of this chapter.

(3) You may use the following moneys for noncoal reclamation projects under section 411 of the Act and part 875 of this chapter:

(i) Moneys that may be available to you from the Fund.

(ii) Certified in lieu funds as provided under § 872.34 of this chapter.

* * * * *

[FR Doc. 2025–20825 Filed 11–21–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 26, 62, 66, 67, 95, 97, 100, 107, 114, 115, 116, 117, 118, 133, 151, 155, 159, 164, 165, and 174

46 CFR Parts 2, 3, 4, 7, 11, 15, 24, 26, 58, 62, 68, 90, 108, 110, 118, 125, 126, 131, 132, 133, 147, 169, 177, 181, 182, and 188

[Docket No. USCG–2024–1103]

Navigation and Navigable Waters, and Shipping; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule makes non-substantive, technical, organizational, and conforming amendments to existing Coast Guard regulations. This represents a continuation of our practice of periodically issuing rules to keep our regulations up-to-date and accurate. This final rule is deregulatory in nature due to the discontinuation of the Information Collection Request (ICR), Office of Management and Budget (OMB) Control Number 1625–0068. In all other respects, this final rule will have no substantive impact on the regulated public.

DATES: This final rule is effective November 24, 2025.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov,* type USCG–2024–1103 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. Dale Murad, Office of Regulations and Administrative Law, U.S. Coast Guard; telephone 571–607–4608, email *Dale.Murad@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Regulatory History
III. Basis and Purpose
IV. Discussion of the Rule
  A. Authority Citation Updates
  B. Formatting Amendments To Accompany Technical Amendments in This Document
  C. Technical Amendments to Title 33 of the CFR
  D. Technical Amendments to Title 46 of the CFR
V. Regulatory Analyses
  A. Regulatory Planning and Review
  B. Small Entities
  C. Assistance for Small Entities
  D. Collection of Information
  E. Federalism
  F. Unfunded Mandates
  G. Taking of Private Property
  H. Civil Justice Reform
  I. Protection of Children
  J. Indian Tribal Governments
  K. Energy Effects
  L. Technical Standards and Incorporation by Reference
  M. Environment
  N. Congressional Review Act

I. Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DDH Document Drafting Handbook
DHS Department of Homeland Security
EPA Environmental Protection Agency
FR Federal Register
GPO Government Publishing Office
IBR Incorporation by Reference
ICR Information Collection Request
MHz megahertz
NDAA 2023 James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Public Law 117–263
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
§ Section

U.S.C. United States Code

II. Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(A), the Coast Guard finds that this final rule is exempt from notice and public comment rulemaking requirements because the changes made in this rulemaking involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B), as this final rule consists of only technical and editorial corrections, and these changes will have no substantive effect on the public.[1] Finally, under 5 U.S.C. 553(d)(3), the Coast Guard finds, for the same reasons, that good cause also exists for making this final rule effective upon publication in the **Federal Register**.

III. Basis and Purpose

The purpose of this final rule, which becomes effective on November 24, 2025, is to make technical and editorial corrections throughout 33 CFR chapter I and 46 CFR chapter I. These changes are necessary to update authority citations, correct errors, update contact information, and make other non-substantive amendments that improve the clarity of the CFR. This rule does not create or change any substantive requirements.

The legal basis for this final rule rests on the authorities of 5 U.S.C. 552(a) and 553; 14 U.S.C. 102 and 503; Department of Homeland Security (DHS) Delegation No. 00170.1, Revision No. 01.4; and on authorities listed at the end of this rule for each CFR part this rule amends.

IV. Discussion of the Rule

The Coast Guard periodically issues technical, organizational, and conforming amendments to existing regulations in titles 33 and 46 of the CFR. These technical amendments are intended to provide the public with more accurate and current regulatory information than exist in the rules they amend without changing the effect of any Coast Guard regulations on the public.

A. Authority Citation Updates

This final rule implements updates to DHS Delegation No. 00170.1, Revision No. 01.4 in 33 CFR parts 1, 26, 62, 66, 67, 95, 97, 107, 114, 115, 117, 118, 133, 151, 155, 159, 164, and 165, and 46 CFR parts 3, 4, 7, 11, 24, 26, 58, 62, 68, 90, 110, 125, 126, 131, 177, 182, and 188.

B. Formatting Amendments To Accompany Technical Amendments in This Document

While making the technical amendments within this document, we identified cases where the text of the existing CFR does not meet current formatting standards and made stylistic changes to bring the affected portions of the CFR into compliance. Our formatting amendments reflect direction in three sources prescribing stylistic standards for Federal documents—the Document Drafting Handbook (DDH),[2] the Government Publishing Office (GPO) Style Manual, and Executive Order 12866, 58 FR 51735 (Oct. 4, 1993), which directs Federal agencies to provide information to the public in plain, understandable language. The DDH provides guidance on how to follow the formatting and editorial requirements established in 44 U.S.C. chapter 15 (the **Federal Register** Act) and 1 CFR chapter I.[3] On page 2–55, the DDH refers readers to the GPO Style Manual as a guide for punctuation, capitalization, spelling, compounding, and other style matters not addressed in the DDH.

Two stylistic changes occur repeatedly in this document. In cases where this final rule updates a mailing address that includes an abbreviation of a geographic quadrant, we have removed any periods from the abbreviation. This reflects Rule 9.17 in the GPO Style Manual,[4] which states ''in addresses, no period is used with the abbreviations NW, SW, NE, SE (indicating sectional divisions of cities) following name or number.'' This final rule further replaces all instances of ''shall'' in regulatory text otherwise amended by this rule with ''must.'' We do so to follow a recommendation in the Federal plain language guidelines, posted on *plainlanguage.gov,* that the word ''shall'' should usually be replaced with the clearer and more commonly used ''must.''

C. Technical Amendments to 33 CFR

In § 1.07–100(a)(1), this final rule removes references to paragraph numbers in 46 U.S.C. 2101 because the paragraphs in that section of the U.S. Code have been renumbered, and the referenced paragraph numbers for the definitions of *fishing vessel, fish processing vessel,* and *fish tender vessel* are incorrect. We are not replacing the paragraph number references, as these definitions are listed in alphabetical order in the referenced statute, and cross-referencing to a paragraph number is unnecessary. In addition, Congress updates 46 U.S.C. 2101 fairly frequently, and if we were to replace the paragraph numbers, they would likely be rendered incorrect the next time Congress updates the section.

In § 26.03(b), this final rule replaces the term ''Mega-Hertz'' with ''megahertz (MHz),'' to use GPO's preferred formatting and to help readers understand the use of the abbreviation elsewhere in the section.

In § 62.1, this final rule removes paragraph (b)(2), which references 33 CFR subpart 66.10 (which is deleted elsewhere in this rule), and redesignates § 62.1(b)(1) as § 62.1(b), as there are no longer any subordinate paragraphs under paragraph (b).

In § 62.21(c)(2), this final rule corrects internet addresses and a spelling error.

In § 62.47(a)(2), this final rule removes a reference to fog detector technology that is no longer in use and provides information on the technology that has replaced it.

In § 62.63(b)(2), this final rule replaces a reference to ''loran,'' a radio navigation system no longer in use, with ''electronic charting systems.''

In § 66.01–5, this final rule corrects an internet address in the introductory text.

This final rule removes 33 CFR part 66 subpart 66.10. On June 19, 1998 (63 FR 33570), the Coast Guard, exercising authorities in 14 U.S.C. 83 (now 14 U.S.C. 542) and 33 U.S.C. 1333, announced a merger of the Uniform State Waterway Marking System with the United States Aids to Navigation System, to be phased in over a five-year period. As provided in a sunset provision (33 CFR 66.10–1(b)) that is removed by this rule, the regulations in the subpart ceased to be in effect after the phase-in period ended in 2003, when aids to navigation which had been governed by subpart 66.10, would be governed by part 62 of subchapter C of title 33.

In §§ 67.05–20 and 67.30–5(d), this final rule makes stylistic and grammatical corrections, changing ''*Provided,* That'' in both paragraphs to ''provided that.''

[1] As explained below, notice and comment procedures are also unnecessary regarding the removal of 33 CFR part 133 because its removal flows directly from legislative changes made by the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Public Law 117–263 (NDAA 2023), and leaves no room for the exercise of discretion by the Coast Guard.

[2] The DDH is published by the Office of the Federal Register. We consulted the August 2018 edition (Revision 2.2, dated June 2025).

[3] See the Introduction to the DDH, at *www.archives.gov/files/federal-register/write/handbook/ddh.pdf.*

[4] The GPO Style Manual is available at *www.govinfo.gov/content/pkg/GPO-STYLEMANUAL-2016/pdf/GPO-STYLEMANUAL-2016.pdf* (Last accessed 3–12–25).

In § 67.40–1(a), this final rule replaces an outdated notification method (telegram) with newer methods (electronic mail and telephone) and, in paragraph (b), removes a reference to telegrams. Western Union stopped providing telegram service in 2006.[5]

In § 67.40–1(b), this rule replaces the word ''telegraph'' with the word ''notification,'' consistent with the change made in § 67.40–1(a).

In § 67.50–25, this final rule updates the name of the district in the section heading and in paragraph (e) to reflect that on July 3, 2025, the Coast Guard announced the renaming of its districts in an all Coast Guard Message (ALCOAST), ALCOAST 305/25 ''Force Design 2028—Renaming Coast Guard Districts.'' In paragraph (e), this final rule also updates a street address, and an internal office routing symbol.

In § 95.010, this final rule removes from the definition of *recreational vessel* a reference to a paragraph in 46 U.S.C. 2101 because the paragraphs in that section have been renumbered, as noted in our discussion of § 1.07–100(a)(1). We are also adding the phrase ''of that term'' to clarify that the word ''definition'' refers to the definition of *recreational vessel* contained in 46 U.S.C. 2101.

In § 97.110(a), this final rule updates the name of the point of contact and substitutes the current contact's email address and phone number for the public to submit requests to view material incorporated by reference (IBR) in part 97.

In § 100.30, this final rule identifies the Captain of the Port (COTP) as the approval authority, except for those applications that are managed by the State. This change is consistent with 33 CFR 100.35(a), which already acknowledges that COTPs can ''approv[e] plans for the holding of a regatta or marine parade within his or her . . . zone.''

In § 107.210(b), this final rule removes the reference to the paragraph number in 46 U.S.C. 2101 defining *public vessel* because the paragraphs in that section have been renumbered for the reasons provided in our discussion of § 1.07–100(a)(1). We are also removing the reference to a definition of *foreign vessel* in 46 U.S.C. 2101 as that definition has been removed from the section entirely. We are replacing it with a reference to the definition of *foreign vessel* in 46 U.S.C. 110, added by Public Law 109–304, § 4, Oct. 6, 2006, 120 Stat. 1487. Finally, we are adding a reference to the definition of *vessel of the United States* at 46 U.S.C. 116. Congress also added that definition in Public Law 109–304.

In § 114.50, this final rule adds an email address as an additional means for the public to submit appeals for the denial of bridge permits.

In § 115.50(a), this final rule adds language to require applicants for authorization to construct a bridge across navigable waters of the United States to include their email addresses in their applications. It also adds language advising applicants to refer to Commandant Publication (COMDTPUB) 16591, Bridge Permit Application Guide, for guidance on completing the application.

In § 115.60(a), this final rule removes the last three lines of that paragraph, which relate to procedures for compliance (in connection with the Coast Guard's issuance of a bridge permit) with water quality certification requirements under section 401 of the Clean Water Act, 33 U.S.C. 1341. The language removed from § 115.60(a) fulfilled requirements previously contained in an Environmental Protection Agency (EPA) regulation, 40 CFR 121.6(b), that Federal agencies provide the certifying authority notification of (a) the date it received a copy of the applicant's certification request to the certifying authority, (b) the ''applicable reasonable period of time to act on the certification request,'' and (c) ''the date upon which waiver will occur if the certifying authority fails or refuses to act on the certification request.'' See the version of 40 CFR 121.6 in effect on September 11, 2020. Also see the preamble of ''Clean Water Act Section 401 Water Quality Certification Improvement Rule,'' 88 FR 66558, 66582 (Sept. 27, 2023), where EPA stated ''the Agency [EPA] is removing the regulatory text located at § 121.6(b) in the 2020 Rule, which required the Federal agency to communicate the date of receipt of the request for [water quality] certification, the reasonable period of time [to act on the request for certification], and the date waiver [of certification] will occur.'' The 2023 EPA rule which replaced the 2020 version of § 121.6 renders the removed text of the EPA rule obsolete, as the 2023 rule sets the date from which the reasonable period of time begins for certification to occur, and provides that the reasonable period of time to act on a certification request is six months, unless the Federal agency and the certifying authority agree in writing to some other period that does not exceed one year.

In § 116.55(a), this final rule changes the word ''recommendation'' to ''decision'' to describe a matter subject to appeal, to conform with the language used elsewhere in the section. We note here that a matter would not need to be appealed if it were merely a recommendation.

In § 116.55(b), this final rule adds email as a means of submitting an appeal under paragraph (a) of this section.

In §§ 117.255(a)(3)(i) and (a)(5)(i), this final rule updates a contact phone number.

In § 117.593(b)(2), this final rule adds language to clarify how the operation lights at the Chelsea Street Bridge work, to better reflect what a mariner sees at this location.

In § 117.997(c)(2)(i), this final rule adds the term ''vessels'' after the term ''recreational'' to clarify that the phrase ''that do not qualify under section'' applies only to commercial vessels. We also correct an incorrect reference to paragraph (d)(2)(ii) so that § 117.997(c)(2)(i) refers to paragraph (c)(2)(ii), as paragraph (d) pertains to a different bridge, and paragraph (d)(2)(ii) does not exist.

In § 117.997(c)(2)(ii), this final rule corrects a typographical error by adding a space between ''at'' and ''7.''

In §§ 117.1087(a), 117.1087(a)(3), and 117.1087(a)(4), this final rule amends those sections to reflect changes in bridge names made by the bridge owner. The names of these bridges have already been corrected in *Coast Pilot* 6 (page 419),[6] and are being used in general messaging between the Coast Guard and the bridge owner, including messaging regarding deviations.

In § 118.3(b), this final rule adds an email address for the public to submit requests to view material incorporated by reference (IBR) in part 118.

This final rule removes 33 CFR part 133, which is now obsolete. Prior to December 23, 2022, when the NDAA 2023, became law, 33 U.S.C. 2712(d) and (e) authorized and required the President to obligate appropriations into the Oil Spill Liability Trust Fund for removal actions undertaken by the States, in a procedure (commonly known as ''State access'') that was implemented in 33 CFR part 133. Section 11314 of the NDAA 2023 removed those provisions in old 33 U.S.C. 2712(d) and (e) and substituted the language which is now in current section 2712(d), for those provisions. That language authorizes States to use cost-reimbursable agreements and withdraws the Coast Guard's authority to administer the State access program.

[5] See Mike Musgrove, ''The Telegram, 1844–2006,'' Washington Post (Feb 3, 2006).

[6] *nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6_WEB.pdf* (Last accessed 3–12–25).

With the removal of 33 CFR part 133, the Coast Guard will discontinue the Information Collection Request (ICR), Office of Management and Budget (OMB) Control Number 1625–0068. Accordingly, this technical amendment is considered deregulatory under Executive Order 14192 (Unleashing Prosperity Through Deregulation) due to the elimination of a paperwork requirement. In addition, there is the triennial savings to the Federal Government (for example, Coast Guard, DHS and OMB) of not conducting a periodic renewal of the ICR, OMB Control Number 1625–0068. We consider this a non-quantifiable benefit.

In § 151.51(a)(1), this final rule removes incorrect citations to paragraphs referring to the definitions of *recreational vessels* and *uninspected vessels* in 46 U.S.C. 2101. This information is incorrect as the paragraphs in 46 U.S.C. 2101 have been renumbered, as explained in our discussion of § 1.07–100(a)(1).

In §§ 155.4025, 155.4030(b), and 155.4040(c), this final rule replaces the term ''assessment of structural stability'' with ''assessment of structure and stability.'' The term ''assessment of structural stability'' implies one distinct action but, as the Coast Guard stated in a response to comments on its 2008 final rule, Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil, ''these are two distinct types of assessments that will be going on at the same time.'' [7] We stated in the same paragraph of the 2008 rule that we agreed, in part, with the points made in the response to comments and added a sentence to the proposed definition (at 67 FR 31868, 31874 (May 10, 2002)), but did not clarify that the term referred to two distinct actions. The change we are making in this final rule will clarify the two distinct actions required—the assessment of vessel stability and the assessment of structural integrity.

In §§ 155.5015(a)(3), 155.5020, and 159.305, this final rule removes references to paragraph numbers in 46 U.S.C. 2101 as the paragraphs have been renumbered, as explained in our discussion of § 1.07–100(a)(1). In §§ 155.5015(a)(3) and 159.305, we are not replacing the paragraph numbers referring to the definitions of *navigable waters of the United States* and *cruise vessel,* respectively. In § 155.5020, however, we are replacing the paragraph number referring to the definition of *navigable waters of the United States,* now cited in § 155.5020, with ''(23)'' because that regulation refers to the waters identified in 46 U.S.C. 2101(23) only as a subset of an alternative definition of that term, and not as the definition of navigable waters of the United States, which is used in § 155.5020.

In § 164.01(b)(2), this final rule corrects an erroneous reference to the regulation containing the definition for *assistance towing.* 46 CFR 10.103, which the rule referenced prior to this change, is an IBR section; 46 CFR 10.107, which the rule references after the change, is the proper location of the definition.

In §§ 164.39(b), 165.123(b), 165.169(a), and 165.500(a)(4), this final rule removes references to paragraph numbers for the definitions of *tanker, tank vessel,* and *passenger vessel* in 46 U.S.C. 2101 for the reasons provided in our discussion of § 1.07–100(a)(1).

In § 165.911(b)(2), this final rule updates contact information for the public to request permission to transit security zones in the Captain of the Port Eastern Great Lakes Zone.

In § 165.923(a)(2)(ii)(C), this final rule removes a reference to a paragraph number for the definition of *commercial service* in 46 U.S.C. 2101 for the reasons provided in our discussion of § 1.07–100(a)(1) pertaining to the renumbering of paragraphs.

In § 165.1141(d)(2), this final rule updates contact information for the public to request permission to transit through the San Clemente Safety Zone.

In § 165.1157(a), this final rule adds degree, minute, and second symbols to the latitude and longitude coordinates for the Santa Barbara Breakwater Light.

In § 165.1711(c)(6), this final rule removes a reference to an incorrect paragraph number in 46 U.S.C. 2101 for the reasons provided in our discussion of § 1.07–100(a)(1). In addition, the adjective ''commercial'' has been removed before the phrase ''fishing vessels,'' as the definition of *fishing vessel* in § 2101 is ''a vessel that *commercially* engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.'' (Emphasis added.)

This final rule removes §§ 174.17(c) and 174.19(c), which are obsolete paragraphs governing the issuance of certificates of number to vessels between April 27, 2012, and January 1, 2017. The appendix referenced in these sections has already been removed.

D. Technical Amendments to 46 CFR

In § 2.01–7, footnote 7, this final rule removes references to paragraphs in 46 U.S.C. 2101 defining *passenger* and *passenger(s)-for-hire,* as the paragraphs have been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In § 3.01–1, this final rule removes a reference to a paragraph number in 46 U.S.C. 2101 defining *oceanographic research vessel* because the paragraphs in that section of the U.S. Code have been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In §§ 4.03–50 and 7.1, this final rule removes a reference to a paragraph number in 46 U.S.C. 2101 for the definitions of *recreational vessel, seagoing barges* and *seagoing motor vessels* because the paragraphs in that section of the U.S. Code have been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In § 11.301, this final rule removes the reference to paragraphs 11(a) and 11(c) in 46 U.S.C. 2101 for the definitions of *fishing vessel* and *fish-tender vessel* because the paragraphs in section 2101 have been renumbered, and the referenced paragraph numbers are no longer correct. We are not replacing the paragraph numbers, as definitions in section 2101 are listed in alphabetical order, and cross-referencing to a paragraph number is unnecessary for these definitions. We are retaining a reference to the subordinate paragraph associated with the definition of *uninspected passenger vessels,* however, because that subordinate paragraph designation remains unchanged and subordinate paragraphs (A) and (B) contain separate definitions.

In §§ 11.491(a) and 11.551, this final rule removes a reference to a U.S. Code paragraph in 46 U.S.C. 2101 for the definition of *offshore supply vessel,* as the paragraph has been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In § 15.105, this final rule removes the reference to paragraphs 12 and 14 in 46 U.S.C. 2101 because the paragraphs in section 2101 have been renumbered and the referenced paragraph numbers are no longer correct. We are not replacing the paragraph numbers, as definitions in section 2101 are listed in alphabetical order, and cross-referencing to a paragraph number is unnecessary for the definitions of *fishing vessel* and *fish-tender vessel.* We are retaining a reference to the subordinate paragraph associated with the definition of *uninspected passenger vessels,* however, because that subordinate paragraph designation remains unchanged and subordinate paragraphs (A) and (B) contain separate definitions.

In § 15.403(e), this final rule removes the reference to paragraphs for the

[7] 73 FR 80618, 80631 (Dec. 31, 2008).

definitions of *fishing vessels* and *fish-tender vessels* in 46 U.S.C. 2101 because the paragraphs in section 2101 have been renumbered, and the referenced paragraph number is no longer correct. We are not replacing the paragraph numbers, as definitions in section 2101 are listed in alphabetical order, and cross-referencing to a paragraph number is unnecessary. We are retaining a reference to the subordinate paragraph associated with the definition of *uninspected passenger vessels,* however, because that subordinate paragraph designation remains unchanged and subordinate paragraphs (A) and (B) contain separate definitions.

In §§ 15.720(b) this final rule removes references to paragraphs in the definitions of *offshore supply vessel* and *mobile offshore drilling unit in* 46 U.S.C. 2101, as the paragraphs in section 2101 have been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In § 15.1101(a), this final rule removes the reference to paragraphs 11(a) and 11(c) in 46 U.S.C. 2101 because the paragraphs in section 2101 have been renumbered and the referenced paragraph numbers for the definitions of *fishing vessel* and *fish-tender vessel* are no longer correct. For the reasons provided in our discussion of 33 CFR 1.07–100(a)(1), we are not replacing the paragraph numbers. We are retaining a reference to the subordinate paragraphs associated with the definition of *uninspected passenger vessels,* however, because the subordinate paragraphs contain separate definitions.

In § 24.10–1, this final rule changes a reference in the definition of *motorboat* from table 24.05–1(a) in § 24.05–1 to table 2.01–7(a) in 46 CFR 2.01–7(a). In 2014, the Coast Guard issued a rule which removed table 24.05–1(a) from the CFR on the grounds that the table unnecessarily duplicated table 2.01–7(a).[8] However, due to a drafting error, the rule did not update this cross-reference, and we correct that here.

In §§ 26.15–1(a) and 58.25–5(a), this final rule removes references to the U.S. Code paragraphs in 46 U.S.C. 2101 defining *uninspected vessel, tanker,* and *tank vessel,* as the paragraphs in section 2101 have been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In § 62.50–30(k)(3), this final rule corrects a cross-reference. Section 62.50–30(k)(3) incorrectly references paragraph (f) of § 111.70–3 because the reference to that paragraph was not changed when the Coast Guard updated § 111.70–3 in 1996 to eliminate obsolete requirements. This amendment corrects that oversight by changing the reference to paragraph (b) of § 111.70–3, which now contains the material that had been in paragraph (f) of the 1995 version of § 111.70–3.[9]

In § 68.55, this final rule removes a reference to the U.S. Code paragraph in 46 U.S.C. 2101 defining *oil,* as the paragraphs in section 2101 have been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In § 90.10–23, this final rule changes a reference in the definition of *motorboat* from a table which has been removed (table 90.05–1(a)) to a table with the same information in it (table 2.01–7(a)). This should have been done in a rulemaking published on September 29, 2014, which stated at 79 FR 58270, 58272:

> ''This rule amends the following sections to remove repetitive tables: 46 CFR 24.05–1(a) . . ., 90.05–1(a) . . . . The repetitive tables are duplications of information contained in table 2.01–7(A) [sic], and therefore we replace the tables with a reference back to the complete, original table published as table 2.01–7(A) [sic] in 46 CFR 2.01–7(a).''

In § 108.151(b), this final rule corrects a grammatical error by adding the word ''of.''

In § 110.01–3(c), this final rule removes a reference to the U.S. Code paragraph (14a) in 46 U.S.C. 2101 defining *conversion,* as the paragraphs in section 2101 have been renumbered. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1). In addition, the word ''Major'' has been added before ''conversions'' because the current definition given in section 2101, and the definition given in the 1997 version of section 2101 (which contained paragraph 14a), was for ''major conversions.''

In § 118.400(f),[10] this final rule corrects a reference to ''paragraph (f) of this section'' to refer instead to paragraph (g). We redesignated § 118.400(f) as § 118.400(g) in 86 FR 73171 (December 27, 2021), but failed to make a conforming change to the reference at that time.

In § 125.180(b)(4), this final rule corrects citations to sections in 46 CFR subchapter L, which incorporate by reference the American Bureau for Shipping's Rules for Building and Classing Mobile Offshore Drilling Units. It does not change the meaning of the regulations.

In § 126.180, this final rule removes a reference to the higher level paragraph in 46 U.S.C. 2101, as the number of the paragraph in that U.S. Code section containing the definition of *passenger* has changed. Because § 126.180 refers the reader to a specific subordinate paragraph of the definition of ''passenger,'' we are revising the reference, ''46 U.S.C. 2101(21)(B)'' rather than deleting everything after ''2101.'' Our revision refers the reader to subordinate paragraph (B) of the paragraph containing the definition of passenger in 46 U.S.C. 2101. That paragraph applies specifically to a passenger on an offshore supply vessel.

In § 131.540(a), this final rule corrects the misspelling of the word ''each.''

In § 132.130(a), this final rule corrects the misspelling of the word ''fire.''

In § 133.130(b)(4)(i), this final rule corrects an editorial error by deleting the redundant words ''and list'' from the phrase ''Within the limits of trim and list and list specified . . . .''

In § 147.65(b)(1), this final rule removes the words ''of pressure'' from the sentence ''If cylinder weight or liquid level, adjusted for temperature, shows a 5 percent loss of pressure, the cylinder must be refilled.'' A loss of cylinder weight or liquid level, adjusted for temperature, is distinct from a loss of pressure, so the earlier language was illogical.

In § 169.101, this final rule deletes a reference to a U.S. Code paragraph defining *sailing school vessel* because the paragraphs in 46 U.S.C. 2101 have been renumbered, and the paragraph cited is no longer the correct one. For more detail, see our explanation of the change to 33 CFR 1.07–100(a)(1).

In § 177.410(b), this final rule removes the words ''meet as'' from the phrase ''. . . and meet as accepted by the Commandant as meeting . . .'' as both redundant and ungrammatical.

In § 181.115(b), this final rule, applicable to 46 CFR subchapters T and K, removes implementation deadlines that have passed and are no longer relevant. This final rule also corrects an error in § 181.115 resulting from a previous rulemaking, published at 81 FR 48220 (July 22, 2016). That 2016 rulemaking split an earlier version of § 181.400 into two sections to separate

[8] 79 FR 58270, 58272 (Sept. 29, 2014)

[9] In 1995, 46 CFR 111.70–3 contained paragraphs (a) to (k). Paragraph (f) was titled ''Low voltage release.'' On February 2, 1996 (at 61 FR 4137), the Coast Guard proposed to revise 46 CFR subpart 111.70, stating ''the revision will eliminate obsolete requirements.'' Section 111.70–3 was revised in the interim final rule on June 4, 1996 (see 61 FR 28281 at *www.govinfo.gov/content/pkg/FR–1996–06–04/pdf/96–13416.pdf*). The revision contains paragraphs (a) to (d). Paragraph (b), titled ''Low-voltage release,'' now contains the material which had been in paragraph (f) of the 1995 version of § 111.70–3.

[10] Subpart D of Part 118 is titled ''Fixed Fire Extinguishing and Detecting Systems.'' Section 118.400 is titled ''Where required.''

the identification of spaces required to have fixed fire extinguishing systems from the identification of spaces required to have fire detection systems. The portion of § 181.400 dealing with fire extinguishing systems remained in § 181.400, and the portion relating to fire detection systems was moved to § 181.405. Section 181.115, which had referred only to § 181.400, was not changed in the 2016 rulemaking. This final rule corrects § 118.115 by adding a reference to § 181.405 to reflect that the identification of spaces required to have fire detection systems is now set out in that section.

This final rule splits 46 CFR 181.300(d) into two separate paragraphs and redesignates what had been paragraph (e) as paragraph (f). The first sentence of paragraph (d), ''A fire pump may be driven by a propulsion engine,'' remains in paragraph (d). The second sentence, ''A fire pump must be permanently connected to the fire main and may be connected to the bilge system to meet the requirements of § 182.520 of this chapter,'' is now paragraph (e). Having both requirements in one paragraph has caused confusion because people have incorrectly inferred that the second sentence is only applicable if the first sentence is true. Regardless of whether the fire pump is driven by a propulsion engine, however, the pump must be permanently attached to the vessel. A separate, portable pump does not meet the requirements set out in 46 CFR subpart D.

This final rule adds paragraphs (c), (d), and (e) to § 181.400. The language added here pertains to fire suppression system requirements and is being moved from the section addressing fire detection systems in 46 CFR 181.405. A 2016 rule [11] for harmonizing fire safety standards split requirements (previously consolidated in § 181.400) for both fire suppression and detection systems into §§ 181.400 (Fire suppression systems) and 181.405 (Fire detection systems). The rulemaking inadvertently put some of the fire suppression requirements into the fire detection section. Rearranging these paragraphs will not change the requirements, but it will make the organization of the subpart more logical and consistent with the original intent as proposed. The original intent of the 2016 change is explained at 79 FR 2271, in the NPRM titled ''Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment,'' and published on January 13, 2014. There, we stated:

> The existing regulations at § 181.400 contain the requirements for both fire extinguishing systems and fire detection systems on small passenger vessels regulated under 46 CFR subchapter T. We propose to separate, for clarity, these requirements by removing the regulations for fire detection systems in § 181.400(c) through (g) and moving these regulations to proposed new § 181.405(a) through (e). Further, we propose to amend the title of § 181.400 to ''Spaces required to have fixed fire extinguishing systems,'' in order to clarify that this section would contain the requirements for fire extinguishing systems only.

In § 181.405, this final rule removes fire suppression system requirements that are currently listed in the section designated for fire detection systems. As explained in the preceding paragraph regarding § 181.400, the 2016 rule harmonizing fire safety standards split § 181.400, which contained requirements for both fire suppression and detection systems, into § 181.400 (Fire suppression systems) and § 181.405 (Fire detection systems). The rulemaking inadvertently left some fire suppression requirements in the fire detection section. Rearranging these paragraphs will not change the requirements, but it will make the organization of the subpart more logical.

In § 182.115(c) and (d), this final rule removes an implementation deadline that has passed and is no longer relevant.

In § 188.10–77, this final rule changes a reference, in the definition of *vessel,* from a table (table 24.05–1(a)) which has been removed to another table (table 2.01–7(a)) with the same information in it. This change should have been done in a rulemaking published on September 29, 2014, where we stated the following, at 79 FR 58270, 58272:

> This final rule amends 46 CFR 24.05–1(a) to remove repetitive tables. The repetitive tables are duplications of information contained in table 2.01–7(A)[sic], and therefore we replace the tables with a reference back to the complete, original table published as table 2.01–7(A) [sic] in 46 CFR 2.01–7(a).

V. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

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

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.''

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

This final rule is considered an Executive Order 14192 deregulatory action due to the elimination of a paperwork requirement. This final rule involves non-substantive, technical amendments and internal agency practices and procedures; it will not impose any additional costs. The technical amendments in this final rule fit into categories that involve (1) correcting inadvertent typographical errors in the CFR; (2) modifying existing language in the CFR by addition or subtraction to improve the readability or clarity of regulations; (3) removing irrelevant information, such as expired regulatory provisions or cancelled reference material, and replacing outdated regulatory information with current information, where applicable; and (4) revising office contact information and mailing addresses. This final rule will not impose any additional costs to the public or the Federal Government, because none of the technical and editorial changes in this final rule will impose new regulatory requirements. A summary of these amendments by category and by CFR title and section are presented in table 1.

[11] 81 FR 48299, 48300 (July 22, 2016)

TABLE 1—SUMMARY OF REGULATORY CHANGES BY CFR TITLE AND SECTION

CFR title	CFR section or part	Description of changes	Economic impact
33	67.05–20, 67.30–5(d), 117.997(c)(2)(ii), 155.4025, Table 155.4030(b), Table 155 4040(c), 164.01(b)(2).	Improves the accuracy of regulatory information by correcting erroneous information.	Corrects various typographical errors.
46	108.151(b), 131.540(a), 132.130(a), 181.300(d), 181.405,.	Improves the accuracy of regulatory information by correcting erroneous information.	Corrects various typographical errors.
33	26.03(b), 62.47(a)(2), 62.63(b)(2), 67.40–1(a) 95.010, 100.30, 107.210(b), 116.55(a), 117.593(b)(2), 117.997(c)(2)(i), 117.1087(a)(3), 117.1087(a)(4), 151.51(a)(1), 165.1711(c)(6).	Improves the accuracy of regulatory information by correcting erroneous information.	Improves readability by removing or replacing irrelevant and outdated information.
33	1.07–100(a)(1), 62.1(b)(2), 66.10, 67.40–1(b), 115.50(a), 115.60(a), 155.5015(a)(3), 155.5020, 159.305, 164.39(b), 165.123(b), 165.169(a), 165.500(a)(4), 165.923(a)(2)(ii)(C), 165.1141(d)(2), 165.1157(a), 174.17(c), 174.19(c).	Adds clarifying language and removes redundant, confusing, or incorrect language.	Improves readability by removing or replacing irrelevant and outdated information.
46	2.01–7 footnote 7, 3.01–1, 4.03–50, 7.1, 11.301, 11.491(a), 11.551, 15.105, 15.403(e), 15.720(b), 15.1101(a), 24.10–1, 26.15–1(a), 58.25–5(a), 62.50–30(k)(3), 68.55, 90.10–23, 110.01–3(c), 118.400(f), 125.180(b)(4), 126.180, 133.130(b)(4)(i), 147.65(b)(1), 169.101, 177.410(b), 181.115(b), 181.400, 182.115(c), 182.115(d), 188.10–77.	Adds clarifying language and removes redundant, confusing, or incorrect language.	Improves readability by removing or replacing irrelevant and outdated information.
33	62.21(c)(2), 66.01–5, 67.50–25(e), 97.110(a), 114.50, 116.55(b), 117.255(a)(3)(i), 117.255(a)(5)(i), 117.1087(a), 118.3(b), 165.911(b)(2).	Updates office contact information or mailing addresses.	Improves the accuracy of regulatory information through administrative changes.

Also, as discussed in the ''Discussion of the Rule'' section above, this final rule removes 33 CFR part 133, which is now obsolete. Prior to December 23, 2022, the date in which the NDAA 2023, became law, 33 U.S.C. 2712(d) and (e) authorized and required the President to obligate appropriations into the Oil Spill Liability Trust Fund for removal actions undertaken by the States, in a procedure (commonly known as ''State access'') that was implemented in 33 CFR part 133. Section 11314 of the NDAA 2023 removed those provisions in 33 U.S.C. 2712(d) and (e) and substituted the language, which is now in section 2712(d), for those provisions. That language authorizes States to use cost-reimbursable agreements and withdraws the Coast Guard's authority to administer the State access program.

The benefits of the non-substantive technical amendments are increased accuracy of regulatory information by correcting erroneous information, and improved readability and clarity of regulations by removing redundant or confusing language and by removing expired or cancelled provisions that are no longer relevant. In addition, correcting technical items such as office contact details and location coordinates will improve the ability to reference and contact the correct entities.

B. Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, requires federal agencies to consider the potential impact on small entities when they issue a rule after being required to first publish a general NPRM. Under 5 U.S.C. 604(a), a regulatory flexibility analysis is not required for this final rule because, under provisions in 553(b)(B), we were not required to publish a general NPRM. 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 offer 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 final rule or any policy or action of the Coast Guard.

D. Collection of Information

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. However, with the removal of 33 CFR part 133 the Coast Guard will discontinue the ICR OMB Control Number 1625–0068.

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 $100,000,000 (adjusted for inflation) or more in any one year. Although this final rule will not result in such expenditure, we do discuss the effects of this final rule elsewhere in this preamble.

G. Taking of Private Property

This final 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), which addresses governmental actions and interference with property rights.

H. Civil Justice Reform

This final 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 final rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This final 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 final 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 final 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. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule does not use technical standards or incorporation by reference. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under Department of Homeland Security 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. Paragraph A3 pertains to: 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; (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. Paragraph L54 pertains to ''Regulations which are editorial or procedural, such as those updating addresses or establishing application procedures.'' This final rule makes non-substantive technical, organizational, and conforming amendments to existing Coast Guard regulations and also, as explained above, implements without substantive changes, statutory requirements made by the NDAA 2023. This final rule is a continuation of our practice of periodically issuing rules to keep our regulations up-to-date and accurate.

N. Congressional Review Act

Before a rule can take effect, 5 U.S.C. 801, the Congressional Review Act, requires agencies to submit the rule and a report indicating whether it is a major rule to Congress and the Comptroller General. Under 5 U.S.C. 804(3)(C), rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties are not considered to be a rule for the purposes of the Congressional Review Act. This technical amendment is a rule of agency organization, procedure, or practice that will not substantially affect the rights or obligations of non-agency parties, thus it is not required to be submitted for review under the CRA.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 62

Navigation (water).

33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 95

Alcohol abuse, Drug abuse, Marine safety, Penalties.

33 CFR Part 97

Cargo vessels, Incorporation by reference, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 100

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 114

Bridges.

33 CFR Part 115

Administrative practice and procedure, Bridges, Reporting and recordkeeping requirements.

33 CFR Part 116

Bridges.

33 CFR Part 117

Bridges.

33 CFR Part 118

Bridges.

33 CFR Part 133

Intergovernmental relations, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 155

Alaska, Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 159

Alaska, Reporting and recordkeeping requirements, Sewage disposal, Vessels.

33 CFR Part 164

Incorporation by reference, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

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

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 3

Coastal zone, Oceanographic research vessels, Reporting and recordkeeping requirements, Research.

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 7

Law enforcement, Vessels.

46 CFR Part 11

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 15

Incorporation by reference, Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 24

Marine safety.

46 CFR Part 26

Marine safety, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 58

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 62

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 68

Oil pollution, Vessels.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 110

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 118

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 125

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Seamen.

46 CFR Part 126

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 131

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 132

Cargo vessels, Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 133

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 147

Hazardous materials transportation, Incorporation by reference, Labeling, Marine resources, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 169

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 177

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 181

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 182

Marine safety, Passenger vessels.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 26, 62, 66, 67, 95, 97, 100, 107, 114, 115, 116, 117, 118, 133, 151, 155, 159, 164, 165, and 174 and 46 CFR parts 2, 3, 4, 7, 11, 15, 24, 26, 58, 62, 68, 90, 108, 110, 118, 125, 126, 131, 132, 133, 147, 169, 177, 181, 182, and 188 as follows:

Title 33—Navigation and Navigable Waters

PART 1—GENERAL PROVISIONS

■ 1. The authority citation for part 1 is revised to read as follows:

Authority: 14 U.S.C. 502, 503, 505; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a;

42 U.S.C. 9615; 49 U.S.C. 322; DHS Delegation No. 00170.1, Revision No. 01.4; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

§ 1.07–100 [Amended]

■ 2. Amend § 1.07–100 in paragraph (a)(1), by removing the text ''(11a), (11b), or (11c), respectively''.

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

■ 3. The authority citation for part 26 is revised to read as follows:

Authority: 14 U.S.C. 102, 33 U.S.C. 1201–1208; Pub. L. 107–295, 116 Stat. 2064; DHS Delegation No. 00170.1, Revision No. 01.4. Rule 1, International Regulations for the Prevention of Collisions at Sea.

§ 26.03 [Amended]

■ 4. Amend § 26.03 in paragraph (b), by removing the text ''Mega-Hertz'' and adding in its place the text ''megahertz (MHz)''.

PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

■ 5. The authority citation for part 62 is revised to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 46 U.S.C. 70031, 70041; DHS Delegation 00170.1, Revision No. 01.4.

§ 62.1 [Amended]

■ 6. Amend § 62.1 by removing paragraph (b)(2), and redesignate paragraph (b)(1) as paragraph (b).

■ 7. Amend § 62.21 by revising paragraph (c)(2) to read as follows:

§ 62.21 General.

* * * * *

(c) * * *

(2) The United States Coast Pilot, published by the National Ocean Service and available from NOAA Certified Printer Partners listed at *www.nauticalcharts.noaa.gov/enconline/enconline.html.* Free on-line versions and weekly updates supplement the information shown on nautical charts and are available directly from NOAA at *distribution.charts.noaa.gov/weekly_updates/.* Subjects such as local navigation regulations, channel and anchorage peculiarities, dangers, climatological data, routes, and port facilities are covered.

* * * * *

■ 8. Amend § 62.47 by revising paragraph (a)(2) to read as follows:

§ 62.47 Sound signals.

(a) * * *

(2) Where no live watch is maintained, sound signals are normally operated continuously. However, most are equipped with Mariner Radio Activated Sound Systems (MRASS) that are activated by the mariner by keying their VHF radio microphone five (5) times on the designated charted frequency. Channels 81a (157.075 MHz) and channel 83a (157.175 MHz) are the two most common frequencies, but others may be designated and charted. (Mariners may consult the appropriate U.S. Coast Guard Light List volume or local notice to mariners for specific activation frequencies and instructions.) Activated signals will normally operate for 45 minutes after the signal is triggered.

* * * * *

§ 62.63 [Amended]

■ 9. Amend § 62.63 in paragraph (b)(2), by removing the word ''loran'' and adding, in its place, the words ''electronic charting systems''.

PART 66—PRIVATE AIDS TO NAVIGATION

■ 10. The authority citation for part 66 is revised to read as follows:

Authority: 14 U.S.C. 542, 543, 544; 43 U.S.C. 1333; Pub. L. 107–296, 116 Stat. 2135; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 66.01–5 [Amended]

■ 11. Amend § 66.01–5 in the introductory text, by removing the text ''*http://www.uscg.mil/forms/form_public_use.asp*'' and adding in its place the text ''*www.dcms.uscg.mil/forms/*''.

Subpart 66.10 [Removed]

■ 12. Remove subpart 66.10, consisting of §§ 66.10–1 through 66.10–35.

PART 67—AIDS TO NAVIGATION ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES

■ 13. The authority citation for part 67 is revised to read as follows:

Authority: 14 U.S.C. 503, 544; 43 U.S.C. 1333; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 67.05–20 [Amended]

■ 14. Amend § 67.05–20 by removing the text '': *Provided,* That'' and adding, in its place, the text ''; provided that''.

§ 67.30–5 [Amended]

■ 15. Amend § 67.30–5 in paragraph (d), by removing the text '': *Provided,* That'' and adding, in its place, the text ''; provided that''.

§ 67.40–1 [Amended]

■ 16. Amend § 67.40–1 as follows:

■ a. In paragraph (a), remove the word ''telegram'' and add in its place the text ''electronic mail, telephone,''; and

■ b. In paragraph (b), remove the word ''telegram'' and add in its place the word ''notification''.

■ 17. Amend § 67.50–25 by revising paragraph (e) to read as follows:

§ 67.50–25 USCG Heartland District.

* * * * *

(e) *Applications.* All applications for private aids to navigation and all correspondence dealing with private aids to navigation and obstruction lighting must be addressed to Commander (dpw), USCG Heartland District, Hale Boggs Federal Building, 500 Poydras Street, Suite 1324, New Orleans, Louisiana 70130–3396.

* * * * *

PART 95—OPERATING A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL OR A DANGEROUS DRUG

■ 18. The authority citation for part 95 is revised to read as follows:

Authority: 33 U.S.C. 1701, 46 U.S.C. 2302; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 19. Amend § 95.010 by revising the definition of ''Recreational vessel'' to read as follows:

§ 95.010 Definition of terms as used in this part.

* * * * *

Recreational vessel means a vessel meeting the definition of that term in 46 U.S.C. 2101 that is then being used only for pleasure.

* * * * *

PART 97—RULES FOR THE SAFE OPERATION OF VESSELS, STOWAGE AND SECURING OF CARGOES

■ 20. The authority citation for part 97 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 21. Amend § 97.110 by revising paragraph (a) to read as follows:

§ 97.110 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection by contacting Mr. Douglas Lincoln, of the Coast

Guard's Vessel and Facility Operating Standards Division, Commandant (CG–OES–2); telephone 571–613–1069, email *Douglas.R.Lincoln3@uscg.mil,* and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.*

* * * * *

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 22. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

§ 100.30 [Amended]

■ 23. Amend § 100.30 by removing the text ''District Commander'' and adding, in its place, the text ''Captain of the Port''.

PART 107—NATIONAL VESSEL AND FACILITY CONTROL MEASURES AND LIMITED ACCESS AREAS

■ 24. 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; DHS Delegation No. 00170.1, Revision No. 01.4, and 33 CFR 1.05–1.

■ 25. Amend § 107.210 by revising paragraph (b) to read as follows:

§ 107.210 Applicability.

* * * * *

* * * * *

(b) This subpart does not apply to the following: foreign vessels, as defined by 46 U.S.C. 110; public vessels, as defined by 46 U.S.C. 2101, when they are being operated for non-commercial purposes; or to vessels of the United States, as defined by 46 U.S.C. 116, when entering Cuban territorial waters under force majeure.

PART 114—GENERAL

■ 26. The authority citation for part 114 is revised to read as follows:

Authority: 33 U.S.C. 401, 406, 491, 494, 495, 499, 502, 511, 513, 514, 516, 517, 519, 521, 522, 523, 525, 528, 530, 533, and 535(c), (e), and (h); 14 U.S.C. 503; 49 U.S.C. 1655(g); Pub. L. 107–296, 116 Stat. 2135; 33 CFR 1.05–1 and 1.01–60, DHS Delegation No. 00170.1, Revision No. 01.4.

§ 114.50 [Amended]

■ 27. Amend § 114.50 by removing the text ''DC 20593–7418'' and adding, in its place, the text ''DC 20593–7418 or *HQS-SMB-CG-BRG@uscg.mil*''.

PART 115—BRIDGE LOCATIONS AND CLEARANCES; ADMINISTRATIVE PROCEDURES

■ 28. The authority citation for part 115 is revised to read as follows:

Authority: Mar. 3, 1899, Ch. 425, sec. 9, 30 Stat. 1151 (33 U.S.C. 401); Mar. 23, 1906, Ch. 1130, sec. 1, 34 Stat. 84 (33 U.S.C. 491); sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 11, 54 Stat. 501, as amended (33 U.S.C. 521); Aug 2, 1946, Ch. 753, title V, sec. 502, 60 Stat. 847, as amended (33 U.S.C. 525); 86 Stat. 732 (33 U.S.C. 535); 14 U.S.C. 503.

■ 29. Amend § 115.50 by revising paragraph (a) to read as follows:

§ 115.50 Application for bridge permits.

(a) *Application.* An application for authorization to construct a bridge across navigable waters of the United States must include the name, address, telephone number, and email address of the applicant; the waterway and location of the bridge; a citation to the applicable act of Congress; when appropriate, a citation to the State legislation authorizing the bridge; a map of the location and plans of the bridge showing the features which affect navigation; papers to establish the identity of the applicant. Additional guidance on completing the application can be found in the Bridge Permit Application Guide, COMDTPUB16591.series.

* * * * *

115.60 [Amended]

■ 30. Amend § 115.60, paragraph (a), by removing the last three sentences.

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

■ 31. The authority citation for part 116 continues to read as follows:

Authority: 33 U.S.C. 401, 521.

§ 116.55 [Amended]

■ 32. Amend § 116.55 as follows:

■ a. In paragraph (a), remove the text ''recommendation'', and add, in its place, the text ''decision''; and

■ b. In paragraph (b), remove the text ''DC 20593–7318'', and add, in its place, the text ''DC 20593–7318, or *USCGDCO@uscg.mil*''.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 33. The authority citation for part 117 is revised read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and DHS Delegation No. 00170.1, Revision No. 01.4.

§ 117.255 [Amended]

■ 34. Amend § 117.255 in paragraphs (a)(3)(i) and (a)(5)(i), by removing the text ''(703) 836–2396'' and adding, in its place, the text ''(571) 513–3745''.

§ 117.593 [Amended]

■ 35. Amend § 117.593 in paragraph (b)(2), by removing the text ''a range light display with one solid green light and one'' and adding, in its place, the text ''a solid green light over a''.

■ 36. Amend § 117.997 by revising paragraphs (c)(2)(i) and (ii) to read as follows:

§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albermarle and Chesapeake Canal.

* * * * *

(c) * * *

(2) * * *

(i) Need not open for the passage of recreational vessels, or commercial vessels that do not qualify under paragraph (c)(2)(ii) of this section.

(ii) Need not open for commercial cargo vessels, including tugs, and tugs with tows, unless 2 hours advance notice has been given to the Gilmerton Bridge at 757–485–5567.

* * * * *

§ 117.1087 [Amended]

■ 37. Amend § 117.1087 as follows:

■ a. Remove the text ''Canadian National'' wherever it appears and add in its place the text ''Fox Valley & Lake Superior Railroad'';

■ b. Remove the text ''Main Street'' wherever it appears and add in its place the text ''Ray Nitschke''; and

■ c. Remove the text ''Walnut Street'' wherever it appears and add in its place the text ''Bart Starr Memorial''.

PART 118—BRIDGE LIGHTING AND OTHER SIGNALS

■ 38. The authority citation for part 118 is revised to read as follows:

Authority: 33 U.S.C. 494; 14 U.S.C. 503, 544; DHS Security Delegation No. 00170.1, Revision No. 01.4.

§ 118.3 [Amended]

■ 39. Amend § 118.3 in paragraph (b), by removing the text ''DC 20593–7418'' and adding, in its place, the text ''DC 20593–7418, or *HQS-SMB-CG-BRG@uscg.mil*''.

PART 133 [Removed]

■ 40. Remove part 133, consisting of §§ 133.1 through 133.25.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 41. The authority citation for part 151 is revised to read as follows:

Authority: 33 U.S.C. 1902, 1903, 1908; 46 U.S.C. 6101; 46 U.S.C. 70034; Pub. L. 104–227, 110 Stat. 3034; sec. 623, Pub. L. 108–293, 118 Stat. 1063; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 42. Amend § 151.51 by revising paragraph (a)(1) to read as follows:

§ 151.51 Applicability.

(a) * * *

(1) Is of United States registry or nationality, or one operated under the authority of the United States, including recreational vessels defined in 46 U.S.C. 2101 and uninspected vessels defined in 46 U.S.C. 2101, wherever located; or

* * * * *

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 43. The authority citation for part 155 is revised to read as follows:

Authority: 3 U.S.C. 301 through 303; 33 U.S.C. 1321(j), 1903(b), 2735; 46 U.S.C. 70011; 70034; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; DHS Delegation No. 00170.1, Revision No. 01.4. Section 155.1020 also issued under section 316 of Pub. L. 114–120. Section 155.480 also issued under section 4110(b) of Pub. L. 101–380.

§ 155.4025 [Amended]

■ 44. Amend § 155.4025 by removing the text ''*structural stability*'' from the definition ''Assessment of structural stability'' and adding in its place the text ''*structure and stability*''.

■ 45. Amend § 155.4030(b) by revising the heading of table 155.4030(b), and paragraphs (b)(1)(i)(B) and (D), to read as follows:

§ 155.4030 Required salvage and marine firefighting services to list in response plans.

* * * * *

(b) * * *

TABLE 1 TO § 155.4030(b)—SALVAGE AND MARINE FIREFIGHTING SERVICES AND RESPONSE TIMEFRAMES

Service	Location of incident response activity timeframe	
*	*	*
(1)	* * *	
(i)	* * *	
(B) Begin assessment of structure and stability	3	3
*	*	*
(D) Assessment of structure and stability	12	18
*	*	*

* * * * *

■ 46. Amend § 155.4040(c) by revising table 155.4040(c) rows (1)(ii) and (iv), to read as follows:

§ 155.4040 Response times for each salvage and marine firefighting service.

(a) * * *

(c) * * *

TABLE 1 TO § 155.4040(c)—RESPONSE TIMEFRAME END POINTS

Service	Response timeframe ends when
* * * * *	
(ii) Begin assessment of structure and stability.	A structural assessment of the vessel has been initiated.
* * * * *	
(iv) Assessment of structure and stability.	Initial analysis is completed. This is a continual process, but at the time specified an analysis needs to be completed.
* * * * *	

* * * * *

§ 155.5015 [Amended]

■ 47. Amend § 155.5015 in paragraph (a)(3), by removing the text ''(17a)''.

§ 155.5020 [Amended]

■ 48. Amend § 155.5020 in the definition for ''Navigable waters of the United States'', by removing the text ''(17a)'' and adding, in its place, the text ''(23)''.

PART 159—MARINE SANITATION DEVICES

■ 49. The authority citation for part 159 is revised to read as follows:

Authority: 33 U.S.C. 1322(b)(1); 49 CFR 1.45(b). Subpart E also issued under authority of sec. 1(a)(4), Pub. L. 106–554, 114 Stat. 2763; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 159.305 [Amended]

■ 50. Amend § 159.305, in the definition for *Cruise Vessel,* by removing the text ''(22)''.

PART 164—NAVIGATION SAFETY REGULATIONS

■ 51. The authority citation for part 164 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3703, 70034; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.46 also issued under 46 U.S.C. 70114 and Sec. 102 of Pub. L. 107–295. Sec. 164.61 also issued under 46 U.S.C. 6101. DHS Delegation No. 00170.1, Revision No. 01.4.

§ 164.01 [Amended]

■ 52. Amend § 164.01 in paragraph (b)(2), by removing the text ''46 CFR 10.103'' and adding in its place the text ''46 CFR 10.107''.

■ 53. Amend § 164.39 in paragraph (b), by revising the definition of *Tanker* to read as follows:

§ 164.39 Steering gear: Foreign tankers.

* * * * *

(b) * * *

Tanker means a self-propelled vessel defined as a tanker or a tank vessel by 46 U.S.C. 2101.

* * * * *

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 54. The authority citation for part 165 is revised to read as follows:

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

§ 165.123 [Amended]

■ 55. Amend § 165.123 in paragraph (b), in the definition of *Cruise ship,* by removing the text ''(22)''.

§ 165.169 [Amended]

■ 56. Amend § 165.169 in paragraphs (a)(14)(i) and (15)(i), by removing the text ''(22)''.

§ 165.500 [Amended]

■ 57. Amend § 165.500, paragraph (a)(4), by removing the text ''(22)''.

■ 58. Amend § 165.911 by revising paragraph (b)(2) to read as follows:

§ 165.911 Security Zones; Captain of the Port Eastern Great Lakes Zone.

* * * * *

(b) * * *

(2) Persons or vessels desiring to transit the area of Ginna Nuclear Power Plant security zones must contact the Captain of Port Eastern Great Lakes at telephone number (716) 843–9570, or on VHF/FM channel 16 to seek permission to transit the area. Persons desiring to transit the area of the Nine Mile Point and Fitzpatrick Nuclear Power Plants, or the Moses-Saunders Power Dam or Long Sault Spillway Dam security zones must contact the Commanding Officer, Marine Safety Unit Thousand Islands at telephone number (315) 774–8724 or on VHF/FM channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

* * * * *

§ 165.923 [Amended]

■ 59. Amend § 165.923, paragraph (a)(2)(ii)(C), by removing the text ''(5)'' after the text ''46 U.S.C. 2101''.

■ 60. Amend § 165.1141 by revising paragraph (d)(2) to read as follows:

§ 165.1141 Safety Zone; San Clemente 3 NM Safety Zone, San Clemente Island, CA.

* * * * *

(d) * * *

(2) Mariners requesting permission to transit through any section of the zone may request authorization to do so from the San Clemente Island Range Control, call sign ''STARBURST'' by either calling 619–313–2293 or establishing a VHF bridge to bridge radio connection on Channel 82A. Immediately upon completing transit, the vessel operator must promptly notify the STARBURST Range Control of safe passage through the safety zone. Failure to expeditiously notify STARBURST Range Control of passage through the safety zone will result in a determination by the Navy that the vessel is still in the safety zone, thereby restricting the use of the area for naval operations. If the Navy determines that facilitating safe transit through the zone negatively impacts range operations, the Navy will cease this practice and enforce the safety zones in these two areas without exception.

* * * * *

§ 165.1157 [Amended]

■ 61. Amend § 165.1157 in paragraph (a), by removing the text ''34–24–17.364 N, 119–41–16.260W'' and adding, in its place, the text ''34°24′17.364″ N, 119°41′16.260″ W''.

§ 165.1711 [Amended]

■ 62. Amend § 165.1711 in paragraph (c)(6), by removing the text ''commercial'' and ''(11a)''.

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

■ 63. The authority citation for part 174 continues to read as follows:

Authority: 46 U.S.C. 6101 and 12302; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 174.17 [Amended]

■ 64. Amend § 174.17 by removing paragraph (c).

§ 174.19 [Amended]

■ 65. Amend § 174.19 by removing paragraph (c).

TITLE 46—SHIPPING

PART 2—VESSEL INSPECTIONS

■ 66. The authority citation for part 2 continues to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2103, 2110, 3306, 3316, 3703, 70034; DHS Delegation No. 00170.1, Revision No. 01.4; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105.

§ 2.01–7 [Amended]

■ 67. Amend footnote 7 to table 2.01–7(a) by removing the text ''(21)(21a)''.

PART 3—DESIGNATION OF OCEANOGRAPHIC RESEARCH VESSELS

■ 68. The authority citation for part 3 is revised to read as follows:

Authority: 46 U.S.C. 2113, 3306; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 3.01–1 [Amended]

■ 69. Amend § 3.01–1 by removing the text ''(18)''.

PART 4—MARINE CASUALTIES AND INVESTIGATIONS

■ 70. 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. Subpart 4.40 issued under 49 U.S.C. 1131(a)(1)(E).

§ 4.03–50 [Amended]

■ 71. Amend § 4.03–50 by removing the text ''(25)''.

PART 7—BOUNDARY LINES

■ 72. The authority citation for part 7 is revised to read as follows:

Authority: 14 U.S.C. 503; 33 U.S.C. 151; DHS Delegation 00170.1, Revision No. 01.4.

§ 7.1 [Amended]

■ 73. Amend § 7.1 by removing the text ''(32)'' and ''(33)''.

PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS

■ 74. The authority citation for part 11 is revised to read as follows:

Authority: 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8903, 8904, 8906, and 70105; E.O. 10173; DHS Delegation No. 00170.1, Revision No. 01.4. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

■ 75. Amend § 11.301 as follows:

■ a. In paragraph (h)(1), remove the text ''(11)(a)'';

■ b. In paragraph (h)(2), remove the text ''(11)(c)''; and

■ c. Revise paragraph (i) to read as follows:

§ 11.301 Requirements for STCW officer endorsements.

* * * * *

(i) Mariners serving on, and owners or operators of uninspected passenger vessels as defined in subparagraph (B) of the definition of uninspected passenger vessel in 46 U.S.C. 2101, do not need to hold an STCW endorsement. The vessels concerned are not subject to further obligation under STCW because of their special operating conditions as small vessels engaged in domestic, near-coastal voyages.

§ 11.491 [Amended]

■ 76. Amend § 11.491 in paragraph (a), by removing the text ''(19)''.

§ 11.551 [Amended]

■ 77. Amend § 11.551 by removing the text ''(19)''.

PART 15—MANNING REQUIREMENTS

■ 78. The authority citation for part 15 continues to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8103, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906 and 9102; sec. 617, Pub. L. 111–281, 124 Stat. 2905; and DHS Delegation No. 00170.1, Revision No. 01.4.

■ 79. Amend § 15.105 as follows:
■ a. In paragraph (f)(1), remove the text ''(12)'';
■ b. In paragraph (f)(2), remove the text ''(14)''; and
■ c. Revise paragraph (g)(3) to read as follows:

§ 15.105 General.

* * * * *

(g) * * *

(3) Uninspected passenger vessels (UPVs) as defined in subparagraph (B) of the definition of uninspected passenger vessel in 46 U.S.C. 2101.

* * * * *

■ 80. Amend § 15.403 as follows:
■ a. In paragraph (e)(1)(i), remove the text ''(11)(a)'';
■ b. In paragraph (e)(1)(ii), remove the text ''(11)(c)''; and
■ c. Revise paragraph (e)(2)(iii), to read as follows:

§ 15.403 When credentials for ratings are required.

* * * * *

(e) * * *

(2) * * *

(iii) Uninspected passenger vessels (UPVs) as defined in subparagraph (B) of the definition of uninspected passenger vessel in 46 U.S.C. 2101.

§ 15.720 [Amended]

■ 81. Amend § 15.720 as follows:
■ a. In paragraph (b)(1), remove the text ''(19)''; and
■ b. In paragraph (b)(2), remove the text ''(15a)''.

■ 82. Amend § 15.1101 as follows:
■ a. In paragraph (a)(1)(i), remove the text ''(11)(a)'';
■ b. In paragraph (a)(1)(ii), remove the text ''(11)(c)''; and
■ c. Revise paragraph (a)(2)(iii) to read as follows:

§ 15.1101 General.

* * * * *

(a) * * *

(2) * * *

(iii) Uninspected passenger vessels as defined in subparagraph (B) of the definition of uninspected passenger vessel in 46 U.S.C. 2101.

* * * * *

PART 24—GENERAL PROVISIONS

■ 83. The authority citation for part 24 is revised to read as follows:

Authority: 46 U.S.C. 2103, 2113, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 24.10–1 [Amended]

■ 84. Amend § 24.10–1, in the introductory text of the definition for *Motorboat,* by removing the text ''column five of table 24.05–1(a) in § 24.05–1,'' and adding, in its place, the text ''column 5 of table 2.01–7(a) in § 2.01–7(a) of this chapter,''.

PART 26—OPERATIONS

■ 85. The authority citation for part 26 is revised to read as follows:

Authority: 46 U.S.C. 3306, 4105, 4106, 6101, 8105; Pub. L. 103–206, 107 Stat. 2439; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 26.15–1 [Amended]

■ 86. Amend § 26.15–1, paragraph (a), by removing the text ''(43)''.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

■ 87. The authority citation for part 58 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 58.25–5 [Amended]

■ 88. Amend § 58.25–5 in paragraph (a), in the definition of ''Tank Vessel'', by removing the text ''(38)'' and ''(39)''.

PART 62—VITAL SYSTEM AUTOMATION

■ 89. The authority citation for part 62 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703, 8105; sec. 617, Pub. L. 111–281, 124 Stat. 2905; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 62.50–30 [Amended]

■ 90. Amend § 62.50–30 in paragraph (k)(3), by removing the text ''(f)'', and adding, in its place, the text ''(b)''.

PART 68—DOCUMENTATION OF VESSELS: EXCEPTIONS TO COASTWISE QUALIFICATION

■ 91. The authority citation for part 68 is revised to read as follows:

Authority: 14 U.S.C. 946; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2110; 46 U.S.C. app. 876; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 68.55 [Amended]

■ 92. Amend § 68.55 in the definition of ''Oil'', by removing the text ''(20)''.

PART 90—GENERAL PROVISIONS

■ 93. The authority citation for part 90 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 90.10–23 [Amended]

■ 94. Amend § 90.10–23, in the introductory paragraph, by removing the text ''Column 5 of table 90.05–1(a)'', and adding, in its place, the text ''column 5 of table 2.01–7(a) in § 2.01–7(a) of this chapter,''.

PART 108—DESIGN AND EQUIPMENT

■ 95. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 108.151 [Amended]

■ 96. Amend § 108.151 in paragraph (b), by removing the text ''one the'' and adding, in its place, the text ''one of the''.

PART 110—GENERAL PROVISIONS

■ 97. The authority citation for part 110 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.4; § 110.01–2 also issued under 44 U.S.C. 3507. Sections 110.15–1 and 110.25–1 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

§ 110.01–3 [Amended]

■ 98. Amend § 110.01–3 in paragraph (c), by removing the text ''Conversions specified in 46 U.S.C. 2101(14a)'' and adding, in its place, the text ''Major conversions, as defined in 46 U.S.C. 2101''.

PART 118—FIRE PROTECTION EQUIPMENT

■ 99. The authority citation for part 118 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.4.

§ 118.400 [Amended]

■ 100. Amend § 118.400 in paragraph (f) introductory text, by removing the text ''paragraph (f)'' and adding, in its place, the text ''paragraph (g)''.

PART 125—GENERAL

■ 101. The authority citation for part 125 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; sec. 617, Pub. L. 111–281, 124 Stat. 2905; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 125.180 [Amended]

■ 102. Amend § 125.180 in paragraph (b)(4), by removing the text ''§§ 133.140 and 133.150'' and adding, in its place, the text ''§§ 134.140 and 134.150''.

PART 126—INSPECTION AND CERTIFICATION

■ 103. The authority citation for part 126 is revised to read as follows:

Authority: 46 U.S.C. 3205, 3306, 3307, 70034; 46 U.S.C. Chapter 701; sec. 617, Pub. L. 111–281, 124 Stat. 2905; E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; DHS Delegation 00170.1, Revision No. 01.4.

■ 104. Revise § 126.180 to read as follows:

§ 126.180 Carriage of passengers.

No passengers as defined by subparagraph (B) of the definition of *passenger* in 46 U.S.C. 2101 may be carried aboard an OSV except in an emergency.

PART 131—OPERATIONS

■ 105. The authority citation for part 131 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 10104; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; DHS Delegation No. 00170.1, Revision No. 01.4. Section 131.990 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

§ 131.540 [Amended]

■ 106. Amend § 131.540 paragraph (a), by removing the text ''ach lifesaving'' and adding, in its place, the text ''each lifesaving''.

PART 132—FIRE-PROTECTION EQUIPMENT

■ 107. The authority citation for part 132 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307; sec. 617, Pub. L. 111–281, 124 Stat. 2905; DHS Delegation 00170.1, Revision No. 01.4.

§ 132.130 [Amended]

■ 108. Amend § 132.130, paragraph (a), by removing the text ''ire stations'' and adding, in its place, the text ''fire stations''.

PART 133—LIFESAVING SYSTEMS

■ 109. The authority citation for part 133 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307; DHS Delegation 00170.1, Revision No. 01.4.

§ 133.130 [Amended]

■ 110. Amend § 133.130, paragraph (b)(4)(i), by removing the text ''and list and list'' and adding in its place the text ''and list''.

PART 147—HAZARDOUS SHIPS' STORES

■ 111. The authority citation for part 147 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.4.

§ 147.65 [Amended]

■ 112. Amend § 147.65 in paragraph (b)(1), by removing the text ''of pressure'' from the third sentence.

PART 169—SAILING SCHOOL VESSELS

■ 113. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; Pub. L. 103–206, 107 Stat. 2439; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; DHS Delegation 00170.1, Revision No. 01.4; § 169.117 also issued under the authority of 44 U.S.C. 3507.

§ 169.101 [Amended]

■ 114. Amend § 169.101 by removing the text ''(30)''.

PART 177—CONSTRUCTION AND ARRANGEMENT

■ 115. The authority citation for part 177 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.4.

§ 177.410 [Amended]

■ 116. Amend § 177.410, paragraph (b), by removing the text ''meet as'' from the first sentence.

PART 181—FIRE PROTECTION EQUIPMENT

■ 117. The authority citation for part 181 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.4.

§ 181.115 [Amended]

■ 118. Amend § 181.115 in paragraph (b), as follows:
■ a. Remove the text ''§ 181.400'' and add, in its place, the text ''§§ 181.400 and 181.405''; and
■ b. Remove the text ''on or before March 11, 1999.''

■ 119. Amend § 181.300 as follows:
■ a. Revise paragraph (d);
■ b. Redesignate paragraph (e) as paragraph (f); and
■ c. Add new paragraph (e).

The revision and addition read as follows:

§ 181.300 Fire Pumps.

* * * * *

(d) A fire pump may be driven by a propulsion engine.

(e) A fire pump must be permanently connected to the fire main and may be connected to the bilge system to meet the requirements of § 182.520 of this chapter.

* * * * *

■ 120. Amend § 181.400 by adding paragraphs (c), (d), and (e) to read as follows:

§ 181.400 Spaces required to have fixed fire extinguishing systems.

* * * * *

(c) All griddles, broilers, and deep fat fryers must be fitted with a grease extraction hood in compliance with § 181.425 of this subchapter.

(d) An enclosed vehicle space must be fitted with an automatic sprinkler system that meets the requirements of part 76 of this chapter.

(e) A partially enclosed vehicle space must be fitted with a manual sprinkler system that meets the requirements of part 76 of this chapter.

■ 121. Amend § 181.405 as follows:
■ a. Remove and reserve paragraph (b);
■ b. Revise paragraph (d); and
■ c. Remove paragraph (e).

The revision reads as follows:

§ 181.405 Spaces required to have fire detection systems.

* * * * *

(d) An enclosed vehicle space must be fitted with a fire detection and alarm system of an approved type that is installed in accordance with part 76 of this chapter.

PART 182—MACHINERY INSTALLATION

■ 122. The authority citation for part 182 is revised to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation No. 00170.1, Revision No. 01.4.

§ 182.115 [Amended]

■ 123. Amend § 182.115 as follows:
■ a. In paragraph (c) remove the text ''on or before March 11, 1999''; and
■ b. In paragraph (d) remove the text ''On or before March 11, 1999, an'' and add, in its place, the text ''An''.

PART 188—GENERAL PROVISIONS

■ 124. The authority citation for part 188 is revised to read as follows:

Authority: 6 U.S.C. 2103, 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 125. Revise § 188.10–77 to read as follows:

§ 188.10–77 Vessel.

Where the word ''vessel'' is used in this subchapter, it will be considered to include all inspected and certificated oceanographic research vessels as listed in column 6 of table 2.01–7(a) in § 2.01–7(a) of this chapter.

Michael T. Cunningham,

Chief, Office of Regulations and Administrative Law.

[FR Doc. 2025–20727 Filed 11–21–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2025–0924]

RIN 1625–AA09

Drawbridge Operation Regulation; Bass River, Beverly, MA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Hall Whitaker Bridge across the Bass River at mile 0.6 in Beverly, Massachusetts. The Hall Whitaker Bridge will remain the closed position while a temporary bridge is constructed and the Hall Whitaker Bridge is demolished and rebuilt. The temporary bridge will also be a fixed bridge and will not be able to open.

DATES: This rule is effective November 24, 2025.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type the docket number USCG–2025–0924 in the ''SEARCH'' box and click ''SEARCH''. In the Document Type column, select ''Supporting & Related Material''.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Gregory P. Hitchen, Northeast District Bridge Program Manager, U.S. Coast Guard; telephone 571–607–8154, or email *Gregory.P.Hitchen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this final rule under the authority in 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(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 unnecessary. This bridge is non-operational and will remain non-operational until rehabilitation work can be completed.

On September 27, 2025, the Coast Guard issued a General Deviation which allowed the bridge owner, the Massachusetts Department of Transportation, to deviate from the current operating schedule in 33 CFR 117.588 to construct a temporary bridge immediately adjacent to the existing bridge, which was assessed as structurally deficient. Due to the time required to construct the temporary fixed bridge and demolish the existing bridge, the project will run past the end date of April 27, 2026, of the General Deviation. The existing bridge cannot be brought back to operating condition as it has been assessed as structurally unsound and is scheduled for demolition. In addition, the temporary bridge placement makes it impossible to fully open the swing drawbridge. Because the drawbridge must remain closed indefinity through its demolition, it is impossible to comply with the existing drawbridge operating schedule and soliciting comments on the operating schedule change is unnecessary. It is also impracticable to solicit comments prior to the drawbridge operating schedule change because it is already permanently closed due to the drawbridge being structurally unsound.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. For reasons presented above, delaying the effective date of this rule would be impracticable and contrary to the public interest due to the fact that the bridge is currently inoperable and cannot go back into operation until the rehabilitation work can be completed.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499.

The Hall Whitaker Bridge across the Bass River at mile 0.6 in Beverly, Massachusetts, is a movable swing bridge with a closed vertical clearance of 4.62 feet and an open vertical clearance of 43.6 feet. The bridge's operating regulations are contained in 33 CFR 117.558.

The Hall Whitaker Bridge was closed to vehicular traffic in June 2022 in response to a substandard load rating. The bridge's structural deficiencies are beyond repair, and the bridge must be fully replaced. In preparation for the bridge replacement, a temporary bridge will be constructed immediately adjacent to the existing bridge, and the existing bridge will be demolished. During the construction of the temporary bridge, the existing bridge will be unable to open for marine traffic.

There is only one waterfront facility, a yacht club, upstream of the Hall Whitaker Bridge. Bridge openings average 20 per year and are highly seasonal, concentrated in the Spring and Fall months when larger vessels move to and from the yacht club for winter storage. As part of the planning in advance of construction of the temporary bridge, Massachusetts Department of Transportation has made alternate arrangements for impacted vessels to reach their winter storage facility upstream of the Hall Whitaker Bridge.

IV. Discussion of the Final Rule

This rule changes the operating schedule of the Hall Whitaker Bridge in 117.588(c) to allow the movable span to remain in the closed position. Previously, this paragraph required the drawbridge to open on signal if at least

24 hours' notice was given. Vessels able to pass underneath the bridge in the closed position will be able to transit. Upon completion of design and construction of the new bridge, the Coast Guard may propose a new drawbridge operating schedule, as needed.

V. 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Government

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

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

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 $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

E. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has 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 promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and DHS Delegation No. 00170.1, Revision No. 01.3

■ 2. Revise and republish § 117.588 to read as follows:

§ 117.588 Bass River.

The Hall Whitaker Bridge, mile 0.6 at Beverly, shall operate as follows:

(a) Public vessels of the United States with proper clearance must be passed as soon as possible.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(c) The drawspan for the Hall Whitaker Drawbridge will remain in the closed to navigation position.

M.E. Platt,

Rear Admiral, U.S. Coast Guard, Commander, Northeast Coast Guard District.

[FR Doc. 2025–20726 Filed 11–21–25; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Postmarks and Postal Possession

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is adding section 608.11, ''Postmarks and Postal Possession,'' to the Domestic Mail Manual (DMM). This new section defines postmarks, identifies the types of Postal Service markings that qualify as postmarks, and describes the circumstances under which those markings are applied. It also advises customers of how to obtain evidence of the date on which the Postal Service accepts possession of their mailings. This new language in the DMM does not change any existing postal operations or postmarking practices, but is instead intended to improve public understanding of postmarks and their relationship to the date of mailing.

DATES: Effective December 24, 2025.

FOR FURTHER INFORMATION CONTACT: Martha Johnson, Senior Public Relations Representative, at *martha.s.johnson@usps.gov* or (202) 268–2000.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Comments
III. Response to Comments
IV. Explanation of Final Rules

I. Introduction

On August 12, 2025, the Postal Service published a proposed rule in the **Federal Register**, Postmarks and Postal Possession, 90 FR 38716 (Aug. 11, 2025)

(hereafter ''the Proposed Rule''). The Proposed Rule defined the postmark and explained the Postal Service's operational use of the postmark; identified the types of Postal Service markings that qualify as postmarks (together with certain auxiliary markings and scan data that are generated during the course of postal operations and that indicate postal possession of a mailpiece but do not qualify as postmarks); described how and where in the course of postal operations such markings are applied; and clarified the scope of information that such markings do and do not convey. The Proposed Rule further advised that, while the presence of a postmark on a mailpiece confirms that the Postal Service was in possession of the mailpiece on the date of the postmark's inscription, the postmark date does not inherently or necessarily align with the date on which the Postal Service first accepted possession of the mailpiece. The Proposed Rule further noted that this lack of alignment has and will become more common with the implementation of the Regional Transportation Optimization (RTO) initiative and the corresponding adoption of ''leg''-based service standards. (90 FR 10857). The Proposed Rule then advised customers to request a manual (local) postmark at a retail location if they want to ensure that their mailpiece receives a postmark containing a date that aligns with the date on which the Postal Service first accepted possession of their mailpiece, and reminded customers who wish to retain proof of the date on which the Postal Service first accepted possession of their mailpiece(s) of the services (including Certificates of Mailing) that provide such proof. Finally, the Proposed Rule submitted a new Section 608.11 of the Domestic Mail Manual (DMM), for the public's consideration.

While the Postal Service has chosen to utilize the notice-and-comment rulemaking process for this Proposed Rule, we note that this is not a rulemaking in the traditional sense. As stated in the Proposed Rule, nothing in DMM Section 608.11 effectuates any changes in how, or the extent to which, the Postal Service applies postmarks to mailpieces. However, the postmark was not previously defined in any current Postal Service regulations, and the Postal Service considered it appropriate to reflect these existing practices in the DMM to ensure that customers have a clear understanding of the postmark and what it means.

The Proposed Rule sought public input on DMM Section 608.11, welcoming the perspectives of customers, government entities, industry stakeholders, and other interested parties. In particular, the Proposed Rule solicited recommendations on how to effectively inform customers of the new DMM provision and explain its meaning and feasible suggestions to advise and accommodate customers who want proof of the date on which the Postal Service first accepted possession of their mailings.

II. Comments

The Postal Service received 130 comments on the Proposed Rule, approximately 80 of which consisted of form letters—or, more precisely, one of three distinct form letters (each one using similar, if not verbatim, language) submitted multiple times. Issues raised by these letters include the alleged ''dilution'' of the postmark's meaning, impacts on rural and sparsely populated regions, and the importance of postmarks for mail-in ballots and other documents (*e.g.,* tax returns) subject to strict deadlines. Approximately 25 additional comments were submitted by members of the public writing on their own behalf; these comments range from simple statements of opposition to detailed critiques of proposed DMM Section 608.11. Numerous commenters—among them several election officials, one county Board of Elections, and certain independent institutions—expound at length on mail-in voting, raising concerns about postmarking deadlines and potentially discarded Ballot Mail. Finally, some industry mailers and labor organizations contributed comments echoing the concerns of other commenters, notably with regard to mail-in voting, postmarking deadlines more generally, and the need for robust public education and outreach. These concerns are discussed more fully below.

Some commenters suggested operational or staffing changes, new or expanded product offerings, educational outreach endeavors, various means of communicating relevant information to customers, and detailed revisions to DMM Section 608.11. The Postal Service thanks these commenters for their recommendations, which are discussed more fully below. Some comments raised issues (and/or advanced arguments) outside the scope of the present rulemaking. These issues and arguments, which will be excluded from the discussion below, include:

- *Criticism of mail-in voting as a general practice.* While the Proposed Rule contains information of potential relevance to election officials and to citizens who choose to vote by mail, the Postal Service does not administer elections, establish the rules or deadlines that govern elections, or determine whether or how election jurisdictions utilize the mail or incorporate our postmark into their rules. The Postal Service also does not advocate for or against any particular voting practices (including mail-in voting). Instead, the Postal Service collects, processes, transports, and delivers mail and packages that are mailable under federal law. As part of that role, we deliver the nation's Election Mail when public policy makers and election officials choose to use the mail as a part of their election system and when citizens choose to utilize our services to participate in an election.
- *Concerns about missed or belatedly applied postmarks.* As explained in the Proposed Rule, DMM Section 608.11 in no way signals a change in our postmarking procedures; postmarks will continue to be applied to Single-Piece First Class Mail pieces, both letter-shaped and flat-shaped, in the same manner and to the same extent as before. Of course, mistakes occur in the normal course of postal operations; the Proposed Rule explains as much, noting that occasional circumstances may arise where a legible postmark is not applied (for instance when two mailpieces are stuck together as they run through a cancelling machine, when the machine runs out of ink or smears when applying postmarks, and so forth). For this reason, we have informed our customers who choose to vote by mail that they can ''ensure that a postmark is applied to [their] return ballot by visiting a Postal Service retail [location] and requesting a postmark from a retail associate when dropping off the ballot.'' Kit 600, *USPS Postmarking Guidelines* (2024), *available at https://about.usps.com/kits/kit600/kit600_039.htm.* That same guidance would also address concerns about postmark dates, as the date on a manual (local) postmark applied at retail location aligns with the date that the customer tendered the return ballot for mailing. The present rulemaking, however, does not involve any operational changes that would increase the frequency of missed or misapplied postmarks; it is intended to explain the Postal Service's operational use of the postmark and to clarify what information postmarks can be reliably taken to convey.
- *Criticisms of the Delivering for America (DFA) strategic plan.* As noted in the Proposed Rule, RTO increases the likelihood that a postmark applied at originating processing facilities—the locations where postmarks are typically

applied—will contain a date that does not align with the date on which the Postal Service first accepted possession of the mailpiece. RTO was the subject of an earlier rulemaking (90 FR 10857) and separate proceedings before the Postal Regulatory Commission (PRC Docket No. N2024–1). The Proposed Rule here is intended to define the postmark and inform the public of its meaning and operational uses. While the need for such clarification is due in part to RTO's changes to transportation and processing schedules, which will enable the Postal Service to significantly increase our operational efficiency and reduce costs, thereby supporting our efforts to continue to provide universal postal services in a financially self-sufficient manner, as the law requires, neither RTO nor any other initiative within the DFA plan are themselves the subject of this Proposed Rule.

• *Postal Service Funding.* One comment urges: ''It's essential that the USPS be funded at a level that maintains the service on which we rely.'' As an initial matter, the Postal Service, by statute, is designed to be self-funded and self-sufficient. The Postal Service generally receives no tax dollars for operating expenses and relies on the sale of postage, products and services to fund its operations. To the extent this comment is recommending legislative changes, such recommendations are beyond the scope of this rulemaking and the Postal Service's authority. Moreover, while certain operational initiatives discussed in the Proposed Rule (*e.g.,* RTO) are designed to promote financial sustainability, such initiatives do not themselves fall within the scope of the present rulemaking, which is, as noted, confined to the postmark. Finally, as explained in the Notice of Proposed Rulemaking, the postmark is not, and never has been, a *service,* but has always performed functions (*e.g.,* cancelling postage) internal to the Postal Service operations.

Other comments betray factual misapprehensions that, while not addressed in the discussion below, warrant correction. According to one comment, voters will be required to ''pay extra'' for expedited handling of Ballot Mail. However, this Proposed Rule does not change the handing of Ballot Mail or any other mail, but simply clarifies the meaning of the postmark. Nor is it correct that, as predicted by other comments, current postmarks will be supplanted by new (and substantially different) postmarks, replaced in some way by notices that Postal Service has possession of a mailpiece, or eliminated in their entirety. As noted, DMM Section 608.11 seeks to define the postmark as it presently exists, not to change it, and certainly not to eliminate it. To reiterate, postmarks will continue to be applied to Single-Piece First-Class Mail, both letter-shaped and flat-shaped, in the same manner and to the same extent as before.

All remaining comments within scope of this proceeding are addressed below.

III. Response to Comments

A. Issues and Concerns

Some comments commend the Proposed Rule for the clarity and transparency it imparts. One observes that proposed DMM Section 608.11 ''clearly defines and codifies the role of the postmark.'' Another ''applaud[s] the Postal Service's formalization and coalescence of existing policies and understandings regarding postmarks into a single uniform rule,'' noting that ''[t]his will provide greater clarity and authority regarding the meaning of a postmark. . . .'' The Postal Service appreciates these comments, as they acknowledge the intent behind the Proposed Rule: not to diminish or supplant the postmark, but to clarify its meaning, such that customers better understand what it is and the purposes for which it may be relied upon.

Most comments adopt a more critical posture, but those comments generally misapprehend the current meaning of the postmark and the purpose of this rulemaking. One expresses concern with the perceived impetus behind the Proposed Rule: namely, to ''move the public and customers away from viewing the postmark as a definitive date'' on which a mailpiece was ''received by the [Postal Service].'' As explained in the Proposed Rule, postmarks applied at originating processing facilities have never provided a perfectly reliable indicator of the date on which the Postal Service first accepted possession of a mailpiece, and this fact will become more common under RTO. Therefore, to the extent that customers currently have this view of the postmark, it does not reflect the realities of postal operations. The purpose of DMM Section 608.11, and our forthcoming education efforts, is to make the actual meaning of the postmark more widely known, so that customers who may currently lack a clear understanding of the postmark can, if necessary, make adjustments to their mailing behavior—for example, by dispatching their mailings earlier, obtaining a manual (local) postmark at a retail location at no additional cost, or purchasing a Certificate of Mailing. However, to suggest (in the words of one form letter) that ''this proposal quietly ends any meaningful reliability of a postmark as indicia or proof of mailing'' is completely inaccurate, given that DMM Section 608.11 plainly states, ''[t]he presence of a postmark confirms that the Postal Service accepted custody of a mailpiece, and that the mailpiece was in the possession of the Postal Service on the identified date.''

Some comments urge the Postal Service not to ''implement'' the ''policies'' described by the Proposed Rule, which also stems from a misunderstanding of DMM Section 608.11's nature and scope. These comments appear to assume that adoption of this DMM provision will prompt operational changes in how the postmark is applied, thereby altering the quality of information that postmarks as such convey. One comment, for instance, criticizes what it claims to be ''the proposed changes to eliminate same-day postmarks.'' This comment ignores, however, that ''same-day postmarks'' (*i.e.,* postmarks bearing dates that align with the date on which the Postal Service first accepted possession of a mailpiece) will in many instances continue to be applied through automation and will remain available in all cases upon request at the retail counter. Meanwhile, multiple others perceive in the Proposed Rule an attempt to ''devalue'' the traditional postmark, and/or to ''dilute'' (or even ''destroy'') its alleged status as proof of the date that the Postal Service first accepted possession of a mailpiece. Yet to reiterate, the Proposed Rule aims to clarify the meaning and value of the postmark, not to change its meaning or destroy its utility. By notifying the public of the realities of postal operations; by offering a definition of the postmark embodied in regulation; and by listing out the various available indicia of postal possession, the present rulemaking seeks to clarify and preserve, rather than erode, the value of the postmark for customers who may rely upon it.

The above concerns may also reflect a view of the postmark fundamentally as a service that the Postal Service provides—one on par with, for example, reliable mail delivery and P.O. Box rentals. Indeed, multiple commenters characterize the postmark in just this way, describing it variously as an ''essential benefit,'' a ''public good,'' or a ''service'' that the Proposed Rule somehow threatens. This conception of the postmark possibly informs the demand, proclaimed in one frequently submitted form letter, that the postmark date and the date of first postal

possession be made always and without exception to align. Yet as explained in the Notice of Proposed Rulemaking, the postmark is not a *service,* and the Postal Service does not hold it out as such to the public. In any event—despite insinuations to the contrary—the proposed DMM language does not mean that the Postal Service plans to postmark mailpieces less consistently, accurately, or reliably than before. As stated throughout this process, this new language in the DMM does not change any existing postal operations or postmarking practices, but is instead intended to improve public understanding of postmarks and their relationship to the date of mailing.

To be sure, the Postal Service is well aware and readily acknowledges that third parties have utilized the postmark for various purposes and have potentially infused it with their own particular meanings. Indeed, the Proposed Rule identified numerous third-party uses of the postmark, including court rules that concern the filing of specific documents, federal statutes such as the Internal Revenue Service code, state tax statutes and other laws, and numerous election jurisdictions that utilize the postmark to accept certain completed ballots as timely where they are sent by mail but are received after Election Day. Numerous commenters also invoke these third-party uses, along with government benefits applications; contract and business transactions; insurance claims and premium payments; and sweepstakes, contests and promotions. Multiple comments then assert that DMM Section 608.11 will cause an uptick in missed deadlines. This assertion is misplaced. To reiterate, the present rulemaking entails no change to postmarking practices but aims instead to educate the public as to the postmark's meaning. If customers are aware that the postmark date may not align with the date on which the Postal Service first accepted possession of a mailpiece, they will be better equipped to adjust their plans accordingly. And if policymakers or other entities that create rules utilizing the postmark date are aware of what the postmark date signifies, they are better equipped to determine whether their rules adequately serve their purposes. Through the present rulemaking process, the addition of DMM Section 608.11, and further educational outreach endeavors (described more fully below), the Postal Service seeks to promote such awareness.

Some comments raise concerns that DMM Section 608.11 will disproportionately burden certain groups (including disabled, elderly, rural-dwelling, and/or financially distressed users of the mail). As noted, the Proposed Rule does not itself propose any changes to current postmarking procedures; and insofar as members of the public rely on the postmark, they are better served by a rule that clarifies the postmark's meaning and lists the options available to those who may require a postmark date aligning with the date of first postal possession. Such comments may, moreover, confuse the Proposed Rule with certain operational and service standard changes (including but not limited to RTO) that were discussed at length in a prior rulemaking (90 FR 10857) and in proceedings before the Postal Regulatory Commission (PRC Docket No. N2024–1). Whatever the case, mailers who desire a postmark by a particular date are encouraged to take measures to ensure that their mail is postmarked by the date they need, when necessary, and at no additional cost. Those not able to appear in person at a retail location to obtain a manual (local) stamp may choose to mail their time-sensitive documents before the relevant deadline, again at no additional cost.

The general concerns discussed above—regarding the postmark's alleged ''dilution,'' its purported status as a ''service,'' its uses by third parties, and the perceived burdens placed on (at least some) mailers—frequently converge on the topic of Election Mail. Indeed, a majority of comments invoke Election Mail, and as noted, election officials account for a significant portion of the comments received. The various (and at times interrelated) issues raised by these comments are summarized as follows:

- In response to this rulemaking, Boards of Elections will encourage voters to avoid mailing in their completed ballots and to use drop-boxes instead.
- This Proposed Rule, if implemented, could somehow strain the resources and capacities of election officials, who might be tasked with ''tracking down potentially tens of thousands of ballots'' to verify the date on which they were initially accepted by the Postal Service rather than simply referring to the postmark date.
- This Proposed Rule, if implemented, could suppress voter turnout and/or lead to ''disenfranchisement'' (as election officials reject mail-in ballots bearing postmark dates past the deadline).
- The Proposed Rule is designed to require voters ''to pay for services like Certificates of Mailing or to request manual postmarks,'' which constitutes an ''an unfair burden.''
- This rulemaking will ''erode public confidence in the election process,'' diminish the public's confidence in mail-in ballots, or is itself ''a deliberate attempt to undermine trust in elections.''

As noted above, the present rulemaking clarifies the meaning of the postmark, including for both election officials and voters who choose to use the mail to vote. The Postal Service does not administer elections, establish the rules or deadlines that govern elections, or determine whether or how elections utilize the mail or incorporate our postmark. The Postal Service also does not advocate for or against voting by mail. Instead, the Postal Service collects, processes, transports, and delivers mail and packages, and remains fully committed to transporting the nation's Election Mail when public policy makers choose to use the mail as a part of their election system or when voters choose to utilize our services to participate in an election. Boards of Elections and other officials who administer elections are free to issue guidance to voters as they see fit. To voters who choose to vote by mail, the Postal Service has long recommended as a common-sense measure that they mail their completed ballot before Election Day, and at least one week before it must be received by their local election office. Otherwise, the Postal Service has also long advised that voters who wish to ensure that a ballot envelope is postmarked on the day it is tendered to the Postal Service can request a manual (local) postmark at a retail unit, which will be applied to the mailpiece free of charge and which will inherently bear a date that aligns with the date on which the Postal Service first accepted possession of the mailpiece.

While voters who use mail-in ballots may also elect to purchase a Certificate of Mailing, which will provide the individual mailer with a receipt indicating the date on which the mailpiece was tendered to the Postal Service for mailing, the Postal Service's guidance to voters who choose to vote by mail does not include recommending the purchase of a Certificate of Mailing. In any event, whether to purchase a Certificate of Mailing is a decision for the individual mailer and does not constitute a supplemental fee for the act of voting by mail. The Postal Service has adjusted the language in the Final Rule so DMM 608.11.5 now says customers who wish to retain a record of proof of the date on which the Postal Service first accepted possession of their mailpiece(s) *may* purchase a Certificate

of Mailing, rather than saying that they are *encouraged to* do so. While this language is not specific to Election Mail, the Postal Service believes the updated language may avoid further confusion.

Given that the present rulemaking (together with other educational outreach endeavors, discussed below) educates election officials about the information conveyed by postmarks and educates voters who choose to use the mail to vote that they can take certain measures if they need a postmark date that aligns with the date of mailing, it should contribute to a more effective use of the mail for their purposes. Concerns that DMM Section 608.11 may ''disenfranchise'' voters and/or overtax the capacities of Boards of Elections are therefore misplaced.

B. Recommendations

Many of the above issues and concerns—most especially, though not exclusively, the effects of postmarking on Election Mail—were accompanied by recommendations. These recommendations fall roughly into three categories: outreach and communication, operational and staffing changes, and product offerings. The Postal Service thanks the public for its constructive input and addresses each category of recommendation below.

1. Outreach and Communication

Multiple comments recommended educational outreach endeavors beyond the context of the present rulemaking. As explained below, a communications strategy regarding postmarks is indeed under development. Overall, our advice is simple: customers who wish to obtain a postmark aligning with the date of mailing should request a local (manual) at a retail location. The intent of this messaging is to provide information that customers would find useful, avoiding potential confusion; and to provide information that is accurate and does not constrain our operational flexibility. Commenters' recommendations regarding educational outreach were evaluated with these considerations in mind.

Some comments recommended that retail locations post notices indicating whether mail deposited by a particular time will arrive at the processing facility (and be postmarked at that facility) on the day of deposit. Such cutoff times, however, cannot always be predicted across all locations, given varied operating hours at retail locations, unscheduled trips, and transportation contingencies beyond the Postal Service's control that may possibly result in delays. This is why, as the Proposed Rule explained, the postmark date applied at processing never provided a perfectly reliable indicator of the date on which the Postal Service first accepted possession of a mailpiece, even before RTO. Furthermore, the service standard changes coincident with RTO's implementation (90 FR 10857) confer operational flexibility by divorcing collection schedules from transportation and processing schedules. As noted in the Notice of Proposed Rulemaking and elsewhere, with an extra day allotted for transportation to the originating processing facility, originating processing operations (including automated machine cancellations) do not need to respond reactively to volume arrivals, but can instead allocate processing capacity more predictably and efficiently based on known volume arrival profiles. USPS–T–4, PRC Docket No. N2024–1 (October 4, 2024), *https://prc.arkcase.com/portal/filings/131269.* Displays of the type of cutoff times recommended here would compel more rigid transportation schedules and would as a result constrain the very flexibility that RTO was in part designed to accommodate, thereby blunting the downstream network efficiencies that such flexibility allows. It is, therefore, neither practical, nor in all cases possible, to display ''same-day postmark'' cutoff times at retail locations. It is also unnecessary, as customers at those retail locations who need a postmark with the date of acceptance can ensure that their mailpieces receive that day's postmark by bringing their mailpieces to the retail counter and requesting a manual (local) postmark, free of charge. This option serves the purpose underlying the above-mentioned recommendation, while preserving the Postal Service's operational flexibility.

One comment suggests modifying blue collection box labels to indicate whether mail deposited by a particular time will arrive at the processing facility (and be postmarked at that facility) on the day of deposit. Blue collection box labels indicate when mail is retrieved from the boxes themselves, which is relevant information to the mailer who may be concerned about how long their mail may sit in the blue collection box prior to a carrier retrieving it. As RTO does not alter these retrieval times but instead impacts outgoing transportation schedules from delivery units, the suggested label modifications would convey supplementary information concerning downstream transportation, further compounding the risk of customer confusion. Moreover, for the reasons discussed above, transportation and processing schedules cannot always be predicted with enough precision to make such information consistently dependable, which could make such displays misleading for customers who seek to obtain postmarks reflecting that day's date. Nevertheless, blue collection boxes already feature QR codes that link to our public website, *usps.com,* which includes a tool for mailers to locate the closest Post Office; and the Postal Service plans to include on *usps.com* information on postmarks and postmark dates, including a recommendation that mailers bring their mail to a retail location and request a manual (local) postmark if they need a postmark with a date aligning with the date of mailing.

Multiple comments urged the Postal Service to launch a ''massive education program'' regarding postmarks, including notification to customers that the date on a postmark applied at a processing facility may not align with the date on which the Postal Service first accepts possession of a mailpiece (including a vote-by-mail ballot), newly established points of contact ''to address public concerns,'' and close collaboration with election officials. In addition to the present rulemaking, the Postal Service is developing an approach to provide public and internal education regarding postmarking. We will engage in a coordinated effort to post customer-facing information on *usps.com*, including making it easier to find resources we have already developed to provide information about the service standard changes generally, and about postmarking specifically. We will also engage in targeted education to specific mailing communities, including election officials. For example, we plan to include in the Official Election Mail communication (known as Kit 600), which we send to Boards of Election nationwide in advance of each federal general election season, specific information about DMM Section 608.11 and practical advice on mail-in voting consistent with prior advice (*i.e.,* that voters mail their completed ballots before Election Day and at least one week before it must be received by their election office), along with contact information for stakeholders who wish to inquire further. Furthermore, the Postal Service has established points of contact with election officials in every jurisdiction throughout the country, and we plan to communicate clear information on postmarking and address any areas of concern.

As the date of first postal possession and the date on the postmark applied at processing facilities will diverge most frequently in ZIP Codes subject to RTO, some comments suggest that RTO-

impacted facilities be widely publicized. This recommendation, which the Postal Service has seen in the context of service-standard changes more broadly as well, is, however, less helpful or straightforward than it may initially seem. Regarding both postmarking and service standards, the Postal Service's intent is to provide information to customers that is most useful and understandable (as opposed to putting the onus on the customer to determine what it means if a Post Office is or is not subject to RTO). While some information may be gleaned from an RTO designation, the Postal Service does not want customers to attach unwarranted significance to that designation. For example, whether a Post Office is subject to RTO does not determine the actual service standard for a given mailpiece; both the origin and the destination of the mailpiece must be considered. *USPS.com* features a service-standard lookup tool that provides this information accurately, without forcing customers to identify the various elements of our rules for determining service expectations. Customers apprised of whether a specific Post Office is subject to RTO may draw conclusions at odds with the lookup tool's outputs—as RTO is one of several inputs determining service standards, and the ''leg 2'' acceleration that RTO underwrites may counterbalance any day added within ''leg 1.'' Regarding the postmark, because the Postal Service has never guaranteed that the postmark date would align with the date of mailing, our messaging to customers is the same whether or not their Post Office is subject to RTO: customers should request a manual (local) postmark at a retail location if they want to ensure that their mailpiece receives a postmark containing a date that aligns with the date on which the Postal Service first accepted possession of their mailpiece. For these reasons, the Postal Service has chosen to focus on user-friendly tools and messaging, rather than identifying specific locations that may be subject to RTO transportation schedules.

2. Operational and Staffing Changes

Multiple comments recommended additional accommodations at retail locations for customers who desire a manual (local) postmark aligning with the date of first postal possession—for instance, a dedicated mail slot where customers can request such a postmark, or alternately, a special window held open during certain times of year (*e.g.,* tax season). The Postal Service has taken these recommendations under advisement, and, if there appears to be a need, we will consider making appropriate adjustments to retail operations as feasible.

Some comments also recommend that the Postal Service deploy extra staff in the days and weeks preceding important deadlines, and/or provide additional training for postal personnel in anticipation of such deadlines. As yet, however, there is no evidence of surging retail traffic by customers desiring a postmark ahead of various deadlines that might necessitate additional staff to ensure that sensitive documents receive a postmark. Indeed, the overriding concern expressed in comments, as noted above, is not that mailpieces will not be postmarked at all—an issue beyond the scope of the present rulemaking—but rather that postmarks applied by automated machinery will inscribe a date later than the date of first postal possession: a concern that additional retail staff would not directly address. The Postal Service therefore deems the request for additional retail staffing premature, though it will continue to monitor the need for such staffing.

One comment demanded that ''for periods close to key election dates, USPS . . . adjust its Regional Transport Optimization initiative to hire and employ . . . additional staff and transportation vehicles to ensure that ballots are timely transported to RPDC/LPC locations to receive a timely postmark.'' It should be noted that the deployment of additional transportation, when warranted to ensure timely delivery, is part of the Postal Service's normal business practices, and the Postal Service will continue to monitor the need for such deployments at all times of year. Regarding ''timely postmarks,'' the Postal Service's messaging is intended to make clear to customers what ''timely'' means in terms of postal operations so customers can plan accordingly.

Some commenters recommend quarantining RTO-volume and non-RTO volume into distinct batches, and postmarking those batches separately, as this would in theory allow the postmark dates on RTO volume to be rolled back to the date on which the Postal Service took possession of it. The Postal Service has considered the feasibility of such a procedure, and has concluded that it would prove operationally impracticable, cost-prohibitive, and contrary to the aims of RTO. There is no reliable way to segregate RTO from non-RTO volume within all originating processing facilities; any attempt to do so would add significant complexity to an already complex set of operations, delivering inconsistent results at an inordinate cost. Furthermore, the volume arrival profiles enabled by RTO—which in turn allow for more efficient staffing, more productive machine deployments, and earlier dispatches into the network—depend on the simultaneous processing of RTO and non-RTO volume within compressed timeframes. Direct Testimony of Gregory White, USPS–T–4, PRC Docket No. N2024–1 (October 4, 2024), at 13–19, 25–35, *https://prc.arkcase.com/portal/filings/131269.* These processing efficiencies, which underwrite accelerated service standards for a majority of market-dominant mail volume, and which are expected to yield significant cost savings over time, would be unlikely to survive a scheme designed (again, unreliably) to cancel RTO and non-RTO volume in separate batches, each with its own distinct postmark date. Adding such costs and complexity is particularly unsupportable given the Postal Service's financial condition, and when there are means available for those customers who want to ensure that the postmark reflects the day of acceptance to do so.

Some comments recommend postmarking all mail before it leaves the retail unit for processing. This recommendation would also add significant costs and is therefore not being accepted. The Postal Service discontinued this practice decades ago, and the practice had functionally disappeared well before that. As such, some historical context regarding automated postmarking may be helpful. The Postal Service has for many years relied on machines at processing facilities to postmark mail; indeed, versions of the Advanced Facer Canceller System now currently deployed date back to the early 1990s, and were themselves acquired to replace an earlier generation of facer cancellers. That replacement was completed in 2008. (Postal Service High-Speed Sorters Get Smarter, Faster). As the Postal Service explained in a 2008 Postal Bulletin (*https://about.usps.com/postal-bulletin/2008/html/pb22238/html/updt_001.html*): ''Cancellation and routine postmarking of mail at Post Offices, except for transactions at the retail window, were made obsolete with the mechanized cancellation systems installed at larger facilities in the 1970s. After the installation of the Advanced Facer Canceller Systems (AFCSs) at processing plants more than 15 years ago, routine cancellation of mail at local Post Offices was virtually eliminated. The efficiencies of the AFCSs help keep postage rates as low as possible for all

customers.'' In light of this shift away from routine postmarking at retail locations, the Postal Service amended Postal Operations Manual (POM) Section 312.2 to provide, in language that persists to this day, that ''[c]ustomers may request a local postmark at the retail counter at all Post Offices, stations, and branches.'' As the circumstances underlying this revision have not changed—that is, as the AFCS 200 machines deployed in processing facilities continue to provide a significantly more efficient means of postmarking mail than would the practice of applying postmarks at retail facilities as a matter of course—the Postal Service would not be justified in turning back the clock.

In a similar vein, other comments propose that all mailpieces deposited at retail locations by customers receive a manual (local) handstamp as a matter of course, and not merely upon request. POM Section 312.2 was adopted in its current form for a reason, however. As noted, automated processing machines at processing facilities provide a much more efficient means of postmarking mail than would 19th-century-style production lines of hand-stampers housed in every Post Office, station, and branch. We recognize that some customers may want to ensure that a piece of mail sent on a particular day receives a postmark bearing that day's date, and we accommodate those customers by applying a manual (local) postmark upon the customer's request when they tender their mail at a retail location. To go beyond that accommodation, by creating a separate postmarking process in which all mailings deposited at retail facilities receive a manual postmark regardless of mailer intent or need, would result in significant additional costs and inefficiencies.

Finally, one form letter urges that postmarks should indicate the date and time of a mailpiece's receipt by the Postal Service. As an initial matter, none of our postmarking methods—including manual postmarks applied at retail or machine postmarks applied at processing—entail stamping a specific time of day on a mailpiece. Even as to the date, reengineering the postmark so that it always shows the date of initial postal possession would vitiate the current processing system, as the automated cancellation system deployed at processing facilities affords no visibility into the date (much less the precise time) when a mailpiece first entered postal possession. As observed in the Proposed Rule, the date on postmarks applied at processing facilities represents the date of the first automated processing operation applied at that facility. The machines that apply the postmarks, and the staff who operates those machines, have no way of ascertaining whether that date happens to align with the date on which the Postal Service initially took possession of any specific mailpiece. As machines can feasibly inscribe only the date of cancellation, implementation of a postmark that uniformly inscribes the date of first postal acceptance would, in practical terms, require the circumvention of all such machines in favor of a manual stamp applied at the point of collection—resulting in the operational costs and inefficiencies noted above. Again, for customers who need a postmark with that day's date, they can go to a Postal Service-operated retail location and request a manual (local) postmark when dropping off their mail.

3. Product Offerings

One commenter recommends expanding services within the Informed Greetings platform, which generates an Intelligent Mail® Barcode (IMb), to provide insights into when and where the Postal Service had possession of a mailpiece. First, it bears noting that the Informed Greetings platform was not designed for this purpose; its intended use is, instead, to assist customers in the creation of digital greetings that then accompany the dispatch of physical mail—and the Postal Service has no intention of expanding this relatively specialized product into an all-purpose mail-tracking system. Furthermore, as noted in the Proposed Rule, IMb scans indicate possession of a mailpiece, but do not constitute evidence of the date when the Postal Service first accepted possession of a mailpiece, and neither does their absence imply that the Postal Service never accepted possession of a mailpiece. The Postal Service does not consider such scans to serve as proof of the date of postal acceptance; they therefore are not adequate substitutes for a manual (local) postmark applied at retail or services such as Certificates of Mailing.

C. Proposed Revisions to DMM 608.11

One comment urges the Postal Service to include in DMM Section 608.11 ''its longstanding policy and practice that all Ballot Mail returned by voters should receive a postmark.'' If the present rulemaking effectuated a change in postmarking practices impacting Ballot Mail, such an addition would perhaps be appropriate. As noted, however, the present rulemaking is intended to explain the Postal Service's operational use of the postmark, identify the markings that qualify as postmarks, and clarify what information such markings can be reliably taken to convey. As such, it does not signal any change to postmarking practices, which will continue to the same extent as before. This holds true for Ballot Mail, most of which is sent as Single-Piece First-Class Mail, and which the Postal Service postmarks in the manner described by the present rulemaking. (It bears mentioning that the additional efforts to postmark all Ballot Mail fall under the Postal Service's practices specifically related to Election Mail, and that these measures exceed the present rulemaking's scope and are as such not contemplated by DMM 608.11). The Postal Service therefore declines to adopt this suggested revision.

Some comments recommend the inclusion of language in the DMM stating that IMb scans may serve as proof of mailing. The Postal Service declines to adopt this suggestion, as DMM Section 608.11 already contains an entry on IMb scans. As noted there, IMb scans indicate that a mailpiece was in the Postal Service's possession, but do not constitute evidence of the date when the Postal Service first accepted possession of a mailpiece.

One commenter proposed numerous detailed revisions to DMM Section 608.11. The Postal Service thanks this commenter for their thorough engagement and addresses the commenter's recommendations at length as follows.

Regarding Section 608.11.1, the commenter observes, correctly, that when mail that otherwise would be cancelled on an automated processing machine is unable to be cancelled, it is the Postal Service's practice to apply a manual postmark to such mail at an originating processing facility. The commenter then opines that the proposed definition offered by Section 608.11.1 does not account for this eventuality. Such manual postmarks, however, are typically applied after a mailpiece is rejected by an automated processing machine; and the originally proposed language of Section 608.11.1, which indexes the postmark date to the performance of automated processing operations, does indeed contemplate those rare instances when a mailpiece is in this way rejected (and subsequently hand-stamped).

The commenter also recalls that, as explained by the Proposed Rule, the Postal Service utilizes a ''rollover'' time on its processing machines to reflect the fact that originating operations for particular mailpieces occur overnight, and hence those operations can cross calendar days. On this basis, the

commenter recommends that Section 608.11.1 align the postmark date as applied at processing facilities with ''the date on which the mailpiece was inducted into processing.'' The Postal Service declines to adopt this revision, for two reasons. First, the phrase ''was inducted into processing'' may be taken to mean ''arrived at a processing facility''; some volume, however, may arrive at a processing facility before midnight, but after that day's cutoff time for processing—a nuance that the proposed revision, if interpreted in this manner, would fail to capture. Second, ''inducted into processing'' may instead be taken to mean ''entered into processing operations''; and such a construction would not account for volume that arrives before the cutoff time for processing operations, and thus receives a postmark aligned with its date of arrival, but is not ''inducted into processing'' until after midnight. In light of these complexities, the Postal Service has determined that the original proposed language supplies the most comprehensible, succinct, and accurate formulation available to describe postmark dates as applied at processing facilities.

The commenter also observes that some postmarks display location indicators (such as ''Metroplex, MI'') that do not strictly correspond to geographical entities, but instead map onto postal processing facilities; accordingly, the commenter recommends that in Section 608.11.1, postmarks be characterized as displaying the ''name or location'' (rather than just the location) of the facility in which they were applied. This recommendation is well-taken and will be incorporated into the Final Rule.

Finally, the commenter recommends that Section 608.11.1 be broken into shorter sentences. In its original proposed form, Section 608.11.1 aimed to encompass the entire definition of ''postmarks'' within one sentence in order to emphasize that postmarks are officially defined by Section 608.11.1 in its entirety. The Postal Service acknowledges, however, that simplified syntax would likely make Section 608.11.1 easier to understand, and it is already clear that the entirety of the text in Section 608.11.1, whether expressed as a single sentence or as multiple sentences, constitutes the definition of a ''postmark,'' just as the Section title implies. We will therefore revise Section 608.11.1 in a manner consistent with the commenter's recommendations in this regard.

Regarding Section 608.11.2, the commenter urges greater specificity in the description of manual postmarks that are applied at processing facilities to non-machinable mail. Namely, in lieu of the phrase, ''when a mailpiece that would ordinarily be postmarked on an automated cancellation machine is unable to be canceled,'' the commenter suggests language specifying that mail characteristics may impact machinability. The original proposed language, however, captures the circumstance evoked by the commenter—mailpieces may, after all, prove ''unable to be cancelled'' due to their physical characteristics. The Postal Service therefore declines to adopt the suggested specification.

The commenter also observes that while some Postage Validation Imprint (PVI) labels display the city, state, and ZIP Code of the postal facility at which they are printed, others display only the facility's ZIP Code. On this basis, the commenter disputes the accuracy of DMM Section 608.11.2 as originally proposed, insofar as it represents that PVI labels ''indicate . . . the location of the retail unit at which the mailpiece was accepted.'' While it is true that some PVI labels feature only the ZIP code of the relevant facility, this fact is not, in the Postal Service's view, inconsistent with the language of Section 608.11.2 as proposed, since ZIP Codes designate location.

Finally, the commenter recommends that Section 608.11.2 state explicitly that local (manual) postmarks may be obtained free of charge. The Postal Service agrees that a reminder of this postal policy would be helpful and will therefore make conforming changes to Section 608.11.2. The phrase ''first accepts possession'' occurs regularly in the Proposed Rule, including throughout the proposed DMM Section. The commenter criticizes this phrase on two grounds: that the qualifier ''first'' is redundant (since in nearly every conceivable instance, the Postal Service accepts possession of a mailpiece only once); and that the phrase as a whole is supposedly inaccurate (in that the Postal Service does not in fact ''accept possession'' of mailpieces, but rather ''takes possession'' of them, often in an allegedly passive manner). For these reasons, the commenter suggests replacing the phrase ''first accepts possession,'' with the phrase ''first possesses.'' On the first count, the phrase ''first accepts possession'' has the merit of accentuating that there is a point in time when the Postal Service (through its employees) has taken custody of a mailpiece through some affirmative action—collecting the mail from a residence or a collection box, accepting a mailpiece tendered to a retail employee by a customer, etc. On the second count, the difference between ''first accepting possession,'' ''first taking possession,'' and ''first possessing'' is less than fully clear; if, as the commenter hints, the latter formulation implies a certain measure of passivity in how the Postal Service takes possession of the mail, its premise is inaccurate. The Postal Service, acting through its employees, actively takes possession of mailpieces tendered by mailers. Indeed, the notion of *accepting possession* more precisely renders the transactional nexus between the Postal Service and its customers, since custody of a mailpiece cannot properly be transferred unless it is both voluntarily offered and affirmatively received. For these reasons, DMM 608.11 will retain the phrase, ''first accepts possession.''

IV. Explanation of Final Rules

After evaluating the comments, the Postal Service is adopting the new DMM Section 608.11. The final text of DMM Section 608.11 incorporates the revisions noted above. The Postal Service will also, on its own initiative, make two amendments concerning manual (local) postmarks obtained at retail locations. First, the phrase ''Manual (local) postmarks are available, upon a customer's request . . . ,'' in Section 608.11.2, is changed to ''Manual (local) postmarks are applied to a mailpiece, upon a customer's request. . . .'' Second, Section 608.11.4 includes the following reminder of the 50 mailpiece limit for manual (local) postmarks: ''Customers planning to present significant mail volume—50 or more mailpieces—for (local) postmarks should contact the postmaster or other manager in advance to ensure that adequate resources are available.''

The Postal Service adopts the described changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service amends Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations as follows (see 39 CFR 111.1):

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

608 Postal Information and Resources

* * * * *

[Add the text of part 11 to read as follows:]

11.0 Postmarks and Postal Possession

11.1 Postmark Defined

A postmark is a marking applied by the Postal Service to a mailpiece. If applied at a retail unit, the postmark displays the name or location of the retail unit and the date on which the mailpiece was accepted at the retail unit. If applied at a processing facility, the postmark displays the name or location of the processing facility and the date of the first automated processing operation performed on that mailpiece. Where necessary, a postmark also cancels postage so that it cannot be reused.

11.2 Locations at Which a Postmark Is Applied

Postmarks are generally applied by the Postal Service via automation on machines in originating processing facilities but may also be applied manually by Postal Service personnel at those facilities, or by a Postal Service employee at a retail unit when a customer presents a mailpiece at a retail counter and requests a postmark.

- *Automated Machine-Applied Postmarks.* These are applied by automated cancellation machines located in originating processing facilities, including in Regional Processing and Distribution Centers (RPDCs) and select Local Processing Centers (LPCs). Automated machine-applied postmarks cancel postage and identify the processing facility that applied the postmark and the date of the first automated processing operation performed on that mailpiece. Mailpieces prepared according to certain criteria will bypass automated cancellation to improve delivery speed.
- *Manual Postmarks on Non-Machinable Mail at Processing Facilities.* Where a mailpiece that would ordinarily be postmarked on an automated cancellation machine is unable to be canceled, the Postal Service's common practice is to apply a manual postmark to the mailpiece at the originating processing facility. Like automated machine cancellations, these manual postmarks register the facility at which the mailpiece was received and the date that the first automated processing operation would have been performed on that mailpiece.
- *Postmarks at Retail Locations:* Manual (local) postmarks are applied to mailpieces, upon a customer's request, free of charge at the retail counter of every Post Office, station, or branch. Manual (local) postmarks at retail locations cancel postage (if necessary), and indicate the location of the retail unit at which the postmark is applied and the date on which the mailpiece was accepted at that unit.
- *Postage Validation Imprint (PVI) Labels at Retail Locations.* These are printed by Postal Service employees at retail locations and are applied to a mailpiece by a Postal Service employee upon acceptance of the piece. These labels indicate the postage paid for a mailpiece and, like manual (local) postmarks applied at retail locations, indicate the location of the retail unit at which the postmark is applied and the date on which the mailpiece was accepted at that unit.

11.3 Information Conveyed by a Postmark

The presence of a postmark confirms that the Postal Service accepted custody of a mailpiece, and that the mailpiece was in the possession of the Postal Service on the identified date. However, for the reasons that are further described below, the postmark date does not necessarily indicate the first day that the Postal Service had possession of the mailpiece. Moreover, the absence of a postmark does not imply that the Postal Service did not accept custody of a mailpiece, because the Postal Service does not postmark all mail in the ordinary course of operations.

The name or location displayed on a postmark shows the processing facility or retail unit at which the postmark was applied. The date displayed on a postmark shows the date of the first automated processing operation performed on a mailpiece or, alternately, the date when a mailpiece was accepted at a retail unit. Because most postmarks are applied at processing facilities, they do not necessarily represent either the place at which, or the date on which, the Postal Service first accepted possession of the mailpiece. The date inscribed by a postmark applied at a processing facility may be later than the date that the mailpiece was first accepted by the Postal Service. *See* 11.5. for options available to customers who seek proof of the date on which the Postal Service first accepted custody of a mailpiece.

11.4 Postmarks Aligning With the Date of Acceptance

Customers who want a postmark aligning with the date on which the Postal Service first accepted possession of their mailpiece may request, for no additional fee, a manual (local) postmark at any Post Office, station, or branch when tendering their mailpiece. Customers planning to present significant mail volume—50 or more mailpieces—for (local) postmarks should contact the postmaster or other manager in advance to ensure that adequate resources are available.

Because a manual (local) postmark is applied upon acceptance at the retail counter, the date on that postmark aligns with the date on which the Postal Service first accepted possession of the mailpiece. Similarly, the date on PVI labels, which are applied by Postal Service employees at the retail counter at any Post Office, station, or branch to a mailpiece for which a customer is simultaneously paying for postage and tendering the mailpiece for mailing, also aligns with the date on which the Postal Service first accepted possession of a mailpiece.

Please note that pre-printed labels applied by the customer prior to mailing—*e.g.,* postage printed from Self-Service Kiosks (SSK), Click-N-Ship online postage, and meter strips—show merely that a customer has purchased postage and the date on which the postage was printed; they do not in themselves demonstrate that the Postal Service accepted the mailpiece, or the date on which any such acceptance occurred.

11.5 Services Proving the Date of Postal Acceptance

Customers who wish to retain a record or proof of the date on which the Postal Service first accepted possession of their mailpiece(s) may purchase a Certificate of Mailing. As described more fully in Section 500.5, a Certificate of Mailing is a service designed to provide evidence that individual mailpieces have been presented for mailing. As described more fully in Sections 500.2 and 500.3 respectively, Registered Mail and Certified Mail services also provide mailing receipts for individual mailpieces.

11.6 Auxiliary Markings and Data

During the course of postal operations, the Postal Service may inscribe markings on mailpieces and/or

generate scan data. Such auxiliary markings and data indicate possession of a mailpiece; however, they do not constitute evidence of the date when the Postal Service first accepted possession of a mailpiece. Furthermore, the absence of these auxiliary markings or data does not imply that the Postal Service did not accept possession of a mailpiece.

A non-exhaustive list of such auxiliary markings and data include:

- *Identification Tags.* Mailpieces processed on automated machines (*i.e.,* mailpieces that are not deposited through bulk or commercial methods) are typically imprinted with a fluorescent identification tag. This tag encodes a variety of information, including the date on which the tag itself was applied.
- *Scans of an Intelligent Mail® Barcode (IMb).* As more fully described in Section 204.1, IMbs are applied by customers to mailpieces—primarily to letters, flats, and cards (as well as to certain competitive product mailings, such as USPS Priority Mail®)—and encode a variety of data, including the identity of the mailer, the services requested, a serial number, and a routing code. The IMb itself does not verify Postal Service possession, as it is applied by a customer before a mailpiece is tendered to the Postal Service. Rather, IMbs are typically scanned at various points in a mailpiece's trajectory, and each scan event reflects the time and place of the scan. Where the mailer includes unique serial numbers on each mailpiece containing an IMb, IMb scan data can be used to track the processing of specific mailpieces. Commercial mailers can access IMb scan data via the Informed Visibility interface. Please note that for information generated by IMb scans to be accurate, IMbs must be properly prepared as specified in Section 204.1. Duplicate and/or illegible barcodes will compromise the availability and reliability of scan event data.

* * * * *

Kevin Rayburn,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2025–20740 Filed 11–21–25; 8:45 am]

BILLING CODE 7710–12–P

Proposed Rules

Federal Register
Vol. 90, No. 224
Monday, November 24, 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.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1703

[Docket No. DNFSB–2025–01]

RIN 3155–AA04

Freedom of Information Act

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule amends the Defense Nuclear Facilities Board's (the Board or DNFSB) Freedom of Information Act (FOIA) regulations to incorporate certain changes made by the OPEN Government Act of 2007 and the FOIA Improvement Act of 2016. This proposed rule also amends certain provisions to reflect developments in case law and changes in position titles to align with changes made by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 to the Atomic Energy Act of 1954 (AEA) and an agency reorganization. The proposed rule is amending a section to permit submission of FOIA requests by electronic mail to the Board or the government-wide portal. This proposed rule also adds multitrack processing which allows the Board to quickly process simple requests. Finally, the proposed rule defines what information should be included in a denial letter.

DATES: Comments will be accepted until December 24, 2025.

ADDRESSES: You may submit comments at any time prior to the comment deadline by the following methods:

Email: Send an email to *comment@dnfsb.gov.* Please include ''FOIA Regulations Comments'' in the subject line of your email.

Mail: Send hard copy comments to the Defense Nuclear Facilities Safety Board, Attn: Office of the General Counsel, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hargrave, Associate General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (202) 694–7000.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule amends the Board's regulations under the Freedom of Information Act to incorporate changes made to the FOIA, 5 U.S.C. 552, by the Open Government Act of 2007, Public Law, 110–175 and the FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (June 30, 2016). The OPEN Government Act of 2007 states that agencies may not charge fees for searches or copies if they miss the statutory timeframe for responding to a FOIA request unless unusual or exceptional circumstances exist. The FOIA Improvement Act of 2016 provides that agencies must allow a minimum of 90 days for requesters to file an administrative appeal. The FOIA Improvement Act also requires that agencies notify requesters of the availability of dispute resolution services and the FOIA public liaison at various times throughout the FOIA process. Finally, the FOIA Improvement Act provided additional duties for the Chief FOIA Officer. This proposed rule updates the DNFSB's regulations in 10 CFR part 1703 to reflect those statutory changes.

In addition, this proposed rule changes position titles to incorporate amendments to the AEA and to incorporate changes made after a reorganization. It also corrects a regulatory citation error that incorrectly referenced a reserved section. This proposed rule incorporates the new statutory restrictions on charging fees in certain circumstances.

Finally, this proposed rule removes language overruled by the Supreme Court regarding exemption 4 and revises the definitions of ''representative of the news media'' and ''educational institution'' to reflect developments in case law and to be consistent with definitions contained in the OPEN Government Act of 2007.

This proposed rule defines processing order and provides for multi-track processing and aggregating requests to provide for faster processing. Finally, this proposed rule defines what information should be included in denial letters as required by the FOIA and corrects a citation reference to align with the proposed new subsection added to 1703.108.

III. Description of the Rule

§ 1703.102 Definitions; Words Denoting Number, Gender and Tense

The section heading is revised to remove ''words denoting number, gender and tense.'' The definitions paragraph is revised to change word ''Chairman'' to Chairperson. The DNFSB's enabling legislation was amended by the FY 2022 NDAA, and it changed the word ''Chairman'' to Chairperson. This proposed rule is also revised to state the Designated FOIA Officer serves as the Chief FOIA Officer and to state that the Chief Administrative Officer, not the General Manager, is the chief administrative officer. The General Manager position was abolished during an agency reorganization. The proposed rule adds the responsibilities of the Chief FOIA Officer contained in the FOIA Improvement Act of 2016. These responsibilities include offering training to employees and serving as the primary liaison to the Office of Government Information Services and the Office of Information Policy and as a member of the Chief FOIA Officer Council.

§ 1703.103 Requests for Agency Records Available Through the Electronic Reading Room

Section 103(b)(7) is revised to correct a regulatory citation error by removing 1703.104 and replacing it with 1704.4.

§ 1703.105 Requests for Board Records Not Available Through the Public Reading Room (FOIA Request)

Section 105(b)(2) only permits submission of FOIA requests by mail. The Board is amending this paragraph to permit submission of FOIA requests by electronic mail at *FOIA@dnfsb.gov* and the government-wide *FOIA.gov* portal.

§ 1703.107 Fees for Record Requests

Section 107(b)(1) is also revised to conform to recent D.C. Circuit Court of Appeals decisions addressing two FOIA fee categories: representative of the news media and educational institution. *Cause of Action* v. *FTC,* 799 F.3d 1108 (D.C. Cir. 2015) and *Sack* v. *DOD,* 823 F.3d 687 (D.C. Cir. 2016). The rule is also revised to conform with the

definition of representative of news media under the OPEN Government Act of 2007. The Board's existing regulations define a representative of the news media as ''any person actively gathering news for an entity that is organized and operated to publish or broadcast to news to the public.'' In *Cause of Action,* the Court held that a representative of the news media need not work for an entity that is ''organized and operated'' to publish or broadcast news. Therefore, the definition of ''representative of the news media'' is revised to remove the ''organized and operated'' requirement and to adopt the definition contained in the OPEN Government Act of 2007. The definition of a representative of the news media is expanded to include gathering information, using editorial skills to turn raw materials into a distinct work, and distributing the work to an audience. The definition of ''educational institution'' is revised to reflect the holding, in *Sack,* 823 F.3d at 688, that students who make FOIA requests in furtherance of their coursework or other school-sponsored activities may qualify under this requester category.

Section (b)(2)(iv) is revised to conform with the OPEN Government Act. It is revised to state that the Board will not assess search fees or duplication fees from educational and noncommercial scientific institution if it has failed to meet the regulatory deadline.

Sections (b)(2)(ix) and (x) are added to state that Board may charge search fees or may charge duplication fees for requesters with preferred fee status if unusual circumstances apply and more than 5000 pages are necessary to respond to the request provided it has given notice of the unusual circumstances and how to limit the request. Similarly, if a court determines that ''exceptional circumstances'' exist, the Board's failure to comply with a time limit will be excused by the court order.

§ 1703.108 Processing of FOIA Requests

Sections (c), (d), and (e) are added to include that requests will be processed in order of receipt. There will be a specific track for expedited requests and a different process track for simple and more complex requests based upon amount time and work needed to process the request. The proposed rule also provides for aggregating multiple requests for purposes of satisfying unusual circumstances when there are multiple requests by one requester or a group of requests acting in concert constitute a single request that would otherwise constitute unusual circumstances.

Other sections are renumbered, and section (g) adds a sentence that alerts the requester to the availability of Office of Government Information Services (OGIS) to provide dispute resolution services.

Section (i) is added and provides the information to be included in the denial of a request. It includes the identity of the person denying the request, the reason for denial and exemption used, number of pages being withheld, appeal procedures and the availability dispute resolution services from OGIS and assistance from the FOIA public liaison.

§ 1703.109 Procedure for Appeal of Denial of Requests for Board Records and Denial of Requests for Fee Waiver or Reduction

Section (a)(1) is revised by removing 30 days to appeal a fee waiver denial and replacing it with 90 days as required by the FOIA Improvement Act. Section (b) is revised by removing the reference to § 1703.108(c) and replacing it with 1703.108(f). The proposed revisions to § 1703.108 redesignated paragraphs (c) through (f).

§ 1703.111 Requests for Privileged Treatment of Documents Submitted to the Board

This proposed rule changes the title of this section to ''Privileged or confidential information'' and removes the title of ''Request for privileged treatment of documents submitted to the board.'' This new title is consistent with the statutory language of exemption 4 of the FOIA under 5 U.S.C. 552(b)(4), which exempts from release trade secrets, and commercial or financial information obtained from a person that is privileged or confidential. When determining whether exemption 4 of the FOIA can be applied, the current regulation required the Board to determine substantial harm to a competitive position of the owner of the information. The Supreme Court, in *Food Marketing Institute* v. *Argus Leader Media,* 139 S.Ct. 2356 (2019), overturned the current regulatory language. The proposed rule removes the language to make it consistent with the Supreme Court's decision. The proposed rule also adds the word ''confidential'' to each relevant paragraph.

III. Regulatory Analysis

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, agencies must consider the impact of their rulemakings on ''small entities'' (small businesses, small organizations, and local governments) when publishing regulations subject to the notice and comment requirements of the Administrative Procedure Act. An agency must prepare an Initial Regulatory Flexibility Analysis (IRFA) unless it determines and certifies that the rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. *5 U.S.C. 605(b).* The FOIA authorizes Federal agencies to charge fees only to certain requesters, and only to recover the direct costs of searching for, reviewing, and duplicating agency records. Under this proposed rule, the Board will continue to charge fees in accordance with the FOIA and guidelines from DOJ and OMB. The fees that the Board assesses for processing FOIA requests are nominal and will not have a significant impact on a substantial number of small entities within the meaning of the RFA. Accordingly, the Board certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), requires Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments, and the private sector to the extent that such regulations incorporate requirements specifically set forth in law. Before promulgating a rule that may result in the expenditure by a State, Tribal, or local government, in the aggregate, or by the private sector of $100 million, adjusted annually for inflation, in any 1 year, an agency must prepare a written statement that assesses the effects on State, Tribal, and local governments and the private sector. 2 U.S.C. 1532. This proposed rule will apply only to requesters under the FOIA and will not result in expenditures of $100 million or more for State, Tribal, and local governments, in the aggregate, or the private sector in any 1 year. This proposed rule also will not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of 2 U.S.C. 1531–1538.

Executive Orders (E.O.) 12866, 13563 and 14219

E.O. 12866, ''Regulation Planning and Review,'' as supplemented and affirmed by, Executive Order 13563, ''Improving Regulation and Regulatory Review,'' provides that the Office of Information and Regulatory Affairs will review any

regulatory action that qualifies as a ''significant regulatory action'' within the meaning of the E.O. This proposed rule has been reviewed in compliance with Executive Order 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative.'' This proposed rule does not qualify as a significant regulatory action.

Executive Order 12988, Civil Justice Reform

Under section 3(a) of E.O. 12988, agencies must review their proposed regulations to eliminate drafting errors and ambiguities, draft them to minimize litigation, and provide a clear legal standard for affected conduct. Section 3(b) provides a list of specific matters that agencies must consider when conducting the review required by section 3(a). The Board has conducted this review and determined that this proposed rule complies with the requirements of E.O. 12988.

Paperwork Reduction Act

This proposed rule contains no new reporting or recordkeeping requirements under the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.* This update to the Board's FOIA regulations does not require or request information from members of the public. Therefore, this rulemaking is not covered by the restrictions of the PRA.

Congressional Review Act

This proposed rule will not result in and is not likely to result in (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rule is not expected to be considered a ''major rule'' as defined in 5 U.S.C. 804(2) of the Congressional Review Act.

List of Subjects in 10 CFR Part 1703

Freedom of information.

For the reasons described in the preamble, the Board proposes to amend 10 CFR part 1703 as follows:

PART 1703—PUBLIC INFORMATION AND REQUESTS

■ 1. The authority for part 1703 continues to read as follows:

Authority: 5 U.S.C. 301, 552; 31 U.S.C. 9701; 42 U.S.C. 2286b.

■ 2. In § 1703.102, revise the section heading and section (5) to read as follows:

1703.102 Definitions.

* * * * *

(5) * * *

Chairperson means the Chairperson of the Board.

Designated FOIA Officer serves as the Chief FOIA Officer and is the person designated by the Board's to administer the Board's activities pursuant to the regulations in this part. The Designated FOIA Officer shall also be the Board officer having custody or responsibility for agency records in the possession of the Board and shall be the Board officer responsible for authorizing or denying production of records upon requests filed pursuant to § 1703.105.

* * * * *

Chief Administrative Officer means the chief administrative officer of the Board.

* * * * *

■ 3. In § 1703.103, revise paragraph (b)(7) to read as follows:

1703.103 Requests for agency records available through the electronic reading room.

* * * * *

(b) * * *

(7) Board correspondence, except that which is exempt from mandatory public disclosure under § 1704.4.

■ 4. In § 1703.105, revise paragraph (b)(2) to read as follows:

(b) * * *

(2) The request should be addressed to the Designated FOIA Officer and clearly marked ''Freedom of Information Act Request.'' The address for such requests is: Designated FOIA Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004, by email at *FOIA@dnfsb.gov,* or the government-wide *FOIA.gov* portal.* * *

* * * * *

■ 5. In § 1703.107, revise the definitions in paragraphs (b)(1); revise paragraph (b)(2)(iv); and add subsections (ix) and (x) to paragraph (b)(2) to read as follows:

1703.107 Fees for record requests

* * * * *

(b) * * *

(1) * * *

Educational institution refers to any school that operates a program of scholarly research. It includes students who make a request in furtherance of their coursework or other school-sponsored activity.

* * * * *

Representative of the news media refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience. * * *

* * * * *

(2) * * *

(iv) The Board will not assess any search fees if has failed to meet its deadlines in 1703.108 or duplication fees from requesters described in paragraphs (ii) of this section.

* * * * *

(ix) If the Board has determined that unusual circumstances as defined by the FOIA apply, and more than 5,000 pages are necessary to respond to the request, the Board may charge search fees, or, in the case of requesters described in paragraph (b)(2)(ii) of this section, may charge duplication fees if the following steps are taken. The Board must have provided timely written notice of unusual circumstances to the requester in accordance with the FOIA and must have discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, the Board may charge all applicable fees incurred in the processing of the request.

(x) If a court has determined that exceptional circumstances exist as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

* * * * *

■ 6. In § 1703.108, redesignate paragraphs (c) through (e); add new paragraphs (c) through (e) and (i); and revise the redesignated paragraph (g) to read as follows:

Old section	New section
1703.108(c)	1703.108(f)
1703.108(d)	1703.108(g)
1703.108(e)	1703.108(h)

* * * * *

(c) The Board ordinarily will respond to requests according to their order of receipt. In instances involving misdirected requests, the response time will commence on the date that the request is first received by any Board office.

(d) *Multitrack processing.* The Board will designate a specific track for requests that are granted expedited processing, in accordance with the standards set forth in 1703.105(e). The

Board may also designate additional processing tracks that distinguish between simple and more complex requests based on the estimated amount of work or time needed to process the request. Among the factors the Board may consider are the number of pages involved in processing the request and the need for consultations or referrals. The Board shall advise requesters of the track into which their request falls and, when appropriate, shall offer the requesters an opportunity to narrow their request so that it can be placed in a different processing track.

(e) *Aggregating requests.* For the purposes of satisfying unusual circumstances under the FOIA, the Board may aggregate requests in cases where it reasonably appears that multiple requests, submitted either by a requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances. The Board shall not aggregate multiple requests that involve unrelated matters.

* * * * *

(g) If no determination has been made at the end of the ten day period, or the last extension thereof, the requester may deem his administrative remedies to have been exhausted, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be made within the applicable time limit, the Board will nevertheless continue to process the request. If the Board is unable to provide a response within the statutory period, the Designated FOIA Officer shall inform the requester of the reason for the delay; the date on which a determination may be expected to be made; and that the requester can seek remedy through the courts but shall ask the requester to forgo such action until a determination is made. The Board must also alert requesters to the availability of the Office of Government Information Services to provide dispute resolution services.

* * * * *

(i) *Denial of a request.* The denial of a request shall be signed by the Designated FOIA Officer and shall include:

(1) The name and title or position of the person responsible for denial;

(2) A brief statement of reasons for the denial, including any FOIA exemption applied by the Board in denying the request;

(3) An estimate of the volume of any records or information withheld, such as the number of pages or some other reasonable form of estimation, although such an estimate is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part or if providing an estimate would harm an interest protected by an applicable exemption;

(4) A statement that the denial may be appealed and a description of the requirements under § 1703.109; and

(5) A statement notifying the requester of the assistance available from the FOIA Public Liaison, and the dispute resolution services offered by the Office of Government Information Services.

■ 7. In § 1703.109, revise paragraph (a)(1) by removing 30 and replacing it with 90 and revise paragraph (b) by removing § 1703.108(c) and replacing it with § 1703.108(f) to read as follows:

(a) * * *

(1) * * *A person denied a fee waiver or reduction may appeal that determination to the General Counsel within 90 days.* * *

* * * * *

(b) In unusual circumstances, as defined in § 1703.108(f), the time limits prescribed for deciding an appeal pursuant to this section may be extended by up to ten working days, by the General Counsel, who will send written notice to the requester setting forth the reasons for such extension and the expected determination date.

■ 8. In § 1703.111, revise the section heading and paragraphs (b)((1)–(4); (c)(1) and (2); and (d); remove the current paragraph (e); redesignate paragraph (f) to paragraph (e); redesignate paragraph (g) to paragraph (f); and revise the redesignated paragraphs (e) and (f) to read as follows:

§ 1703.111 Privileged or confidential information

* * * * *

(b) *Procedures.* A person claiming that information is privileged or confidential under paragraph (a) of this section must file:

(1) An application, accompanied by an affidavit, requesting privileged or confidential treatment for some or all of the information in a document, and stating the justification for nondisclosure of the information;

(2) The original document, boldly indicating on the front page ''Contains Privileged or Confidential Information—Do Not Release'' and identifying within the document the information for which the privileged or confidential treatment is sought;

(3) Three copies of the redacted document (*i.e.,* without the information for which privileged or confidential treatment is sought) and with a statement indicating that information has been removed for privileged or confidential treatment; and

(4) The name, title, address, telephone number, and email address of the person or persons to be contacted regarding the request for privileged or confidential treatment of documents submitted to the Board.

(c) * * *

(1) The Designated FOIA Officer shall place documents for which privileged or confidential treatment is sought in accordance with paragraph (b) of this section in a nonpublic file, while the request for privileged or confidential treatment is pending. By placing documents in a nonpublic file, the Board is not making a determination on any claim for privilege or confidentiality. The Board retains the right to make determinations with regard to any claim of privilege or confidentiality, and the discretion to release information as necessary to carry out its responsibilities.

(2) The Designated FOIA Officer shall place the request for privileged or confidential treatment described in paragraph (b)(1) of this section and a copy of the redacted document described in paragraph (b)(3) of this section in a public file while the request for privileged treatment is pending.

(d) *Notification of request and opportunity to comment.* When a FOIA requester seeks a document for which privilege or confidentiality is claimed, the Designated FOIA Officer shall so notify the person who submitted the document and give that person an opportunity (at least five days) in which to comment in writing on the request. A copy of this notice shall be sent to the FOIA requester.

(e) *Notification before release.* Notice of a decision by the Designated FOIA Officer to deny a claim of privilege or confidentiality, in whole or in part, shall be given to any person claiming that information is privileged or confidential no less than five days before public disclosure. The decision shall be made only after consultation with the General Counsel's Office. The notice shall briefly explain why the person's objections to disclosure were not sustained. A copy of this notice shall be sent to the FOIA requester.

(f) *Notification of suit in Federal courts.* When a FOIA requester brings suit to compel disclosure of privileged or confidential information, the Board shall notify the person who submitted documents containing such confidential information of the suit.

Dated: November 20, 2025.

Mary Buhler,

Executive Director of Operations.

[FR Doc. 2025–20749 Filed 11–21–25; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–5030; Project Identifier MCAI–2025–00322–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 429 helicopters. This proposed AD was prompted by reports of incorrectly installed lockwire on the stability and control augmentation system (SCAS) actuator jam nut. This proposed AD would require inspecting the installation of the lockwire on the SCAS actuator jam nut and, if the lockwire is incorrectly installed, removing the lockwire and installing a new lockwire correctly. This proposed AD would also prohibit the installation of an affected SCAS actuator assembly unless certain requirements are met. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by January 8, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–5030; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*
- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Kim-Anh Tran, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4190; email: *kim-anh.t.tran@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2025–5030; Project Identifier MCAI–2025–00322–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2025–16, dated March 17, 2025 (Transport Canada AD CF–2025–16) (also referred to as the MCAI), to correct an unsafe condition on Bell Textron Canada Limited Model 429 helicopters, serial numbers 57001 and subsequent, with SCAS actuator part numbers (P/N) 429–001–065–107, 429–001–065–109, or 429–001–065–111 installed. The MCAI states that there have been several reports of incorrectly installed lockwire on the SCAS actuator jam nut. The MCAI further states that the incorrect installation of the lockwire could allow the actuator jam nut to loosen. This condition, if not addressed, could lead to the SCAS actuator rotating on the axis of the tube, interfering with the adjacent structure and limiting or completely jamming control movement, resulting in partial or complete loss of control of the helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–5030.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF–2025–16, dated March 17, 2025, which specifies procedures for a one-time inspection of the lockwire installation of the jam nuts of the cyclic longitudinal, cyclic lateral, and directional SCAS actuators and, if the lockwire is improperly installed, removal of the lockwire and installation of a new lockwire in the correct direction. Transport Canada AD CF–2025–16 also prohibits the installation of an affected SCAS actuator assembly unless certain requirements are met. 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 (CAA) of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described.

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 CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF–2025–16 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2025–16 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF–2025–16 for compliance will be available at *regulations.gov* under Docket No. FAA–2025–5030 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 101 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect lockwire	1.5 work-hour × $85 per hour = $128	$0	$128	$12,928

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace lockwire	.5 work-hours × $85 per hour = $43	$0	$43

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Textron Canada Limited: Docket No. FAA–2025–5030; Project Identifier MCAI–2025–00322–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 8, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 429 helicopters, certificated in any category, as identified in Transport Canada AD CF–2025–16, dated March 17, 2025 (Transport Canada AD CF–2025–16).

(d) Subject

Joint Aircraft System Component (JASC) Code 6700, Rotorcraft Flight Control.

(e) Unsafe Condition

This AD was prompted by reports of incorrectly installed lockwire on the stability and control augmentation system (SCAS) actuator jam nut. The FAA is issuing this AD to address the incorrect installation of the lockwire. The unsafe condition, if not addressed, could allow the SCAS actuator jam nut to loosen, which could lead to the SCAS actuator rotating on the axis of the tube, interfering with the adjacent structure and limiting or completely jamming control movement, resulting in partial or complete loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2025–16.

(h) Exceptions to Transport Canada AD CF–2025–16

(1) Where Transport Canada AD CF–2025–16 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2025–16 requires compliance in terms of air time, this AD requires using hours time-in-service.

(i) Alternative Methods of Compliance (AMOCs)

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

(j) Special Flight Permits

Special flight permits are prohibited.

(k) Additional Information

For more information about this AD, contact Kim-Anh Tran, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4190; email: *kim-anh.t.tran@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF–2025–16, dated March 17, 2025.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on November 20, 2025.

Steven W. Thompson,

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

[FR Doc. 2025–20751 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–2423; Airspace Docket No. 23–AAL–10]

RIN 2120–AA66

Modification of Class E Airspace; Ralph Wien Memorial Airport, Kotzebue, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class E2 airspace extending upward from the surface and Class E5 airspace extending upward from 700 feet above the surface to optimize instrument flight procedure containment at the Ralph Wien Memorial Airport, Kotzebue, AK. This proposal supports the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before January 8, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2025–2423 and Airspace Docket No. 23–AAL–10 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.*

FOR FURTHER INFORMATION CONTACT: BryantJay Toves, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3465.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify Class E airspace to support IFR operations at Ralph Wien Memorial Airport, Kotzebue, AK.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by

submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198.

Incorporation by Reference

Class E2 and E5 airspace designations are published in paragraphs 6002 and 6005, respectively, of FAA Order JO 7400.11, *Airspace Designations and Reporting Points,* which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 that would modify the Class E airspace at Ralph Wien Memorial Airport, Kotzebue, AK. First, the FAA proposes increasing Class E2 surface area airspace radius from 4.3-miles to 4.4-miles to better accommodate the circling maneuvering areas to runways (RWY) 18 and 9. Further, 1.4-mile and 0.6-mile extensions are proposed to the southeast and west, respectively, to contain departing aircraft until reaching the base of the next adjacent airspace when executing the COGAS2 Area Navigation (RNAV) (Required Navigation Performance [RNP]) DEPARTURE and BALIN2 RNAV (RNP) DEPARTURE from RWYs 9 and 27.

Next, the FAA proposes modifying Class E5 airspace extending upward from 700 feet above the surface to remove unneeded controlled airspace to the northeast, east, southwest, and west, and expanding E5 airspace to targeted areas southeast and northwest of the airport. The southeast should be expanded to better contain aircraft until reaching 1,200 feet above the surface on the RNAV (Global Positioning System [GPS]) RWY 27 missed approach procedure and BALIN2 RNAV (RNP) DEPARTURE RWY 9. An additional 1x5-mile area of airspace to the northwest would provide sufficient containment for arriving aircraft that descend to below 1,500 feet above the surface on the instrument landing system (ILS) or localizer (LOC) RWY 9 approach.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures,* prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, would be amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AAL AK E2 Kotzebue, AK [Amended]

Ralph Wien Memorial Airport, AK
(Lat. 66°53′05″ N, long. 162°35′53″ W)

That airspace extending upward from the surface within a 4.4-mile radius of the Ralph Wien Memorial Airport, within 2.9 miles northeast and .8 miles southwest of the airport's 130° bearing extending from the 4.4-mile arc to 5.8 miles southeast of the airport, and clockwise from the airport's 260° bearing to its 286° bearing extending from the 4.4-mile arc to the 5 mile-arc.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Kotzebue, AK [Amended]

Ralph Wien Memorial Airport, AK
(Lat. 66°53′05″ N, long. 162°35′53″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the airport, clockwise from the airport's 077° bearing to its 117° bearing extending from the 6.8-mile arc to the 12.2-mile arc, clockwise from the airport's 117° bearing to its 137° bearing extending from the 6.8-mile arc to the 8.2-mile arc, and within 4.2 miles north and 3.7 miles south of the airport's 280° bearing extending from the 6.8-mile arc to 10.6 miles west, and that airspace extending upward from 1,200 feet above the surface within a 4.4-mile radius of the Ralph Wien Memorial Airport, excluding that airspace extending beyond 12 miles from the coast.

* * * * *

Issued in Des Moines, Washington, on November 19, 2025.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2025–20732 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–5147; Airspace Docket No. 25–AEA–17]

RIN 2120–AA66

Amendment of Class D and Class E4 Airspace Over Wilkes-Barre, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E4 airspace at Wilkes-Barre/Scranton International Airport, Wilkes-Barre, PA, due to the currently designated airspace not properly containing instrument flight rule (IFR) operations, which require controlled airspace. This action also proposes to update the geographic coordinates of the airport and language related to the hours of operation of the air traffic control tower.

DATES: Comments must be received on or before January 8, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2025–5147 and Airspace Docket No. 25–AEA–17 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

FAA Order JO 7400.11K Airspace Designations and Reporting Points and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/*. You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; Telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Marc Ellerbee, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5589.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend Class D and Class E4 airspace in Wilkes-Barre, PA.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edits, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during regular business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Incorporation by Reference

Class D and Class E4 airspace designations are published in paragraphs 5000 and 6004 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Proposal

This action proposes an amendment to 14 CFR part 71 modifying the Class D and Class E4 airspace for Wilkes-Barre/Scranton International Airport, Wilkes-Barre, PA. Controlled airspace is necessary for the safety and management of IFR operations in the area for existing instrument approach procedures.

This action proposes to amend the Class D airspace over Wilkes-Barre, PA, by updating the Wilkes-Barre/Scranton International Airport geographic coordinates and increasing the lateral boundary of the Class D airspace from a 4.1-mile radius of the airport to a 4.2-mile radius of the airport.

This action also proposes to amend the Class E4 airspace over Wilkes-Barre, PA, by modifying the dimensions from the current configuration to that airspace extending upward from the surface within 2 miles each side of a 033° bearing from Wilkes-Barre/Scranton International Airport extending from the 4.2-mile radius to 9.4 miles northeast of the airport, and within 1 mile either side of a 214° bearing from the airport extending from the 4.2-mile radius to 7.3 miles southwest of the airport. This reconfiguration will properly contain the currently published standard instrument approach procedures.

This action also proposes to remove the language in the Wilkes-Barre, PA, Class E4 Airspace legal description that indicates a part-time status, as the control tower is in operation 24 hours a day.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, ''FAA National Environmental Policy Act Implementing Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA PA D Wilkes-Barre, PA [Amended]

Wilkes-Barre/Scranton International Airport, PA
(Lat. 41°20′19″ N, long. 75°43′24″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.2-mile radius of Wilkes-Barre/Scranton International Airport.

* * * * *

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA PA E4 Wilkes-Barre, PA [Amended]

Wilkes-Barre/Scranton International Airport, PA
(Lat. 41°20′19″ N, long 75°43′24″ W)

That airspace extending upward from the surface within 2 miles each side of a 033° bearing from Wilkes-Barre/Scranton International Airport extending from the 4.2-mile radius to 9.4 miles northeast of the airport, and within 1 mile either side of a 214° bearing from the airport extending from the 4.2-mile radius to 7.3 miles southwest of the airport.

* * * * *

Issued in College Park, Georgia, on November 20, 2025.

Patrick Young,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2025–20790 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 342

[Docket No. RM26–6–000]

Five-Year Review of the Oil Pipeline Index

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) invites comments on its proposed index level used to determine annual changes to oil pipeline rate ceilings. The Commission proposes to use the Producer Price Index for Finished Goods (PPI–FG) − 1.42% as the index level for the five-year period commencing July 1, 2026. The Commission invites interested persons to submit comments regarding this proposal and any alternative methodologies for calculating the index.

DATES: Initial Comments are due December 24, 2025, and Reply Comments are due January 14, 2026.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways. Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

• For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (Including Courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

The Comment Procedures Section of this document contains more detailed filing procedures.

FOR FURTHER INFORMATION CONTACT:

Monil Patel (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8296. *Monil.Patel@ferc.gov.*

Evan Steiner (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8792. *Evan.Steiner@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. The Commission annually applies an index to existing oil pipeline transportation rate ceilings to establish new rate ceiling levels.[1] The Commission reexamines the index level every five years.[2] In this notice of proposed rulemaking (NOPR), the Commission invites comments on its proposal to use the Producer Price Index for Finished Goods (PPI–FG)[3] minus 1.42% (PPI–FG − 1.42%) as the index level for the next five years beginning July 1, 2026.[4]

2. As discussed below, interested persons are invited to submit comments regarding the Commission's proposal and any alternative methodologies for calculating the index level. The Commission will finalize the index level at the conclusion of this proceeding. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *www.regulations.gov* by searching for ''RIN 1902–AG33.''

I. Background

3. The Energy Policy Act of 1992 (EPAct 1992) required the Commission to establish a ''simplified and generally applicable'' ratemaking methodology that was consistent with the just and reasonable standard of the Interstate Commerce Act.[5] To implement this mandate, the Commission issued Order No. 561 establishing an indexing methodology that allows oil pipelines to change rates based upon an annual index as opposed to making cost-of-service filings.[6] The use of an industry-wide index avoids expensive and time-consuming proceedings associated with cost-of-service ratemaking and litigation for individual pipelines while still allowing pipelines to efficiently set rates that are commensurate with industry-wide costs. Furthermore, updating the index every five years to reflect oil pipeline industry costs changes helps ensure that rates are just and reasonable for shippers and pipelines. Each year, pipelines adjust their rate ceilings effective July 1 using an index multiplier that the Commission publishes in May based on recent changes in the PPI–FG (a measure of inflation) and the current index level.[7]

4. In this proceeding, the Commission is conducting its five-year review of the oil pipeline index level. When the Commission established indexing in Order No. 561, the Commission committed to review the index level every five years to ensure that the index level chosen by the Commission adequately reflects changes to industry costs and to ensure that oil pipeline indexed rates remain just and reasonable.[8] The Commission explained that its responsibilities under the ICA, to both shippers and pipelines, require monitoring of the relationship between the change in the chosen index level and the actual cost changes experienced by industry.[9] On appeal of Order No. 561, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) upheld the indexing methodology based in part on the Commission's commitment to undertake regular five-year reviews.[10] Since 2000,[11] the Commission has conducted a review of the index level every five years.[12] While continuing to use PPI–FG

[1] Indexing allows oil pipelines to change their tariff rates so long as those rates remain at or below certain ceiling levels. 18 CFR 342.3(a).

[2] The five-year index review process was established in Order No. 561. *See Revisions to Oil Pipeline Reguls. Pursuant to the Energy Pol'y Act of 1992,* Order No. 561, 58 FR 58753 (Nov. 4, 1993), FERC Stats. & Regs. ¶ 30,985 (1993) (cross-referenced at 65 FERC ¶ 61,109), *order on reh'g,* Order No. 561–A, 59 FR 40243 (Aug. 8, 1994), FERC Stats. & Regs. ¶ 31,000 (1994) (cross-referenced at 68 FERC ¶ 61,138), *aff'd, Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996) (*AOPL I*).

[3] The PPI–FG is determined and issued by the Bureau of Labor Statistics, U.S. Department of Labor.

[4] *See* Attach. A, Ex. 1 tab.

[5] Public Law 102–486, 1801(a), 106 Stat. 2776, 3010 (Oct. 24, 1992), codified at 42 U.S.C. 7172 note.

[6] Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,947.

[7] 18 CFR 342.3(d)(1), (2); *see also, e.g., Revisions to Oil Pipeline Regulations Pursuant to the Energy Pol'y Act of 1992,* 90 FR 21917 (May 22, 2025), 191 FERC ¶ 61,134 (2025) (calculating the index for the July 1, 2025—June 30, 2026, index year using the index level established in the 2020 five-year review).

[8] *See* Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,941 (''To ensure that the operation of the index meets the Commission's responsibility under the ICA to ensure that rates are just and reasonable, the Commission will undertake an examination of the relationship between the annual change in the [PPI–FG–1%] index and the actual cost changes experienced by the oil pipeline industry every five years, beginning in the year 2000 upon the availability of the final index for calendar year 1999.''); *id.* at 30,947 (''[T]he Commission will review the appropriateness of the index in relation to industry costs every five years, beginning July 1, 2000.''); *id.* at 30,951 (''[T]o ensure that the change in [PPI–FG–1%] continues to fulfill this objective in the future, the Commission will conduct a periodic review of this index every five years.''); *id.* at 30,952 (The Commission ''will review the choice of the index every 5 years.''); Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,093 (''To ensure over time that this nexus between the changes in the index and the cost changes experienced by the typical pipeline will be maintained, the Commission will conduct a review of the PPI–FG index every five years, beginning in the year 2000.''); *id.* at 31,099 (The Commission's decision on the index level ''will be reviewed every five years, beginning with the year 2000.''); *id.* at 31,105 (''The concern . . . that under the indexing system pipeline rates will increasingly diverge from actual pipeline costs . . . has been addressed by the Commission in its structuring of the index system. . . . [U]nder the final rule, every five years beginning in the year 2000, the Commission will examine the relationship between changes in the index (PPI–1) and actual cost changes experienced by the oil pipeline industry.''); *see also* 49 U.S.C. app. 1(5), 2, 3(1).

[9] Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,952 (''[T]he Commission believes that its responsibilities under the ICA, to both shippers and pipelines, requires monitoring the relationship between the [PPI–FG–1%] and the actual cost changes experienced by the industry. The Commission will use the Form No. 6 information for this purpose, and will review the choice of the index every 5 years.'').

[10] *AOPL I,* 83 F.3d at 1437. *See also id.* at 1430 (acknowledging the Commission's commitment to ''monitor the index's ability to track changes in pipeline costs and review the appropriateness of its choice of index, in light of the just and reasonable standard of the ICA, every five years'').

[11] *See Five-Year Rev. of Oil Pipeline Pricing Index,* 93 FERC ¶ 61,266, at 61,846 (2000) (2000 Index Review), *aff'd in part & remanded sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 281 F.3d 239 (D.C. Cir. 2002), *order on remand, Five-Year Rev. of Oil Pipeline Pricing Index,* 102 FERC ¶ 61,195, at P 3 (2003) (2000 Remand Order) (''The Commission recognized [in Order Nos. 561 and 561–A] that its responsibilities, to both shippers and pipelines, required it to monitor the relationship between the change in the PPI–1 index and the actual cost changes experienced by the industry.''), *aff'd sub nom. Flying J Inc.* v. *FERC,* 363 F.3d 495 (D.C. Cir. 2004).

[12] *Five-Year Rev. of the Oil Pipeline Index,* 86 FR 9448 (Feb. 16, 2021), 173 FERC ¶ 61,245 (2020) (2020 Index Order), *order on reh'g,* 87 FR 4476 (Jan. 28, 2022), 178 FERC ¶ 61,023 (2022) (2022 Rehearing Order), *vacated sub nom. Liquid Energy Pipeline Ass'n* v. *FERC,* 109 F.4th 543, 549 (D.C. Cir. 2024) *(LEPA* v. *FERC); Five-Year Rev. of the Oil Pipeline Index,* 80 FR 81744 (Dec. 31, 2015), 153 FERC ¶ 61,312 (2015) (2015 Index Review), *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 876 F.3d 336 (D.C. Cir. 2017) (*AOPL III*); *Five-Year Rev. of Oil Pipeline Pricing Index,* 75 FR 80300 (Dec. 22, 2010), 133 FERC ¶ 61,228 (2010) (2010 Index Review), *order on reh'g,* 135 FERC ¶ 61,172 (2011); *Five-Year Rev. of Oil Pipeline Pricing Index,* 71 FR

Continued

as the basis of the index level,[13] the Commission has recalibrated the index level each time so that it continued to reflect the relationship between oil pipeline cost changes and PPI–FG.[14] The generally applicable changes to the oil pipeline index necessarily require notice and comment rulemaking.[15]

5. In Order No. 561 and each successive five-year index review, the Commission has calculated the index level based upon a methodology originally developed by Dr. Alfred E. Kahn and modified by the Commission in subsequent five-year reviews.[16] The Kahn Methodology uses pipeline data from Form No. 6, page 700 [17] from the prior five-year period to determine adjustments to be applied to the PPI–FG. The calculation is as follows. Each pipeline's cost change on a per barrel-mile basis over the prior five-year period (*e.g.,* the years 2019–2024 in this proceeding) is calculated. In order to remove statistical outliers and spurious data, the Kahn Methodology trims an equal number of pipelines from the top and bottom of the data set.[18] The Kahn Methodology then calculates three measures of central tendency for the trimmed data sample: the median, the mean, and a weighted mean.[19] The Kahn Methodology calculates a composite by averaging these three measures of central tendency and measures the difference between the composite and the PPI–FG over the prior five-year period. The index level is then set at PPI–FG plus (or minus) this differential.

II. Commission Proposal

6. We propose PPI–FG minus 1.42% as the index level for the five-year period commencing July 1, 2026. The proposal is based on the Kahn Methodology as applied to Form No. 6, page 700 data from the 2019 through 2024 period. The Commission's calculations are included in workpapers included as Attachment A and available in this docket on the Commission's eLibrary system.[20] This proposal is subject to change based on the Commission's review of the record developed in this proceeding.

7. We invite interested persons to submit comments regarding the Commission's proposal and any alternative methodologies for calculating the index level for the five-year period commencing July 1, 2026.[21] Commenters may address all issues relating to the calculation of the index level, including, but not limited to: (i) different data trimming methodologies; (ii) whether, and if so how, the Commission should adjust the data set to address the effects of the change in Commission policy regarding return on equity (ROE); and (iii) whether, and if so how, the Commission's calculation of the index level should incorporate recently resubmitted page 700 data for 2019. As discussed further below, the index level of PPI–FG–1.42% was calculated by trimming the data set to the middle 80%, using unadjusted ROE, and using pipelines' originally filed FERC Form No. 6, page 700 data for 2019. The economic effects of the NOPR proposal and various regulatory alternatives are shown in the Regulatory Impact Analysis.[22]

A. Trimming of the Data Set

8. As part of each five-year index review, the Commission trims the data set that it uses to establish the updated index level to remove outlying data. We propose to set the index level in this proceeding by trimming the data set to the middle 80% of all oil pipelines. While the Commission has used various data trimming approaches in the past,[23] use of the middle 80% is consistent with the Commission's approach in the most recent 2020 index review.[24] Although we considered different data trimming approaches for this five-year review, including using the middle 50% of the data set, we preliminarily conclude that the middle 80% is the appropriate data set to use in this five-year review for the reasons discussed below.

9. First, as the Commission explained in the 2020 index review,[25] it is appropriate to consider more data in measuring industry-wide cost changes rather than less. The Kahn Methodology determines the index level by calculating the central tendency of a statistically trimmed data sample. As a general matter, considering a larger data sample should enhance the calculation of the central tendency of industry cost experience.[26] Furthermore, the middle 80% of the data set in this record excludes only 40 pipelines out of 196 pipelines in the full data set and only 6% of industry-wide barrel-miles, providing a robust sample of industry cost experience.[27] By contrast, using the middle 50% would exclude an additional 58 pipelines (for a total of 98 pipelines excluded) and 12% of industry barrel-miles from the Commission's review of industry-wide cost changes over the 2019–2024 period.[28]

15329 (Mar. 28, 2006), 114 FERC ¶ 61,293 (2006) (2005 Index Review); 2000 Index Review, 93 FERC ¶ 61,266; Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,948–52; Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,093–99.

[13] Although in some prior five-year reviews various commenters proposed alternatives to PPI–FG, the Commission has continued to use PPI–FG.

[14] *See, e.g.,* 2020 Index Order, 173 FERC ¶ 61,245 at P 2; 2015 Index Review, 153 FERC ¶ 61,312 at P 2; 2010 Index Review, 133 FERC ¶ 61,228 at P 1; 2005 Index Review, 114 FERC ¶ 61,293 at P 2; 2000 Remand Order, 102 FERC ¶ 61,195 at P 1.

[15] *See LEPA* v. *FERC,* 109 F.4th at 549 (holding that the Commission could not revise the index level without adhering to notice and comment procedures required by the Administrative Procedure Act).

[16] The Commission's use of the Kahn Methodology has been affirmed by the D.C. Circuit. *AOPL I,* 83 F.3d 1424; *Flying J Inc.* v. *FERC,* 363 F.3d 495.

[17] 2015 Index Review, 153 FERC ¶ 61,312 at P 12 (updating the Commission's calculation of the five-year oil pipeline index to use page 700 data to measure changing barrel-mile costs), *aff'd, AOPL III,* 876 F.3d at 345–46. Page 700 provides summarized interstate barrel-mile and cost-of-service data consistent with the Commission's cost-of-service methodology. *Id.* PP 12–13, 16.

[18] For example, the Commission has previously trimmed the data set to the middle 50% (removing the bottom 25% and top 25% of pipelines) and in 2020, for the 2021–2026 five-year index, changed to using the middle 80% (removing the bottom 10% and top 10% of pipelines). 2020 Index Order, 173 FERC ¶ 61,245 at PP 25–32 (using the middle 80%); 2015 Index Review, 153 FERC ¶ 61,312 at PP 42–44 (using the middle 50%); 2010 Index Review, 133 FERC ¶ 61,228 at PP 60–63 (using the middle 50%); Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,096–97 (adopting Dr. Kahn's proposal to use the middle 50%); *see also* 2005 Index Review, 114 FERC ¶ 61,293 at P 28 (considering average of the middle 50% and middle 80%); 2000 Remand Order, 102 FERC ¶ 61,295 at P 24 (same).

[19] The weighted mean assigns a different weight to each pipeline's cost change based on the pipeline's total barrel-miles.

[20] *See infra* P 37 (discussing the Commission's eLibrary system).

[21] As discussed below, commenters must file any supporting workpapers in an acceptable spreadsheet format with all links and formulas intact. *Infra* P 35.

[22] The Regulatory Impact Analysis (RIA) supporting this rulemaking can be found as a supporting document at *www.regulations.gov.*

[23] 2015 Index Review, 153 FERC ¶ 61,312 at PP 42–44 (using the middle 50%); 2010 Index Review, 133 FERC ¶ 61,228 at PP 60–63 (using the middle 50%); 2005 Index Review, 114 FERC ¶ 61,293 at P 28 (considering average of the middle 50% and middle 80%); 2000 Remand Order, 102 FERC ¶ 61,295 at P 24 (same); Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,096–97 (adopting Dr. Kahn's proposal to trim the data set to the middle 50%).

[24] 2020 Index Order, 173 FERC ¶ 61,245 at PP 25–32 (adopting the middle 80% for the 2021–2026 cycle). In the 2020 review, the Commission subsequently granted rehearing to modify the index to use the middle 50%, but the rehearing order was vacated on procedural grounds by the D.C. Circuit. *See* 2022 Rehearing Order, 178 FERC ¶ 61,023 at PP 43–58, *vacated sub nom. LEPA* v. *FERC,* 109 F.4th at 547–49; *see also Revisions to Oil Pipeline Reguls. Pursuant to the Energy Pol'y Act of 1992,* 188 FERC ¶ 61,173 (2024) (order reinstating index level based upon the middle 80% following vacatur).

[25] 2020 Index Order, 173 FERC ¶ 61,245 at P 26.

[26] *Id.*

[27] Attach. A, Model tab (indicating that trimming to the middle 80% would reduce the sample from 196 pipelines to 156 pipelines).

[28] *Id.* (indicating that trimming to the middle 50% instead of the middle 80% would reduce the sample from 156 pipelines to 98 pipelines).

10. Second, we preliminarily find that ''normal'' cost changes are best defined using the inclusive data sample embodied in the middle 80%. Prematurely discarding data prior to determining the central tendency could skew the index such that it does not reflect industry-wide trends. By using the inclusive data sample in the middle 80%, the Commission is able to accurately identify the central tendency of industry-wide cost changes that reflects the ''normal'' cost changes recoverable by the index.[29]

11. Accordingly, we preliminarily conclude that the middle 80% is the appropriate data set to use in the upcoming five-year review cycle. However, we invite commenters to address whether the Commission should continue to trim the data set to the middle 80% or adopt an alternative approach to data trimming. Commenters should explain why their preferred approach is superior and how it would appropriately address outliers and spurious or unrepresentative data that could bias the index calculation in either direction.

B. Treatment of ROE in Data Set

12. In May 2020, the Commission revised its methodology for determining ROE for oil pipelines. Whereas the Commission had previously relied solely on the discounted cash flow (DCF) model for determining ROE, the Commission now averages the results of the DCF and Capital Asset Pricing Model (CAPM) analyses (ROE Policy Change).[30]

13. We calculated the proposed index level without making any adjustment to the data in light of the ROE Policy Change. The Commission has never adjusted ROE in a prior index proceeding. We are concerned that adjusting the data in light of the ROE Policy Change would be a complex and difficult endeavor that would be inconsistent with indexing's purpose as a simplified and streamlined process.[31]

14. We encourage commenters to address whether, and if so, how, the Commission should address the ROE Policy Change in the index calculation. Commenters proposing any adjustment to the data set should explain why their proposal is consistent with EPAct 1992's dual mandates for just and reasonable rates and simplified and streamlined ratemaking. Among other things, to the extent pipelines changed their reported ROEs as a result of the ROE Policy Change, commenters should address how that data should be considered in light of indexing's relationship to recoverable costs under the Opinion No. 154–B methodology.[32]

C. Resubmitted Form No. 6s

15. We also observe that, since April 2025, 61 pipelines have resubmitted FERC Form No. 6 cost data for 2019 to change the calculation of the ROE as well as other modifications.[33] We considered whether to use pipelines' resubmitted FERC Form No. 6 cost data for 2019 or whether to rely on pipelines' originally submitted FERC Form No. 6 cost data. For the reasons discussed below, the index level proposed in this NOPR relies on pipelines' originally submitted FERC Form No. 6 cost data.

16. First, the resubmissions were filed five years after the cost data was originally due to be submitted and include limited explanations for these changes.[34] A similarly significant volume of late filings of Form No. 6 has not arisen in prior five-year review proceedings, and these filings raise potential concerns about use of the late-filed data. For example, the late-filed data from many pipelines filing Form No. 6 updates lack supporting calculations, instead merely stating that ''[t]he cost of service results have been updated to reflect the most current interpretation of the FERC methodology outlined in Opinion No. 154–B, 31 FERC 61,377 (1985), as modified and clarified by subsequent rulings.'' [35] Additionally, we are concerned that use of updated data could introduce biases in the index calculations because only some pipelines updated their data. Accordingly, we are not including these late submittals in the calculation of the index level proposed in this NOPR.[36] We seek comment on whether, and if so how, the Commission's calculation of the index level should incorporate the recently resubmitted page 700 data for 2019.

III. Information Collection Statement

17. The information collection requirements contained in this proposed rule are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[37] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[38]

18. This proposed rule affects a currently approved information collection. Changes described in this proposed rule are non-substantive and do not change any filing requirements; rather this proposed rule adjusts an aspect of the calculation that is used in an annual tariff filing that FERC jurisdictional oil pipelines are required to submit to the Commission. This aspect of the calculation is reviewed and updated every five years.

[29] 2020 Index Order, 173 FERC ¶ 61,245 at P 27.

[30] The DCF and CAPM models are described in the policy statement. *See Inquiry Regarding the Comm'n's Pol'y for Determining Return on Equity,* 171 FERC ¶ 61,155, at PP 18, 28, 50 (2020).

[31] In the 2020 Index Order, the Commission declined to adjust the ROE data due to the difficulty of determining just and reasonable alternative ROEs for the diverse pipelines in the data set. The Commission found that ''addressing such complex cost-of-service issues would improperly complicate and prolong the five-year review process in violation of EPAct 1992's mandate for simplified and streamlined ratemaking.'' 2020 Index Order, 173 FERC ¶ 61,245 at PP 49–50.

[32] We acknowledge that in the 2020 Index Order the Commission adjusted the data to remove the effects on the index level of a different policy change related to recovery of income tax costs. *Id.* PP 16–20. The Commission later found participants' challenges to this determination persuasive and modified the index level to use unadjusted data and to incorporate the effects of the policy change into the index. 2022 Rehearing Order, 178 FERC ¶ 61,023 at PP 17–36. However, the D.C. Circuit vacated the rehearing order on procedural grounds. *LEPA* v. *FERC,* 109 F.4th at 547–49. The Commission also proposed in a Supplemental NOPR to depart from the 2020 Index Order's holdings on that same income tax issue and to incorporate the policy change into the index. *Supplemental Rev. of the Oil Pipeline Index Level,* 89 FR 84475 (Oct. 23, 2024), 189 FERC ¶ 61,030, at PP 24–34 (2024). For purposes of considering the ROE Policy Change and how it affects the index in this proceeding, we consider anew any issues related to whether the index should incorporate cost-of-service policy changes. Commenters should not simply rely upon statements and findings in the 2020 Index Order related to this matter.

[33] *See* Appendix (listing 61 pipelines that have resubmitted their 2020 Form No. 6 since April 2025 to change their page 700 data for 2019). *See also* Tallgrass Pony Express Pipeline, LLC, Form No. 6 (filed June 13, 2025) (resubmitting 2019 Form No. 6 to change their page 700 data for 2019). Many of the changes involved changes to ROE and capital structure that led to modifications elsewhere on page 700. However, some pipelines made additional changes to other cost components, such as rate base and operating expenses. *See, e.g.,* Sunoco Pipeline L.P., Form No. 6, page 700 (filed Apr. 29, 2025) (among other modifications, showing an approximately $1 billion change to rate base); Tesoro High Plains Pipeline Company LLC, Form No. 6, page 700 (filed Apr. 17, 2025) (among other modifications, showing an approximately $7 million change to operating costs).

[34] *See, e.g.,* Mid-America Pipeline Company, LLC, Form No. 6, page 700 (filed May 6, 2025) (stating ''The cost-of-service results have been updated to reflect the most current interpretation of the FERC methodology outlined in Opinion No. 154–B, 31 FERC 61,377 (1985), as modified and clarified by Opinion No. 586.''); Platte Pipe Line Company, LLC, Form No. 6, page 700 (filed May 2, 2025) (stating ''2019 and 2020 data has been restated using a revised return on equity (ROE) calculation consistent with the ROE methodology approved by the Commission in Opinion No. 586.'').

[35] *See, e.g.,* Buckeye Pipe Line Transportation LLC June 16, 2025, revisions of 2020 FERC Form 6 report at page 2.

[36] For informational purposes, see Attach. A, Ex. 4 tab.

[37] 44 U.S.C. 3507(d).

[38] 5 CFR 1320.11.

Summary of Information Collection

Title: FERC–550, Oil Pipeline Tariff Filings & Depreciation Studies.

Action: Non-substantive change adjusting an aspect of the calculation that is used in annual oil pipeline tariff filings.

OMB Control Nos.: 1902–0089 (FERC–550).

Respondents: Oil Pipelines.

Frequency of Information Collection: On occasion in compliance with requirements.

Necessity of Information: The reforms in this proposed rule are necessary to ensure that the rates of oil pipelines are just and reasonable.

Internal Review: The Commission has reviewed the reforms and determined that such reforms are necessary. These reforms conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has specific, objective support for the burden estimates associated with the information collection requirements.

Public Reporting Burden: The burden and cost related to filing an oil pipeline tariff will not change due to this proposed rule. The currently approved hourly burden for submitting a tariff filing is 7 hours ($721 [39]).

IV. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

19. Executive Order 12866 (Regulatory Planning and Review), as amended by Executive Orders 14215 (Ensuring Accountability for All Agencies) and supplemented by 13563 (Improving Regulation and Regulatory 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. Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has designated this proposed rule a ''significant regulatory action'' that is economically significant under section 3(f)(1) of Executive Order 12866. Accordingly, OMB has reviewed this proposed rule. The regulatory impact analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.* The following represents a summary of the aforementioned regulatory impact analysis.

20. If adopted in a final rule, the index level proposed in this NOPR would influence rates for interstate oil pipeline transportation service, which would affect the interests of interstate oil pipelines and shippers on interstate oil pipelines.[40] The RIA considers the potential impacts of the index level proposed in the NOPR relative to two baselines.[41] The first baseline (Baseline 1) assumes that a final rule establishing a new index level for the 2026–2031 time period is not issued and assumes that the index level established for 2021–2025 would remain effective for 2026–2031. The second baseline (Baseline 2) assumes that a final rule establishing an index level for the 2026–2031 time period is not issued, and that there is no effective index level and pipelines are thus precluded from changing their rates pursuant to the Commission's indexing regulations for the 2026–2031 period. Adopting the index level proposed in this NOPR would reduce interstate oil pipeline transportation revenues during the five-year period that the index would be effective as compared to Baseline 1 and would increase oil pipeline revenues during the five-year period that the index would be effective as compared to Baseline 2.[42]

21. As discussed in the RIA, the issuance of a final rule adopting the proposed index level in the NOPR would not create any measurable costs or benefits outside of these effects experienced by pipelines and shippers. While there are circumstances in which pipeline transportation rates can indirectly affect financial interests outside of pipelines and shippers (for example, lower pipeline transportation rates could affect commodity prices for refineries, prices of petroleum, or pipeline infrastructure investment), these impacts are sufficiently attenuated or otherwise so minimal as to not result in significant costs.[43]

22. The RIA also describes the regulatory alternatives that the Commission considered and the estimated effects of alternative index levels on annual interstate oil pipeline transportation revenues as compared to the baselines. The alternative index levels reflect different combinations of regulatory alternatives, specifically of different approaches to the three issues on which we seek comment in the NOPR.[44] All of the index levels that result from the various regulatory alternatives considered in the RIA are higher compared to the index level proposed in the NOPR.

V. Executive Order 13132 (Federalism)

23. Executive Order 13132 (Federalism) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order 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.

24. The Commission has examined the NOPR 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. Therefore, the Commission has not prepared a federalism assessment.

VI. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

25. Executive Order 13211 (Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use) requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the

[39] The hourly cost used in this calculation is based on the estimated average annual cost per FERC FTE, including salary + benefits of $103 per hour, or $214,093 per year.

[40] Approximately 350 pipelines file tariff rates with the Commission for interstate transportation of crude oil and petroleum products, and approximately 86% of rates are set under the indexing method. For more information about who is affected by the NOPR, *see* section II.C of the RIA.

[41] *See* RIA, section II.E.

[42] For more information about the effects of the NOPR as compared to Baseline 1 and Baseline 2, *see* RIA, section II.f. *See also* RIA, apps. A, B.

[43] *See id.* section II.G.

[44] For further details about the regulatory alternatives considered by the Commission and their estimated effects on annual interstate oil pipeline transportation revenues, *see* RIA, section II.H, apps. A, B, C, D.

action and their expected benefits on energy supply, distribution, and use.

26. At this NOPR stage, the Commission has preliminarily determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, the Commission has not prepared a Statement of Energy Effects.

VII. Environmental Analysis

27. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[45] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in this exclusion are proposed rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[46] The action proposed herein falls within this categorical exclusion in the Commission's regulations.

VIII. Regulatory Flexibility Act

28. The Regulatory Flexibility Act of 1980 (RFA)[47] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[48] The SBA defines a small oil pipeline company as one with less than 1,500 employees.[49] Based on this definition, the Commission identified 43 small entities that the proposed rule will affect. As discussed above, the burdens and costs associated with filing oil pipeline tariffs will not change as a result of the proposed rule. The currently approved hourly burden for submitting a tariff filing is 7 hours ($721). We view this as a minimal economic impact for each entity. Accordingly, we certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is required.

IX. Comment Procedures

29. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Initial Comments are due [insert date 30 days after date of publication in the **Federal Register**], and Reply Comments are due [insert date 51 days after date of publication in the **Federal Register**]. Comments must refer to Docket No. RM26–6–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

30. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. All supporting workpapers must be submitted with links and formulas intact and in a spreadsheet format acceptable under the Commission's eFiling rules. Commenters filing electronically do not need to make a paper filing.

31. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier-or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

X. Document Availability

32. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*).

33. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

34. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Issued: November 20, 2025.

Carlos D. Clay,

Deputy Secretary.

Appendix—Pipelines That Resubmitted Page 700 Data for 2019 Since April 2025

Pipeline	Filing date
1. MPLX Ozark Pipe Line LLC	April 17, 2025.
2. Tesoro Logistics Northwest Pipeline LLC	April 17, 2025.
3. Marathon Pipe Line LLC	April 17, 2025.
4. Muskegon Pipeline LLC	April 17, 2025.
5. Hardin Street Holdings LLC	April 17, 2025.
6. Andeavor Gathering I LLC	April 17, 2025.
7. Tesoro High Plains Pipeline Company LLC	April 17, 2025.
8. Andeavor Logistics Rio Pipeline LLC	April 17, 2025.
9. Western Refining Conan Gathering, LLC	April 17, 2025.
10. Western Refining Pipeline, LLC	April 17, 2025.
11. Ohio River Pipe Line LLC	April 17, 2025.

[45] *Reguls. Implementing the National Env't Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[46] 18 CFR 380.4(a)(2)(ii).

[47] 5 U.S.C. 601–612.

[48] 13 CFR 121.101.

[49] *Id.* 121.201, Subsector 486 (Pipeline Transportation).

Pipeline	Filing date
12. Dakota Access, LLC	April 28, 2025.
13. White Cliffs Pipeline, L.L.C	April 28, 2025.
14. Inland Corporation	April 28, 2025.
15. Energy Transfer Crude Oil Company, LLC	April 28, 2025.
16. Mid Valley Pipeline Company LLC	April 28, 2025.
17. Permian Express Terminal LLC	April 28, 2025.
18. Permian Express Partners LLC	April 28, 2025.
19. West Texas Gulf Pipe Line Company LLC	April 28, 2025.
20. Bayou Bridge Pipeline LLC	April 28, 2025.
21. Enable Bakken Crude Services, LLC	April 28, 2025.
22. Centurion Pipeline L.P	April 29, 2025.
23. Sunoco Pipeline L.P	April 29, 2025.
24. Centurion SENM Gathering LP	April 29, 2025.
25. Energy Transfer GC NGL Pipelines LP	April 29, 2025.
26. ETP Crude LLC	April 29, 2025.
27. Front Range Pipeline LLC	May 1, 2025.
28. NuStar Permian Transportation and Storage, LLC	May 1, 2025.
29. CCPS Transportation, LLC	May 2, 2025.
30. Enbridge Storage (Patoka) L.L.C	May 2, 2025.
31. Enbridge Energy, Limited Partnership	May 2, 2025.
32. Express Pipeline LLC	May 2, 2025.
33. Platte Pipe Line Company, LLC	May 2, 2025.
34. Seminole Pipeline Company LLC	May 2, 2025.
35. Illinois Extension Pipeline Company L.L.C	May 2, 2025.
36. Gray Oak Pipeline, LLC	May 2, 2025.
37. Enbridge Pipelines (Toledo) Inc	May 2, 2025.
38. North Dakota Pipeline Company LLC	May 2, 2025.
39. Enbridge Pipelines (Southern Lights) LLC	May 2, 2025.
40. Bakken Pipeline Company LP	May 2, 2025.
41. Enbridge Pipelines (FSP) L.L.C	May 2, 2025.
42. Texas Express Pipeline LLC	May 2, 2025.
43. Rio Grande Pipeline Company LLC	May 5, 2025.
44. Seaway Crude Pipeline Company LLC	May 5, 2025.
45. Enterprise TE Products Pipeline Company LLC	May 6, 2025.
46. Enterprise Lou-Tex NGL Pipeline L.P	May 6, 2025.
47. Baton Rouge Pipeline LLC	May 6, 2025.
48. Mid-America Pipeline Company, LLC	May 6, 2025.
49. Dixie Pipeline Company LLC	May 6, 2025.
50. Sorrento Pipeline Company, LLC	May 6, 2025.
51. WILPRISE Pipeline Company, L.L.C	May 6, 2025.
52. Enterprise Interstate Crude LLC	May 6, 2025.
53. Panola Pipeline Company, LLC	May 6, 2025.
54. Tri-States NGL Pipeline, LLC	May 6, 2025.
55. Leveret Pipeline Company LLC	May 6, 2025.
56. Buckeye Pipe Line Company, L.P	June 16, 2025.
57. Buckeye Pipe Line Transportation LLC	June 16, 2025.
58. Buckeye Linden Pipe Line Company LLC	June 16, 2025.
59. Wood River Pipe Lines LLC	June 16, 2025.
60. West Shore Pipe Line Company	June 16, 2025.
61. Norco Pipe Line Company, LLC	June 16, 2025.

[FR Doc. 2025–20762 Filed 11–21–25; 8:45 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2025–0078; FRL–5774–03–OAR]

Review of National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting Technology Review; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: On October 1, 2025, the U.S. Environmental Protection Agency (EPA) proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting Technology Review.'' The EPA is reopening the comment period on this proposed rule, which closed on November 17, 2025. The comment period will now end on December 8, 2025, to allow additional time for stakeholders to review and comment on the proposal.

DATES: The EPA is reopening the comment period for the proposed rule that published in the **Federal Register** (FR) on October 1, 2025, at 90 FR 47268. The EPA must receive written comments on or before December 8, 2025.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–HQ–OAR–2025–0078, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2025–0078 in the subject line of the message.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center,

Docket ID No. EPA–HQ–OAR–2025–0078, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand Delivery/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions. All submissions received must include the Docket ID No. EPA–HQ–OAR–2025–0078 for this rulemaking. Comments received may be posted without change on *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For information about this comment period extension, contact U.S. EPA, Attn: Amber Wright, Mail Drop: D243–02, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4680; and email address: *Wright.Amber@epa.gov.*

SUPPLEMENTARY INFORMATION:

Rationale. On October 1, 2025, the EPA proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting Technology Review.'' [1] The comment period on this proposed rule originally closed on November 17, 2025. The EPA received a request for additional time to review and comment on this proposed rule, and the EPA has decided to reopen the comment period until December 8, 2025. The public comment period will now end on December 8, 2025.

Docket. The EPA established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2025–0078. All documents in the docket are listed at *https://www.regulations.gov.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The EPA does not place certain other material, such as copyrighted material, on the internet; this material is publicly available only as PDF versions accessible only on EPA computers in the docket office reading room. The public cannot download certain data bases and physical items from the docket but may request these items by contacting the docket office at 202–566–1744. The docket office has 10 business days to respond to such requests. With the exception of such material, publicly available docket materials are available electronically at *https://www.regulations.gov.*

Written Comments. Direct your comments to Docket ID No. EPA–HQ–OAR–2025–0078. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information for which a statute restricts disclosure. Do not submit electronically to *https://www.regulations.gov* any information that you consider to be CBI or other information for which a statute restricts disclosure. You should submit this type of information as discussed below.

The EPA may publish any comment received to its public docket. A written comment must accompany multimedia submissions (audio, video, *etc.*). The EPA considers the written comment to be the official comment, and it should include discussion of all points the commenter wishes 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.*

The *https://www.regulations.gov* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Written Comments* section of this document. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. The public docket and the EPA's electronic public docket will include information not marked as CBI without prior notice. The EPA will not disclose information marked as CBI except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is electronic transmittal, using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). You must send electronic submissions directly to the Office of Clean Air Programs (OCAP) CBI Office at the email address *oaqps_cbi@epa.gov,* and, as described above, you should include clear CBI markings and note the docket ID. If you need assistance with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqps_cbi@epa.gov* to request a file transfer link. If sending CBI information through the U.S. Postal Service, please send it to the following address: U.S. EPA, Attn: OCAP Document Control Officer, Mail Drop:

[1] 90 FR 47268, October 1, 2025.

C404–02, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2025–0078. You should double-wrap and clearly mark the mailed CBI material. Any CBI markings should not show through the outer envelope.

Panagiotis Tsirigotis,

Director, Office of Clean Air Programs.

[FR Doc. 2025–20753 Filed 11–21–25; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 90, No. 224
Monday, November 24, 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

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding; 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; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; 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 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 regarding this information collection received by December 24, 2025 will be considered. Written comments and recommendations for the proposed 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.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Food Safety Certification for Specialty Crops Program (FSCSC).

OMB Control Number: 0560–0311.

Summary of Collection: The Farm Service Agency (FSA) is issuing payments under the Coronavirus Aid, Relief, and Economic Stability (CARES) Act of up to $200 million to assist eligible specialty crop operations with on-farm food safety certification and related expenses. The development, implementation, and maintenance of on-farm food safety programs resulted in unforeseen costs for many specialty crop operations who sought alternate markets for their products during the pandemic, as demand from traditional markets such as restaurants and food service diminished or disappeared.

Need and Use of the Information: In order to determine whether a producer is eligible for FSCSC and to calculate a payment, an applicant is required to submit form FSA–888, Food Safety Certification for Specialty Crops Program (FSCSC). Applicants must also have the following forms on file with FSA: AD–2047, Customer Data Worksheet, and SF–3881, ACH Vendor/Miscellaneous Payment Enrollment Form.

The information submitted by respondents are used by FSA to determine eligibility and issue payments to eligible applicants under FSCSC.

Failure to solicit applications will result in failure to provide payments to eligible applicants as intended by the CARES Act.

Description of Respondents: Farms.

Number of Respondents: 2,500.

Frequency of Responses: Reporting; On Occasion.

Total Burden Hours: 2,650.

Rachelle Ragland-Greene,

Departmental Collection Clearance Officer.

[FR Doc. 2025–20754 Filed 11–21–25; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

International Trade Administration

District Export Council Nomination Opportunity

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is currently seeking nominations of individuals for consideration for appointment by the Secretary of Commerce to serve as members of one of the 61 District Export Councils (DECs) nationwide. DECs are closely affiliated with the U.S. Export Assistance Centers (USEACs) of the U.S. Commercial Service (USCS), which is part of the Global Markets unit within the International Trade Administration, and play a key role in the planning and coordination of export activities in their communities.

DATES: Nominations for individuals will be accepted through December 15, 2025.

ADDRESSES: Please contact the Director of your local USEAC for more information on DECs and the nomination process. You may identify your local USEAC by entering your zip code online at *https://trade.gov/commercial-service-offices-us.* The Director of your local USEAC can be identified by clicking the ''Contact Us'' tab.

FOR FURTHER INFORMATION CONTACT: Laura Barmby, National DEC Liaison, USCS, International Trade Administration, U.S. Department of Commerce, 321–274–3277, *Laura.Barmby@trade.gov.*

SUPPLEMENTARY INFORMATION: District Export Councils support the mission of USCS by facilitating the development of an effective local export assistance network, supporting the expansion of export opportunities for local U.S. companies, serving as a communication link between the business community and USCS, and assisting in coordinating the activities of trade assistance partners to leverage available resources. Individuals appointed to a DEC become part of a select corps of trade professionals dedicated to providing international trade leadership and guidance to the local business community and assistance to the

Department of Commerce on export development issues. DEC members are volunteers. DEC members are not special government employees. DEC members receive no compensation for their participation in DEC activities or reimbursement for travel and other personal expenses.

I. Nomination Process

Each DEC has a maximum membership of 35. There are currently vacancies on every DEC, with approximately half of the positions open on each DEC for the four-year term that runs through December 31, 2029. The online application form is available at *https://app.keysurvey.com/f/41778657/10a4/.*

All potential nominees must complete the online nomination form linked above and consent to sharing of the information on that form with the DEC Executive Committee for its consideration and consent; and if appointed, to sharing of their contact information with other DEC members, relevant government agencies, and private sector organizations with a focus on trade. Interested individuals are highly encouraged to reach out to the local USEAC Director to learn more about the DECs and to begin the application process as soon as possible.

II. Eligibility and Appointment Criteria

Appointment is based upon an individual's international trade leadership in the local community, ability to influence the local environment for exporting, knowledge of day-to-day international operations, interest in export development, and willingness and ability to devote time to DEC activities. Members must be employed as exporters or export service providers or in a profession which supports U.S. export promotion efforts. Members include exporters, export service providers and others whose profession supports U.S. export promotion efforts. DEC member appointments are made without regard to political affiliation. DEC membership is open to U.S. citizens and permanent residents of the United States. As representatives of the local exporting community, DEC Members must reside in, or conduct the majority of their work in, the territory that the DEC covers. DEC membership is not open to federal government employees. Individuals representing foreign governments, including individuals registered with the Department of Justice under the Foreign Agents Registration Act, must disclose such representation and may be disqualified if the Department determines that such representation is likely to impact the ability to carry out the duties of a DEC member or raise an appearance issue for the Department.

III. Selection Process

Nominations of individuals who have applied for DEC membership will be forwarded to the local USEAC Director for the respective DEC for that Director's consideration. The local USEAC Director ensures that all nominees meet the membership criteria. The local USEAC Director then, in consultation with the local DEC Executive Committee, evaluates all nominees to determine their interest, commitment, and qualifications. In reviewing nominees, the local USEAC Director strives to ensure a balance among exporters from a manufacturing or service industry, and export service providers. A fair representation should be considered from companies and organizations that support exporters, representatives of local and state government, and trade organizations and associations. Membership should reflect the dynamics of the local business community, encompass a broad range of business and industry sectors, and be distributed geographically across the DEC service area.

For current DEC members seeking reappointment, the local USEAC Director, in consultation with the DEC Executive Committee, also carefully considers the nominee's activity level during the previous term and demonstrated ability to work cooperatively and effectively with other DEC members and USCS staff. As appointees of the Secretary of Commerce in high-profile positions, though volunteers, DEC Members are expected to actively participate in the DEC and support the work of local USCS offices. Those that do not support the work of the office or do not actively participate in DEC activities will not be considered for re-nomination.

The local USEAC Director, in consultation with the local DEC Executive Committee, determines which nominees to forward to the USCS Office for further consideration for recommendation to the Secretary of Commerce. A candidate's background and character are pertinent to determining suitability and eligibility for DEC membership. Since DEC appointments are made by the Secretary, the Department must make a suitability determination for all DEC nominees. After completion of a vetting process, the Secretary selects nominees for appointment to local DECs. DEC members are appointed by and serve at the pleasure of the Secretary of Commerce.

Authority: 15 U.S.C. 1512 and 4721.

Laura Barmby,

District Export Council Program Manager, United States Department of Commerce.

[FR Doc. 2025–20723 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting of a Federal Advisory Committee.

SUMMARY: The Environmental Technologies Trade Advisory Committee (ETTAC) will hold a virtual meeting on Tuesday, December 9, 2025. The meeting is open to the public with registration instructions provided below. This notice sets forth the schedule and proposed topics for the meeting.

DATES: The meeting is scheduled for Tuesday, December 9, 2025 from 10:00 a.m. to 10:30 a.m. and 12:30 p.m. to 3:15 p.m. Eastern Time (ET). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Tuesday, December 2, 2025. Members of the public must register by that date to participate.

ADDRESSES: The meeting will be held virtually. Members of the public who wish to participate should register through the registration portal: *https://www.trade.gov/ettac.* Requests for auxiliary aids or to make comments during the meeting, or submit written comments for dissemination prior to the meeting, should be submitted via email to Ms. Megan Hyndman, Office of Energy & Environmental Industries, International Trade Administration, at *Megan.Hyndman@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Megan Hyndman, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202–482–1297; email: *Megan.Hyndman@trade.gov*).

SUPPLEMENTARY INFORMATION: The ETTAC is mandated by Section 2313(c) of the Export Enhancement Act of 1988, as amended, 15 U.S.C. 4728(c), to advise

the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee on the development and administration of programs to expand U.S. exports of environmental technologies, goods, services, and products. The ETTAC was most recently re-chartered through August 6, 2026.

On Tuesday, December 9, 2025 from 10:00 a.m. to 10:30 a.m. and 12:30 p.m. to 3:15 p.m. ET, the ETTAC will hold the seventh meeting of its current charter term. During the meeting, committee members will discuss issues affecting the competitiveness of the U.S. environmental technologies industry, deliberate on potential recommendation topics, and receive subject matter briefings from U.S. government agencies involved in the trade of environmental technologies. An agenda will be made available one week prior to the meeting upon request to Designated Federal Officer Megan Hyndman.

The meeting will be open to the public and time will be permitted for public comment before the close of the meeting. Members of the public seeking to attend the meeting are required to register by Tuesday, December 2, at 5:00 p.m. EDT, via the registration portal at *https://www.trade.gov/ettac.* This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to *Megan.Hyndman@trade.gov* or (202) 482–1297 no less than one week prior to the meeting. Requests received after this date will be accepted, but it may not be possible to accommodate them.

Written comments concerning ETTAC affairs are welcome any time before or after the meeting. To be considered during the meeting, written comments must be received by Tuesday, December 2, at 5:00 p.m. EDT to ensure transmission to the members before the meeting. Draft minutes will be available within 30 days of this meeting.

Dated: November 19, 2025.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2025–20779 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–833]

Large Diameter Welded Pipe From the Republic of Türkiye: Final Results of Antidumping Duty Administrative Review; 2023–2024; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published a notice in the **Federal Register** of September 15, 2025, in which Commerce announced the final results of the 2023–2024 administrative review of the antidumping duty (AD) order on large diameter welded pipe (welded pipe) from the Republic of Türkiye (Türkiye). This notice corrects the spelling of the name of Emek Boru Makina Sanayi ve Ticaret A.S., a company that was not selected for individual examination.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 2025, Commerce published in the **Federal Register** the final results of the 2023–2024 administrative review of the AD order on welded pipe from Türkiye.[1] We misspelled the name of Emek Boru Makina Sanayi ve Ticaret A.S., a company which was not selected for individual examination, as Emek Boru Makine Sanayi ve Ticaret A.S.[2]

Correction

In the **Federal Register** of September 15, 2025, in FR Doc 2025–17776, on page 44369, in the first column, in the second paragraph of the ''Rate for Company Not Selected for Individual Examination'' section, correct the company name in the last sentence from Emek Boru Makine Sanayi ve Ticaret A.S. to Emek Boru Makina Sanayi ve Ticaret A.S. Also on page 44369, in the first column, in the dumping margin rate table in the ''Final Results of Review'' section, correct the company name of Emek Boru Makine Sanayi ve Ticaret A.S to Emek Boru Makina Sanayi ve Ticaret A.S.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.221(b)(5).

Dated: November 19, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2025–20736 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Large Diameter Welded Pipe from the Republic of Türkiye: Final Results of Antidumping Duty Administrative Review; 2023–2024,* 90 FR 44368 (September 15, 2025).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 89 FR 55567, 55573 (July 5, 2024).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–762–001]

Silicon Metal From Angola: Preliminary Affirmative Determination of Sales at Less Than Fair Value; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of September 30, 2025, in which Commerce issued its affirmative preliminary determination in this antidumping duty (AD) investigation. This notice corrects the end date of the period of investigation (POI) listed in that notice.

FOR FURTHER INFORMATION CONTACT: Christopher Doyle, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5882.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 2025, Commerce published in the **Federal Register** its *Preliminary Determination* in this AD investigation.[1] We incorrectly listed the end date of the POI as March 30, 2025, instead of March 31, 2025.

Correction

In the **Federal Register** of September 30, 2025, in FR Doc 2025–18982, on

[1] *See Silicon Metal from Angola: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 90 FR 46810 (September 30, 2025) (*Preliminary Determination*).

page 46810, in the first column, replace the date March 30, 2025, with March 31, 2025.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Tariff Act of 1930, as amended and 19 CFR 351.205(c).

Dated: November 19, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2025–20735 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment Pursuant to the Softwood Lumber Act of 2008

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) seeks public comment on any subsidies, including stumpage subsidies, provided by certain countries exporting softwood lumber or softwood lumber products to the United States during the period January 1, 2025, through June 30, 2025. Pursuant to section 805 of title VIII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008), the Secretary of Commerce is mandated to submit to the appropriate Congressional committees a report every 180 days on any subsidy provided by countries exporting softwood lumber or softwood lumber products to the United States, including stumpage subsidies.

DATES: Comments must be submitted by December 4, 2025.

ADDRESSES: All comments must be submitted through the Federal eRulemaking Portal at *https://www.regulations.gov,* Docket No. ITA–2025–0103. The materials in the docket will not be edited to remove identifying or contact information, and Commerce cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only.

All comments should be addressed to Christopher Abbott, Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4793.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 805 of title VIII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008), the Secretary of Commerce is mandated to submit to the appropriate Congressional committees a report every 180 days on any subsidy provided by countries exporting softwood lumber or softwood lumber products to the United States, including stumpage subsidies. Commerce submitted its last subsidy report to the Congress on July 17, 2025.

Request for Comments

Given the large number of countries that export softwood lumber and softwood lumber products to the United States, we are soliciting public comment only on subsidies provided by countries which had exports accounting for at least one percent of total U.S. imports of softwood lumber by quantity, as classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4407.1100, 4407.1200, 4407.1300, 4407.1400, and 4407.1900, during the period January 1, 2025, through June 30, 2025. Official U.S. import data, published by the United States International Trade Commission's DataWeb, indicate that six countries (Austria, Brazil, Canada, Chile, Germany, and Sweden) exported softwood lumber to the United States during that time period in amounts sufficient to account for at least one percent of U.S. imports of softwood lumber products. We intend to rely on similar six-month periods to identify the countries subject to future reports on softwood lumber subsidies. For example, we intend to rely on U.S. imports of softwood lumber and softwood lumber products during the period July 1, 2025, through December 31, 2025, to select the countries subject for the next report.

Under U.S. trade law, a subsidy exists where an authority: (i) provides a financial contribution; (ii) provides any form of income or price support within the meaning of Article XVI of the General Agreements on Tariffs and Trade 1994; or (iii) makes a payment to a funding mechanism to provide a financial contribution to a person, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments, and a benefit is thereby conferred.[1]

Parties should include in their comments: (1) the country which provided the subsidy; (2) the name of the subsidy program; (3) a brief description (no more than 3–4 sentences) of the subsidy program; and (4) the government body or authority that provided the subsidy.

Dated: November 19, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2025–20737 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–899]

Acetone From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that Kumho P&B Chemicals, Inc. (KPB), a producer/exporter subject to this administrative review, did not make sales of acetone from the Republic of Korea (Korea) at less than normal value. The period of review (POR) is March 1, 2023, through February 29, 2024.

DATES: Applicable November 24, 2025.

FOR FURTHER INFORMATION CONTACT: Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1398.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2025, Commerce published the *Preliminary Results* in the

[1] *See* section 771(5)(B) of the Tariff Act of 1930, as amended.

Federal Register and invited comments from interested parties.[1] On August 1, 2025, KPB timely submitted a case brief.[2] No other party filed a case or rebuttal brief.

For a complete description of the events that have occurred since Commerce published the *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, *see* the Issues and Decision Memorandum.[3] Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[4] Accordingly, the deadline for these final results is now December 26, 2025.[5]

Analysis of Comments Received

All issues raised in the case brief are addressed in the Issues and Decision Memorandum. A list of the issues that KPB raised and to which we responded in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order[6]

The product covered by the *Order* is acetone from Korea. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on a review of the record and comments received from KPB regarding the *Preliminary Results,* we made certain changes to the preliminary weighted-average dumping margin calculated for KPB. For a detailed discussion of these changes, *see* the Issues and Decision Memorandum.

Final Results of Review

We determine the following weighted-average dumping margin exists for the period March 1, 2023, through February 29, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Kumho P&B Chemicals, Inc	0.00

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results of review to interested parties within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Where the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), then Commerce will instruct CBP to liquidate entries without regard to antidumping duties.[7] Accordingly, because the final weighted-average dumping margin for KPB is zero percent, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by KPB for which it did not know that the merchandise it sold to the intermediary (*e.g.,* reseller, trading company, or exporter) was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate (*i.e.,* 33.10 percent)[8] if there is no rate for the intermediate company(ies) involved in the transaction.[9]

Commerce intends to issue liquidation instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for KPB listed above will be equal to the weighted-average dumping margin established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rates will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate established in the less-than-fair-value investigation (*i.e.,* 33.10

[1] *See Acetone from the Republic of Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024,* 90 FR 30847 (July 11, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* KPB's Letter, ''Case Brief of Kumho P&B Chemicals, Inc.,'' dated August 1, 2025).

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Acetone from the Republic of Korea; 2023–2024,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[5] Because the tolled deadline for these final results falls on the Christmas holiday (*i.e.,* December 25, 2025), the deadline became the next business day (*i.e.,* December 26, 2025). *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[6] *See Acetone from Belgium, the Republic of South Africa, and the Republic of Korea: Antidumping Duty Orders,* 85 FR 17866 (March 31, 2020) (*Order*).

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[8] *See Order,* 85 FR at 17866.

[9] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

percent).[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: November 19, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issue
VI. Recommendation

[FR Doc. 2025–20733 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See Order,* 85 FR at 17866.

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Comments must be submitted by December 31, 2025.

ADDRESSES: The U.S. Department of Commerce (Commerce) encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing. All comments must be submitted through the Federal eRulemaking Portal at *https://www.regulations.gov,* Docket No. ITA–2020–0005. The materials in the docket will not be edited to remove identifying or contact information, and Commerce cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only. All comments should be addressed to Christopher Abbott, Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Samuel Brummitt, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–7851.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2025, pursuant to section 702(h) of the Trade Agreements Act of 1979, as amended (the Act), Commerce published the quarterly update to the annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty covering the period January 1, 2025, through March 31, 2025.[1] In the *First Quarter 2025 Update,* we requested that any party that had information on foreign government subsidy programs that benefited articles of cheese subject to an in-quota rate of duty submit such information to Commerce.[2] We received no comments, information, or requests for consultation from any party.

Pursuant to section 702(h) of the Act, we hereby provide Commerce's update of subsidies on articles of cheese that were imported during the period April 1, 2025, through June 30, 2025. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. Commerce will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

Notification to Interested Parties

This determination and notice are in accordance with section 702(a) of the Act.

Dated: November 19, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[1] *See Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty,* 90 FR 37472 (August 5, 2025) (*First Quarter 2025 Update*).

[2] *Id.*

Appendix

Subsidy Programs on Cheese Subject to an In-Quota Rate of Duty

Country	Program(s)	Gross [3] subsidy ($/lb.)	Net [4] subsidy ($/lb.)
27 European Union Member States [5]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.47	0.47
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[FR Doc. 2025–20734 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF212]

Determination of Size Standard Review

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

ACTION: Notice of determination.

SUMMARY: This action serves as notice that NMFS has determined, after review consistent with NMFS' small business size standards regulations, the U.S. Small Business Administration's review requirements under the Small Business Jobs Act of 2010, the Small Business Administration's regulations establishing size standards, and Small Business Administration's size standards methodology, the NMFS-established and codified single small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry continues to reflect the size distribution of all businesses in the commercial fishing industry and is appropriate for continued use for Regulatory Flexibility Act purposes only. Therefore, no revision to the standard is warranted at this time.

FOR FURTHER INFORMATION CONTACT: Tara Scott, Industry Economist, (301) 427–8500, email: *Tara.Scott@noaa.gov.*

SUPPLEMENTARY INFORMATION: On December 29, 2015, the National Marine Fisheries Service (NMFS) issued a final rule establishing a single small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (North American Industry Classification System [NAICS] 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015) (see 50 CFR 200.2). For the purposes of the rule, a ''commercial fishing business'' is a business primarily engaged in commercial fishing, the ''commercial fishing industry'' is composed of all such businesses, and the $11 million standard only applies to this industry (Idem at 81194). The standard is used in place of the U.S. Small Business Administration's (SBA) current standards of $25 million, $14 million, and $11.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016. This standard does not apply to businesses primarily engaged in seafood processing (NAICS 311170), seafood wholesale activities (NAICS 424460), or any other activity within the seafood industry. Under the RFA, an agency must prepare an initial and final regulatory flexibility analysis (IRFA/FRFA) for each proposed and final rule, respectively, unless it certifies that a rule will not have a significant economic impact on a substantial number of small entities. Agencies generally rely on the SBA size standards to identify small entities for RFA purposes. For NMFS, rulemaking activities that may be impacted by changes to the size standards for defining ''small'' businesses include, but are not limited to, regulatory actions and analyses undertaken pursuant to the Magnuson-Stevens Fishery Conservation and Management Act Endangered Species Act Marine Mammal Protection Act and National Environmental Policy Act.

Consistent with NMFS' small business size standards regulations (50 CFR 200.2), SBA's review requirements under the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010 regulations establishing size standards (13 CFR 121.102), and SBA's Size Standards Methodology (available at *https://www.sba.gov/document/support-2024-size-standards-methodology-white-paper* and noticed in 89 FR 74109), NMFS reviews this standard at least once every 5 years to determine if a change is warranted. A change may be warranted because of changes in industry structure, market conditions, inflation, or other relevant factors (50 CFR 200.2(b)). NMFS reviews all of the applicable factors simultaneously as part of its size standard review, in order to minimize the frequency of changes to the standard and the need for additional rulemakings.

Review Methodology

In establishing the $11 million size standard during 2015, NMFS determined that the data used by SBA to develop size standards were not representative of all commercial fishing businesses. Specifically, in establishing commercial fishing size standards during 2013 (78 FR 37198, June 20, 2013), SBA relied primarily on specialized tabulations from the U.S. Census Bureau's economic census. The sample frame for the economic census and related Census Bureau data such as County Business Patterns or Quarterly Census of Employment and Wages from the Bureau of Labor Statistics (BLS) are for establishments or firms that are subject to payroll tax. While some commercial fishing businesses do have wage-based employees, remuneration for the majority of commercial fishing business crew is based on a share of total revenue on each fishing trip. For

[3] Defined in 19 U.S.C. 1677(5).

[4] Defined in 19 U.S.C. 1677(6).

[5] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

this reason, commercial fishing crew are considered co-ventures or sole proprietorships and not subject to payroll tax, which means that the majority of fishing businesses do not have wage-based employees.

Given the determination that the data used by SBA were not representative of how fishing businesses operate, NMFS used available Census Bureau data for the limited number of commercial fishing businesses that did have wage-based employees and requested specialized data from the Census Bureau's non-employer series. The non-employer series includes any commercial fishing establishment or individual that files income tax (*e.g.,* Schedule C) and that does not report any paid employees. These data were combined with the data for wage-based commercial fishing businesses to establish a single size standard of $11 million solely for purposes of conducting NMFS' regulatory analyses under the RFA (80 FR 81194, December 29, 2015).

Since 2015, the SBA changed the methods for determining size standards from an anchor-based size standard to one in which industry factors are ranked relative to the 20th and 80th percentile within a group of industries. The revised SBA methodology was published in 2019 and then updated in 2024. Additionally, the SBA changed the basis for calculating receipts-based size standards from a 3-year to a 5-year average (84 FR 66561, December 5, 2019). In addressing these changes, NMFS has determined that commercial fishing revenue reported through NMFS seafood dealers or first-receivers would be the best available data upon which to update the commercial fishing size standard. All commercial fishing businesses that fish in the U.S. Exclusive Economic Zone (EEZ) waters are required to have a Federal permit, which also carries a requirement to report commercial fishing landings and revenue through a NMFS dealer reporting or a trip-ticket system. This means that the NMFS commercial fishing receipts data would include both entities that have wage-based employees and some but not all establishments included in the Census Bureau's non-employer series. The non-employer series includes establishments that own fishing vessels but also includes individuals who fish from shore, as well as fishing crew, who would not be included in the commercial fishing receipts data. This creates uncertainty over whether or not an establishment is a ''small business concern,'' as defined under the RFA and over the number of non-employer establishments that would not be directly regulated by NMFS's actions, and therefore, would not be counted for RFA purposes, because they fish exclusively in State waters. By contrast, the NMFS data focuses on commercial fishing businesses that are most likely to be regulated under the RFA. NMFS revenue data is also more current than alternative data from either BLS or Census Bureau and is replicable, which improves responsiveness to updates for inflation or any future adjustments to the size standard. Importantly, use of NMFS data makes it possible to evaluate the robustness of size standards to potential economic effects and it ensures consistency with the data used for conducting small entity impact analysis under the RFA.

In order to undertake a more precise review, NMFS developed a National database of total annual receipts from commercial fishing operations constructed from data reported to NMFS in the Pacific Islands, Alaska, West Coast, Southeast, and Greater Atlantic regions, and for Atlantic Highly Migratory Species. Total nominal receipts from all available sources of fishing revenue earned while fishing in State or EEZ waters from any commercial fishing vessel issued a Federal permit were included. Annual total revenues were compiled for the most recent 5-year period of available complete data, which was from 2019 to 2023. Ownership information of fishing vessels is included on the forms submitted by vessel owners for annual renewal of fishing permits for some but not all fisheries. For this reason, vessel-level annual receipts were the unit of observation for each commercial fishing entity. This is an establishment-based definition for entity size.

The resulting database consisted of 16,374 entities with average annual receipts from 2019 to 2023 of $2.956 billion for all establishments (table 1). The distribution of fishing revenue by interval of fishing revenue size is also shown in table 1. Nation-wide, there were 5,923 vessel entities (36 percent of the total) with 5-year average revenue of less than $5,000 with aggregate receipts of $7.2 million or 0.24 percent of total receipts. By contrast, the largest share of aggregate receipts was 28.8 percent for the 572 entities (3.5 percent of the total) with average receipts of between $1 million and less than $2.5 million.

The SBA methodology identifies four primary factors for describing industry structure; average firm size, start-up costs, industry competition, and size distribution of firms. Following the SBA methodology, average firm size is measured by the simple and weighted average of annual receipts; startup costs are measured by average assets; industry competition is measured by the four-firm concentration ratio; and the size distribution of firms is measured by the Gini coefficient (13 CFR 121.102(a)). Of these primary factors, NMFS does not have sufficient data on the capital value of fishing vessel assets and permits to reliably estimate fishing firm asset values. For this reason, NMFS used the simple average, weighted average, four-firm concentration ratio, and Gini coefficient measures of commercial fishing industry structure. The values for these four metrics based on the 5-year average receipts for each of the 16,374 entities are shown in column two of table 2. The SBA's industry factors at the 20th and 80th percentiles for receipts-based size standards for all industries, excluding Subsectors 111 and 112 (see SBA, SBA's Size Standards Methodology, p. 37, table 5, June 2024), are shown in columns one and three, respectively, in table 2.

Following the size standard estimation procedures and applying the formulas in SBA's Size Standards Methodology (June 2024) results in the size standards shown in column 4 of table 2. The estimated size standards are rounded to the nearest $500 thousand as required by SBA. Specifically, the size standard for the NMFS National simple average of $180 thousand would be $10 million; the size standard for the NMFS National weighted average of $1.84 million would be $13 million; the size standard for the NMFS National four-firm concentration ratio of less than 2 percent would be $9 million; and the size standard for the NMFS National Gini coefficient of 0.811 would be $35.5 million. Applying these size standards to the national database of commercial fishing establishments results in a range of small entities from 16,361 small (13 large) to 16,374 small (0 large) (see table 3). For purposes of comparison, the current NMFS size standard of $11 million is shown in the bottom row of table 3. Under the current NMFS size standard there would be 16,367 entities classified as small and 7 classified as large. All entities would be classified as small using the Gini coefficient factor. For all other industry structure factors, at least 99 percent of NMFS national commercial fishing establishments would be classified as small entities. Omitting the Gini coefficient, the average of the size standards for simple average, weighted average, and four-firm concentration ratio is $10.7 million, which rounded to the nearest whole million would be $11 million.

TABLE 1—RECEIPTS CATEGORY FOR NMFS NATIONAL DATA FOR COMMERCIAL FISHING ESTABLISHMENTS

[*i.e.,* average number of establishments, average annual gross receipts, and share of total receipts for 2019–2023]

Establishment receipts size	Number of establishments	Receipts ($1,000)	Share of total receipts (percent)
All establishments	16,374	$2,956,652	.....
Less than $5,000	5,923	7,206	0.24
$5,000–$9,999	1,087	7,878	0.27
$10,000–$24,999	1,547	25,596	0.87
$25,000–$49,999	1,310	47,546	1.64
$50,000–$99,999	1,484	108,630	3.67
$100,000–$249,999	2,156	350,619	11.86
$250,000–$499,999	1,386	487,422	16.49
$500,000–$999,999	803	549,451	18.58
$1,000,000–$2,499,999	572	850,552	28.77
$2,500,000–$4,999,999	75	255,409	8.64
$5,000,000 or more	31	266,342	9.01

TABLE 2—SIZE STANDARDS BY INDUSTRY STRUCTURE FACTORS FOR NMFS NATIONAL DATA FOR COMMERCIAL FISHING ESTABLISHMENTS

Industry structure factors	SBA industry factor 20th percentile	NMFS National data	SBA industry factor 80th percentile	Size standard ($millions)
Simple average receipts (millions)	1.09	0.18	8.34	$10.0
Weighted average receipts (millions)	26.82	1.84	1,155.04	13.0
Four-firm concentration ratio (Percent)	8	1.94	41.9	9.0
Gini coefficient	0.697	0.811	0.835	35.5

TABLE 3—NUMBER OF SMALL AND LARGE ENTITIES FOR SMALL BUSINESS SIZE STANDARD BY INDUSTRY FACTOR

Industry structure factors	Size standard ($millions)	Number of small entities	Number of large entities	Percent small
Simple average receipts	$10.0	16,365	9	99.95
Weighted average receipts	13.0	16,371	3	99.98
Four-firm concentration ratio	9.0	16,361	13	99.92
Gini coefficient	35.5	16,374	0	100
Current NMFS size standard	11.0	16,367	7	99.96

Sensitivity Analysis

For the initial estimation of size standards reported in tables 2 and 3, the 5-year average revenue was based on all vessels reporting fishing revenues during at least 1 year from 2019 to 2023. This means that the 5-year average revenue includes years where commercial fishing receipts for some establishments or entities were zero. Additionally, the 5-year period from 2019 to 2023 includes the year 2020, during which the COVID–19 global pandemic had general effects on the U.S. economy but was also particularly disruptive for seafood markets and trade. More recently, prices received by commercial fishing vessel owners were down by a nation-wide average of 10 percent during 2023 compared to average prices during 2019 to 2022. While the declines in prices received in Alaska were more pronounced, prices were also lower in other fisheries throughout the United States.

To examine the robustness of the size standards reported in table 2, adjusted average receipts were estimated to (1) account for participants with zero receipts in some years by using only non-zero receipts for the years from 2019 to 2023; (2) remove the effects of the COVID–19 global pandemic by using the 4-year average from 2019 to 2023, excluding 2020; and (3) remove the 2023 Low Price Effects by using the 4-year average from 2019 to 2022. The resulting industry metrics and size standards for the three evaluated scenarios are reported in table 4. For each scenario, the industry metrics differed from the ''Base'' reported in table 2; however, the small entity size standard for weighted average was unchanged at $13 million and the size standards for the simple average and four-firm concentration ratio differed by no more than $0.5 million. Across all three scenarios the Gini coefficient was lower than the Base, but, as was the case shown in table 3 for all of the sensitivity scenarios, 100 percent of commercial fishing establishments would still be classified as small (see table 5). Additionally, at least 99 percent of small entities would be classified as small under any of the evaluated scenarios.

TABLE 4—SENSITIVITY ANALYSIS OF A CHANGE IN 5-YEAR AVERAGE, COVID–19, AND LOW PRICE EFFECTS ON THE SIZE STANDARD

Industry structure factors	Non-zero revenue		Excluding 2020 COVID–19 effects		Excluding 2023 low price effects	
	Industry statistic	Size standard ($millions)	Industry statistic	Size standard ($millions)	Industry statistic	Size standard ($millions)
Simple average receipts	$205,924	$10.5	$190,630	$10.0	$199,835	$10.0
Weighted average receipts	1,745,870	13.0	1,865,573	13.0	1,801,200	13.0
Four-firm concentration ratio (percent)	1.70%	8.5	1.92%	8.5	1.85%	8.5
Gini coefficient	0.779	29.5	0.805	34.5	0.800	33.0

TABLE 5—SENSITIVITY ANALYSIS OF A CHANGE IN 5-YEAR AVERAGE, COVID–19 EFFECTS, AND LOW PRICE EFFECTS ON THE PERCENT OF COMMERCIAL FISHING ESTABLISHMENTS CLASSIFIED AS A SMALL ENTITY

Industry structure factors	Non-zero revenue		Excluding 2020 COVID–19 effects		Excluding 2023 low price effects	
	Size standard ($millions)	Percent small	Size standard ($millions)	Percent small	Size standard ($millions)	Percent small
Simple average receipts	$10.5	99.95%	$10.0	99.94%	$10.0	99.96%
Weighted average receipts	13.0	99.98	13.0	99.98	13.0	99.98
Four-firm concentration ratio (percent)	8.5	99.91	8.5	99.91	8.5	99.93
Gini coefficient	29.5	100.00	34.5	100.00	33.0	100.00
Current NMFS size standard	11.0	99.96	11.0	99.96	11.0	99.97

The size standards by industry structure metric for the Base (5-year average including $0 receipts values) and for the three sensitivity scenarios are reported in table 6.

TABLE 6—SUMMARY OF SIZE STANDARDS COMPARED TO THE BASE

Industry structure factors	Base size standard ($millions)	Non-zero revenue size standard ($millions)	Excluding 2020 COVID–19 effects size standard ($millions)	Excluding 2023 low price effects size standard ($millions)
Simple average receipts	$10.0	$10.5	$10.0	$10.0
Weighted average receipts	13.0	13.0	13.0	13.0
Four-firm concentration ratio	9.0	8.5	8.5	8.5
Gini coefficient	35.5	29.5	34.5	33.0

As previously noted, the size standard for weighted average receipts is unchanged and the simple average size standard was $10 million for Base and two of the three sensitivity scenarios. The four-firm concentration ratio was $8.5 million for all three sensitivity scenarios compared to $9 million for the Base. Excluding the Gini coefficient, when averaging across all other factors, the Base and the three sensitivity scenarios yield an average size standard of $10.6 million, which rounded to the nearest whole million would be $11 million.

Market Conditions

NMFS produces an annual summary of economic performance for U.S. commercial fisheries in the Fisheries Economics of the United States Report (FEUS). The most recent report, from 2022, is available at *https://www.fisheries.noaa.gov/resource/document/fisheries-economics-united-states-reports.* The report provides information on landing, revenue and trends. The report also describes the U.S. commercial fisheries' economic impact on the economy. Per the FEUS 2022 report, there was a continued decline in revenue over the prior 5 years (see table 1 on page 6 and figure 3 on page 7). Specifically in 2022, U.S. commercial fisheries experienced a 16-percent decrease in revenues as a result of falling prices, which dropped 11 percent in real 2022 dollars. The report also notes that while average landing prices had increased in 2021 likely due to inflationary pressures and stronger recovery from the COVID–19 global pandemic, 2022 landing prices had reverted back to pre-pandemic levels. The primary species that contributed the most to the decline in revenue were Alaska pollock, Gulf shrimp, American lobster, and sea scallops. The FEUS 2022 report also notes a number of structural factors throughout the supply chain that likely contributed to the decline in landing prices and the resulting decline in average revenue.

NMFS recently published the Alaska Seafood Snapshot in August of 2024 (available at *https://www.fisheries.noaa.gov/s3/2024-10/ak-seafood-industry-snapshot-10-31-2024-afsc.pdf*), which reported that the Alaska seafood industry experienced a direct loss of $1.8 billion between 2022 and 2023. The decrease in revenues in 2023 was largely driven by low seafood prices across nearly all Alaska species as a result of global market forces; high inventories and high levels of global supply; lower global consumer demand for seafood due to inflation; and lower cost of seafood production and

processing in countries that compete with U.S. seafood products.

With regards to Gulf Shrimp, revenue decline is largely attributable to decreased landings price as domestic shrimp producers faced a supply and demand mismatch and unfair competition from imports, as determined by the U.S. International Trade Commission. In an article by Blank, C., they noted that U.S. shrimp sales were down in 2023, and market difficulties were expected to continue in 2024 (available at *https://www.seafoodsource.com/news/premium/foodservice-retail/shrimp-sales-down-in-2023-experts-forecast-continued-difficulties-in-2024* (accessed July 11, 2025)). To date, the Department of Commerce has levied countervailing and antidumping duties on imports of select countries and the NMFS' Shrimp Futures Initiative is working to understand the challenges facing the Southeast's shrimp fisheries.

NMFS does not anticipate these various structural factors throughout the supply chain to be fully resolved in the near term. Therefore, NMFS will continue to monitor these factors and assess if additional reviews or revisions to the size standard are warranted.

Determination

Based on the results of the review, NMFS has determined the small business size standard of $11 million in annual gross receipts continues to reflect the size distribution of all businesses in the commercial fishing industry and is appropriate for continued use for RFA purposes only. Therefore, no revision to the standard is warranted at this time. NMFS will monitor industry structure, market conditions and other relevant factors as necessary to ensure the size standard remains appropriate to meet the intent of the RFA.

Dated: November 20, 2025.

Kelly Denit,

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

[FR Doc. 2025–20763 Filed 11–21–25; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER FINANCIAL PROTECTION BUREAU

Consumer Advisory Board Meeting

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act (FACA), this notice sets forth the announcement of a public meeting of the Consumer Advisory Board (CAB or Board) of the Consumer Financial Protection Bureau (CFPB or Bureau). The notice also describes the functions of the Board.

DATES: The meeting date is Wednesday, December 10, 2025, from approximately 2:00 p.m. to 3:30 p.m., eastern standard time. This meeting will be held virtually and is open to the general public. Members of the public will receive the agenda and dial-in information when they RSVP.

FOR FURTHER INFORMATION CONTACT: Kim George, Outreach and Engagement Associate, Advisory Board and Councils, External Affairs Division, at 202–450–8617, or email: *CFPB_CABandCouncilsEvents@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 3 of the Charter of the Board states that: The purpose of the CAB is outlined in section 1014(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which states that the CAB shall ''advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws'' and ''provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.''

To carry out the CAB's purpose, the scope of its activities shall include providing information, analysis, and recommendations to the CFPB. The CAB will generally serve as a vehicle for trends and themes in the consumer finance marketplace for the CFPB. Its objectives will include identifying and assessing the impact on consumers and other market participants of new, emerging, and changing products, practices, or services.

II. Agenda

The CAB will discuss broad policy matters related to the Bureau's Unified Regulatory Agenda and general scope of authority. During this meeting, the topic of discussion will be Current State of Small Dollar Products.

If you require any additional reasonable accommodation(s) in order to attend this event, please contact the Reasonable Accommodations team at *CFPB_ReasonableAccommodations@cfpb.gov* 48 hours prior to the start of this event.

Written comments will be accepted from interested members of the public and should be sent to *CFPB_CABandCouncilsEvents@cfpb.gov,* a minimum of seven (7) days in advance of the meeting. The comments will be provided to the CAB members for consideration. Individuals who wish to join this meeting must RSVP via this link *https://events.gcc.teams.microsoft.com/event/972dda8c-87de-4d17-a7db-b13be2a9815e@c817bf69-ef41-4ed6-ac5f-1f44da3798c0.*

III. Availability

The Board's agenda will be made available to the public on Tuesday, December 9, 2025, via *consumerfinance.gov.*

A recording and summary of this meeting will be available after the meeting on the Bureau's website *consumerfinance.gov.*

Jocelyn Sutton,

Deputy Chief of Staff, Consumer Financial Protection Bureau.

[FR Doc. 2025–20699 Filed 11–21–25; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2025–OS–0020]

Request for Information for 2027 Department of Defense (DoD) State Policy Priorities Impacting Service Members and Their Families

AGENCY: Deputy Assistant Secretary of Defense for Military Community and Family Policy, Department of Defense (DoD).

ACTION: Request for information; response to public comments.

SUMMARY: DoD published a request for information in the **Federal Register** that provided an opportunity for the public to submit issues that have an impact on Service members and their families, where state governments are the primary agents for making positive change. Each year, DoD selects State Policy Priorities for states to consider that represent barriers resulting from the transience and uncertainty of military life. For example, DoD has asked states to consider remedies to improve school transitions for children in active duty military families to overcome problems with records transfer, class and course placement, qualifying for extra-curricular activities, and fulfilling graduation requirements. The DoD will consider the public submissions in setting those priorities.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher R. Arnold, (571) 309–4712 (voice),

christopher.r.arnold18.civ@mail.mil (email), 1500 Defense Pentagon, Room 1C514/1C549, Washington, DC 20301–1500 (mailing address).

SUPPLEMENTARY INFORMATION: On Tuesday, June 17, 2025 (90 FR 25593), the DoD published a notice titled ''Request for Information for 2027 Department of Defense (DoD) State Policy Priorities Impacting Service Members and Their Families.'' Public comments were accepted for 30-days until July 17, 2025. Fifty-eight public comments were received. The DoD responds to the comments as follows: Thank you for your submission to the docket of DoD–2025–OS–0020–0001, *Request for Information for 2027 Department of Defense State Policy Priorities Impacting Service Members and Their Families.*

Eleven comments provided potential future DoD State Policy Priorities for further evaluation. We respond as follows:

- Military Spouse Teacher Retirement Portability. The DoD acknowledges two comments regarding the financial challenges military spouse educators (and other professionals) face with non-portable state retirement systems and appreciates suggestions for improving pension flexibility.
- Military Dependent Adult Guardianship in Four Remaining States. The DoD acknowledges the challenges military families face with guardianship portability during PCS moves and supports efforts to streamline interstate recognition processes for the states that have yet to enact supportive policies.
- Military Family Rent Control and Enhanced Interest Rate Protections. The DoD acknowledges military family housing affordability challenges and appreciates state efforts to enhance financial protections beyond Federal requirements.
- Ensuring Seamless Healthcare for Military Families Across States. The DoD acknowledges the healthcare transition challenges faced by military families during PCS moves and supports state efforts to improve provider access and care continuity.
- Lack of Consistent, State-Level Data Access Tools for Military Families Navigating Health and Education Systems. The DoD recognizes the importance of accessible, centralized information systems for military families and appreciates innovative approaches to improving cross-sector resource coordination.
- State-Level Oversight of Military Household Goods Transportation Quality Standards. The DoD acknowledges concerns about household goods moving services and appreciates suggestions for enhanced consumer protection and oversight mechanisms.
- Continuum of Alternatives to Prosecution and Incarceration for Justice-Involved Service Members and Veterans. The DoD recognizes challenges justice-involved service members face and appreciates comprehensive approaches to veteran-specific diversion programs and sentencing considerations that honor military service, ensuring these programs prioritize public safety and incorporate robust protectons against domestic abuse, sexual assault, and violence for both veterans and their familiy members.
- Traumatic Brain Injury Death Certificate Amendment for Military-Related Causation. The DoD recognizes the significant impact of traumatic brain injuries on service members and veterans and appreciates suggestions for supporting affected families through state-level policy measures.
- State Framework for the Military Quality of Life Experience. The DoD recognizes the importance of whole-of-government approaches to military family well-being and appreciates input on replicable executive order frameworks that enhance Federal-State coordination.
- Streamlined WIC Access and BAH Income Exclusion for Military Families. The DoD recognizes challenges military families face accessing WIC benefits during relocations and appreciates recommendations for improving verification processes and income eligibility determinations.

The majority of comments discussed issues that have already been addressed as DoD State Policy Priorities. We respond as follows:

- Military Spouse Attorney Supervision Requirements. The DoD acknowledges concerns about state bar supervision requirements for military spouse attorneys, supports SCRA-compliant licensing practices, and designated Enhanced Spouse License Portability as a DoD State Policy Priority in 2020.
- Paid Family Leave for Military Spouse Employment During Deployments. The DoD acknowledges the employment challenges military spouses face during deployments and has designated Military Exigency Clause in State Family Leave Laws as a DoD State Policy Priority beginning in 2026.
- Military Family School Choice Access and Educational Support Services. The DoD acknowledges educational access challenges for military families, supports state efforts to provide flexible enrollment and comprehensive educational services, and designated Open Enrollment Flexibility as a DoD State Policy Priority in 2022. The DoD has recently designated State Solutions for Military Homeschoolers and Education Policy Implementation and Information Enhancements as DoD State Policy Priorities beginning in 2026.
- Addressing Military Family Childcare Gaps and Fee Assistance Burdens. The DoD acknowledges the critical challenges faced by military families in childcare and designated Access to Quality Child Care as a DoD State Policy Priority in 2023.
- Boosting Military Spouse Employment through Protected Class Status and Preferential Hiring. The Department acknowledges military spouse employment challenges due to frequent relocations and designated Legal Protections for Military Families as a DoD State Policy Priority in 2023 and Military Spouse Hiring Preference in 2024.
- Modernizing MCCYN Eligibility to Include State-Recognized Providers Beyond Traditional Licensure. The DoD acknowledges childcare access challenges for military families and designated Access to Quality Child Care as a DoD State Policy Priority in 2023.
- Limitations on Out-of-District Enrollment for Military Families Stationed at Maxwell Air Force Base, Alabama. The DoD acknowledges challenges military families face with geographic restrictions on quality school access and designated Open Enrollment Flexibility as a DoD State Policy Priority in 2022.
- Military Spouse Educator Employment and Family School Placement Restrictions. The DoD acknowledges challenges military spouse educators face with certification reciprocity and family school placement restrictions across state and district boundaries and designated Military Spouse Teacher Certification as a DoD State Policy Priority in 2017 and Open Enrollment Flexibility DoD in 2022.
- Advancing National Standards for Purple Star Schools. The DoD recognizes the value of State-sponsored recognition programs for military family-friendly schools in supporting military-connected students, and designated the Purple Star Schools Program as a DoD State Policy Priority in 2021 and has recently designated Education Policy Implementation and Information Enhancements as a DoD State Policy Priority beginning in 2026.
- In-State Tuition Access for Military Dependents. The DoD acknowledges the financial challenges military families

face with higher education costs due to frequent relocations and designated In-State Tuition Continuity as a DoD State Policy Priority in 2019.

• Non-Transferable High School Graduation Requirements. The DoD acknowledges challenges military-connected students face with varying State graduation requirements and has recently designated Education Policy Implementation and Information Enhancements as a DoD State Policy Priority beginning in 2026.

• Employment Barriers for Military Spouses. The DoD recognizes employment challenges military spouses face due to frequent relocations and designated Interstate Licensing Compacts as a DoD State Priority in 2017 and designated Military Spouse Hiring Preference and Military Spouse Employment and Economic Opportunities as DoD State Policy Priorities in 2024.

• Special Needs Provider Shortages and Military Experience Recognition for State Licensing. The DoD recognizes challenges military families face accessing specialized healthcare providers and service members face translating military experience into civilian credentials, and designated Service Member Licensure and Credit as a DoD State Policy Priority in 2011 and State Support for Military Families with Special Education Needs as a DoD State Policy Priority in 2024.

• Enhancing Access to Mental Health, Emotional, Developmental, and Behavioral Care and Special Education Services for Military Children Through State-Level Policy Reforms. The DoD recognizes challenges military children face accessing mental health care and special education services during relocations, and designated Interstate Licensing Compacts as a DoD State Policy Priority in 2017 and State Support for Children with Special Education Needs in 2024.

• Advancing National Priorities That Support the Academic, Social, and Emotional Well-Being of Highly Mobile Military-Connected Students in K–12 Settings. The DoD recognizes the importance of systematically identifying and supporting military-connected students and designated Advance Enrollment as a DoD State Policy Priority in 2019, the Purple Star Schools Program in 2021, and Open Enrollment Flexibility in 2022. The DoD has recently designated Education Policy Implementation and Information Enhancements as a DoD State Policy Priority beginning in 2026.

• Enhancing Employment and Licensure Portability for Military Spouses in Colorado. The DoD appreciates Colorado-specific recommendations that align with successful approaches in other states to license reciprocity and designated Enhanced Spouse License Portability as a DoD State Policy Priority in 2020.

• Lack of Medicaid Waiver Portability for Military-Connected Children with Disabilities. The DoD recognizes the critical importance of continuous medical care for military children with disabilities across State lines and designated Retention of Medicaid Waiver Status as a DoD State Policy Priority in 2013.

• Inconsistent Access to Special Education Services Due to State Individualized Education Program Transfer Policies. The DoD acknowledges challenges military-connected children with disabilities face with inconsistent special education service delivery and designated State Support for Children with Special Education Needs as a DoD State Policy Priority in 2024.

• Operationalize Advance Enrollment. The DoD acknowledges the importance of clear advance enrollment procedures for military children and has recently designated Education Policy Implementation and Information Enhancements as a DoD State Policy Priority beginning in 2026.

• Military Homeschool Requirement Discrepancy and Continuity Incongruity. The DoD acknowledges educational continuity challenges military homeschool families face during relocations and has recently designated State Solutions for Military Homeschoolers as a DoD State Policy Priority beginning in 2026.

One comment described a problem for which a State-based solution does not currently exist. We respond as follows:

• Interstate Compact for Health Record Recognition After PCS. The DoD acknowledges the challenges of health record documentation for military children during PCS moves.

Some comments articulated gaps in Federal-State coordination within the portfolio of other federal agencies. The DoD has forwarded these concerns as appropriate through official channels. We respond as follows:

• Reserve and Guard Military Student Identifier Compliance. The DoD acknowledges the need for updated Federal regulations to ensure State education department compliance with the Military Student Identifier for all children of Reserve and Guard personnel.

• Permitting States to Offer Remote or Virtual Advance Enrollment to Special Supplemental Nutrition Program for Women and Children Applicants. The DoD recognizes the challenges military families face in maintaining WIC benefits during PCS movesdue to Federal restrictions prohibiting State advance enrollment processes.

Several comments articulated an issue primarily within the purview of states to resolve. Still, they lacked the required elements, such as a detailed problem statement, specific examples of state policy solutions, or the current status of the issue. We respond as follows:

• Military Base Housing Mold Contamination and Private Company Accountability. The DoD acknowledges serious health concerns related to base housing conditions and appreciates input on improving accountability and oversight mechanisms.

• Military Family Support Issues (School Choice, Discounts, Licensing, Childcare, Parental Leave). The DoD acknowledges the range of support needs for military families and appreciates suggestions for comprehensive State-level assistance programs, particularly as they intersect with the DoD State Policy Priorities regarding Enhanced Spouse License Portability, Military Exigency in State Family Leave Laws, and Open Enrollment Flexibility.

• National Guard/Reserve Family Support and Childcare During Drills. The DoD acknowledges unique challenges faced by National Guard and Reserve families and appreciates suggestions for enhanced State-level support services.

• Military Divorce and Systemic State-Level Challenges. The DoD acknowledges the complex legal challenges military families face during divorce proceedings and appreciates input on improving State-level protections and legal sysem consistency.

• NAFCC Accreditation Funding for Military Family Childcare Providers. The DoD acknowledges the importance of maintaining quality standards in military family childcare and appreciates input on accreditation funding approaches.

Several comments were not germane as they appeared to fall outside State-level policy considerations, or discussed issues that were entirely within Federal jurisdiction and not State-administered. We respond as follows:

• EFMP Family Support and Case Management. The DoD acknowledges concerns about EFMP support services and appreciates feedback on program administration and family communication needs.

• TRICARE Eligibility for Federal Employee Reservists and Military Spouse Student Loan Relief. The DoD acknowledges concerns about TRICARE

eligibility gaps for Federal employee reservists and military spouse student debt burdens.

- TRICARE Regional Billing Confusion During PCS Moves. The DoD acknowledges billing coordination challenges between TRICARE regions during PCS moves and appreciates feedback on program administration.
- TRICARE Prime Provider Network Reimbursement Issues. The DoD acknowledges concerns about TRICARE provider network adequacy and reimbursement processing affecting military family healthcare access.
- Family Status Priority for Military Shift Scheduling. The DoD acknowledges the challenges military families face balancing duty schedules with family obligations and appreciates feedback on personnel scheduling considerations.
- Financial Burden of Military PCS Moves on Large Families. The DoD acknowledges financial challenges large military families face during PCS moves and appreciates suggestions for State-level financial assistance programs.
- Employment Barriers for Military Spouses at Overseas Assignments. The DoD acknowledges employment challenges military spouses face at overseas assignments and appreciates feedback on base employment opportunities and policies.
- Shipping Two Cars for OCOUS PCS Moves. The DoD acknowledges financial challenges military families face with vehicle transportation during OCONUS assignments and appreciates feedback on PCS entitlement policies.
- Federal Employment Protections for Military Spouse Federal Employees. The DoD acknowledges employment challenges military spouse Federal employees face with agency transfers and telework policies during PCS moves.
- Multiple Federal Policy Issues (TRICARE Coverage, Base Housing, Federal Spouse Remote Work). The DoD acknowledges concerns about healthcare benefits, housing quality, and Federal employment policies affecting military families and appreciates feedback on these Federal programs.
- Addiction in the Military. The DoD acknowledges challenges service members face accessing addiction treatment and appreciates feedback on military healthcare policies and benefit accessibility.
- Employment Discrimination Against Military Spouses/Veteran Spouses within Federal Hiring Practices. The DoD acknowledges concerns about employment discrimination against military spouses and appreciates recommendations for enhanced protections and accountability measures across Federal and State hiring practices.
- Military Justice System Procedures. The DoD acknowledges input about military justice procedures and appreciates all feedback on service member welfare matters.
- Chase's Bill. The DoD acknowledges the importance of accessible mental health and rehabilitation services for service members and appreciates input on policy barriers to care access.
- Military Healthcare Transition Planning and Community Healthcare Capacity. The Department acknowledges concerns about community healthcare capacity during military treatment facility transitions and appreciates input on coordinated planning approaches with state and local partners.

Some comments advocated for funding or partnerships with specific organizations rather than proposing legislative/regulatory changes. We respond as follows:

- Expanding the Cybersecurity Workforce Through Military Spouse Credentialing and Career Mobility. The DoD recognizes the importance of military spouse employment in cybersecurity and IT fields and appreciates new approaches to workforce development and credential portability.
- Assisting Military Families in Adoption Across State Lines. The DoD acknowledges the importance of supporting military families in child welfare matters and appreciates input on service delivery approaches.

One comment lacked coherence. We respond as follows:

- Law Enforcement Argot. Thank you for your input.

Your submission of ideas and advocacy for our military families is both recognized and valued. Each fiscal year, the DoD considers numerous vital State policy issues, with the aim of selecting those that hold the most promise for positively impacting the lives of service members and their families. It is within this competitive and discerning framework that we evaluate, research, and assess all proposed best practices.

We are committed to a rigorous examination of these issues, among others. Our process is designed to ensure that we advance the most impactful and viable initiatives to support our military families effectively.

For the Fiscal Year beginning on October 1, 2026, the Office of the Under Secretary of Defense for Personnel and Readiness recently announced the Department's 2026 State Policy Priorities:

- Education Policy Implementation and Information Enhancements (Approved 2025): States have a valuable opportunity to facilitate improved local implementation of policies designed to support military-connected children and ensure families are empowered with the knowledge they need by clarifying requirements, enhancing communication efforts, and streamlining access to information on state and local education websites.
- Military Exigency Clause in Family Leave Laws (Approved 2025): States can ensure family leave laws include provisions for military-specific needs like deployments, training, and transitions. This enables readiness by reducing family stress during critical mission periods.
- State Solutions for Military Homeschoolers (Approved 2025): Military families homeschool their children at nearly twice the rate of civilian families and face unique challenges associated with military life. State policies that streamline homeschool requirements, expand access to educational resources such as extracurricular activities and sports, and clarify participation requirements for Junior Reserve Officers' Training Corps (JROTC) can contribute to greater stability for military families, which supports retention efforts.
- Military Spouse Employment Preference (Approved 2024): Military spouses in the civilian work force have a 20% unemployment rate, which adversely impacts military family economic security. States can assist in bolstering military families by enacting state laws that permit state and local governments and private industry to offer hiring and procurement preferences for military spouses, recognizing the need to combat military spouse unemployment rates and supporting the financial well-being of military families.
- State Support of Military Families with Special Educational Needs (Approved 2024): Highly mobile children, including military children, are more likely to experience recurring educational disruptions and challenges accessing special education services, particularly those who need access to special education and related services. States can assist military families by ensuring timely establishment of services upon relocation and reducing procedural burdens.
- State Exemption for DoD Family Child Care Homes (Approved 2023): In many cases, in-home child care providers who live off a military

installation must be licensed by both the State and the DoD, even when only caring for eligible DoD-affiliated children. By exempting in-home child care providers certified by the DoD from State licensure requirements, States can improve access to family child care for military families.

• State Response to Military Interpersonal Violence (Approved 2023): Interpersonal violence is a pattern of harmful behavior in which one person uses various forms of abuse to assert power and control over another. States can further protect victims of interpersonal violence by enhancing statutes that increase accessibility to civilian protection orders for victims and mandating reciprocal information sharing between military and civilian law enforcement authorities.

• Concurrent Juvenile Jurisdiction (Approved 2022): Military installations subject to exclusive Federal jurisdiction often handle juvenile offenses through the Federal system, which has no established juvenile justice system. Adopting policies that facilitate concurrent jurisdiction between the State and military installation opens the door to the State juvenile justice system and resources, offering improved opportunities for rehabilitation tailored to address juveniles.

• Open Enrollment Flexibility (Approved 2022): Military families can be disadvantaged in school enrollment options for their children due to military-directed moves. States can assist by increasing military-connected students' access to schooling options, allowing them to remain in their current school placement despite a relocation from temporary to permanent housing, and including them within existing enrollment prioritization systems.

• Military Community Representation on State Defense Councils (Approved 2017): The unique needs of military families may go unheard without representation on State-level advisory bodies focused on the defense community. States can establish statewide military defense-focused councils that consider military family readiness and dedicate one or more seats to members of the military community.

• Occupational Licensure Interstate Compacts (Approved 2017): 35% of military spouses require an occupational license to work in their chosen profession. Licensure compacts create seamless licensure portability for all members of a profession, including military spouses and service members. By adopting licensure compacts, states can improve military family financial readiness.

These issues, along with other emeritus State Policy Priorities, will be presented to State governments for their consideration even as these submissions to the **Federal Register** for 2027 are considered. For more information, please visit *www.statepolicy.militaryonesource.mil.* As always, our team at the Defense-State Liaison Office, who manage State government relations for the Office of the Secretary of Defense on personnel and readiness issues, stand ready to support state policymakers and the military community fully. Thank you once again for bringing these important issues to our attention.

Dated: November 20, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2025–20769 Filed 11–21–25; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2025–SCC–0448]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Prison Education Program Accreditation Requirements

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before December 24, 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 Amy Wilson, 202–987–1318.

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: Prison Education Program Accreditation Requirements.

OMB Control Number: 1840–0863.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 21.

Total Estimated Number of Annual Burden Hours: 1,218.

Abstract: The Secretary establishes regulations for Federal Pell Grants (Pell Grants or Pell) for Prison Education Programs (PEPs), to implement the statutory requirements in the Consolidated Appropriations Act, 2021, that amend the Higher Education Act of 1965, as amended (HEA), to establish Pell Grant eligibility for a confined or incarcerated individual enrolled in a PEP. These regulations are a result of negotiated rulemaking and added new title IV regulations to especially in Subpart P of 34 CFR 668. The Consolidated Appropriations Act, 2021 added section 484(t) to the HEA to formally establish Pell Grant eligibility for confined or incarcerated individuals, as long as they are enrolled in a PEP as defined under the HEA. The regulations implement the statutory requirements allowing access to Federal Pell Grants for individuals who are confined or incarcerated when enrolled in programs that meet necessary standards.

This collection established the burden under regulations at 34 CFR 668.237—Accreditation requirements. These regulations prescribe program evaluation at the first two additional Prison Education Program (PEP)

locations of a participating institution of higher education to ensure institutional ability to offer and implement the PEP in accordance with the accrediting agency's standards. The regulations require the accrediting agency to conduct a site visit no later than one year after the institution has initiated a PEP at its first two additional locations at correctional facilities. Additionally, the regulations require accrediting agencies to review the methodology used by an institution in determining the PEP meets the same standards for substantially similar non-PEP programs offered at the institution.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2025–20680 Filed 11–21–25; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2025–SCC–0613]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Migrant Student Information Exchange (MSIX) Minimum Data Elements

AGENCY: Office and Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before December 24, 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 Benjamin Starr, 202–245–8116.

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: Migrant Student Information Exchange (MSIX) Minimum Data Elements.

OMB Control Number: 1810–0683.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 343,880.

Total Estimated Number of Annual Burden Hours: 391,338.

Abstract: The Migrant Information Exchange (MSIX) is a nationwide electronic records exchange mechanism mandated under Title I, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. MSIX and its minimum data elements (MDEs) are authorized under ESEA section 1308(b). As a condition of receiving a grant of funds under Title I, Part C, each State educational agency (SEA) is required to collect, maintain, and submit minimum health and education-related data to MSIX within established timeframes. Regulations for the MSIX issued by the U.S. Department of Education (the Department) have been in effect since June 9, 2016 (34 CFR 200.85).

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2025–20746 Filed 11–21–25; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995.

DATES: Comments regarding this proposed information collection must be received on or before December 24, 2025. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 881–9493.

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 information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Yohanna Freeman, PRA Officer, Office of the Chief Information Officer; 1000 Independence Avenue SW, Washington, DC 20585; *DOEPRA@hq.doe.gov;* (202) 586–2255.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall 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 respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.:* 1910–NEW;

(2) *Information Collection Request Title:* Meetings, Events, Workshops and Conferences Request;

(3) *Type of Request:* New request;

(4) *Purpose:* DOE seeks to collect information from members of the public requesting meetings or appearances with the Secretary or other Senior Officials and those who seek to register to participate in DOE-sponsored meetings, events and conferences. Information will be collected from

multiple types of respondents including individuals, Businesses or other for-profit organizations, not-for-profit institutions, the Federal Government, and State, Local, or Tribal Government entities.

DOE intends to collect common elements from interested respondents such as name, organization, address, country, phone number, email address, state, city or town, special accommodations requests and how the respondent learned about the meeting, event or conference. The information collected may also include race, ethnicity, gender and veteran status, and other sensitive information.

The information collected will be used to assess attendance and assist DOE staff in preparing to serve individuals registering for online or in person events. If applicable, the information collection may be used to collect payment from the respondents and make hotel reservations and other special arrangements as necessary.

This collection will allow for ongoing, collaborative and actionable communication between the Agency and its customers and stakeholders.

(5) *Annual Estimated Number of Respondents:* 12,000;

(6) *Annual Estimated Number of Total Responses:* 12,000

(7) *Annual Estimated Number of Burden Hours:* 900 hours;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0

Statutory Authority: Executive Order (E.O.) 13571, Streamlining Service Delivery and Improving Customer Service.

Signing Authority

This document of the Department of Energy was signed on November 6, 2025, by Dawn Zimmer, Acting Chief Information Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC on November 20, 2025.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2025–20777 Filed 11–21–25; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed three-year extension, without changes, to the *Coal Markets Reporting System* (CMRS), as required under the Paperwork Reduction Act of 1995. The CMRS consists of five surveys including, Form EIA–3 *Quarterly Survey of Non-Electric Sector Coal Data,* Form EIA–7A *Annual Survey of Coal Production and Preparation,* Form EIA–8A *Annual Survey of Coal Stocks and Coal Exports,* Form EIA–6 *Emergency Coal Supply Survey (Standby),* and Form EIA–20 *Emergency Weekly Coal Monitoring Survey for Coal Burning Power Producers (Standby.)* The CMRS collects data on U.S. coal production, quality, consumption, receipts, stocks, and prices. EIA requests the extension to Forms EIA–3, EIA–6, EIA–7A, EIA–8A, and EIA–20 without change.

DATES: EIA must receive all comments on this proposed information collection no later than January 23, 2026. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES** section of this notice as soon as possible.

ADDRESSES: You may submit comments, identified by OMB control number 1905–0167, by email at *EIA-FRNcomments@eia.gov.* Include the OMB control number listed in the subject line of the message. The forms and instructions are available on EIA's website:

FORM EIA–3: https://www.eia.gov/survey/#eia-3

FORM EIA–6: https://www.eia.gov/survey/#eia-6

FORM EIA–7A: https://www.eia.gov/survey/#eia-7a

FORM EIA–8A: https://www.eia.gov/survey/#eia-8a

FORM EIA–20: https://www.eia.gov/survey/#eia-20

FOR FURTHER INFORMATION CONTACT: Samson Adeshiyan, EIA Clearance Officer, at (202) 586–7777 or by email at *EIA-FRNcomments@eia.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB Control Number:* 1905–0167;

(2) *Information Collection Request Title:* Coal Markets Reporting System;

(3) *Type of Request:* Three-year extension without change;

(4) *Purpose:* The Coal Markets Reporting System (CMRS) program collects, evaluates, assembles, analyzes, and disseminates information on coal production, sales, technology, reserves, and related economic and statistical information. This information is used to assess the adequacy of coal and other energy resources to meet near and longer-term domestic demands and to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment. Form EIA–3 collects quarterly data on the use of coal at U.S. manufacturing plants, coal transformation/processing plants, coke plants, and commercial and institutional users of coal.

Form EIA–7A collects coal production operations, characteristics of coalbeds mined, recoverable reserves, production capacity, coal sales and revenue, stocks held at mines, and the disposition of the coal mined. For coal preparation, information collected includes operations, locations, production capacity, disposition, and volume of coal prepared.

Form EIA–8A collects data on coal stocks by state location, exported coal by origin state, and export revenue of coal sold during the reporting year.

Form EIA–6 *Emergency Coal Supply Survey* and Form EIA–20 *Emergency Weekly Coal Monitoring Survey for Coal Burning Power Producers* are standby surveys used during periods of coal supply and transportation disruptions. In the event of a supply or transportation disruption, these two standby surveys activate and operate weekly over a ten-week period. Once activated, Form EIA–6 collects weekly coal production and stocks data from U.S. coal mining companies. Data are aggregated and reported at the state level. During disruptive events, Form EIA–20 collects available coal-fired capacity, generation, consumption, and stocks from coal-fired electric power generators.

The CMRS also collects coal market data. The data elements include production, consumption, receipts, stocks, sales, and prices. Information pertaining to the quality of the coal is

also collected, including heat content, ash content, sulfur content and contents of mercury. Aggregates of this collection are used to support analysis on the effects of public policy on the coal industry, economic modeling, forecasting, coal supply and demand studies, and in guiding research and development programs. The data are included in EIA publications, such as the *Monthly Energy Review, Quarterly Coal Report, Quarterly Coal Distribution Report, Annual Coal Report,* and *Annual Coal Distribution Report.*

EIA also uses the data in short-term and long-term forecast models such as the Short-Term Integrated Forecasting System (STIFS) and the National Energy Modeling System (NEMS) Coal Market Module. The forecast data also appear in the *Short-Term Energy Outlook* and the *Annual Energy Outlook* publications.

(5) *Annual Estimated Number of Respondents:* 833.

- Form EIA–3 will consist of 290 respondents;
- Form EIA–7A will consist of 480 respondents;
- Form EIA–8A will consist of 44 respondents;
- Form EIA–6 (standby) will consist of 10 respondents;
- Form EIA–20 (standby) will consist of 9 respondents.

(6) *Annual Estimated Number of Total Responses:* 1,874

(7) *Annual Estimated Number of Burden Hours:* 3,149

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $299,123 (3,149 burden hours times $94.99 per hour). EIA estimates that there are no additional costs to respondents associated with the surveys other than the costs associated with the burden hours since the information is maintained during normal course of business.

Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

Statutory Authority: 15 U.S.C. 772(b) and 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on November 20, 2025.

Samson A. Adeshiyan,

Director, Office of Statistical Methods and Research, U. S. Energy Information Administration.

[FR Doc. 2025–20775 Filed 11–21–25; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–6–000.
Applicants: Halifax County Solar LLC.
Description: Halifax County Solar LLC submits Notice of Self–Certification of Exempt Wholesale Generator Status.
Filed Date: 10/7/25.
Accession Number: 20251007–5031.
Comment Date: 5 p.m. ET 10/28/25.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1801–008; ER10–2370–007; ER10–1805–009; ER23–101–001; ER23–102–001; ER23–103–001; ER23–104–001.
Applicants: Sunrise Wind LLC, South Fork Wind, LLC, Revolution Wind, LLC, North East Offshore, LLC, Public Service Company of New Hampshire, NSTAR Electric Company, The Connecticut Light and Power Company.
Description: Amendment to 12/29/2022 Triennial Market Power Analysis for Northeast Region of The Connecticut Light and Power Company, et al.
Filed Date: 10/3/25.
Accession Number: 20251003–5089.
Comment Date: 5 p.m. ET 1/1/26.

Docket Numbers: ER25–3027–001.
Applicants: Midcontinent Independent System Operator, Inc., Duke Energy Indiana, LLC.
Description: Compliance filing: Duke Energy Indiana, LLC submits tariff filing per 35: 2025–10–07_Compliance to Duke Energy Indiana Request for Incentives to be effective 9/29/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5023.
Comment Date: 5 p.m. ET 10/28/25.

Docket Numbers: ER26–34–000.
Applicants: Hexagon Energy, LLC.
Description: Request for Limited Waiver and Shortened Comment Period of Hexagon Energy, LLC.
Filed Date: 10/2/25.
Accession Number: 20251002–5169.
Comment Date: 5 p.m. ET 10/9/25.

Docket Numbers: ER26–41–000.
Applicants: Big Cypress Energy Storage, LLC.
Description: § 205(d) Rate Filing: Big Cypress Energy Storage MBR Application to be effective 12/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5193.
Comment Date: 5 p.m. ET 10/27/25.

Docket Numbers: ER26–42–000.
Applicants: Butler Ridge Wind, LLC.
Description: § 205(d) Rate Filing: Butler Ridge Wind MBR Application to be effective 12/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5198.
Comment Date: 5 p.m. ET 10/27/25.

Docket Numbers: ER26–43–000.
Applicants: Delta Bobcat Energy Storage, LLC.
Description: § 205(d) Rate Filing: Delta Bobcat Energy Storage MBR Application to be effective 12/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5204.
Comment Date: 5 p.m. ET 10/27/25.

Docket Numbers: ER26–44–000.
Applicants: Greer Energy Storage, LLC.
Description: § 205(d) Rate Filing: Greer Energy Storage MBR Application to be effective 12/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5208.
Comment Date: 5 p.m. ET 10/27/25.

Docket Numbers: ER26–45–000.
Applicants: Heartland Divide Wind Energy, LLC.
Description: § 205(d) Rate Filing: Heartland Divide Wind Energy MBR Application to be effective 12/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5212.
Comment Date: 5 p.m. ET 10/27/25.

Docket Numbers: ER26–46–000.
Applicants: Pheasant Run Wind Energy, LLC.
Description: § 205(d) Rate Filing: Pheasant Run Wind Energy MBR Application to be effective 12/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5213.
Comment Date: 5 p.m. ET 10/27/25.

Docket Numbers: ER26–47–000.
Applicants: Tuscola Wind Energy II, LLC.
Description: § 205(d) Rate Filing: Tuscola Wind Energy II MBR Application to be effective 12/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5215.
Comment Date: 5 p.m. ET 10/27/25.

Docket Numbers: ER26–48–000.
Applicants: Wildwood Energy Storage, LLC.
Description: § 205(d) Rate Filing: Wildwood Energy Storage MBR Application to be effective 12/6/2025.

Filed Date: 10/6/25.
Accession Number: 20251006–5218.
Comment Date: 5 p.m. ET 10/27/25.
Docket Numbers: ER26–49–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: PEHA bn (Pepper Hammock II Solar) LGIA Termination Filing to be effective 10/6/2025.
Filed Date: 10/6/25.
Accession Number: 20251006–5224.
Comment Date: 5 p.m. ET 10/27/25.
Docket Numbers: ER26–50–000.
Applicants: American Transmission Systems, Incorporated.
Description: § 205(d) Rate Filing: ATSI submits a Construction Agmt—SA No. 7216 to be effective 12/7/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5025.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–51–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC.
Description: § 205(d) Rate Filing: MAIT submits a Construction Agmt—SA No. 7486 to be effective 12/7/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5027.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–52–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–10–07_SA 4564 ATC–WPL GIA (S1033) to be effective 9/29/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5032.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–53–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–10–07_SA 3789 Termination of ATXI-Double Black Diamond Solar E&P (J1464) to be effective 10/8/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5035.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–54–000.
Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.
Description: § 205(d) Rate Filing: American Transmission Company LLC submits tariff filing per 35.13(a)(2)(iii: 2025–10–07_SA 4568 ATC–WPL PCA (Project Quaker) to be effective 12/7/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5036.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–55–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–10–07_SA 4566 ATC–WPL GIA (S1023) to be effective 9/30/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5037.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–56–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–10–07_SA 4567 ATC–WPL GIA (S1034) to be effective 10/1/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5040.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–57–000.
Applicants: Halifax County Solar LLC.
Description: § 205(d) Rate Filing: Halifax County Solar LLC MBR Tariff to be effective 11/1/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5054.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–58–000.
Applicants: ISO New England Inc., Eversource Energy Service Company (as agent).
Description: § 205(d) Rate Filing: Eversource Energy Service Company (as agent) submits tariff filing per 35.13(a)(2)(iii: Eversource; Refund of Differences Between Actual and Fixed Amounts for PBOP to be effective 12/8/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5059.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–59–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Reforms to Energy Uplift Credit Rules to be effective 12/8/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5061.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–60–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–10–07_SA 4565 ITC Midwest-Interstate Power & Light GIA (S1070) to be effective 9/30/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5062.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–61–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Service Agreement Nos. 601 & 602 to be effective 9/29/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5079.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–62–000.
Applicants: FirstEnergy Pennsylvania Electric Company.
Description: FirstEnergy Pennsylvania Electric Company submits Notice of Cancellation of Service Agreement No. 4119.
Filed Date: 10/6/25.
Accession Number: 20251006–5234.
Comment Date: 5 p.m. ET 10/27/25.
Docket Numbers: ER26–63–000.
Applicants: Jersey Central Power & Light Company.
Description: Jersey Central Power & Light Company submits Notice of Cancellation of Service Agreement No. 2269.
Filed Date: 10/6/25.
Accession Number: 20251006–5235.
Comment Date: 5 p.m. ET 10/27/25.
Docket Numbers: ER26–65–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC-Lockhart Amended NITSA SA No. 407 to be effective 10/1/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5111.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–66–000.
Applicants: Coso Geothermal Power Holdings, LLC.
Description: § 205(d) Rate Filing: First Amendment to Shared Facilities Agreement to be effective 10/8/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5112.
Comment Date: 5 p.m. ET 10/28/25.
Docket Numbers: ER26–67–000.
Applicants: Mordor ES2 LLC.
Description: § 205(d) Rate Filing: First Amendment to Shared Facilities Agreement to be effective 10/8/2025.
Filed Date: 10/7/25.
Accession Number: 20251007–5115.
Comment Date: 5 p.m. ET 10/28/25.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES26–10–000; ES26–11–000; ES26–12–000.
Applicants: Wheeling Power Company, Southwestern Electric Power Company, Kingsport Power Company.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Kingsport Power Company, et al.
Filed Date: 10/7/25.
Accession Number: 20251007–5069.
Comment Date: 5 p.m. ET 10/28/25.

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: October 10, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–20660 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2550–030]

Wiscons8, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 2550–030.

c. *Date Filed:* November 29, 2024.

d. *Applicant:* Wiscons8, LLC.

e. *Name of Project:* Weyauwega Hydroelectric Project.

f. *Location:* On the Waupaca River in the City of Weyauwega in Waupaca County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Dwight Shanak, Manager, Wiscons8, LLC, N3311 Sunrise Lane, Waupaca, WI 54981; telephone at (715) 412–3150; email at *modernhydro@sbcglobal.net.*

i. *FERC Contact:* Arash Barsari, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502–6207; email at *Arash.JalaliBarsari@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* December 15, 2025 by 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: Weyauwega Hydroelectric Project (P–2550–030).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

Project Description: The existing project consists of a dam that includes three 12-foot-long Tainter gates with a crest elevation of 770.8 National Geodetic Vertical Datum of 1929 (NGVD 29); and a powerhouse that includes an intake structure with a trashrack with 2-inch clear bar spacing and a 210-kilowatt vertical Francis turbine-generator unit. The dam creates an impoundment that has a surface area of 235 acres at a normal surface elevation of 770.2 feet NGVD 29. From the impoundment, water flows through the powerhouse to a tailrace that empties into the Waupaca River.

Electricity generated at the powerhouse is transmitted to the electric grid via 4.16-kilovolt generator lead lines, a step-up transformer, and a 25-foot-long transmission line.

Project recreation facilities include: (1) a boat ramp that provides impoundment access; (2) an approximately 270-foot-long access road for the boat ramp; (3) a 100-foot-long portage trail; and (4) a hand-carry boat put-in site downstream of the dam.

Wiscons8 proposes to continue operating the project in a run-of-river mode and maintaining the impoundment elevation at 770.2 ± 0.25 feet NGVD 29. Wiscons8 also proposes to continue maintaining the portage trail and put-in site. The put-in site also includes a dock that Wiscons8 proposes to maintain for public tailrace fishing. Wiscons8 is not proposing to maintain the boat ramp or 270-foot-long access road as project facilities.

l. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–2550). For assistance, contact FERC Online Support.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. 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.*

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4)

otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Notice of Scoping	October 2025.
Filing of Scoping Comments	November 2025.
Filing of Motions to Intervene and Protests.	December 2025.
Issue Notice of Ready for Environmental Analysis.	December 2025.
Filing of Comments, Recommendations, Terms, Conditions, and Prescriptions.	February 2026.
Filing of Reply Comments	March 2026.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: October 14, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20700 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL25–113–000]

Carroll County Energy LLC; Notice of Institution of Section 206 Proceeding And Refund Effective Date

On October 2, 2025, the Commission issued an order in Docket No. EL25–113–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Carroll County Energy LLC's Rate Schedule is considered unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Carroll County Energy LLC,* 193 FERC ¶ 61,008 (2025).

The refund effective date in Docket No. EL25–113–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL25–113–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2025), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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: October 2, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–20657 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–551–000]

Great Basin Gas Transmission Company; Notice of Schedule for the Preparation of an Environmental Assessment for the Gabs Lateral NASF Relocation Project

On September 29, 2025, Great Basin Gas Transmission Company (Great Basin) filed an application in Docket No. CP25–551–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) and Authorization pursuant to Section 7(b) of the Natural Gas Act to construct and operate and abandon certain natural gas pipeline facilities. The proposed project is known as the Gabbs Lateral Naval Air Station Fallon (NASF) Relocation Project (Project) and would support the relocation of its existing Gabbs Lateral through the installation of approximately 32.6 miles of replacement pipeline and the abandonment in-place or by removal of approximately 20.9 miles of pipeline in Mineral and Nye Counties, Nevada. The Project would not provide any incremental capacity. Additionally, the Project would accommodate the U.S. Navy's expansion of the Naval Air Station Fallon.

On October 10, 2025, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1] The EA will be issued for a 30-day comment period.

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1762338293.

Schedule for Environmental Review

Issuance of EA—March 13, 2026

90-day Federal Authorization Decision Deadline [2]—June 11, 2026

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Project would accommodate the U.S. Navy's congressionally authorized Fallon Range Training Complex Modernization Project. Great Basin proposes to: (1) install about 18.8 miles of new 8-inch-diameter pipeline and 13.8 miles of new 6-inch-diameter pipeline; and (2) abandon in place or by removal about 5.4 miles of existing 8-inch-diameter pipe and 15.8 miles of existing 6-inch-diameter pipe. Additionally Great Basin would install two above-ground valve assemblies, replace a thermoelectric generator with a natural gas burning generator for the cathodic protection system, and relocate an appurtenant facility.

Background

On October 9, 2024, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Gabbs Lateral FNAS Relocation Project* (Notice of Scoping). The Notice of Scoping was issued during the pre-filing review of the Project in Docket No. PF24–6–000 and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the Notice of Scoping, the Commission received comments from Joe Burgess and the Nevada Department of Wildlife. The commenters requested that an environmental analysis should be completed and that baseline surveys of Bureau of Land Management (BLM) sensitive and state listed species should be conducted. All substantive comments will be addressed in the EA.

The BLM and the U.S. Navy are cooperating agencies in the preparation of the EA.

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Additional information about the Project is available from the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP25–551), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 18, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20674 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–14–000]

Mountain Valley Pipeline, LLC; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed MVP Boost Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the MVP Boost Project (Project) involving construction and operation of facilities by Mountain Valley Pipeline, LLC (Mountain Valley) in Wetzel, Braxton, and Fayette Counties, West Virginia and Montgomery County, Virginia. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on December 19, 2025. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on October 23, 2025, you will need to file those comments in Docket No. CP26–14–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the

proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Mountain Valley provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26–14–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

For public inquiries and assistance with intervening and participating, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Summary of the Proposed Project

Mountain Valley proposes to make modifications to the existing Bradshaw, Harris, and Stallworth Compressor Stations (CS) and construct and operate the Swann CS. The MVP Boost Project would provide about 600,000 dekatherms of natural gas per day from interconnection points with Equitrans, L.P. and EQM Gathering Opco, LLC to delivery points on the Mountain Valley Pipeline Mainline system and Mountain Valley Pipeline Southgate system. According to Mountain Valley, its project would expand existing Mountain Valley Pipeline infrastructure to increase system capacity and delivery capabilities, and transport additional volumes of natural gas from interconnection points.

The MVP Boost Project would consist of the following facilities:

- installation of one additional natural gas turbine and auxiliary facilities to add an additional 23,470 horsepower (hp) to the Bradshaw CS;
- relocation of existing blowdown silencers and installation of one additional natural gas turbine and auxiliary facilities to add an additional 52,500 hp to the Harris CS;
- relocation of existing blowdown silencers and installation of two additional natural gas turbines and auxiliary facilities and upgrades to two existing natural gas turbines to add an additional 52,880 hp to the Stallworth CS;
- installation of a new compressor station with three natural gas turbines, for a total of 136,900 hp at the Swann CS; and
- installation of a new pig launcher and receiver,[1] mainline valve, and auxiliary facilities at the Swann CS.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 43.3 acres of land within Mountain Valley's existing right-of-way. Following construction, Mountain Valley would maintain about 21.3 acres for permanent operation of the project's facilities; the remaining acreage would be restored.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- socioeconomics;
- land use;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's

[1] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [3] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP26–14–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: November 19, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20781 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] Cooperating agency responsibilities are addressed in Section 107(a)(3) of NEPA (42 U.S.C. 4336(a)(3)).

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2426–239]

California Department of Water Resources; Notice of Intent To Prepare an Environmental Assessment

On June 30, 2025, California Department of Water Resources (DWR) filed an application for temporary variance from requirements of Article 52 for the South SWP Project No. 2426. The project is located on the State Water Project in San Bernardino and Los Angeles counties, California. The project occupies National Forest Service land managed by the Angeles and Los Padres National Forests.

The licensee requests Commission approval to temporarily increase the limit of water deliveries from Pyramid Lake to Lake Piru via middle Piru Creek from 3,150 acre-feet (AF) per year to a maximum of 25,000 AF per year during the November 1 through end-of-February time period beginning in Water Year (WY) 2025–2026 and extending through WY 2029–2030. A Notice of Application was issued on August 25, 2025. No comments were received.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) under the National Environmental Policy Act (42 U.S.C. 4321 *et seq)* for the project.[1] Commission staff plans to issue an EA by December 15, 2025. Revisions to the schedule may be made as appropriate.

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 to access publicly available information and navigate Commission processes. For

[1] The unique identification number for documents relating to this environmental review is EAXX–019–20–000–1759400314.

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.*

Any questions regarding this notice may be directed to Jason Krebill at (202) 502–8268 or *jason.krebill@ferc.gov.*

Dated: October 7, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–20662 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI26–2–000]

City of Chignik ; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI26–2–000.

c. *Date Filed:* November 10, 2025.

d. *Applicant:* City of Chignik.

e. *Name of Project:* Chignik Hydropower Project.

f. *Location:* The proposed Chignik Hydropower Project would be located on Indian Creek, in the City of Chignik, in Lake and Peninsula Borough, Alaska.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b)(1).

h. *Applicant Contact:* Julianne Rosset, McMillen, Inc., 1471 Shoreline Drive, Suite 100, Boise, ID 83702; (603) 715–7509; *rosset@mcmillen.com.*

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, or *rebecca.martin@ferc.gov.*

j. *Deadline for filing comments, protests, and motions to intervene is:* December 19, 2025, by 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number DI26–2–000. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Project:* The proposed project would consist of: (1) a 15-foot high concrete-faced rockfill dam; (2) an approximately 8,400-foot-long, 12-inch-diameter penstock; (3) a powerhouse with one impulse-type turbine with a rated generating capacity of 220 kilowatts (kW) and a peak capacity of approximately 250 kW; and (4) a 4-inch raw-water pipeline that would deliver up to 19.8 acre-feet of water per year for domestic water supply to the City of Chignik.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application. For public inquiries and assistance with intervening or participating, contact the Office of Public Participation at (202)502–6595 or *OPP@ferc.gov.*

o. *Filing and Service of Responsive Documents:* All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: November 19, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20780 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7887–019]

Ashuelot River Hydro, Inc.; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 7887–019.

c. *Date Filed:* June 28, 2024.

d. *Applicant:* Ashuelot River Hydro, Inc. (Ashuelot Hydro).

e. *Name of Project:* Minnewawa Hydroelectric Project.

f. *Location:* On the Minnewawa Brook, in the Town of Marlborough, Cheshire County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C.791(a)–825(r).

h. *Applicant Contact:* Justin Ahmann, Owner, Ashuelot River Hydro, Inc., 75 Somers Road, P.O. Box 474, Somers, Montana 59932; telephone at (406) 393–2127 or email *Justin@apec-mt.com;* or Daniel Parker, Consultant, 45north Renewable Energy, LLC, 330 May Road, Potsdam, New York 13676; telephone at (315) 261–2158 or email *45northRenewables@mail.com*.

i. *FERC Contact:* Justin R. Robbins, Project Coordinator, New England Branch, Division of Hydropower Licensing; telephone at (202) 502–8308; email at *justin.robbins@ferc.gov.*

j. The deadline for filing motions to intervene and protests and requests for cooperating agency status: on or before 5:00 p.m. Eastern Time on December 15, 2025.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: Minnewawa Hydroelectric Project (P–7887–019).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The application has been accepted but is not ready for environmental analysis at this time.

l. *Project Description:* The Minnewawa Project includes a 245-foot-long, 63-foot-high reinforced mass concrete dam and spillway fitted with flashboards and an intake structure. The crest elevation of the dam is 1070.2 feet National Geodetic Vertical Datum of 1929 (NGVD 29) above the flashboards. The dam creates a 10-acre impoundment with a storage capacity of 155 acre-feet. From the impoundment, water flows into the intake structure and through a 5,717-foot-long partially buried steel penstock into a powerhouse containing a single 1,000-kilowatt (kW) Francis turbine-generator unit. Water is then discharged back into Minnewawa Brook through a 790-foot-long tailrace. The project creates an approximately 2,900-foot bypassed reach of Minnewawa Brook, which extends from Minnewawa dam to the confluence of the tailrace with Minnewawa Brook. A 100-foot-long transmission line transmits power from the powerhouse to the grid. There are no project recreation facilities.

The average annual generation of the project between 2003 through 2023 was 3,945 megawatt-hours.

Under a subsequent license, Ashuelot Hydro proposes to: (1) continue operating the project in an instantaneous run-of-river mode, such that flow in the Minnewawa Brook, as measured immediately downstream from the project tailrace, approximates the instantaneous sum of the inflow to the project impoundment, and releasing a minimum flow of 4 cubic feet per second into the bypassed reach, as measured immediately downstream from the Minnewawa Dam, or inflow to the impoundment, whichever is less; (2) install a new 75-kW fixed geometry turbine-generator unit in the existing powerhouse; and (3) install a tap and isolation valve to the existing penstock.

m. A copy of the application is available for review on the Commission's website at *https://www.ferc.gov* using the ''eLibrary'' link. Enter the project's docket number excluding the last three digits in the docket number field to access the document (P–7887). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. 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.*

o. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

p. *Procedural Schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Scoping Notice	October 2025.
Scoping Comments due	November 2025.
Motions to Intervene and Protests due	December 2025.

Milestone	Target date
Issue Ready for Environmental Analysis Notice	January 2026.

Dated: October 15, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20784 Filed 11–21–25; 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: PR26–10–000.
Applicants: Columbia Gas of Kentucky, Inc.
Description: 284.123 Rate Filing: Revise Statement of Operating Conditions 11–2025 to be effective 8/28/2025.
Filed Date: 11/19/25.
Accession Number: 20251119–5033.
Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: PR26–11–000.
Applicants: Bay Gas Storage Company, LLC.
Description: 284.123 Rate Filing: Bay Gas Informational Re Docket No. PR94–1 to be effective N/A.
Filed Date: 11/19/25.
Accession Number: 20251119–5085.
Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: PR26–12–000.
Applicants: Bay Gas Storage Company, LLC.
Description: 284.123 Rate Filing: Bay Gas Informational Re Docket No. PR08–7 to be effective N/A.
Filed Date: 11/19/25.
Accession Number: 20251119–5088.
Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: RP26–198–000.
Applicants: UGI Sunbury, LLC.
Description: Annual Report of Operational Purchases and Sales of UGI Sunbury, LLC.
Filed Date: 11/18/25.
Accession Number: 20251118–5191.
Comment Date: 5 p.m. ET 12/1/25.

Docket Numbers: RP26–199–000.
Applicants: UGI Mt. Bethel Pipeline Company, LLC.
Description: Annual Report of Operational Purchases and Sales of UGI Mt. Bethel Pipeline, LLC.
Filed Date: 11/18/25.
Accession Number: 20251118–5200.
Comment Date: 5 p.m. ET 12/1/25.

Docket Numbers: RP26–200–000.
Applicants: Caledonia Energy Partners, L.L.C.
Description: Compliance filing: Caledonia Energy Informational Filing Re CP05–17 to be effective N/A.
Filed Date: 11/19/25.
Accession Number: 20251119–5101.
Comment Date: 5 p.m. ET 12/1/25.

Docket Numbers: RP26–201–000.
Applicants: Caledonia Energy Partners, L.L.C.
Description: Compliance filing: Caledonia Energy Informational Filing Re CP12–33 to be effective N/A.
Filed Date: 11/19/25.
Accession Number: 20251119–5104.
Comment Date: 5 p.m. ET 12/1/25.

Docket Numbers: RP26–202–000.
Applicants: Caledonia Energy Partners, L.L.C.
Description: Compliance filing: Caledonia Energy Informational Filing Re CP05–15 to be effective N/A.
Filed Date: 11/19/25.
Accession Number: 20251119–5105.
Comment Date: 5 p.m. ET 12/1/25.

Docket Numbers: RP26–203–000.
Applicants: Caledonia Energy Partners, L.L.C.
Description: Compliance filing: Caledonia Energy Informational Filing Re CP05–16 to be effective N/A.
Filed Date: 11/19/25.
Accession Number: 20251119–5106.
Comment Date: 5 p.m. ET 12/1/25.

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.

Filings in Existing Proceedings

Docket Numbers: RP24–333–004.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Compliance filing: TGP Compliance Filing to Implement the Period 3 Settlement Rates to be effective 1/1/2026.
Filed Date: 11/18/25.
Accession Number: 20251118–5130.
Comment Date: 5 p.m. ET 12/1/25.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://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.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 19, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–20730 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–527–000]

Nueva Era Dos, LLC; Notice of Schedule for the Preparation of an Environmental Assessment for the Nueva Era Dos Pipeline Project

On July 24, 2025, Nueva Era Dos, LLC (Nueva Era Dos) filed an application in Docket No. CP25–527–000 requesting an Authorization pursuant to Section 3 of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Nueva Era Dos Pipeline Project (Project) and would provide a new international interconnection primarily designed to deliver about one billion standard cubic feet of natural gas per day to industrial customers in Mexico.

On August 7, 2025, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on

a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1]

Schedule for Environmental Review

Issuance of EA—January 30, 2026
90-day Federal Authorization Decision Deadline[2]—April 30, 2026

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Nueva Era Dos proposes to construct, operate and maintain a natural gas pipeline crossing the United States-Mexico border. According to Nueva Era Dos, its project would provide a new international interconnection primarily designed to deliver about one billion standard cubic feet of natural gas per day to industrial customers in Mexico. This pipeline would be capable of exporting and importing natural gas. The Project would consist of approximately 3,603 feet of 36-inch-diameter natural gas transmission pipeline installed via a horizontal directional drill in Maverick County, Texas.

Background

On September 5, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Nueva Era Dos Pipeline Project and Notice of Public Scoping Session* (Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the Notice of Scoping, the Commission received comments from the United States Environmental Protection Agency (EPA). In its comments, the EPA recommend the EA address the environmental effects that construction, operation, and maintenance of the Project would have on air quality and water quality. The EPA also recommended that the EA address construction-related hazardous materials and waste. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP25–527), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: October 7, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–20661 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EA–019–20–000–1758098973.

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD25–8–000]

Reliability Technical Conference; Notice Inviting Post-Technical Conference Comments

On Tuesday, October 21, 2025, the Federal Energy Regulatory Commission (Commission) convened its annual Commissioner-led Reliability Technical Conference to discuss policy issues related to the reliability and security of the Bulk-Power System.

All interested persons are invited to file post-technical conference comments to address issues raised during the technical conference or identified in the Third Supplemental Notice for this Technical Conference issued on October 15, 2025. Commenters are invited to reference material previously filed in this docket but are encouraged to avoid repetition or replication of their previous comments. Comments must be submitted on or before November 24, 2025.

Comments may be filed electronically via the internet. Instructions are available on the Commission's website *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, submissions sent via the U.S. Postal Service must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For more information about this Notice, please contact: Lodie White, Office of Electric Reliability, (202) 502–8453, *Lodie.White@ferc.gov.*

Dated: October 23, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20716 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF26–1–000]

Western Area Power Administration; Notice of Filing

Take notice that on November 17, 2025, Western Area Power Administration submitted a tariff filing: Desert Southwest Region—Boulder Canyon Project FY 2026-BaseCharge, to be effective 10/1/2025.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Comment Date: 5:00 p.m. Eastern Time on December 17, 2025.

Dated: November 18, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20678 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC25–18–000]

Commission Information Collection Activity (Ferc–740); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–740 (Availability of E-Tag Information to Commission Staff). There are no proposed changes to the information collection approach.

DATES: Comments on the collections of information are due January 23, 2026.

ADDRESSES: Please submit comments via email to *DataClearance@FERC.gov.* You must specify the Docket No. (IC25–18–000) and the FERC Information Collection number (FERC–740) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service only, addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE, Washington, DC 20426.
- *Hand (including courier) delivery to:* Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit *https://elibrary.ferc.gov/eLibrary/search.* Once there, you can also sign-up for automatic notification of activity in this docket.

FOR FURTHER INFORMATION CONTACT: Kayla Williams may be reached by email at *DataClearance@FERC.gov,* or by telephone at (202) 502–6468.

SUPPLEMENTARY INFORMATION:

Title: FERC–740, Availability of E-Tag Information to Commission Staff

OMB Control No.: 1902–0254

Type of Request: Three-year extension of the FERC–740 information collection requirements with no changes to the current reporting requirements.

Abstract: This collection of information is authorized by 18 CFR 366.2(d), which requires Commission access, on a non-public and view-only basis, to information that is located on ''electronic tags,'' also known as ''e-Tags.'' Each e-Tag consists of an electronic record of a transaction to transfer energy from a generation source to a Balancing Authority (BA). Each BA operates a portion of the grid, balancing supply and demand and assuring compliance with federal reliability standards. E-Tag ''authors'' are typically Purchasing-Selling Entities (PSEs). A PSE purchases or sells energy, capacity, and Interconnected Operations Services.

Transmission system operators, which are among the addressees of e-Tags, use e-Tags to ascertain the transactions affecting their local systems, and to prevent damage to the power grid. Commission access to e-Tags helps the Commission detect and prevent market manipulation and anti-competitive behavior, and also monitor the efficiency of markets. Both transmission system operators and the Commission need the e-Tag information to understand the use of the interconnected electricity grid, particularly transactions occurring at interchanges. Due to the nature of the electric grid, an individual transaction's impact on an interchange cannot be assessed adequately in all cases without information from all connected systems, which is included in the e-Tags.

The inclusion of the Commission is completely automatic and is part of the normal business requirement. Thus, the time, effort, and financial resources necessary to comply with this collection of information are ''usual and customary'' within the meaning of the OMB regulation at 5 CFR 1320.3 (b)(2) (excluding such activities from the definition of ''burden''). In view of these circumstances, FERC is including only a ''placeholder'' burden of one hour to account for the rare event where a new BA qualifies for exemption under the

Commission's regulations (*e.g.,* transmissions from a new non-U.S. BA into another non-U.S. BA using a path that does not go through a U.S. BA). In that case, this administrative function would be expected to require at most an hour of effort total from both the BA and e-Tag administrator to include the BA on the exemption list. New exempt BAs are not common—years may pass between them—but for the purpose of estimation, we will conservatively assume one appears each year creating a burden and cost associated with the Commission's FERC–740 of one hour and $71.27.[1]

Type of Respondents: Purchasing-Selling Entities and Balancing Authorities

Estimate of Annual Burden:[2] The Commission estimates the burden and cost for FERC–740 as follows based on the distinct e-Tags submitted to the Commission in 2024 (the most recent full year available).

Requirements	Number of respondents 1	Average annual number of responses per respondent 2	Total number of responses (1)*(2)=(3)	Average annual burden hrs. & cost ($) per response (rounded) 4	Total average annual burden hours & total annual cost ($) (rounded) (3)*(4)=(5)	Cost per respondent ($) (rounded) (5)÷(1)
e-Tags	444 PSE/BAs	4,281	1,900,764	Automatic, so 0 burden and cost.	Automatic, so 0 burden and cost.	Automatic, so 0 burden and cost.
E-Tag administrator response to add new non-jurisdictional Balancing Authority.	1	1	1	1 hr.; $71.27	1 hr.; $71.27	$71.27
Totals			1,900,764		1 hr.; $71.27	$71.27

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate 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.

Dated: October 15, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20789 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL25–107–000]

Ohio Power Partners, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On October 2, 2025, the Commission issued an order in Docket No. EL25–107–000 pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Ohio Power Partners, LLC's Rate Schedule is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Ohio Power Partners, LLC,* 193 FERC ¶ 61,006 (2025).

The refund effective date in Docket No. EL25–107–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL25–107–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2025), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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,

[1] The total hourly cost applied in this calculation, $71.27, is the total hourly cost to an employer for a management analyst in the utilities sector. This figure includes the average hourly wage of $49.96 plus all employer-paid benefits, and is based on 2024 data from the U.S. Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) program.

[2] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR part 1320.

comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: October 2, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–20656 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8369–050]

Village of Saranac Lake; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 8369–050.

c. *Date Filed:* September 30, 2025.

d. *Applicant:* Village of Saranac Lake (Village).

e. *Name of Project:* Lake Flower Dam Hydroelectric Project.

f. *Location:* On the Saranac River in the Franklin and Essex Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Bachana Tsiklauri, Village Manager, Village of Saranac Lake, 39 Main Street, Saranac Lake, New York 12983; telephone at (518) 891–4150; email at *manager@saranaclakeny.gov.*

i. *FERC Contact:* Arash Barsari, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502–6207; email at *Arash.JalaliBarsari@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* on or before 5:00 p.m. Eastern Time on December 1, 2025.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: Lake Flower Dam Hydroelectric Project (P–8369–050).

m. The application is not ready for environmental analysis at this time.

Project Description: The project includes a dam with a spillway crest elevation of 1,528.0 feet National Geodetic Vertical Dam of 1929 (NGVD 29). The dam creates an impoundment that has a surface area of 1,360 acres at 1,528.0 feet NGVD 29. From the impoundment, water flows through an intake structure located on the southern shoreline of the impoundment, approximately 100 feet upstream of the dam. The intake structure includes trashracks with 1-inch clear bar spacing. From the intake structure, water flows to a powerhouse that contains a 200-kilowatt Kaplan turbine-generator unit. Water is discharged from the powerhouse to a tailrace that empties into the Saranac River.

Electricity generated at the powerhouse is transmitted to the electric grid via an underground generator lead line, transformer, and overhead transmission line.

Project recreation facilities include: (1) Riverside Park that includes picnic tables and a pavilion; (2) Hydropoint Park that includes a hand-carry boat access site on the shoreline of the impoundment; (3) Beaver Park that includes a hand-carry boat put-in site on the west bank of the Saranac River downstream of the dam; and (4) the River Walk that includes a recreation trail along the Saranac River.

The Village proposes to: (1) continue operating the project in a run-of-river mode such that project outflow approximates inflow to the impoundment and the normal maximum surface elevation of the impoundment is maintained at 1,528.67 feet NGVD 29; (2) continue releasing a minimum flow of 55 cfs or inflow, whichever is less, as measured immediately downstream of the dam; (3) continue maintaining the project recreation facilities; (4) implement invasive species and bat and bald eagle plans filed with the license application; and (5) implement an impoundment drawdown plan and operation and compliance monitoring plan filed with the license application.

n. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–8369). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. 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.*

p. *Procedural Schedule:* The application will be processed according

to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter and Request Additional Information November 2025
Request Additional Information (if necessary) March 2026
Issue Notice of Application Accepted for Filing March 2026
Issue Notice of Scoping March 2026
Comments on Scoping April 2026
Issue Notice of Ready for Environmental Analysis April 2026

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: October 14, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20701 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15249–002]

Lewis Ridge Pumped Storage, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major Original License.

b. *Project No.:* 15249–002.

c. *Date filed:* June 13, 2025.

d. *Applicant:* Lewis Ridge Pumped Storage, LLC.

e. *Name of Project:* Lewis Ridge Pumped Storage Project (Lewis Ridge Project or project).

f. *Location:* The proposed project would be located near the towns of Blackmont, Tejay, Balkan, and Callaway, in Bell County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Sandy Slayton, Rye Development, 1455 SW Broadway Street, Suite 290, Portland Oregon 97201; (503) 341–1425; email: *sandy@ryedevelopment.com.*

i. *FERC Contact:* Sarah Salazar at (202) 502–6863, or *sarah.salazar@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* on or before 5:00 p.m. Eastern Time on December 15, 2025.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Lewis Ridge Pumped Storage Project (P–15249–002).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing but is not ready for environmental analysis at this time.

l. A copy of the application is available for review via the internet through the Commission's Home Page (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

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.*

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Scoping Notice	October 2025.
Issue Additional Information Request, if needed.	October 2025.
Additional Information Responses due, if needed.	December 2025 Scoping.
Comments due	December 2025.
Issue Notice of Ready for Environmental Analysis.	February 2026.

Dated: October 14, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20703 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–56–000.

Applicants: Palo Duro Energy Storage, LLC.

Description: Palo Duro Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/18/25.

Accession Number: 20251118–5212.

Comment Date: 5 p.m. ET 12/9/25.

Docket Numbers: EG26–57–000.

Applicants: Panhandle Energy Storage, LLC.

Description: Panhandle Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/18/25.

Accession Number: 20251118–5214.

Comment Date: 5 p.m. ET 12/9/25.

Docket Numbers: EG26–58–000.

Applicants: Roswell Energy Storage, LLC.

Description: Roswell Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/18/25.

Accession Number: 20251118–5218.

Comment Date: 5 p.m. ET 12/9/25.

Docket Numbers: EG26–59–000.

Applicants: Webb Road Energy Storage, LLC.

Description: Webb Road Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/18/25.

Accession Number: 20251118–5221.

Comment Date: 5 p.m. ET 12/9/25.

Docket Numbers: EG26–60–000.

Applicants: Gaskell West Storage I LLC.

Description: Gaskell West Storage I LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/18/25.

Accession Number: 20251118–5224.

Comment Date: 5 p.m. ET 12/9/25.

Docket Numbers: EG26–61–000.

Applicants: Chaves Energy Storage, LLC.

Description: Chaves Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/18/25.

Accession Number: 20251118–5225.

Comment Date: 5 p.m. ET 12/9/25.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2881–045; ER10–2882–044; ER10–2883–042; ER10–2884–042; ER16–2509–013; ER17–2400–014; ER17–2401–014; ER17–2404–014; ER17–2403–014.

Applicants: SP Pawpaw Solar, LLC, SP Sandhills Solar, LLC, SP Decatur Parkway Solar, LLC, SP Butler Solar, LLC, Rutherford Farm, LLC, Georgia Power Company, Mississippi Power Company, Southern Power Company, Alabama Power Company.

Description: Supplement to 10/03/2025, Notice of Change in Status of Alabama Power Company, et al.

Filed Date: 10/14/25.

Accession Number: 20251014–5367.

Comment Date: 5 p.m. ET 11/4/25.

Docket Numbers: ER25–2852–002.

Applicants: Edgecom Energy USA, Inc.

Description: Tariff Amendment: Edgecom Energy USA, Inc. Market-Based Rate Tariff Filing to be effective 12/1/2025.

Filed Date: 11/19/25.

Accession Number: 20251119–5061.

Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: ER26–544–000.

Applicants: Cartwright Solar I LLC.

Description: 205(d) Rate Filing: Cartwright Solar I LLC MBR Tariff to be effective 12/1/2025.

Filed Date: 11/18/25.

Accession Number: 20251118–5215.

Comment Date: 5 p.m. ET 12/9/25.

Docket Numbers: ER26–545–000.

Applicants: Woodward EHV Wind Interconnection, LLC.

Description: Request for Limited and Prospective Waiver, et al. of Woodward EHV Wind Interconnection, LLC.

Filed Date: 11/18/25.

Accession Number: 20251118–5226.

Comment Date: 5 p.m. ET 12/9/25.

Docket Numbers: ER26–546–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 7010; Queue No. AF1–094 to be effective 1/19/2026.

Filed Date: 11/19/25.

Accession Number: 20251119–5042.

Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: ER26–547–000.

Applicants: Cheyenne Light, Fuel and Power Company.

Description: 205(d) Rate Filing: Filing of Standard LGIA with Chalk Bluffs Wind, LLC to be effective 10/28/2025.

Filed Date: 11/19/25.

Accession Number: 20251119–5071.

Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: ER26–548–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, SA No. 6879; Queue Nos. AD1–056/AD1–057 to be effective 1/19/2026.

Filed Date: 11/19/25.

Accession Number: 20251119–5110.

Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: ER26–549–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA SA No. 6992; Queue No. AF2–361 to be effective 1/19/2026.

Filed Date: 11/19/25.

Accession Number: 20251119–5130.

Comment Date: 5 p.m. ET 12/10/25.

Docket Numbers: ER26–550–000.

Applicants: Duke Energy Carolinas, LLC.

Description: 205(d) Rate Filing: DEC-Kings Mountain Revised NITSA SA No. 363 to be effective 11/1/2025.

Filed Date: 11/19/25.

Accession Number: 20251119–5148.

Comment Date: 5 p.m. ET 12/10/25.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF26–188–000

Applicants: CGC000 PROJECTCO, LLC.

Description: Form 556 of CGC000 PROJECTCO, LLC under QF26–188.

Filed Date: 11/18/25.

Accession Number: 20251118–5251.

Comment Date: 5 p.m. ET 12/9/25.

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.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov*.

Dated: November 19, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–20729 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2513–091]

Green Mountain Power Corporation; Notice of Revised Procedural Schedule

This notice revises the Federal Energy Regulatory Commission's (Commission) schedule for processing the relicense application for the Essex No. 19 Hydroelectric Project No. 2513, which was filed by Green Mountain Power Corporation (GMP) on February 28, 2023. On March 6, 2023, Commission staff issued a notice of application tendered for filing, which included an initial processing schedule.

On April 21, 2023, Commission staff issued a determination on requested modifications to the project's study plan, pursuant to section 5.15(c)(7) of the Commission's regulations. The determination amended the study plan to require that GMP file a study report for a Computational Fluid Dynamics (CFD) Modeling Study by December 31, 2023. GMP filed the study report on April 8, 2024. Then, on October 16, 2024, GMP filed additional information on downstream salmon passage and stated that it would file any proposed relicensing measures for improving fish passage after consultation with resource agencies. On December 18, 2024, GMP filed letters with the Commission describing the status of ongoing consultation with the U.S. Fish and Wildlife Service (FWS) and the Vermont Agency of Natural Resources (Vermont ANR). GMP stated that it would file quarterly updates on the status of the development of fish passage alternatives until an alternative was selected by GMP and the resource agencies. GMP filed its most recent quarterly update on September 30, 2025, indicating that it is actively consulting with FWS and Vermont ANR to identify a downstream fish passage alternative for its relicensing proposal.

By this notice, Commission staff is updating the procedural schedule. The revised schedule is shown below. Further revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Notice of Acceptance and Ready for Environmental Analysis.	January 2026.
Filing of Motions to Intervene, Protests, Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions.	March 2026.
Filing of Reply Comments	May 2026.

Any questions regarding this notice may be directed to Erin Mocko by telephone at (202) 502–8107 or by email at *Erin.Mocko@ferc.gov*.

Dated: October 6, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20697 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD25–16–000]

Wildfire Risk Mitigation Technical Conference; Notice Inviting Post-Technical Conference Comments

On Tuesday, October 21, 2025, the Federal Energy Regulatory Commission (Commission) staff convened a Technical Conference to discuss cost-effective best practices to reduce the risk of wildfire ignition from the Bulk-Power System.

All interested persons are invited to file post-technical conference comments to address issues raised during the technical conference or identified in the Second Supplemental Notice for this Technical Conference issued on October 15, 2025. Commenters are invited to reference material previously filed in this docket but are encouraged to avoid repetition or replication of their previous comments. Comments must be submitted on or before November 24, 2025.

Comments may be filed electronically via the internet. Instructions are available on the Commission's website *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, submissions sent via the U.S. Postal Service must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For more information about this Notice, please contact: Lodie White, Office of Electric Reliability, (202) 502–8453, *Lodie.White@ferc.gov*.

Dated: October 23, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20712 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15380–000]

Robertson Power Company, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 31, 2024, Robertson Power Company, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Somersworth Mill Hydroelectric Project No. 15380–000 (project), to be located at the Somersworth Mill dam on the Salmon Falls River near the Town of Somersworth in Strafford County, New Hampshire, and Berwick, York County, Maine. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following features: (1) an existing 400-foot-long, 16.5-foot-high stone gravity dam (Stone Dam); (2) an existing impoundment having a surface area of

50 acres and a storage capacity of 300 acre-feet at a water surface elevation of 98.7 feet mean sea level; (3) an existing gatehouse with four intake gates and a fill gate leading to a power canal; (4) an existing 1,600-foot-long, 20-foot-wide, and 15-foot-deep granite block and stone constructed power canal; (5) a new 600-foot-long, 10-foot-diameter penstock to be made of concrete or steel; (6) an existing 32-foot-high, 40-foot-wide brick and concrete powerhouse containing two 1,100 kilowatt (kW) turbine-generator units, each with a maximum hydraulic capacity of 460 cubic feet per second; (7) an existing 107-foot-long, 19-foot-high gravity lower stone dam adjacent to the powerhouse (Back Dam); (8) an existing .48/4.16 kilovolt (kV) transformer; (9) a 250-foot-long 4.16 kV transmission line; and (10) appurtenant facilities. The proposed project would have an estimated annual generation of 6.7-gigawatt-hours.

Applicant Contact: Justin D. Ahmann, Robertson Power Company, LLC, 75 Somers Road, P.O. Box 474, Somers, MT 01915; phone: (712) 790–3145; email at *Justin@apec-mt.com.*

FERC Contact: Justin R. Robbins; phone: (202) 502–8308, or by email at *justin.robbins@ferc.gov.* Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: on or before 5:00 p.m. Eastern Time on December 15, 2025. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15380–000.

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.*

More information about this project, including a copy of the application, can be viewed on the Commission's website (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–15380) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 15, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20785 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–4–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed North Padre Island Lateral Abandonment Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the North Padre Island Lateral Abandonment Project involving the abandonment of pipeline facilities by Transcontinental Gas Pipe Line Company, LLC (Transco) in Brooks, Jim Wells, Kenedy, and Kleberg counties, Texas. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on December 19, 2025. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on October 8, 2025, you will need to file those comments in Docket No. CP26–4–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to abandon the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In

such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Transco provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26–4–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

For public inquiries and assistance with intervening and participating, contact the Office of Public Participation at (202)502–6595 or *OPP@ferc.gov.*

Summary of the Proposed Project

Transco proposes to abandon approximately 50 miles of 24-inch-diameter interstate natural gas transmission pipeline and associated facilities in Brooks, Jim Wells, Kenedy, and Kleberg counties, Texas. This pipeline, which also extends across the Padre Island National Seashore into the Gulf of America would mostly be abandoned in-place (45 miles). With exceptions, small segments of the pipeline would be abandoned by removal per landowner easement agreements, under state and federal highways, railroad crossings, and on lands managed by the Texas General Land Office (5 miles). Transco would also abandon a non-jurisdictional dehydration and storage facility (Station 14) in Brooks County, Texas. According to Transco, its project would eliminate costs and risks associated with maintenance of these facilities.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Transco would require the use of its existing permanent easement and additional temporary workspaces to abandon the proposed facilities, a total of approximately 500 acres of land. Following the abandonment of the North Padre Island Abandonment Project, Transco would relinquish its permanent easement to the respective property owner(s). On state and federal lands, Transco would comply with respective agency requirements.

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use; and
- air quality and noise.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes the US National Park Service, and Texas General Land Office along with other federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP26–4–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: November 19, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20782 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9282–040]

Pine Valley Hydroelectric Power Company, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License for Minor Project.

b. *Project No.:* 9282–040.

c. *Date Filed:* September 29, 2025.

d. *Applicant:* Pine Valley Hydroelectric Power Company, LLC (Pine Valley Hydro).

e. *Name of Project:* Pine Valley Hydroelectric Project (project).

f. *Location:* On the Souhegan River in Hillsborough County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Tony Zarella, Chief Operating Officer, Relevate Power, LLC; 230 Park Ave., Suite 447; New York, NY 11017; telephone at (315) 247–0253; email at *tz@relevatepower.com.*

i. *FERC Contact:* Michael Watts, Project Coordinator, New England Branch, Division of Hydropower Licensing; telephone at (202) 502–6123; email at *michael.watts@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* on or before 5:00 p.m. Eastern Time on November 28, 2025.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions

[3] Cooperating agency responsibilities are addressed in Section 107(a)(3) of NEPA (42 U.S.C. 4336(a)(3)).

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: Pine Valley Hydroelectric Project (9282–040).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The Pine Valley Hydroelectric Project includes a 200-foot-long, 23-foot-high stone-masonry gravity dam with a 128-foot-long spillway. The dam is equipped with two waste gates and topped with 4-foot-high flashboards with a crest elevation of 323.6 feet National Geodetic Vertical Datum of 1929 (NGVD 29) at the top of the flashboards. The dam creates an impoundment that has a surface area of 7 acres at 323.6 feet NGVD 29.

From the impoundment, water flows into an intake structure located a short distance upstream of the dam on the eastern shoreline of the impoundment. The intake includes trashracks with 1.625-inch clear bar spacing and a gatehouse with an 8-foot-wide hydraulically operated headgate. From the intake, water flows through an 8-foot-diameter, approximately 0.5-mile-long penstock, directly to a 525-kilowatt horizontal Francis turbine-generator unit located on the lower level of a former mill building. Water is discharged from the turbine-generator unit to a 155-foot-long tailrace. The project creates an approximately 3,258-foot-long bypassed reach.

The project includes a downstream fish passage facility adjacent to the intake structure that consists of a surface inlet weir, a bypass inlet box, and a 24-inch diameter bypass pipe that discharges into the bypassed reach. The downstream fish passage facility operates annually from April 1 to June 1.

Electricity generated by the turbine-generator unit is transmitted to the electric grid via a 200-foot-long, 4.16-kilovolt transmission line. The minimum and maximum hydraulic capacities of the turbine-generator unit are 24 and 240 cubic feet per second (cfs), respectively. The average annual energy production of the project from 2019 through 2024, was 1,458 megawatt-hours.

The current license requires the project to operate in a run-of-river mode such that project outflow approximates inflow to the impoundment. Pine Valley Hydro maintains the normal maximum surface elevation of the impoundment at 323.6 feet NGVD 29. The current license also requires Pine Valley Hydro to release a minimum flow of 24 cfs or inflow, whichever is less, from the project to the bypassed reach. The minimum flow is released either through a sluice gate adjacent to the spillway during project operation, over the spillway when not operating, or through the downstream fish passage facility from April 1 to June 30.

Pine Valley Hydro proposes to: (1) continue operating the project in a run-of-river mode; (2) increase the minimum flow from 24 cfs or inflow, whichever is less, to 50 cfs or inflow, whichever is less; (3) install a flow gage in the bypassed reach to monitor streamflow and project discharge; (4) continue operating the downstream fish passage facility from April 1 to June 1; (5) consult with resource agencies on the scope and schedule of any future eel passage protection measures that may be necessary; and (6) develop an operations compliance monitoring plan.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–9282). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. 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.*

q. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter and Request Additional Information November 2025

Issue Acceptance Letter and Notice March 2026

Issue Scoping Notice March 2026

Scoping Comments due April 2026

Issue Ready for Environmental Analysis Notice June 2026

r. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: October 14, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20702 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD26–1–000]

St. Marys Area Water Authority; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On November 14, 2025, St. Marys Area Water Authority filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed St. Marys Water Treatment Plant Hydro Project would have an installed capacity of 18 kilowatts (kW) and would be located at the St. Marys Water Treatment Plant, in St. Marys, Elk County, Pennsylvania.

Applicant Contact: Dwight Hoare, General Manager, P.O. Box 33, 967 State Street, St. Marys, Pennsylvania 15857, 814–834–4362, *stwater@windstream.net.*

FERC Contact: Christopher Chaney, 202–502–6778, *christopher.chaney@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The project would consist of: (1) one turbine generating unit with a capacity of 18 kW and (2) appurtenant facilities.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A)	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i)	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii)	The facility has an installed capacity that does not exceed 40 megawatts	Y
FPA 30(a)(3)(C)(iii)	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed St. Marys Water Treatment Plant Hydro Project will not alter the primary purpose of the conduit, which is for municipal use. Therefore, based upon the above criteria, Commission staff preliminarily determines that the operation of the project described above satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments, comments contesting whether the facility meets the qualifying criteria, and motions to intervene: December 18, 2025 5:00 p.m. Eastern Time.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS,'' ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY,'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may send a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Locations of Notice of Intent: The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (*i.e.,* CD26–1) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. Copies of the notice of intent can be obtained directly from the applicant. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: November 18, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20673 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2025).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC25–17–000]

Commission Information Collection Activities (Ferc–920, Electric Quarterly Report); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–920 (Electric Quarterly Report (EQR)), which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements. This renewal request does not include any changes to the reporting requirements.

DATES: Comments on the collections of information are due January 23, 2026.

ADDRESSES: Please submit comments via email to *DataClearance@FERC.gov.* You must specify the Docket No. (IC25–17–000) and the FERC Information Collection number (FERC–920) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

• *Mail via U.S. Postal Service only, addressed to:* Federal Energy Regulatory Commission, Secretary of the

Commission, 888 First Street NE, Washington, DC 20426.

• *Hand (including courier) delivery to:* Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit *https://elibrary.ferc.gov/eLibrary/search.* Once there, you can also sign-up for automatic notification of activity in this docket.

FOR FURTHER INFORMATION CONTACT: Kayla Williams, (202) 502–6468. *DataClearance@FERC.gov.*

SUPPLEMENTARY INFORMATION:

Title: FERC–920 Electric Quarterly Reports (EQR).

OMB Control No.: 1902–0255.

Type of Respondent: Public utilities, and non-public utilities with more than a *de minimis* market presence.

Type of Request: Three-year extension of the FERC–920 information collection with no changes to the current reporting requirements.[1]

Abstract: The Commission originally set forth the EQR filing requirements in Order No. 2001 (Docket No. RM01–8–000) which required public utilities to electronically file EQRs summarizing transaction information for short-term and long-term cost-based sales and market-based rate sales and the contractual terms and conditions in their agreements or all jurisdictional services.[2] The Commission established the EQR reporting requirements to help ensure the collection of information needed to perform its regulatory functions over transmission and sales of electric power, while making data available to the public and allowing public utilities to better fulfill their responsibility under Federal Power Act (FPA) section 205(c)[3] to have rates on file in a convenient form and place. As noted in Order No. 2001, the EQR data is designed to ''provide greater price transparency, promote competition, enhance confidence in the fairness of the markets, and provide a better means to detect and discourage discriminatory practices.''[4]

Moreover, collecting data in the EQR is consistent with the Ninth Circuit Court of Appeals' decisions upholding the Commission's market-based rate program on the basis of the ''dual requirement of an ex ante finding of the absence of market power *and* sufficient post-approval reporting requirements.''[5] Specifically, the court upheld the Commission's market-based rate program because it relies on a ''system [that] consists of a finding that the applicant lacks market power (or has taken steps to mitigate market power), coupled with strict reporting to ensure that the rate is 'just and reasonable' and that markets are not subject to manipulation.''[6]

Since issuing Order No. 2001, the Commission has provided guidance and refined the reporting requirements, as necessary, to reflect changes in the Commission's rules and regulations.[7] The Commission also adopted an EQR Data Dictionary, which provides in one document the definitions of certain terms and values used in filing EQR data.[8]

To increase transparency broadly across all wholesale markets subject to the Commission's jurisdiction, the Commission issued Order No. 768 in 2012.[9] Order No. 768 required market participants that are excluded from the Commission's jurisdiction under FPA section 205 (non-public utilities) and have more than a *de minimis* market presence to file EQRs with the Commission. In addition, Order No. 768 revised the EQR filing requirements to build upon the Commission's prior improvements to the reporting requirements and further enhance the goals of providing greater price transparency, promoting competition, instilling confidence in the fairness of the markets, and providing a better means to detect and discourage anti-competitive, discriminatory, and manipulative practices.

EQR information allows the public to assess market fundamentals and to price interstate wholesale market transactions. This, in turn, results in greater market confidence, lower transaction costs, and ultimately supports competitive markets. In addition, the data filed in the EQR strengthens the Commission's ability to exercise its wholesale electric rate and electric power transmission oversight and enforcement responsibilities in accordance with the FPA. Without this information, the Commission would lack some of the data it needs to support its regulatory function over transmission and sales of electric power.

Type of Respondent: Public utilities, and non-public utilities with more than a *de minimis* market presence.

Estimate of Annual Burden and Cost:[10] The Commission estimates the annual public reporting burden[11] for the information collection as:

FERC–920—ELECTRIC QUARTERLY REPORT (EQR)

Requirements	Number of respondents	Annual number of responses per respondent	Total number of responses	Average annual burden hrs. & cost ($) per response (rounded)	Total average annual burden hours & total annual cost ($) (rounded)	Cost per respondent ($) (rounded)
	1	2	(1) * (2) = (3)	4	(3) * (4) = (5)	(5) ÷ (1)
Electric Quarterly Report				18.1 hrs.; $1,864	265,853 hrs.; $27,382,859	$7,456
Total	3,672	4	14,688		265,853 hrs.; $27,382,859	7,456

[1] This Notice is separate from, and does not address, the activities in Docket No. RM23–9–000.

[2] *Revised Public Utility Filing Requirements,* Order No. 2001, 99 FERC ¶ 61,107 (2002), *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements,* Order No. 2001–G, 120 FERC ¶ 61,270, (2007), *order on reh'g and clarification,* Order No. 2001–H, 121 FERC ¶ 61,289 (2008), *order revising filing requirements,* Order No. 2001–I, 125 FERC ¶ 61,103 (2008).

[3] 16 U.S.C. 824d(c).

[4] Order No. 2001, 99 FERC ¶ 61,107 (2002).

[5] *California ex rel. Lockyer* v. *FERC,* 383 F.3d 1006, 1013 (9th Cir. 2004) (*Lockyer*) (emphasis in original). *See also Mont. Consumer Counsel* v. *FERC,* 659 F.3d 910, 920 (9th Cir. 2011).

[6] *Lockyer,* 383 F.3d at 1013.

[7] *See, e.g., Revised Public Utility Filing Requirements for Electric Quarterly Reports,* 124 FERC ¶ 61,244 (2008) (providing guidance on the filing of information on transmission capacity reassignments in EQRs).

[8] Order No. 2001–G, 120 FERC ¶ 61,270 (2007).

[9] Order No. 768, 77 FR 61896 (Oct. 11, 2012), FERC Stats. & Regs. ¶ 31,336 (2012).

[10] The cost is based on FERC's 2025 Commission-wide average salary cost (salary plus benefits) of $103/hour. The Commission staff believes the FERC FTE (full-time equivalent) average cost for wages plus benefits is representative of the corresponding cost for the industry respondents.

[11] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate 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.

Dated: October 15, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20786 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–525–000]TTC Connector, LLC

Notice Of Schedule for the Preparation of an Environmental Assessment for the TTC Connector Project

On July 21, 2025, TTC Connector, LLC (TTC) filed an application in Docket No. CP25–525–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act, to construct and operate certain natural gas pipeline facilities in Colorado and Wharton counties, Texas. The proposed project is known as the TTC Connector Project (Project), and would provide 300,000 dekatherms (Dth) a day of firm capacity.

On August 4, 2025, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1] The EA will be issued for a 30-day comment period.

Schedule for Environmental Review

Issuance of EA January 16, 2026

90-day Federal Authorization Decision Deadline[2] April 16, 2026

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

TTC proposes to construct and operate approximately 25 miles of 20-inch-diameter steel pipeline, connecting existing and proposed facilities. The Project would include the construction and operation of a proposed receipt interconnect point and proposed compressor station to three proposed interconnect stations. The Project would provide firm capacity from Enbridge Inc.'s Tres Palacios Gas Storage (Tres Palacios) to interconnects with Energy Transfer Partners, LP's Trunkline Pipeline, Gulf South Pipeline Company's Coastal Bend Header Interconnect Station, and at a downstream point on the Tres Palacios system.

Background

On September 10, 2025, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed TTC Connector Project* (Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. We received comments from the U.S. Environmental Protection Agency (EPA) Region 6 and from potentially affected landowners.

EPA's comments addressed water quality; dredge and fill impacts to waters of the United States; Clean Water Act section 303(d); biological resources, habitat and wildlife; air quality; hazardous materials, hazardous waste, and solid waste; coordination with Tribal governments, and the National Historic Preservation Act. The primary issues raised by landowners include potential effects on ecosystems, water resources, vegetation, migratory birds and waterfowl, threatened and endangered species, farming operations, crop growth and soil compaction, and alternatives. Commenters questioned whether the public necessity for the proposed Project has been demonstrated and further questioned the validity of using eminent domain for private financial gain. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP25–525), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: October 14, 2025

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20704 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1759314183

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–528–000]

Eastern Gas Transmission and Storage, Inc; Notice of Schedule for the Preparation of an Environmental Assessment for the Appalachian Reliability Project

On July 24, 2025, Eastern Gas Transmission and Storage, Inc. (EGTS) filed an application in Docket No. CP25–528–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Appalachian Reliability Project (Project) and would allow EGTS to provide about 550,000 dekatherms per day of additional firm natural gas transportation service to points along the interstate pipeline grid in Ohio and Pennsylvania.

On August 7, 2025, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1] The EA will be issued for a 30-day comment period.

Schedule for Environmental Review

Issuance of EA February 27, 2026
90-day Federal Authorization Decision Deadline[2] May 28, 2026

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EA–XX–019–20–000–1756811530.

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

Project Description

EGTS proposes to construct and operate about 3.9 miles of interstate natural gas transmission pipeline and modify its existing compression and metering regulation facilities in Armstrong, Greene and Westmoreland Counties, Pennsylvania, and Monroe County, Ohio.

Background

On September 4, 2025, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Appalachian Reliability Project* (Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. Prior to issuing the Notice of Scoping, we received numerous comments supporting the Project. In response to the Notice of Scoping, we received eight comments. We received comments from three landowners, two non-profit organizations; Protect PT (Penn-Trafford) and the Clean Air Council, the Teamsters National Pipeline Labor Management Cooperation Trust, the Energy Equipment and Infrastructure Alliance, and the Monroe County, OH Board of County Commissioners. The primary issues raised by the commenters concern noise and air emissions from the JB Tonkin Compressor Station and their effects on air quality, nearby residences, and public health, the Project's potential effects on agricultural and livestock lands and business operations, streams and wetlands, and federally protected threatened and endangered species. We also received comments concerning the purpose and need for the Project, environmental justice, past EGTS' air permit compliance issues, and alternatives. Lastly, we received a request to hold in-person public scoping sessions. Given the limited scope of the Project, we determined that our solicitation of written comments was sufficient. The Teamsters National Pipeline Labor Management Cooperation Trust, the Energy Equipment and Infrastructure Alliance, and the Monroe County, OH Board of County Commissioners all submitted comments supporting the Project. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP25–528), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: October 8, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–20698 Filed 11–21–25; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0085; FRL–13049–01–OAR]

Proposed Information Collection Request; Comment Request; NESHAP for Radionuclides (40 CFR Part 61, Subparts B, K, R and W) (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''NESHAP for Radionuclides (Renewal)'' (EPA ICR No. 1100.16, OMB Control No.

2060–0191) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. 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.

DATES: Comments must be submitted on or before January 23, 2026.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0085, online using *www.regulations.gov* (our preferred method), by email to [*a-and-r-Docket@epa.gov*], or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Joseph Rustick, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–9682; fax number: 202–343–2304; email address: *rustick.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: On December 15, 1989, pursuant to Section 112 of the Clean Air Act as amended in 1977 (42 U.S.C. 1857), the Environmental Protection Agency (EPA) promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations to control radionuclide emissions from several source categories. The regulations are codified at 40 CFR part 61. Of the eight subparts (B, H, I, K, Q, R, T and W) included in the 1989 rule, as currently amended, four apply to privately-operated facilities. In addition to requiring operational practices that limit emissions, subparts B, K, R, and W impose radionuclide dose and/or emission limits, respectively, to underground uranium mines, elemental phosphorous plants, phosphogypsum stacks, and uranium mill tailings impoundments. Facilities must inspect impoundments, measure radionuclide emissions, perform analyses or calculations per EPA procedures, and report the results to the EPA.

Information collected is used by the EPA to ensure that public health and the environment continue to be protected from the hazards of airborne radionuclides by compliance with these standards. Compliance is demonstrated through emissions testing and dose calculation when appropriate.

Form Numbers: None.

Respondents/affected entities: The North American Industry Classification System (NAICS) codes of facilities associated with the activity of the respondents are: (1) Elemental Phosphorous 325180, (2) Phosphogypsum Stacks 212390, (3) Underground Uranium Mines 212290, and (4) Uranium Mill Tailings 212290.

Respondent's obligation to respond: mandatory (CAA, Sec, 112; 40 CFR part 61).

Estimated number of respondents: 52 (total).

Frequency of response: Monthly, annual, or one-time depending on the source category and respondent activity.

Total estimated burden: 11,301 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,412,827 (per year), which includes $408,300 annualized capital or operation and maintenance costs.

Changes in Estimates: Total estimated respondent hours increased from 4,146 hours in the previous approved version of this ICR to 11,301, primarily as a result of additional subpart B and subpart W facilities potentially coming online by 2029. Two subpart B facilities were reporting at the time of the last renewal in 2023, however, the Agency identified 12 respondents that are likely to submit annual reports by 2029, and 12 responses were added to the ICR, adding 2,760 hours of labor and $63,600 of non-labor cost to the burden that was approved in 2023. The Agency also identified a potential for an additional 15 non-conventional impoundments under subpart W to begin operation by 2029, adding an additional 4,215 hours of labor and $4,500 of non-labor costs. For subparts K and R, there were no changes to the number of respondents, the annual time burden, or the annual non-labor cost compared to the most recent renewals of this ICR.[1]

Dated: November 18, 2025.

Armin Ansari,

Acting Director, Radiation Protection Division.

[FR Doc. 2025–20670 Filed 11–21–25; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meetings: Notice of Meeting To Be Held With Less Than Seven Days Advance Notice

TIME AND DATE: 10:00 a.m. on November 25, 2025.

PLACE: This Board meeting will be open to public observation by webcast. Visit *https://www.fdic.gov/news/board-matters/video.html* for a link to the webcast. Members of the media should contact the Office of Communications by Monday, November 24, at *mediarequests@fdic.gov* to attend in person. FDIC Board Members and staff will participate from FDIC Headquarters, 550 17th Street NW, Washington, DC.

[1] For the most recent renewal of ICR 2060–0191, see 87 FR 17084, March 25, 2022.

Observers requiring auxiliary aids should email *DisabilityProgram@fdic.gov* to make necessary arrangements.

STATUS: Open to public observation via webcast.

MATTERS TO BE CONSIDERED: The Federal Deposit Insurance Corporation's (FDIC) Board of Directors will meet to consider the following matters:

Discussion Agenda

Notice of Proposed Rulemaking: Regulatory Capital Rule: Revisions to the Community Bank Leverage Ratio Framework.

Final Rule: Regulatory Capital Rule: Modifications to the Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Their Subsidiary Depository Institutions; Total Loss-Absorbing Capacity and Long-Term Debt Requirements for U.S. Global Systemically Important Bank Holding Companies.

Summary Agenda

No substantive discussion of the following items is anticipated. The Board of Directors will resolve these matters with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

Final Rule: Adjusting and Indexing Certain Regulatory Thresholds.

Designated Reserve Ratio for 2026.

Final Rule; Delay of Compliance Date: FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo.

Minutes of a Board of Directors' Meeting Previously Distributed.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Debra A. Decker, Executive Secretary, FDIC, at *FDICBoardMatters@fdic.gov.*

Authority: 5 U.S.C. 552b.

Dated at Washington, DC, on November 19, 2025.

Federal Deposit Insurance Corporation.

Debra A. Decker,

Executive Secretary.

[FR Doc. 2025–20728 Filed 11–20–25; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL TRADE COMMISSION

SES Performance Review Board

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members to the FTC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Tamika Williams, Chief Human Capital Officer, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2184.

SUPPLEMENTARY INFORMATION: Publication of the Performance Review Board (PRB) membership is required by 5 U.S.C. 4314(c)(4). The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations regarding performance ratings, performance awards, and pay-for-performance pay adjustments to the Chair.

The following individuals have been designated to serve on the Commission's Performance Review Board:

Lucas Croslow, General Counsel, PRB Chair
Daniel Guarnera, Director, Bureau of Competition
Christopher Mufarrige, Director, Bureau of Consumer Protection
David Robbins, Executive Director
Ted Rosenbaum, Deputy Director for Research and Management, Bureau of Economics
Rebecca Unruh, Deputy Director, Bureau of Consumer Protection
Katherine White, Deputy Director, Bureau of Consumer Protection
Tamika Williams, Chief Human Capital Officer

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2025–20761 Filed 11–21–25; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10781]

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 December 24, 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 without change of a previously approved collection; *Title of Information Collection:* FOIA/Privacy Act Requests for Medicare Claims Data via CMS FOIA Public Portal; *Use:* This collection of information is dedicated to Medicare beneficiaries and third-party requesters (law firms or others) acting on behalf of beneficiaries that are making requests for CMS to produce Medicare beneficiary records through 5 U.S.C. 552(b) (See also 42 CFR 401.136). The online portal allows for ease and efficiency in uploading requests and required authorizations. Additionally, with the portal, requesters can securely submit requests electronically that contain PHI or PII. They are advised that *MyMedicare.gov/Blue Button3* is an online service available for beneficiaries to set up an account to access their own records and give authorization to share with third parties. This secure public online portal is integrated with CMS's current FOIA/Privacy Act case management system to enter, track, and process incoming FOIA requests (See 45 CFR 5.22 and 5.24). Unless permitted or required by law, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (45 CFR 164.508) prohibits Medicare (a HIPAA-covered entity) from disclosing an individual's protected health information without valid authorization. *Form Number:* CMS–10781 (OMB control number: 0938–1419); *Frequency:* Reporting—Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 22,600; *Total Annual Responses:* 22,600; *Total Annual Hours:* 7,533. (For policy questions regarding this collection contact Joseph Tripline at *joseph.tripline@cms.hhs.gov*).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025–20705 Filed 11–21–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10849]

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 December 24, 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:* Revision of a currently approved collection; *Title of Information Collection:* Drug Price Negotiation for Initial Price Applicability Year 2028 under Sections 11001 and 11002 of the Inflation Reduction Act; *Use:* Under the authority in sections 11001 and 11002 of the Inflation Reduction Act of 2022 (*Pub. L. 117–169*), the Centers for Medicare & Medicaid Services (CMS) is implementing the Medicare Drug Price Negotiation Program, codified in sections 1191 through 1198 of the Social Security Act (''the Act''). The Act establishes the Negotiation Program to negotiate maximum fair prices (''MFPs''), defined at 1191(c)(3) of the Act, for certain high expenditure, single source selected drugs covered under Medicare Part B and Part D. For the third cycle of the Negotiation Program, the Secretary of Health and Human Services (the ''Secretary'') will select up to 15 high expenditure, single source drugs payable under Part B and/or covered under Part D for negotiation. In accordance with section 1194(f)(4) of the Act, CMS will also renegotiate MFPs for drugs selected for renegotiation, if any, for initial price applicability year 2028.

Negotiation Data Elements: The statute requires that CMS consider certain data from Primary Manufacturers as part of the negotiation process. To the extent that more than one entity meets the statutory definition of manufacturer (specified in section

1193(a)(1) of the Act) for a selected drug for purposes of initial price applicability year 2028, CMS will designate the entity that holds the New Drug Application(s) (NDA(s))/Biologics License Application(s) (BLA(s)) for the selected drug to be ''the manufacturer'' of the selected drug (hereinafter the ''Primary Manufacturer''). The Primary Manufacturer's data submissions include the non-Federal average manufacturer price and related data for selected drugs for the purpose of establishing a ceiling price, as outlined in section 1193(a)(4)(A) of the Act, and information that the Secretary requires for negotiation and renegotiation, pertaining to the negotiation factors outlined in section 1194(e)(1) of the Act, for the purpose of formulating offers and counteroffers pursuant to section 1193(a)(4)(B) of the Act. Some of these data are held by the Primary Manufacturer and are not currently available to CMS. Data described in sections 1194(e)(1) and 1193(a)(4) of the Act must be submitted by the Primary Manufacturer.

Section 1194(e)(2) of the Act requires CMS to consider certain data on selected drugs and their alternative treatments. Because the statute does not specify where these data come from, CMS will allow for optional submission from Primary Manufacturers and the public for drugs selected for negotiation or renegotiation. CMS will additionally review existing literature, conduct internal analyses, and consult subject matter and clinical experts on the factors listed in section 1194(e)(2) of the Act. Manufacturers may optionally submit this information as part of their Negotiation Data Elements Information Collection Request Form. The public may also optionally submit evidence about the selected drugs and their alternative treatments.

Drug Price Negotiation and Renegotiation Process: Any MFPs that are negotiated or renegotiated for these selected drugs will apply beginning in initial price applicability year 2028. For initial price applicability year 2028, the negotiation and renegotiation period begins on the earlier of the date that the Primary Manufacturer enters into a Medicare Drug Price Negotiation Program Agreement or February 28, 2026.

Section 1194(b)(2)(C) of the Act provides that if the Primary Manufacturer does not accept CMS' written initial offer, the Primary Manufacturer may submit an optional written counteroffer no later than 30 days after the date of receipt of CMS' written initial offer. If the Primary Manufacturer chooses to develop and submit a written counteroffer to CMS' written initial offer during the drug price negotiation or renegotiation process for initial price applicability year 2028, the Primary Manufacturer must submit the Counteroffer Form. *Form Number:* CMS–10849 (OMB control number: 0938–1452); *Frequency:* Once; *Affected Public:* Private sector, Business or other for-profit; *Number of Respondents:* 405; *Total Annual Responses:* 405; *Total Annual Hours:* 47,620. (For policy questions regarding this collection contact Elisabeth Daniel at 667–290–8793).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025–20748 Filed 11–21–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10934, CMS–10906 and CMS–10164]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by January 23, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. By *regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: __/OMB Control Number: __, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* 13th SOW Quality Innovation Network—Quality Improvement Organization (QIN–QIO) and American Indian Alaskan Native (AIAN) Measure Data Collection; *Use:* The Quality Innovation Network—Quality Improvement Organization (QIN–QIO) program and American Indian Alaskan Native (AIAN) program assists providers/practices with high-quality, hands-on quality improvement assistance toward meeting their needs, and the healthcare quality and safety goals for beneficiaries. The purpose of this new information collection within these programs is to quantify performance and improvement in a broad set of quality measures that are not currently available from other sources. Selected measures are derived from the Merit Based Incentive Payment System (MIPS), the Hospital Inpatient Quality Reporting Program (HIQR), the Hospital Outpatient Quality Reporting Program (HOQR), and the CDC National Healthcare Safety Network (NHSN).

Measure data collection is an integral part of the quality improvement process. It is the primary source of knowledge about quality of care, allowing Quality Improvement (QI) practitioners to understand current state and quantitatively measure progress and effectiveness. There are three primary user categories for this data collection:

- Participants in the QIO program will use measure data from their facilities/practices to implement their own quality improvement efforts, and benefit from the collection and analysis of data from other facilities and practices to contextualize progress towards QI goals.
- QI contractors (both QIOs and the AIAN contractor) will use measure data to direct their efforts and understand the effectiveness of interventions, to measure progress towards their contractual objectives, and to report on progress to CMS.
- CMS will use the collected measure data along with derived analytic products to track the success of the program, to inform strategic decisions and priorities, and to calculate return on investment.

Form Number: CMS–10934 (OMB control number: 0938–NEW); *Frequency:* Quarterly; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 16,735; *Total Annual Responses:* 66,940; *Total Annual Hours:* 1,471,284. (For policy questions regarding this collection contact Geoffrey Berryman at (410) 786–8766.)

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Provider Directory Data for Medicare Plan Finder; *Use:* Medicare Plan Finder (MPF) is an online tool where current and prospective beneficiaries can explore their Medicare coverage options. On MPF, individuals can shop for Medicare coverage options and make choices based on a variety of search criteria, such as plan benefits, premiums, deductibles, and star ratings. Previously, MPF had not included search capability or information on MA organizations' contracted provider networks.

To simplify and streamline the Medicare beneficiary shopping experience, CMS is expanding the existing requirements applicable to MA organizations regarding their provider directories that requires MA organizations to: (1) make the information described in 42 CFR 422.111(b)(3)(i) available to CMS/HHS for publication online in accordance with guidance from CMS/HHS; (2) submit or otherwise make available their plan provider directory data, that is the requirements found under § 422.111(b)(3)(i), available to CMS/HHS in a format, manner, and timeframe determined by CMS/HHS; (3) update the information subject to § 422.111(m) within 30 days of the date an MA organization becomes aware of a change; and (4) attest, in a format and manner and at times determined by CMS/HHS, that all information submitted or otherwise made available to CMS/HHS under paragraph (m) is accurate. *Form Number:* CMS–10906 (OMB 0938–TBD); *Frequency:* Once and yearly; *Affected Public:* Private sector; *Number of Respondents:* 700; *Total Annual Responses:* 1,400; *Total Annual Hours:* 6,300. (For questions regarding this collection contact Jim Canavan at 410–786–5223.)

3. *Type of Information Collection Request:* Revision; *Title of Information Collection:* CMS Electronic Data Interchange (EDI) Enrollment Registration, CMS EDI Enrollment Form, and CMS EDI Enrollment Attestation Form; *Use:* The collection consists of three forms used by Medicare providers and suppliers to register for EDI services with Medicare contractors. The updated collection includes the revised CMS EDI Registration Form (10164A) and CMS EDI Enrollment Agreement Form (10164B), both serving as model forms. The collection also introduces the CMS EDI Enrollment Attestation Form (10164C), a new mandatory attestation form requiring formal compliance verification from all participating entities.

The forms collect essential information necessary to identify Medicare providers and suppliers during electronic transactions, authorize requested EDI functions, and establish appropriate access privileges for healthcare entities. These forms ensure compliance with HIPAA transaction standards while implementing strengthened security requirements for billing vendors and clearing houses that handle Medicare data. The information collected by the forms will be uploaded into Medicare contractor computer systems. Medicare contractors will store this information in a database accessed at the time of provider connection to the Medicare Data Contractor Network (MDCN). When authentication is successful and connectivity is established, transactions may be exchanged. *Form Number:* CMS–10164 (OMB 0938–0983); *Frequency:* Yearly; *Affected Public:* Business or other-for-profits and not-for-profits; *Number of Respondents:* 229,767; *Total Annual Responses:* 229,767; *Total Annual Hours:* 153,178. (For questions regarding this collection contact Charlene Parks at 410–786–8684.)

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025–20787 Filed 11–21–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #: 0970–0467]

Submission for Office of Management and Budget Review; Trafficking Victim Assistance Program Data

AGENCY: Office on Trafficking in Persons, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office on Trafficking in Persons (OTIP), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting an extension of approval with revisions of an Office of Management and Budget (OMB) approved information collection: Trafficking Victim Assistance Program

(TVAP) Data (OMB #0970–0467; expiration date February 28, 2026).

DATES: *Comments due* December 24, 2025.

ADDRESSES: The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202511-0970-005.* You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Trafficking Victims Protection Act of 2000 (TVPA), as amended, authorizes the Secretary of HHS to expand benefits and services to victims of severe forms of trafficking in persons in the U.S. Through TVAP, grant recipients provide time-limited comprehensive case management services to confirmed and potential victims of a severe form of human trafficking, as defined by TVPA, as amended, who are seeking or have received HHS certification. Case management services must be provided to qualified persons directly by full-time case managers that are staffed by the prime recipient and may also be provided through a network of per capita service providers.

OTIP proposes to continue to collect information to measure grant project performance, provide technical assistance to grant recipients, assess program outcomes, inform program evaluation, respond to congressional inquiries and mandated reports, and inform policy and program development that is responsive to the needs of victims.

The information collection captures information on participant demographics (*e.g.,* age, sex, type of trafficking experienced, service location) and services provided, along with aggregate information on outreach activities conducted, subrecipients enrolled, and dollars spent per service. Minor nonsubstantive updates have been made to performance indicators under this collection to simplify response options or to bring the collection into alignment with OTIP's grant recipient reporting database, the Anti-Trafficking Information Management System (ATIMS).

Respondents: TVAP grant recipients and clients of those programs, specifically: TVAP and the Aspire: Child Trafficking Victim Assistance Demonstration Program funding recipients.

Annual Burden Estimates

Based on review of performance data received pertaining to the number of clients served through TVAP programs and funding levels, the total number of respondents for each form has been lowered. The time to complete each form remains the same.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Client Characteristics and Program Entry	5300	1	0.75	3975	1325
Client Case Closure	5300	1	0.167	885	295
Barriers to Service Delivery and Monitoring	120	4	0.167	80	27
Client Service Use and Delivery	5300	1	0.25	1325	442
Client Outreach	120	4	0.3	144	48
Subrecipient Enrollment	60	3	0.167	30	10
Client Service Costs	60	1	0.5	30	10

Estimated Total Annual Burden Hours: 2,157.

Authority: 22 U.S.C. 7105

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2025–20770 Filed 11–21–25; 8:45 am]

BILLING CODE 4184–73–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–2976]

Improving Anaphylaxis Outcomes: Approaches for Enhancing Access to Epinephrine; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Improving Anaphylaxis Outcomes: Approaches for Enhancing Access to Epinephrine.'' The purpose of the public workshop is to initiate a discussion on expanding epinephrine accessibility and use, including in community settings, to reduce anaphylaxis-related morbidity and mortality. This public workshop will be convened and supported by a cooperative agreement between FDA and the Duke-Margolis Institute for Health Policy.

DATES: The public workshop will be held virtually and in person on December 16, 2025, from 9 a.m. to 4:30 p.m. Eastern Time. Either electronic or written comments on this public workshop must be submitted by January 16, 2026. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held virtually using the Zoom Platform and in person at the Duke in DC Office, 1201 Pennsylvania Ave. NW, Suite 500, Washington, DC 20004 with limited seat availability. Parking is available through a number of area garages including one located at 1201 Pennsylvania Ave. with entrance off of E Street. Names of in-person attendees will be provided to building security. Upon entering the building, please walk toward the front desk. The security staff at the front desk will have a list of all confirmed in-person attendees and will provide access to the elevators. Upon exiting the elevator on the 5th floor, turn right and you will find the entrance to the Duke offices.

You may submit comments as follows: Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 16, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2025–N–2976 for ''Improving Anaphylaxis Outcomes: Approaches for Enhancing Access to Epinephrine.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket, to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Phong Pham, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6122, Silver Spring, MD 20993–0002, 301–837–7656, *Phong.Pham@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Anaphylaxis is a severe and rapidly progressive allergic reaction, with a lifetime prevalence in the United States of up to 5 percent (Ref. 1) and resulting in approximately 200 deaths annually (Ref. 2). This allergic reaction can occur within minutes of exposure to common allergens, including foods, medications, and insect stings; in some cases, anaphylaxis occurs with no identifiable trigger. The physiological cascade of anaphylaxis involves massive histamine release and vascular permeability changes that can lead to airway obstruction, cardiovascular collapse, and multi-organ failure within 15 to 30 minutes if left untreated. Unlike milder allergic reactions, anaphylaxis requires immediate intervention with epinephrine as the only effective first-line treatment (Refs. 3, 4).

Despite epinephrine's critical role in preventing anaphylactic deaths, potential barriers limit access to and use of this life-saving medication (Refs. 5, 6). For example, patients prescribed epinephrine may not have it available during anaphylaxis; may choose not to use it due to knowledge gaps, fear, stigma, misperceptions, or discomfort; or may use it incorrectly, resulting in inadequate dosing (Ref. 7). Institutional barriers may also present access challenges in community settings, where anaphylactic emergencies commonly occur. Schools, workplaces, restaurants, sports facilities, transportation vehicles, and public venues may lack comprehensive policies for epinephrine storage, staff training, and emergency administration protocols. State laws vary significantly regarding Good Samaritan protections for lay administration of epinephrine, creating liability concerns that discourage institutions from maintaining emergency supplies. Additional potential barriers include economic obstacles due to the cost of epinephrine products that could potentially be administered in community settings (*i.e.,* ''community-use'' epinephrine products), as well as geographic disparities, especially in rural communities where pharmacies may be spread out, emergency medical services can have longer response times, and healthcare infrastructure is limited. There are also potential procedural barriers with navigating the healthcare system such as obtaining healthcare provider authorization and maintaining a current prescription for epinephrine.

The purpose of the public workshop is to initiate a discussion on expanding epinephrine accessibility and use, including in community settings, to reduce anaphylaxis-related morbidity and mortality.

II. Topics for Discussion at the Public Workshop

For more information on the meeting topics, visit *https://duke.is/EpiAccess.* The Duke-Margolis Institute for Health Policy will publish a discussion guide outlining background information and current thinking on the topic areas to this website approximately 1 week before the meeting date. FDA will also post the agenda and other meeting materials to this website approximately 3 business days before the meeting.

The format of the public workshop will consist of a series of presentations, panel discussions, and open discussion.

III. Participating in the Public Workshop

Registration: To register for the public workshop, please visit the following website: *https://duke.is/EpiAccess.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone number.

Registration is free. Persons interested in attending this public workshop must register and receive registration confirmation. Early registration is recommended. Registrants will receive confirmation when they have been accepted. If you need special accommodations due to a disability, please contact *margolisevents@duke.edu* no later than December 2, 2025, 11:59 p.m. Eastern Time.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session. All requests to make oral presentations must be received by November 21, 2025, 11:59 p.m. Eastern Time. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin and will select and notify participants by December 1, 2025, 11:59 p.m. Eastern Time. All requests to make oral presentations must be received by November 21, 2025, 11:59 p.m. Eastern Time. If selected for presentation, any presentation materials must be emailed to Brian Canter at *brian.canter@duke.edu* no later than December 11, 2025, 11:59 p.m. Eastern Time. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast via Zoom and the archived video footage will be available at the event website. The link for registration is the same as above: *https://duke.is/EpiAccess.* Registered webcast participants will be sent technical system requirements in advance of the event. It is recommended that you review these technical system requirements before joining the streaming webcast of the public workshop.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://duke.is/EpiAccess.*

Notice of this meeting is given pursuant to 21 CFR 10.65.

IV. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; these are not available electronically at *https://www.regulations.gov* as these references are copyright protected. Some may be available at the website address, if listed. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

1. Wood, RA, CA Camargo Jr., P Lieberman, HA Sampson, LB Schwartz, M Zitt, C Collins, M Tringale, M Wilkinson, J Boyle, and FER Simons, 2014, Anaphylaxis in America: The Prevalence and Characteristics of Anaphylaxis in the United States, J Allergy Clin Immunol, 133(2):461–467. Available at *https://doi.org/10.1016/j.jaci.2013.08.016.*
2. Ma, L, TM Danoff, and L Borish, 2014, Case Fatality and Population Mortality Associated With Anaphylaxis in the United States, J Allergy Clin Immunol, 133(4):1075–1083. Available at *https://doi.org/10.1016/j.jaci.2013.10.029.*
3. Golden, DBK, J Wang, S Waserman, C Akin, RL Campbell, AK Ellis, M Greenhawt, DM Lang, DK Ledford, J Lieberman, J Oppenheimer, MS Shaker, DV Wallace, EM Abrams, JA Bernstein, DK Chu, CC Horner, MA Rank, DR Stukus; Collaborators: AG Burrows, H Cruickshank; Workgroup Contributors: DBK Golden, J Wang, C Akin, RL Campbell, AK Ellis, M Greenhawt, DM Lang, DK Ledford, J Lieberman, J Oppenheimer, MS Shaker, DV Wallace, S Waserman; Joint Task Force on Practice Parameters Reviewers: EM Abrams, JA Bernstein, DK Chu, AK Ellis, DBK Golden, M Greenhawt, CC Horner, DK Ledford, J Lieberman, MA Rank, MS Shaker, DR Stukus, and J Wang, 2024, Anaphylaxis: A 2023 Practice Parameter Update, Ann Allergy Asthma Immunol, 132(2):124–176. Available at *https://doi.org/10.1016/j.anai.2023.09.015.*
4. Dribin, TE, S Waserman, and PJ Turner, 2023, Who Needs Epinephrine? Anaphylaxis, Autoinjectors, and Parachutes, J Allergy Clin Immunol Pract, 11(4):1036–1046. Available at *https://doi.org/10.1016/j.jaip.2023.02.002.*
5. Prince, BT, I Mikhail, and DR Stukus, 2018, Underuse of Epinephrine for the Treatment of Anaphylaxis: Missed Opportunities, J Asthma Allergy, 11:143–151. Available at *https://doi.org/10.2147/JAA.S159400.*
6. Lieberman, JA and J Wang, 2020, Epinephrine in Anaphylaxis: Too Little, Too Late, Curr Opin Allergy Clin Immunol, 20(5):452–458. Available at *https://doi.org/10.1097/ACI.0000000000000680.*
7. Ridolo, E, M Montagni, L Bonzano, E Savi, S Peveri, MT Costantino, M Crivellaro, G Manzotti, C Lombardi, M Caminati, C Incorvaia, and G Senna, 2015, How Far From Correct Is the Use of Adrenaline Auto-Injectors? A Survey in Italian Patients, Intern Emerg Med, 10(8):937–941. Available at *https://doi.org/10.1007/s11739-015-1255-z.*

Lowell M. Zeta,

Acting, Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20658 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–1109]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by December 24, 2025.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://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. The OMB control number for this information collection is 0910–0607. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization

OMB Control Number 0910–0607—Extension

This information collection helps support implementation of statutory provisions applicable to laboratories that conduct testing on human specimens under CLIA. These requirements are codified in 42 U.S.C. 263a and implementing regulations are found in 42 CFR 493. Regulations in 42 CFR 493.17 set forth certain notice requirements and establish test categorization criteria for laboratory tests and are implemented by FDA's Center for Devices and Radiological Health. The guidance document entitled ''Administrative Procedures for CLIA Categorization'' (October 2017) (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/administrative-procedures-clia-categorization*) describes procedures FDA uses to assign the complexity category to a device. Typically, FDA assigns complexity categorizations to devices at the time of clearance or approval of the device. In some cases, however, a manufacturer may request CLIA categorization even if FDA is not simultaneously reviewing a 510(k) or premarket approval application. One example is when a manufacturer requests that FDA assign CLIA categorization to a previously cleared device that has changed names since the original CLIA categorization. Another example is when a device is exempt from premarket review. In such cases, the guidance recommends that manufacturers provide FDA with a copy of the package insert for the device and a cover letter indicating why the manufacturer is requesting a categorization (*e.g.,* name change, exempt from 510(k) review). The guidance recommends that in the correspondence to FDA the manufacturer should identify the product code and classification as well as reference to the original 510(k) when this is available.

In addition, this information collection includes provisions associated with certificates of waiver. The guidance document entitled ''Recommendations for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices—Guidance for Industry and FDA Staff'' (February 2020) (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recommendations-clinical-laboratory-improvement-amendments-1988-clia-waiver-applications*) describes recommendations for device manufacturers submitting to FDA an application for determination that a cleared or approved device meets this CLIA standard (CLIA waiver application). The guidance recommends that CLIA waiver applications include a description of the features of the device that make it ''simple''; a report describing a hazard analysis that identifies potential sources of error, including a summary of the design and results of flex studies and conclusions drawn from the flex studies; a description of fail-safe and failure alert mechanisms and a description of the studies validating these mechanisms; a description of clinical tests that demonstrate the accuracy of the test in the hands of intended operators; and statistical analyses of clinical study results.

In the **Federal Register** of July 3, 2025 (90 FR 29568), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
Request for CLIA Categorization	86	5	430	1	430	$2,150
CLIA Waiver Application Submissions	20	1	20	1,200	24,000	540,000
Total					24,430	542,150

[1] There are no capital costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Information collection activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
CLIA Waiver Recordkeeping as discussed in FDA Guidance	20	1	20	2,800	56,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates an increase of 30 responses for requests for CLIA categorization and 7 responses for waiver application submission based on recent FDA receipt data to more accurately reflect recent receipts of requests for CLIA categorization and CLIA waiver application submissions. Our total burden for this collection will be 80,430 hours (24,430 reporting + 56,000 recordkeeping). Our estimated burden for the information collection reflects an overall increase of 28,030 hours and a corresponding increase of $190,150 total operating and maintenance costs.

Lowell M. Zeta,

Acting, Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20774 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–1115]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Emergency Use Authorization of Medical Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by December 24, 2025.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://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. The OMB control number for this information collection is 0910–0595. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Emergency Use Authorization of Medical Products

OMB Control Number 0910–0595—Extension

This information collection helps support implementation of Agency policies applicable to the authorization for medical products for use in emergencies under sections 564, 564A, and 564B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360bbb–3, 360bbb–3a, and 360bbb–3b). For more information regarding emergency use authorization (EUA), visit our website at *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.* The FD&C Act permits the Commissioner of Food and Drugs (the Commissioner) to authorize the use of unapproved medical products for humans and animals, or unapproved uses of approved medical products for humans and animals, during an emergency declared under section 564 of the FD&C Act. The data to support issuance of an EUA must demonstrate that, based on the totality of the scientific evidence available to the Commissioner, including data from adequate and well-controlled clinical trials (if available), it is reasonable to believe that the product may be effective in diagnosing, treating, or preventing a serious or life-threatening disease or condition (21 U.S.C. 360bbb–3(c)).

Also, under section 564 of the FD&C Act, the Commissioner may establish conditions on issuing an authorization that may be necessary or appropriate to protect the public health. These conditions can include: (1) requirements to disseminate or disclose information to healthcare providers or authorized dispensers and product recipients; (2) adverse event monitoring and reporting; (3) data collection and analysis; (4) specific recordkeeping and records access; (5) restrictions on product advertising, distribution, and administration; and (6) limitations on good manufacturing practice requirements. As governed by statute, some conditions are mandatory to the extent practicable for authorizations of unapproved products, and discretionary for authorizations of unapproved uses of approved products. Some conditions may apply to manufacturers of an EUA product, while other conditions may apply to any person who carries out an activity for which the authorization is issued. Sections 564A and 564B of the FD&C Act establish streamlined mechanisms intended to facilitate preparedness and response activities involving certain FDA approved products without requiring FDA to issue an EUA and set forth emergency dispensing order and expiration date extension authority.

The guidance document entitled, ''Emergency Use Authorization of Medical Products and Related Authorities'' (January 2017), available for download from our website at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/emergency-use-authorization-medical-products-and-related-authorities,* discusses FDA issuance of Emergency Use Authorizations (EUAs) under section 564 of the FD&C Act; implementation of the emergency use authorities set forth in section 564A of the FD&C Act; reliance on the governmental pre-positioning authority set forth in section 564B of the FD&C Act; and related FDA regulations. As discussed in the guidance document, the specific type and amount of data needed to support an EUA will vary depending on the nature of the declared emergency and the nature of the candidate product. The guidance document encourages early engagement with FDA, explains mechanisms for communication, and makes content and format recommendations on submitting information to the Agency. The guidance document also recommends that a request for consideration for an EUA include scientific evidence evaluating the product's safety and effectiveness, including the adverse event profile for diagnosis, treatment, or prevention of the serious or life-threatening disease or condition, as well as data and other information on safety, effectiveness, risks and benefits, and (to the extent available) alternatives.

In accordance with 5 CFR 1320.8(d), we published a 60-day notice soliciting public comment on information collection activities related to emergency use authorization for medical products in the **Federal Register** of July 14, 2025 (90 FR 31217). Under the 60-day notice, FDA invited comments on the following topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

One comment was received. The comment did not discuss information collection activities related to emergency use authorization for medical products, was not responsive to the four information collection topics solicited, and did not offer information that would enable FDA to consider revising the information collection and/or burden estimates. Instead, the comment raised policy concerns about FDA's implementation of section 564 of

the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360bbb-3). Such comments may be offered to FDA through alternative means, such as directly to the FDA docket for the 2017 EUA guidance (which remains continually open for submissions) (FDA–2016–D–1025) or through FDA's citizen petition process (21 CFR 10.30). Therefore, the comment will not be addressed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Requests for an EUA and/or a substantive amendment to an existing EUA:					
Center for Biologics Evaluation (CBER)	1	4	4	45	180
Center for Drug Evaluation and Research (CDER)	6	1	6		270
Center for Devices and Radiological Health (CDRH)	77	1.727	133		5,985
Total					6,435
Pre-EUA submissions or amendments:					
CBER	2	2	4	34	136
CDER	2	1	2		68
CDRH	23	1.4	32		1,088
Total					1,292
Submitting information required under conditions of authorization:					
CBER	4	3	12	8	96
CDER	8	5	40		320
CDRH	5	2.2	11		88
Total					504
State and local public health authority submissions required under conditions of authorization for unapproved EUA product; CBER, CDER and CDRH	1	1	1	2	2
State and local public health authority requests for Emergency Dispensing Order; CBER, CDER and CDRH	1	1	1	2	2
State and local public health authority requests for expiration date extension; CDER	1	1	1	20	20
Total					56,651

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Although we have averaged burden across all respondents, we categorize reporting activity by the type of EUA-related submission: (1) those who file a request for FDA to issue an EUA and/or a substantive amendment to an EUA that has previously been issued; (2) those who submit a request for FDA to review information/data (*i.e.,* a pre-EUA package) for a candidate EUA product or a substantive amendment to an existing pre-EUA package for preparedness purposes; (3) those who must report on activities related to an unapproved EUA product (*e.g.,* administering product, disseminating information) who must report to FDA regarding such activity; (4) public health authorities (*e.g.,* State, local) who must report on certain activities (*e.g.,* administering product, disseminating information) related to an unapproved EUA, and public health authorities who submit an expiration date extension request for an approved product; (5) those who request an emergency dispensing order under section 564A; and (6) those who request expiry dating extensions under section 564A of the FDC&C Act. We attribute greater burden to those requests for FDA to review pre-EUA packages submitted by product sponsors than burden we attribute to those submitted by Federal agencies (*e.g.,* Centers for Disease Control and Prevention, the Department of Defense), and have considered other factors that contribute to variability in burden for reporting, including the type of product and whether there is a previously reviewed pre-EUA package or investigational application.

We also account for burden that may be attendant to the use of the following agency EUA Templates and Fact Sheet Templates:

TABLE 2—EUA TEMPLATES AND FACT SHEET TEMPLATES

Template title	Date	Hyperlink
CDRH COVID–19 Diagnostic Templates (Molecular and Antigen)		
Molecular Diagnostic EUA Cover Sheet Template	10/06/2021	*https://www.fda.gov/media/152768/download?attachment.*
Molecular Diagnostic Template	10/06/2021	*https://www.fda.gov/media/135900/download?attachment.*
Molecular Diagnostic Home Specimen Collection Template	10/06/2021	*https://www.fda.gov/media/138412/download?attachment.*
Antigen Diagnostic Template	10/06/2021	*https://www.fda.gov/media/137907/download?attachment.*
Molecular and Antigen Home Use Test Template	11/09/2021	*https://www.fda.gov/media/140615/download?attachment.*

TABLE 2—EUA TEMPLATES AND FACT SHEET TEMPLATES—Continued

Template title	Date	Hyperlink
Supplemental Template for Molecular and Antigen Diagnostic COVID–19 Tests for Screening with Serial Testing.	10/25/2021	*https://www.fda.gov/media/146695/download?attachment.*
CDRH COVID–19 Serology/Antibody Templates		
Serology Template	10/06/2021	*https://www.fda.gov/media/137698/download?attachment.*
Template for Serology Tests that Detect or Correlate to Neutralizing Antibodies.	10/06/2021	*https://www.fda.gov/media/146746/download?attachment.*
CDRH COVID–19: Pooling and Serial Testing Amendment for Certain Molecular Diagnostic Tests for SARS-CoV–2 Templates		
Appendix J—Sample Updated Fact Sheet for Health Care Providers.	04/20/2021	*https://www.fda.gov/media/147735/download?attachment.*
Appendix K—Sample Updated Fact Sheet for Patients	04/20/2021	*https://www.fda.gov/media/147736/download?attachment.*
CDRH COVID–19: Umbrella EUA for SARS-CoV–2 Molecular Diagnostic Tests for Serial Testing Templates		
Appendix L—Fact Sheet for Health Care Providers (Template)	11/15/2021	*https://www.fda.gov/media/154112/download?attachment.*
Appendix M—Fact Sheet for Patients (Template)	11/15/2021	*https://www.fda.gov/media/154114/download?attachment.*
Appendix N—Test Summary (Template)	11/15/2021	*https://www.fda.gov/media/154113/download?attachment.*
CDRH COVID–19: EUA for Molecular Diagnostic Tests for SARS-CoV–2 Developed And Performed By Laboratories Certified Under CLIA To Perform High Complexity Tests Templates		
Fact Sheet for Healthcare Providers	11/15/2021	*https://www.fda.gov/media/136599/download?attachment.*
Fact Sheet for Patients	11/15/2021	*https://www.fda.gov/media/136600/download?attachment.*
CDRH Mpox Templates and EUA Summary Templates (Molecular and Antigen)		
EUA Summary Template for Developers of Molecular Diagnostic Tests for Monkeypox.	09/07/2022	*https://www.fda.gov/media/161447/download?attachment.*
EUA Template for Developers of Molecular Diagnostic Tests for Monkeypox.	09/07/2022	*https://www.fda.gov/media/161448/download?attachment.*
EUA Summary Template for Developers of Antigen Diagnostic Tests for Monkeypox.	11/29/2022	*https://www.fda.gov/media/163530/download?attachment.*
EUA Template for Developers of Antigen Diagnostic Tests for Monkeypox.	11/29/2022	*https://www.fda.gov/media/163529/download?attachment.*
CDRH Other Devices Templates		
Ventilator EUA Interactive Review Template	04/21/2020	*https://www.fda.gov/media/137172/download?attachment.*
CDER Therapeutics Fact Sheet Templates		
Healthcare Provider Fact Sheet Template	11/26/2024	*https://www.fda.gov/media/183876/download?attachment.*
Patient, Parent, and Caregiver Fact Sheet Template	11/26/2024	*https://www.fda.gov/media/183875/download?attachment.*

The CDRH templates are part of the Policy for Coronavirus Disease-2019 Tests During the Public Health Emergency (Revised) and Policy for Monkeypox [mpox] Tests to Address the Public Health Emergency guidance documents, which also include additional policies specific to these public health emergencies. The templates reflect the FDA's current thinking on the data and information that developers should submit to facilitate the EUA process. The templates provide information and recommendations, and they are updated as appropriate as we learn more about the COVID–19 and mpox diseases and gain experience with the EUA process for the various types of tests. Developers who intend to use alternative approaches should consider seeking the FDA's feedback or recommendations to help them through the EUA process.

The CDER templates reflect the FDA's current thinking on the data and information that developers should include in the fact sheets for therapeutics. The templates provide general fact sheet information and recommendations. and are not specific to COVID–19. Developers who intend to use alternative approaches should consider seeking the FDA's feedback or recommendations during the EUA process. Members of the public can submit questions about the templates to *CDEREUA@fda.hhs.gov*.

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Records associated with conditions of authorization	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
EUA Holders:					
CBER	8	4	32	25	800

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

Records associated with conditions of authorization	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
CDER	8	5	40		1,000
CDRH	668	2	1,336		33,400
Total					35,200
State and local Public Health Authorities; CBER, CDER and CDRH	1	1	1	3	3
Total					59,403

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We provide a conservative estimate for respondent recordkeeping, recognizing that the Federal Government performs much of this activity in conjunction with submissions. We do not include burden for public health authorities who may need to submit emergency dispensing orders or expiration date extension requests, assuming covered entities already maintain these records for the products they stockpile.

TABLE 4—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Information collection activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Dissemination of required information by EUA Holder or Authorized Stakeholder					
CBER	8	4	32	5	160
CDER	8	2	16		80
CDRH	668	2	1,336		6,680
Total					6,920

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our third-party disclosure estimate is based on the number of EUA holders and authorized stakeholders disseminating information, including fact sheets, advertising, and promotional materials.

Our estimated burden for the information collection reflects an overall decrease of 7,087 hours and a corresponding decrease of 302,456 responses.

Lowell M. Zeta,

Acting, Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20771 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–4348]

Agency Information Collection Activities; Proposed Collection; Comment Request; Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection relating to human drug compounding.

DATES: Either electronic or written comments on the collection of information must be submitted by January 23, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 23, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any

confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2025–N–4348 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

OMB Control Number 0910–0800—Extension

This information collection helps support the implementation of sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 353a and 353b); *Pharmacy Compounding and Outsourcing Facilities.* Compounding is generally a practice in which a licensed pharmacist, a licensed physician, or, in the case of an outsourcing facility, a person under the supervision of a licensed pharmacist, combines, mixes, or alters ingredients of a drug to create a medication tailored to the needs of an individual patient. Although compounded drugs can serve an important medical need for certain patients, they also present risk. Our compounding program aims to protect patients from unsafe, ineffective, and poor quality compounded drugs, while preserving access to lawfully-marketed compounded drugs for patients who have a medical need for them.

Respondents to the information collection are those engaged in the practice of pharmacy compounding. The information collection is intended to account for burden attributable to activities pertaining to the registration of outsourcing facilities and reporting of drugs, as established in sections 503B(b)(1) through 503B(b)(3) of the FD&C Act. Additionally, the information collection is intended to account for burden attributable to activities associated with the submission of adverse event reports, as required under section 503B(b)(5) of the FD&C Act. Finally, the information collection is intended to account for burden attributable to activities associated with States entering into memoranda of understanding with the Secretary, as described in section 503A(b)(3) of the FD&C Act.

To help respondents understand statutory requirements applicable to compounding activities governed by the

FD&C Act, we have developed the following topical guidance documents:

• ''*Electronic Drug Product Reporting for Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act*'' (January 3, 2017), available on our website at *https://www.fda.gov/media/90173/download.* The guidance is intended for entities that compound human drugs and elect to register as outsourcing facilities under section 503B of the FD&C Act. Once an entity has elected to register as an outsourcing facility, it must submit reports identifying the drugs compounded by the outsourcing facility. The guidance describes who must report, the format of the report, the content to include in each report, when to report, how outsourcing facilities may submit reports to FDA, and the consequences of outsourcing facilities' failure to submit reports.

• ''Adverse Event Reporting for Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act'' (October 8, 2015), available at *https://www.fda.gov/media/90997/download.*

The guidance documents were issued consistent with FDA's good guidance practice regulations in 21 CFR 10.115, which provide for public comment at any time.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Section 503B of the FD&C Act	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
503B AERs	55	1	55	1.10	61
503B Recordkeeping AERs	55	1	55	16	880
503A Reporting	45	~197	8,879	0.87	7,968
503A Recordkeeping	45	2	90	1	90
503A Disclosure (MOU)	1	1	1	1	1
Outsourcing facility registration & reporting under 503B(b)			8,111		214
Total			17,191		9,214

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based upon our evaluation of the information collection, we have retained our currently approved burden estimate.

Lowell M. Zeta,

Acting, Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20773 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3326]

Reauthorization of the Biosimilar User Fee Act; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is hosting a hybrid public meeting to discuss proposed recommendations for the reauthorization of the Biosimilar User Fee Act (BsUFA) for fiscal years (FYs) 2028 through 2032. The BsUFA authorizes FDA to collect user fees to support the process for the review of biosimilar biological products. The current legislative authority for BsUFA expires in September 2027. At that time, new legislation will be required for FDA to continue collecting user fees in future fiscal years. FDA begins the BsUFA reauthorization process by publishing a notice in the **Federal Register** requesting public input and holding a public meeting where the public may present its views on the reauthorization. FDA invites public comment as the Agency begins the process to reauthorize the program for FYs 2028 through 2032. These comments will be published and available on FDA's website.

DATES: The public meeting will be held on December 3, 2025, from 9 a.m. to 12 p.m. Eastern Time, and will take place in person and virtually. Either electronic or written comments on this public meeting must be submitted by January 2, 2026. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held in-person at the FDA White Oak Campus, 10903 New Hampshire Ave., Building Conference Center, the White Oak Great Room, Silver Spring, MD 20993–0002 and virtually using the Microsoft Teams platform. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. Participants must be REAL ID compliant to access Federal facilities. For additional information regarding REAL ID, refer to *https://www.dhs.gov/real-id/real-id-faqs.* For security and parking information, please refer to *https://www.fda.gov/about-fda/visitor-information* and *https://www.fda.gov/about-fda/visitor-information/visitor-parking-and-campus-map.* Any changes to the public meeting location and remote information, as appropriate, will be posted to *https://www.fda.gov/industry/public-meeting-reauthorization-biosimilar-user-fee-act-bsufa-12032025.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or

confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–3326 for ''Reauthorization of the Biosimilar User Fee Act; Public Meeting; 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.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Thamar Bailey, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32 Rm. 4103, Silver Spring, MD 20993–0002, 301–796–6645, *BSUFAReauthorization@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a hybrid public meeting to begin the reauthorization process for BsUFA. The authority to collect user fees under BsUFA expires in September 2027. Without new legislation, FDA will no longer be able to collect user fees for future FYs to fund the biosimilar biological product review process. Before FDA begins negotiations with the regulated industry on BsUFA reauthorization, the Agency is holding the public meeting announced in this notice, at which the public may present their views on reauthorization, including any suggestions for changes to the performance goals referred to in the ''Biosimilar Biological Product Reauthorization Performance Goals and Procedures Fiscal Years 2023 through 2027'' (the BsUFA III Commitment Letter) (available at *https://www.fda.gov/media/152279/download?attachment*). In addition, FDA will provide a period of 30 days after the public meeting for the public to submit written comments.

The purpose of this public meeting is to hear the public's views on BsUFA as we consider elements to propose, update, or discontinue in the next BsUFA. In addition to any other relevant information the public would like to share, the FDA is interested in responses to the following four general questions:

• What is your assessment of the overall performance of the current reauthorization of BsUFA FYs 2023 through 2027 to date?

• What current elements of BsUFA should be retained, changed, or discontinued to further strengthen and improve the program?

• What new elements, if any, should FDA consider adding to the program to enhance the efficiency and effectiveness of the biosimilar biological product review process?

• What changes, if any, could be made to the current fee structures and amounts to better advance the goals of the agreement, including facilitating product development and timely access for consumers?

II. What is BsUFA and what does it do?

FDA provides the following information to help potential meeting participants better understand the history and evolution of BsUFA and its status. BsUFA is a law that authorizes FDA to assess and collect fees from drug companies that submit marketing applications for biosimilar biological products. BsUFA was originally enacted in 2012 under the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) for a 5-year period. Congress reauthorized BsUFA (BsUFA II) for an additional 5 years, through FY 2022, under the FDA Reauthorization Act of 2017 (Pub. L. 115–52). BsUFA was most recently reauthorized in 2022 under Title IV of the FDA User Fee Reauthorization Act of 2022 (FDAUFRA)(Pub. L. 117–180), extending the program through FY 2027 (BsUFA III).

BsUFA's intent is to provide additional revenues so that FDA can hire staff, improve systems, and continue a well-managed biosimilar biological product review process to make biosimilar biological product therapies available to patients sooner. As part of FDA's agreements with industry during prior BsUFA authorizations, the Agency agreed to certain performance and procedural goals and other commitments, which are documented on FDA's website. The goals apply to the process for the review of biosimilar biological product applications, including biosimilar biological product development meetings, review of applications and supplements, and other review activities. FDA's website provides more information about BsUFA, including the statutory text of FDAUFRA, the BsUFA III Commitment Letter, key **Federal Register** documents, BsUFA-related

guidances, BsUFA user fee rates, performance reports, and financial reports: *https://www.fda.gov/industry/fda-user-fee-programs/biosimilar-user-fee-amendments.*

The current authorization of BsUFA (BsUFA III) introduces new supplement categories, timelines, and performance goals to expedite the review of supplemental biosimilar biological product applications. It establishes new procedures and performance goals for the review of use-related risk analysis and human factors protocol submissions, aimed at advancing the development of biosimilar biological product-device combination products. To improve overall meeting management, BsUFA III modifies two meeting types (Biosimilar Initial Advisory and Type 4), creates a new meeting type (Type 2a), and provides a new follow up opportunity after meetings or written-response-only communication. The agreement introduces a regulatory science pilot program focused on advancing the development of interchangeable biosimilar biological products and improving the efficiency of biosimilar biological product development. It includes additional commitments to advance interchangeable biosimilar biological product development through publishing foundational guidances and stakeholder engagement. BsUFA III includes commitments to promote best practices in communication between FDA and sponsors during application reviews, enhance inspection communication, and provide guidance on alternative tools to assess manufacturing facilities.

BsUFA III builds on the financial enhancements included in BsUFA II to ensure optimal use of user fee resources, transparency around the use of financial resources, and management of the carryover balance. The agreement commits FDA to leveraging cloud technology to modernize the Electronic Submissions Gateway and to establish and progress a data and technology modernization strategy. A comprehensive list of the deliverables developed to meet BsUFA III commitments is available on the FDA website at *https://www.fda.gov/industry/biosimilar-user-fee-amendments/completed-bsufa-iii-deliverables.*

III. Public Meeting Information

A. Purpose and Scope of the Meeting

The public meeting's format will include presentations by FDA and other interested parties, which may include scientific and academic experts, healthcare professionals, representatives of patient and consumer advocacy groups, the biosimilar biological product industry, and the general public. FDA policy issues outside of the BsUFA program are beyond the scope of these reauthorization discussions. Accordingly, comments should focus on process enhancements and funding issues, and not on policy issues outside of the BsUFA program scope. A draft agenda and other background information for the public meeting will be posted at: *https://www.fda.gov/industry/public-meeting-reauthorization-biosimilar-user-fee-act-bsufa-12032025.*

B. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the following web page: *https://bsufareauthorization.eventbrite.com/.* Please provide complete contact information for each attendee, including attendance format (in-person or virtual), name, title, affiliation, and email.

Registration is free for both in-person and virtual attendance. In-person attendance is based on space availability, with priority given to early registrants. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If you need special accommodations due to a disability, please email *BsUFAReauthorization@fda.hhs.gov* no later than November 21, 2025, 11:59 p.m. Eastern Time.

Opportunity for Public Comment: During online registration, you may indicate if you wish to make a public comment. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time jointly. Following the close of registration, we will determine the amount of time allotted to each commenter and the approximate time each comment is to begin, and will notify participants by November 26, 2025. All requests to make a public comment during the meeting must be received via registration by November 21, 2025, 11:59 p.m. Eastern Time. No commercial or promotional material will be permitted to be presented or distributed at the public meeting.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast. The webcast link for this public meeting can be found here: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTVlZjIxZWEtZWU4YS00M2U1LWJjZjYtMjMwMjYzOTNhMTFh%40thread.v2/0?context=%7b%22Tid%22%3a%227d2fdb41-339c-4257-87f2-a665730b31fc%22%2c%22Oid%22%3a%228bdc93ee-b39c-48de-bb43-4e71da4f3d52%22%7d.*

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/industry/public-meeting-reauthorization-biosimilar-user-fee-act-bsufa-12032025.*

Notice of this meeting is given pursuant to 21 U.S.C 379j–53.

Lowell M. Zeta,

Acting, Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20654 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–0835]

Tobacco Products Scientific Advisory Committee; 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 Tobacco Products Scientific Advisory Committee (TPSAC or the Committee). The general function of the Committee is to provide advice and recommendations to FDA on regulatory issues related to tobacco products. The meeting will be open to the public. FDA is establishing a docket for public comments related to the TPSAC meeting.

DATES: The meeting will be held on January 22, 2026, from 9:00 a.m. to 4:30 p.m. Eastern Time (ET).

ADDRESSES: All meeting participants will be heard, viewed, captioned, and recorded for this advisory committee meeting via an online video conferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be

accessed at: *https://www.fda.gov/AdvisoryCommittees/default.htm.*

The online video conference meeting will be available at the following link on the day of the meeting at: *https://youtube.com/live/yrYtTTjlv8A?feature=share.*

FDA has established a docket for public comment on this meeting. The docket number is FDA–2025–N–0835. The docket will close on January 21, 2026. The *https://www.regulations.gov* electronic filing system will accept comments on this advisory committee meeting until 11:59 p.m. ET at the end of January 21, 2026. 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 January 7, 2026, will be provided to the Committee. Comments received after that date will be taken into consideration by FDA but will not be considered by the Committee. FDA also reminds the public that comments directed to the application may be submitted to Docket No. FDA–2025–N–0835,[1] established on June 18, 2025.

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–0835 for ''Tobacco Products Scientific Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments on the advisory committee meeting, those filed in a timely manner, 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 written/paper submissions. 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: Rachel Jang, PharmD, DFO, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 1–877–287–1373, *TPSAC@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:

Agenda: On January 22, 2026, the Center for Tobacco Products' TPSAC will convene for one open session, during which the Committee will discuss modified risk tobacco product applications submitted by Swedish Match USA, Inc. for the following products:

- MR0000268.PD1: ZYN Cool Mint 3 mg
- MR0000268.PD2: ZYN Cool Mint 6 mg
- MR0000268.PD3: ZYN Peppermint 3 mg
- MR0000268.PD4: ZYN Peppermint 6 mg
- MR0000268.PD5: ZYN Spearmint 3 mg
- MR0000268.PD6: ZYN Spearmint 6 mg
- MR0000268.PD7: ZYN Wintergreen 3 mg
- MR0000268.PD8: ZYN Wintergreen 6 mg
- MR0000268.PD9: ZYN Citrus 3 mg
- MR0000268.PD10: ZYN Citrus 6 mg
- MR0000268.PD11: ZYN Coffee 3 mg
- MR0000268.PD12: ZYN Coffee 6 mg
- MR0000268.PD13: ZYN Cinnamon 3 mg

[1] On June 18, 2025, FDA established a docket, Docket No. FDA–2025–N–0835, for comments related to the same applications subject to this TPSAC meeting. *See* **Federal Register**:: Modified Risk Tobacco Product Application: Applications for ZYN Products Submitted by Swedish Match U.S.A., Inc. The closing date for the comment period for Docket No. FDA–2025–N–0835 will be no earlier than 180 days from the date of the **Federal Register** notice and at least 30 days from the date FDA posts the last group of application materials.

- MR0000268.PD14: ZYN Cinnamon 6 mg
- MR0000268.PD15: ZYN Smooth 3 mg [2]
- MR0000268.PD16: ZYN Smooth 6 mg [3]
- MR0000268.PD17: ZYN Chill 3 mg [4]
- MR0000268.PD18: ZYN Chill 6 mg [5]
- MR0000268.PD19: ZYN Menthol 3 mg [6]
- MR0000268.PD20: ZYN Menthol 6 mg [7]

Discussion generally will focus on evidence related to the relative health risks of the products, consumer understanding and perceptions of the applicant's proposed modified risk claim, and the potential public health impact of a modified risk marketing order.

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 at the time of the advisory committee meeting and be posted on FDA's website after the meeting. Background material and the link to the online video conference meeting will be available at *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. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. ET on January 22, 2026. Those individuals interested in making formal oral presentations should notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) and submit a brief statement of the general nature of the evidence or arguments they wish to present, along with their names, phone numbers, and email addresses of proposed participants, on or before 12 p.m. ET on December 31, 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 January 5, 2026.

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 Rachel Jang, PharmD, DFO (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* 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 in conjunction with the physical meeting room (see location). 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.

Lowell M. Zeta,

Acting, Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20768 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

[2] Swedish Match might also market this product as ZYN Original 3 mg.

[3] Swedish Match might also market this product as ZYN Original 6 mg.

[4] Swedish Match might also market this product as ZYN Classic 3 mg.

[5] Swedish Match might also market this product as ZYN Classic 6 mg.

[6] Swedish Match might also market this product as ZYN Fresh 3 mg.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–1108]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; 510(k) Third-Party Review Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by December 24, 2025.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://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. The OMB control number for this information collection is 0910–0375. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Third-Party Review Program

OMB Control Number 0910–0375—Extension

Section 523 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360m), directs FDA to accredit persons in the private sector to review certain premarket notifications (510(k)s; see 21 U.S.C. 360(k)). Participation in the 510(k) third party (3P510k) review program by accredited persons is entirely voluntary. A third party wishing to participate will submit a

request for accreditation to FDA. Accredited third-party reviewers have the ability to review a manufacturer's 510(k) submission for selected devices. After reviewing a submission, the reviewer will forward a copy of the 510(k) submission, along with the reviewer's documented review and recommendation, to FDA. Third-party reviewers should maintain records of their 510(k) reviews and a copy of the 510(k) for a reasonable period of time, usually 3 years. The 3P510k review program is intended to allow review of devices by third-party 510k review organizations (3PROs) to provide manufacturers of these devices an alternative review process that allows FDA to best utilize our resources on higher risk devices.

Respondents to this information collection are businesses or government and can be for-profit or not-for-profit organizations, such as third party review organizations.

The guidance ''510(k) Third-Party Review Program, Guidance for Industry, Food and Drug Administration Staff and Third Party Review Organizations'' (March 2020) was intended to provide a comprehensive look into FDA's current thinking regarding the 3P510k program and third party review of Emergency Use Authorization (EUA) requests by describing FDA's expectations for the review of 510(k) submissions and EUA requests by third party review organizations. This guidance document also reflects section 523 of the FD&C Act, which directs FDA to issue guidance on the factors that will be used in determining whether a class I or class II device type, or subset of such device types, is eligible for review by an accredited person. This guidance was superseded on November 21, 2024, when FDA issued the final guidance ''510(k) Third Party Review Program and Third Party Emergency Use Authorization (EUA) Review; Guidance for Industry, Food and Drug Administration Staff, and Third Party Review Organizations'' (November 2024) (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/510k-third-party-review-program-and-third-party-emergency-use-authorization-eua-review*). The guidance also includes new content that outlines how FDA may contract with third party review organizations to perform reviews of EUA requests (3PEUA review) when appropriate emergency declaration authorities are active under section 564 of the FD&C Act. (See OMB Control Number 0910–0595.)

In the **Federal Register** of July 3, 2025 (90 FR 29552), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity; guidance document section	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Requests for accreditation (initial); Section V.D	1	1	1	40	40
Requests for accreditation (re-recognition); Section V. D	3	1	3	24	72
510(k) reviews conducted by 3PROs; Section V. B	9	14	126	40	5,040
Complaints; Section V.C	1	1	1	0.25 (15 minutes)	0.25
Total					5,152.25

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity; guidance document section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
510(k) reviews conducted by 3PROs; Section V. B	9	14	126	10	1,260
Records regarding qualifications to receive FDA recognition as a 3PRO; Section V. C	9	1	9	1	9
Recordkeeping system regarding complaints; Section V. C	9	1	9	2	18
Total					1,287

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Upon review of this information collection, we have adjusted our burden estimate for the average burden hours required per response for initial requests for accreditation from 24 to 40 hours to more accurately reflect the time required based on recent experience of FDA program staff. This adjustment has resulted in an increase of 15 hours to the currently approved burden.

Lowell M. Zeta,

Acting, Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20772 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2024–E–5139; FDA–2024–E–5140; FDA–2024–E–5141]

Determination of Regulatory Review Period for Purposes of Patent Extension; ENVISION MAMMOGRAPHY PLATFORM

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for ENVISION MAMMOGRAPHY PLATFORM and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that medical device.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by January 23, 2026. Furthermore, any interested person may

petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 26, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 23, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2024–E–5139; FDA–2024–E–5140; and FDA–2024–E–5141 for Determination of Regulatory Review Period for Purposes of Patent Extension; ENVISION MAMMOGRAPHY PLATFORM. Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (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: Jack Dan, Office of Regulatory Policy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 240–402–6940.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has approved for marketing the medical device ENVISION MAMMOGRAPHY PLATFORM. ENVISION MAMMOGRAPHY PLATFORM is indicated for introduction of Envision Mammography Platform that include updated gantry with adjustable tilted C-Arm, detector electronics, user interfaces, anti-scatter grid, dynamic collimator, and introduction of X-ray source with moving focal spot. Subsequent to this approval, the USPTO received patent term restoration applications for ENVISION MAMMOGRAPHY PLATFORM (U.S. Patent No. 8,457,282; 8,767,911; and 9,895,115) from Hologic, Inc., and the USPTO requested FDA's assistance in determining these patents' eligibility for patent term restoration. In a letter dated March 17, 2025, FDA advised the USPTO that this medical device had undergone a regulatory review period and that the approval of

ENVISION MAMMOGRAPHY PLATFORM represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ENVISION MAMMOGRAPHY PLATFORM is 310 days. Of this time, 0 days occurred during the testing phase of the regulatory review period, while 310 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j(g)) involving this device became effective: not applicable.* The applicant claims that the length of the testing phase of the regulatory review period is 0 days.

2. *The date an application was initially submitted with respect to the device under section 515 of the FD&C Act (21 U.S.C. 360e):* August 31, 2023. FDA has verified the applicant's claim that the premarket approval application (PMA) for ENVISION MAMMOGRAPHY PLATFORM (PMA P080003/S009) was initially submitted August 31, 2023.

3. *The date the application was approved:* July 5, 2024. FDA has verified the applicant's claim that PMA P080003/S009 was approved on July 5, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,163, or 1,198 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20667 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–E–5681]

Determination of Regulatory Review Period for Purposes of Patent Extension; ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for ALTIUS Direct Electrical Nerve Stimulation System and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that medical device.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by January 23, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 26, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 23, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–E–5681 for Determination of Regulatory Review Period for Purposes of Patent Extension; ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM. Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly

viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (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: Jack Dan, Office of Regulatory Policy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 240–402–6940.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has approved for marketing the medical device ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM. ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM is indicated as an aid in the management of chronic intractable phantom and residual lower limb post-amputation pain in adult amputees. Subsequent to this approval, the USPTO received a patent term restoration application for ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM (U.S. Patent No. 9,295,841) from Neuros Medical, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 17, 2025, FDA advised the USPTO that this medical device had undergone a regulatory review period and that the approval of ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM is 3,982 days. Of this time, 3,558 days occurred during the testing phase of the regulatory review period, while 424 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j(g)) involving this device became effective:* October 3, 2013. FDA has verified the applicant's claim that the date the investigational device exemption for human tests to begin, as required under section 520(g) of the FD&C Act, became effective October 3, 2013.

2. *The date an application was initially submitted with respect to the device under section 515 of the FD&C Act (21 U.S.C. 360e):* June 30, 2023. FDA has verified the applicant's claim that the premarket approval application (PMA) for ALTIUS DIRECT ELECTRICAL NERVE STIMULATION SYSTEM (PMA P230020) was initially submitted June 30, 2023.

3. *The date the application was approved:* August 26, 2024. FDA has verified the applicant's claim that PMA P230020 was approved on August 26, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,747 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket

No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20668 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–5935]

Intercept Pharmaceuticals, Inc., et al.; Withdrawal of Approval of New Drug Application for OCALIVA (Obeticholic Acid) Tablets, 5 Milligrams and 10 Milligrams, and Three Abbreviated New Drug Applications for Obeticholic Acid Tablets, 5 Milligrams and 10 Milligrams

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug application (NDA) for OCALIVA (obeticholic acid) tablets, 5 milligrams (mg) and 10 mg, held by Intercept Pharmaceuticals, Inc., 305 Madison Ave., Morristown, NJ 07960 (Intercept). In addition, FDA is withdrawing approval of three abbreviated new drug applications (ANDAs) for obeticholic acid tablets, 5 mg and 10 mg, from three separate ANDA holders. Intercept voluntarily requested withdrawal of its NDA, and Apotex, Inc., Lupin Limited, and MSN Laboratories Private Limited voluntarily requested withdrawal of their respective ANDAs, under § 314.150(d) (21 CFR 314.150(d)). The expedited withdrawal procedures set forth in section 506(c)(3)(B) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) have been waived.

DATES: Approval is withdrawn as of November 24, 2025.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993–0002, 301–796–3137, *Kimberly.Lehrfeld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The applicants and their respective drugs and applications are included in the following table.

TABLE 1—NDAS AND ANDAS FOR WHICH APPROVAL IS WITHDRAWN

Application No.	Drug	Applicant
NDA 207999	OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg	Intercept Pharmaceuticals, Inc., 305 Madison Ave., Morristown, NJ 07960 (Intercept).
ANDA 214862	Obeticholic Acid tablets, 5 mg and 10 mg	Apotex Inc., c/o Apotex Corp., 2400 North Commerce Parkway, Suite 400, Weston, FL 33326 (Apotex).
ANDA 214980	Obeticholic Acid tablets, 5 mg and 10 mg	Lupin Limited, c/o Lupin Pharmaceuticals, Inc., 400 Campus Dr., Somerset, NJ 08873 (Lupin).
ANDA 215017	Obeticholic Acid tablets, 5 mg and 10 mg	MSN Laboratories Private Limited, c/o MSN Pharmaceuticals, Inc., 20 Duke Rd., Piscataway, NJ 08854 (MSN).

On May 27, 2016, FDA approved NDA 207999 for OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg, for the treatment of primary biliary cholangitis (PBC) in combination with ursodeoxycholic acid (UDCA) in adults with an inadequate response to UDCA, or as monotherapy in adults unable to tolerate UDCA, under the accelerated approval pathway pursuant to section 506(c)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 356(c)(1) and 21 CFR 314.510). The accelerated approval of OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg, for PBC, was subject to the requirement that Intercept conduct a postmarketing trial to verify and describe the clinical benefit of OCALIVA.

On May 26, 2021, FDA approved a safety labeling change to revise the indication of OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg, to the treatment of adult patients with PBC without cirrhosis or with compensated cirrhosis who do not have evidence of portal hypertension, either in combination with UDCA with an inadequate response to UDCA or as monotherapy in patients unable to tolerate UDCA.

On May 30, 2023, FDA approved the ANDAs listed in table 1 for obeticholic acid tablets, 5 mg and 10 mg, for the conditions of use in the labeling of NDA 207999 for OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg, the reference listed drugs on which these ANDAs relied.

On August 27, 2025, FDA notified Intercept of a potential problem with OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg, (NDA 207999), specifically that the postmarketing trial did not verify clinical benefit and that OCALIVA-treated PBC patients in the postmarketing trial who had early-stage disease at baseline had an excess of liver transplants and deaths. FDA recommended that Intercept request withdrawal of approval of the NDA 207999 products under § 314.150(d) (21 CFR 314.150(d)). FDA also requested in follow-up correspondence sent on August 28, 2025, that Intercept waive the expedited withdrawal procedures set forth in section 506(c)(3)(B) of the FD&C Act.

On October 1, 2025, FDA notified Apotex of the potential problem with the drugs and recommended the applicant voluntarily request withdrawal of approval of ANDA 214862 for obeticholic acid tablets, 5 mg and 10 mg, under § 314.150(d) for the same reasons.

On October 1, 2025, FDA notified Lupin of the potential problem with the drugs and recommended the applicant voluntarily request withdrawal of approval of ANDA 214980 for obeticholic acid tablets, 5 mg and 10 mg, under § 314.150(d) for the same reasons.

On October 3, 2025, FDA notified MSN of the potential problem with the drugs and recommended the applicant voluntarily request withdrawal of approval of ANDA 215017 for obeticholic acid tablets, 5 mg and 10 mg, under § 314.150(d) for the same reasons.

On September 10, 2025, Intercept submitted a letter asking FDA to withdraw approval of NDA 207999 for OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg, under § 314.150(d) and waiving the expedited withdrawal procedures set forth in section 506(c)(3)(B) of the FD&C Act. While noting disagreement with the Agency's assessment, Intercept explained that it respects the Agency's request and is proceeding in the interest of providing clarity to patients and prescribers.

In a letter dated October 3, 2025, Apotex requested that FDA withdraw approval of ANDA 214862 under § 314.150(d). In a letter dated October 10, 2025, Lupin requested that FDA withdraw approval of ANDA 214980 under § 314.150(d). In a letter dated November 15, 2025, MSN requested that FDA withdraw approval of ANDA 215017 under § 314.150(d). While noting disagreement with the Agency's assessment, MSN acknowledged the public health reasons for the Agency's request and explained that its request for withdrawal is based on withdrawal of approval of the reference listed drug for ANDA 215017.

For the reasons discussed above, and in accordance with the applicants' requests, approval of NDA 207999 for OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg, and ANDAs 214862, 214980, and 215017 for obeticholic acid tablets, 5 mg and 10 mg, and all amendments and supplements thereto, is withdrawn under § 314.150(d). Distribution of Intercept's OCALIVA (obeticholic acid) tablets, 5 mg and 10 mg; Apotex's obeticholic acid tablets, 5 mg and 10 mg; Lupin's obeticholic acid tablets, 5 mg and 10 mg; and MSN's obeticholic acid tablets, 5 mg and 10 mg, into interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the FD&C Act (21 U.S.C. 355(a) and 331(d))).

Lowell M. Zeta,

Acting Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–20767 Filed 11–21–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Performance Review Board Members

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) is publishing the names of the Performance Review Board Members (PRB) who are reviewing performance of Senior Executive Service members, Title 42 executives, Senior Level, and Scientific Professional employees for Fiscal Year 2025.

FOR FURTHER INFORMATION CONTACT: Dededrick Rivers, Program Manager, Executive Performance Management, Department of Health and Human Services, 330 C Street SW, Washington, DC 20201, (202) 389–2501.

SUPPLEMENTARY INFORMATION: Title 5, U.S.C. 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454) requires agencies to publish PRB member appointments in the **Federal Register**. HHS is appointing the following individuals to a roster for potential service on the Department's Performance Review Boards (PRBs) for calendar years 2025 and 2026.

The PRBs will review individual performance appraisals and organizational assessments for Senior Executive Service, Senior Level/Senior Technical, and Title 42 executive equivalent employees. Based on these reviews, the boards will recommend performance ratings and rating- based compensation to the HHS Secretary.

Last name	First name
ACOSTA	OLGA M.
ADAMS	STEVEN A.
AIYELAWO	PIUS A.
ALLEN	KIMBERLY M.
ALLEN	MICHAEL T.
ALMARAZ	SANTIAGO.
AMES	KAREN W.
AMIOTTE	JOSEPH H.
ANAEDOZIE	ONYEKACHUKWU C.
ANTHONY	ELISE S.
ARAMANDA	ALEXANDER F.
ARCHER	WILLIAM R.
ARCHEVAL	ANTHONY F.
ARMSTRONG	REBEKAH W.
ATENCIO	JILL L.
BABSKI	DIANNE P.
BALLANCE	CHRISTINA V.
BAUGH	CYNTHIA R.
BECKERMAN	PETER C.
BEGAY	DUWAYNE R.
BELL	WILLIAM D.
BENFORD	JOFFREY Q.
BENNETT	JASON E.
BENSON	KARI L.
BERGEVIN	DOUGLAS D.
BHARGAVA	DEEPAK.
BODDEN	CHERYL L.
BOOTH	JON G.
BOTTERILL	JULIE M.
BOULANGER	JENNIFER L.
BOVELL	STEPHANIE M.
BOWERS	TONYA E.
BOYLAN	MICHELLE M.
BRADWAY	COURTNEY B.
BRADY	MICHAEL P.
BRANDT	ERIN E.
BRANDT	KIMBERLY L.
BRATCHER-BOWMAN.	NIKKI R.
BRAUER	RANDY S.
BRAXTON	MAKOTO P.
BRILLMAN	DANIEL M.
BROOKS	JOHN H.
BROWN	MARK N.
BRUCE	DUANE N.
BRUCE	MELISSA J.
BUCKHAM	MATTHEW A.
BUCKLEY	VICKI E.
BULLS	MICHELLE P.
BURNS	WILLIAM S.
BURNSZYNSKI	JENNIFER C.
BUSH	LAINA M.
BUSH	MARGARET M.
BUZZELLI	MATTHEW J.
CABEZAS	MIRIAM G.
CANTWELL	KATHLEEN M.
CAPOZZOLA	CHRISTA A.
CARLTON	STEPHANIE J.
CARRION	SONYA M.
CARTER	CATHY T.
CASTAGNA	EVANGELYN L.
CHADWICK-GALLO	CARMELITA S.
CHAMP-GELBMANN	JANE M.
CHAPMAN	LYNDA W.
CHASAN SLOAN	DEBORAH M.
CHEE	DARLENE.
CHERTMAN	WILLY J.
CHESLEY	FRANCIS D.
CHILLAKURU	ANIL K.
CHON	KATHERINE Y.
CHONG	ZABEEN G.
CLASSAY	MICHELLE.
CLIFFORD	CHAD T.
COCHRAN	NORRIS W.
CODERRE	THOMAS R.
COLEMAN	KATHRYN A.
COLLINS	ROBIN R.
COMFORT	KAREN T.
CONROY	GLENDA J.
COOPER	FREDERICK L.
COOPER	RENEE L.
COPPENBARGER	CHRISTOPHER K.
COSTELLO	ANNE M.
COTTON	BEVERLY M.
COX	JORDAN P.
CRANSTON	SEANA C.
CRAVER	JAMES M.
CRAWFORD	GREGORY O.
CROCHUNIS	LEE A.
CRONIN	KELLY.
CUMMISKEY	KEVIN F.
CURTIS	JILLIAN E.
CUTHBERT	NATHANIEL W.
CZAJKOWSKI	JOHN B.
D SOUZA	IVOR L.
DANIELSON	TODD D.
DAVIS	KEVIN E.
DAVIS	NATHANIEL M.
DAY	JAMES.
DE LEON	DIANA F.
DECKER	PAIGE N.
DELONE	SARAH E.
DEMIRSOY	IPEK K.
DEMPSEY	ANTIGONE H.
DESAI	RUJUL H.
DEVOSS	ELIZABETH.
DEVOY	BRIDGET K.
DICKEY	AVIS D.
DILLARD	LISA A.
DISRAELLY	DEENA S.
DOOLEY	SEAN M.
DORAN	SAMUEL E.
DOWNS	TANETTE N.

Last name	First name
DRIGGS	SCOTT S.
DRIVING HAWK	JAMES R.
DUPEE	JENNIFER M.
DUPRE	BRIAN A.
DURAN	VANESSA S.
DURST	KELLEY A.
DUVALL	KEVIN M.
ECOFFEY	STACEY.
EDMONDS	AMANDA B.
ELDER	MARK D.
ELLINGTON	RENATA D.
ENGELHARDT	TIMOTHY J.
ENGELS	THOMAS J.
ESPIRITU	RACHELE C.
FABBRICATORE JR	JOHN E.
FAENSON	INNA.
FAHEY	BRIAN M.
FALLAHKHAIR	MICHAEL B.
FIGLIOLA	ANTHONY M.
FINK	DOROTHY A.
FISHMAN	ELIOT Z.
FITZGERALD	DENIS J.
FOGLER	SARAH.
FOSTER	ROBERT F.
FOWLER	LIESL I.
FROHBOESE	ROBINSUE.
FRYE	DANIEL R.
FRYE	EUGENE F.
FULTON	CLAYTON W.
GAIKOWSKI	DIXIE D.
GALLOWAY	SUMMER E.
GARCIA	TAMYRA C.
GARDNER	JOHNATHAN J.
GARRITY	SHEILA R.
GAWALT	ANN G.
GEIGER	REBEKAH E.
GHARPUREY	MADHULIKA M.
GILES	JOHN F.
GOLDHABER	BEN L.
GOODGER	BRIAN K.
GOULDING	MICHAEL I.
GRADISON	ANDREW K.
GRAHAM	GRACE R.
GRECO KONE	REBECCA C.
GREENE	JONATHAN N.
GRIMSLEY	HEATHER S.
HAILSTONE	MITCHELL E.
HALL	RANDALL J.
HAMMARLUND	JOHN T.
HARIDOPOLOS	STEPHANIE E.
HARRIS	SHELLY R.
HAUCK	HEATHER L.
HAYES WALLER	BERNITA K.
HEFFLER	STEPHEN K.
HENDERSON	GRAEME S.
HENDRIKSSON	MARLA.
HILL	KRISTI W.
HOFFMANN	GEORGE C.
HOGLE	MARK P.
HOLZERLAND	WILLIAM H.
HONEY	KRISTEN T.
HOOVER	CAMILLE M.
HORN	DAVID C.
HOWE	RORY C.
HOWE	RYAN P.
HURD	RAYMOND B.
HUTCHINSON	KIM.
HUTTINGER	ALEXANDRA L.
IBARRA PRATT	ELENITA Y.
INMAN	REESE C.
IWUGO	JENEEN M.
JACKSON	SHANNON C.
JOHN	HANOCK P.
JOHN	KURT E.
JOHNSON	ALFRED C.
JOHNSON	DAVID M.
JOHNSON	JENNIFER D.
JOHNSON	JOHN A.
JOHNSON	LENORA E.
JOHNSTON	DARCIE L.
JOYNER	ARLENE R.
KAVANAGH	LAURA D.
KAWAZOE	ROBIN I.
KEANE	THOMAS E.
KECKLER	JUSTIN J.
KENNEDY	ELLIOT J.
KEVENEY	SEAN R.
KIMBLE	ADRIENNE R.
KLEIN	ROGER D.
KLEINSCHMIDT	ARTHUR G.
KLOMP	GERARD R.
KNAPP	CAPRICE A.
KNO_X	JOHN K.
KOUFOPOULOS	PETER N.
KOZMA	BETHANY A.
KRAM	ANTHONY S.
KREPICH	CHRISTOPHER M.
KROOP	SETH R.
KROPA	HALLEY E.
LANKFORD	DAVID W.
LAROCHE	DARRELL W.
LATTA	EDWARD T.
LAZARE	MARY M.
LAZIO	JENNIFER L.
LEGIER	JAMIE W.
LEIPHART	KRISTINE L.
LEONARD	CONNIE L.
LIMAGE	JULIA E.
LIN	SUE C.
LIU	BETH C.
LONNERDAL	NILS D.
LOWERY	AMBER E.
MABRY	SHIRLEY M.
MACIAS	DANIEL.
MACRAE	JAMES.
MAJEWSKI	LISA C.
MALONE	KEVIN P.
MANTOAN	PATRICIA M.
MARTIN	CHRISTOPHER E.
MARTINO	NICOLE H.
MATHIS	J INGRID.
MAZANEC	BRIAN M.
MCCOY	QUENTIN T.
MCGILL	BRIAN T.
MCGOWAN	COLLEEN A.
MCQUEEN	SHERRI G.
MEDNICK	DAVID.
MENDOZA	MARTIN.
METER	ERIN M.
METTLER	ERIK P.
MILLER	BEVERLY A.
MILLER	COURTNEY L.
MILLS	GEORGE G.
MIMNAUGH	EMILY C.
MINOR	CLARK D.
MIRANDA	TERESA V.
MITAL	MICHELE.
MONROE	MICHELLE A.
MORRIS	THOMAS F.
MOSHTAHEDIAN	ERICA D.
MUELLER	ERIN O.
MULCAHY	GERARD J.
MURPHY	BRADEN J.
MYERS	ELISABETH C.
NAIR	SUMA.
NELSON	MAY D.
NELSON	PETER J.
NEWBOLD	PATRICK.
NICHOLLS	RICHARD J.
NOELTE	KATE C.
NOOKALA	MADHAVI L.
NOONAN	TIMOTHY R.
NOVY	STEVEN D.
O CONNOR	JUDIT.
O'CONNELL	CHRISTOPHER M.
OELSCHLAEGER	ALLISON M.
OLSON	CAROLYN F.
OLSON	KAREN E.
O'NEILL	MARK P.
OSTERHUES	ERIC J.
OXNER	JULIE A.
PANCHOLI	MAMATHA S.
PAPULA	DENNIS M.
PARISH	ELIZABETH E.
PARKER HALVERSON	PAMELA.
PASCOL	WILLIAM H.
PATTERSON	SARA S.
PERRY	TERRANCE W.
PESTORIUS	FREDERICK P.
PETILLO	JOHN J.
PHILLIPS	RICHARD A.
PIERCE	JULIA A.
PIKA	JOSEPH T.
PLAUGHER	MARK J.
POOLE	CHRISTOPHER A.
POPE	KRISTIN M.
POSNACK	STEVEN.
PRIETO	MOLLY O.
PRIGODICH	CHERYL E.
PROTZEL BERMAN	PAMELA I.
PURDUE	MICHELE L.
RABIN	BRIAN.
RACINE WELLS	LISA A.
RANCOURT	ANNE R.
RATHGEB	COLLEEN C.
REAGAN	MELANIE A.
REDFORD	DANA Y.
RICE	GAREY R.
RITTER	CHRISTINA S.
RIVERA	RODNEY W.
ROBINSON	SHEILA R.
ROBINSON	WILMA M.
ROLFES	ELLEN M.
ROSAS	LUCILA G.
ROWAN	ALEXANDER K.
RUDOLPH	NOEMI V.
RUIZ	MARIA M.
SAMPLES	WILLIAM R.
SANFORD	BARBARA.
SCHARF BELL	HELGA M.
SCOTT	ALICIA R.
SCOTT	JOHN A.
SCOTT	MARIE C.
SHANBHAG	KRISHNAKANT N.
SHAPIRO	JENNIFER R.
SHAPIRO	NEIL K.
SHATTO	JOHN D.
SHIRDON	PATRICK A.
SHUY	CAITRIN M.
SIGOUNAS	GEORGE.
SINGLETON	SHANNON M.
SKILES	DENNIS A.
SMAGH	KALWANT S.
SMITH	BENNY L.
SMITH	JENNIFER B.
SMITH	LAURIE J.
SMITH	MARISA.
SMITH	MICHAEL W.
SMITH	PHILLIP B.
SORIANO	JOHN D.
SPEAR	STEFANIE N.

Last name	First name
SPITALNIC	PAUL I.
STANNARD	PAULA M.
STEVENS	MARK D.
SUPPLEE	LAUREN H.
SUTTON	ABRAHAM J.
SUTTON	ERIN E.
SUVA	JERRY F.
SWYGERT	TIFFANY T.
TABE-BEDWARD	HENRIETTA A.
TAGALICOD	ROBERT S.
TAKASH	ANDREA M.
TAMMERO	MICHAEL A.
TARTAKOVSKY	MICHAEL.
TAYLOR	CAROLYN C.
THOMAS	FRED.
THOMAS	TISON V.
THORNBRUGH	MITCHELL L.
TIGNOR	BETH B.
TOMOYASU	NAOMI J.
TOTA	KENNETH T.
TOVEN	JEFFREY P.
TRAUTMAN	TRACEY J.
TRAVERSE	SCOTT B.
TRESS	DEBORAH W.
TRIBBLE SPENCER	KELLY R.
TRITZ	KAREN L.
TURNER	AMY J.
TWOHIE	ANNE-MARIE D.
VAN ABSHER	ELIZABETH S.
VASUDEVAN	SUNIL.
VAYDA	TARA L.
VERBETEN	JOHN E.
VERNO	MARTHA D.
VICENTE	WENDY S.
VITOLO	SARA M.
WAGNER	JOHN E.
WAKEFIELD	MARLENE E.
WALLACE	JULIA J.
WALLACE	MARY H.
WARD LUND	DEBRA L.
WEAHKEE	ROSE L.
WEAVER	BRENT.
WEAVER	GRETCHEN H.
WEIR	SHANA D.
WELLS	NATHAN T.
WENDEL	JENNIFER C.
WHEELAND	DANIEL G.
WILKINS	SHANITA L.
WILLIAMS	JEFFERY.
WILLIAMS	KEVIN D.
WILLIAMS	OLIVIA L.
WILLIAMS	RASHEED D.
WILLIS	NICOLE M.
WITKOFSKY	NINA B.
WORSTELL	MEGAN L.
WRIGHT	DAVID R.
WU	JEFFREY C.
XAVIER	SOOSAI M.
YARBOROUGH	LA MONTE R.
YOUNG	LARRY D.
ZETA	LOWELL M.
ZORN	MATTHEW C.

Charles H. McEnerney III,

Executive Director, Executive Resources (Acting).

[FR Doc. 2025–20731 Filed 11–21–25; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Par Panel Topics in Clinical Care, Mental Health and Health Interventions Outcomes.

Date: January 28, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Christiane Robbins, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–867–5309, *crobbins@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20711 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Institute of Environmental Health Sciences Special Emphasis Panel, Draft NTP Developmental and Reproductive Toxicity Technical Report on 2-Hydroxy-4-Methoxybenzophenone, December 1, 2025, 10:00 a.m. to December 1, 2025, 2:00 p.m., National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709 which was published in the **Federal Register** on September 23, 2025, 90 FRN 45781.

Dated: November 19, 2025.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20755 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Lifespan Psychopathology Study Section.

Date: January 8, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Benjamin Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4786, *benjamin.shapero@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20710 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–23–122: Research with Activities Related to Diversity (ReWARD) (R01 Clinical Trial Optional).

Date: December 4, 2025.

Time: 8:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dmitri V. Gnatenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *gnatenkod2@nih.gov*.

This notice is being published less than 15 days from the meeting date due to exceptional circumstances. As a result of the 43-day government shutdown, due to lapsed appropriations, the above meeting was canceled. This meeting was to assess the scientific and technical merit of NIH grant applications, required by statute to disburse NIH funds. The meeting must take place urgently so that evaluations of biomedical research applications addressing multiple major public health priorities can be submitted to the national advisory councils for timely funding recommendations.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20714 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Therapeutic Development for CNS Injuries, Neurovascular, and Neurological disorders.

Date: January 22, 2026.

Time: 8:30 a.m.–6:30 a.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Gagan Deep Bajaj, Ph.D., Scientific Review Officer, National Institute on Drug Abuse, NIH, 11601 Landsdown Street, 3WF Room 09A01, Bethesda, MD 20892, (301) 402–6965, *gagan.bajaj@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20713 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: December 16–17, 2025.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dorela Doris Shuboni-Mulligan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–1823, *dorela.shuboni-mulligan@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20709 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Therapeutic Development for Developmental, Psychiatric, and Substance Use Disorders.

Date: December 2, 2025.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sue Andersen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–5404, *sue.andersen-navalta@nih.gov*.

This notice is being published less than 15 days from the meeting date due to exceptional circumstances. As a result of the 43-day government shutdown, due to lapsed appropriations, the above meeting was canceled. This meeting was to assess the scientific and technical merit of NIH grant applications, required by statute to disburse NIH funds. The meeting must take place urgently so that evaluations of biomedical research applications addressing multiple major public health priorities can be submitted to the national advisory councils for timely funding recommendations.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20717 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, 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 and Podcasting website at *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council.*

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: December 10, 2025.

Open: 12:00 p.m. to 1:30 p.m.

Agenda: To Discuss Program Policies and Issues.

Place: National Institutes of Health, Rockledge I Building, 6705 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual.

Contact Person: Charisee Lamar, Ph.D., M.P.H., R.R.T., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206–Q, Bethesda, MD 20892, 301–827–5517, *lamarc@mail.nih.gov*.

Registration is not required to attend the open portion of 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 Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20758 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Behavioral Neuroscience.

Date: January 7–8, 2026.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: John Drake Morgan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 1015A, Bethesda, MD 20892, (301) 827–9283, *morganjod@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20706 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–22–180: Maximizing Investigators' Research Award.

Date: January 07–08, 2026.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Research Technology & Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, MD 20850, 240–276–7975, *chufanee@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20715 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: December 10, 2025.

Closed: 10:00 a.m. to 11:50 a.m.

Agenda: To Review and Evaluate Grant Applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual.

Contact Person: Charisee Lamar, Ph.D., M.P.H., R.R.T., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206–Q, Bethesda, MD 20892, 301–827–5517, *lamarc@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20759 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biodata Management and Computational Modeling.

Date: January 26, 2026.

Time: 9:15 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Christopher Ryan Mahone, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 710F, Bethesda, MD 20892, (443) 224–3992, *mahonecr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 20, 2025.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–20829 Filed 11–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at *alicia.broadus@samhsa.hhs.gov.*

Comments are invited on: (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Proposed Project: Programs To Reduce Underage Drinking—(OMB No. 0930–0316)—Revision

The Sober Truth on Preventing Underage Drinking Act (STOP Act) was passed by Congress in 2006, reauthorized in December 2016 as part of the 21st Century Cures Act (Pub. L. 114–255) and the Consolidated Appropriations Act, 2023 (Pub. L. 117–328), and codified into law in 42 U.S.C. 290bb–25b: Programs to reduce underage drinking. The STOP Act contains four primary elements:

1. The award of community-based coalition enhancement grants for underage drinking prevention activities to eligible entities currently receiving funds under the Drug-Free Communities Act of 1997.

2. A national adult-oriented media public service campaign to prevent underage drinking, ''Talk. They Hear You.'', and an annual report to Congress evaluating the campaign.

3. An annual report to Congress summarizing federal prevention activities and the extent of progress in

reducing underage drinking nationally, including data from national surveys conducted by federal agencies.

4. An annual report to Congress ''on each State's performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.'' The survey that is the subject of this request gathers data used to develop the state-by-state report on prevention and enforcement activities related to underage drinking.

Driven by the legislation and coordinated by the Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD), each of these activities work together to prevent and reduce underage drinking. ICCPUD provides national leadership in federal policy and programming to support state and community activities that prevent and reduce underage drinking. The data collection activities described in this package serve to assess the outputs and outcomes of public health messaging and interventions. The data collection activities outlined in this package are:

1. *Survey of State Underage Drinking Prevention Policies, Programs, and Practices:* An annual survey mandated by the STOP Act legislation sent to an individual designated by the governor of all 50 states and the mayor of the District of Columbia;

2. *Policy Academy Evaluations:* An assessment of participant capacity and workforce development through ICCPUD's Alcohol Policy Academy and SAMHSA's State and Community Policy Academy;

3. ''*Parents' Night Out*'' *Evaluation:* Tools for distribution of materials and evaluation of presenters and participants, including a solicitation of feedback from presenters and an assessment of changes in knowledge, skills, and confidence of parents and caregivers after receiving the training and materials for ''Parents' Night Out'' and ''Talk. They Hear You.'' products;

4. ''*Talk. They Hear You.*'' *Mobile App Surveys:* A parent and caregiver survey and an app satisfaction survey. The parent survey will allow parents to provide their insight on campaign materials, general demographic information, and details on their conversations with youth regarding underage drinking and substance use. The satisfaction survey will assess perceptions of the app function and content to inform future ''Talk. They Hear You.'' campaign refinement.

5. ''*Talk. They Hear You.*'' *Community Partner Surveys:* A newsletter survey, a license survey, and a feedback survey. Each tool will be used to engage partners, disseminate materials, provide technical assistance, and receive feedback.

6. *Screen4Success:* A pre-screener, screener, and consent/assent survey on the Screen4Success website. The tool is designed to screen for health, wellness, and well-being concerns and connect participants to resources in their area.

Survey of State Underage Drinking Prevention Policies, Programs, and Practices

The STOP Act states that the ''Secretary [of Health and Human Services] shall . . . annually issue a report on each state's performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.'' The Secretary has delegated responsibility for this report to SAMHSA. Therefore, SAMHSA has developed a Survey of State Underage Drinking Prevention Policies, Programs, and Practices (the State Survey) to provide input for the state-by-state report on prevention and enforcement activities related to the underage drinking component of the annual *Report to Congress on the Prevention and Reduction of Underage Drinking.*

Congress' purpose in mandating the collection of data on state policies, programs, and practices through the State Survey is to provide policymakers and the public with otherwise unavailable but much needed information regarding state underage drinking prevention policies and programs. SAMHSA and other federal agencies that have underage drinking prevention as part of their mandate use the results of the State Survey to inform federal programmatic priorities, as do other stakeholders, including community organizations. The information gathered by the State Survey has established a resource for state agencies and the public for assessing policies and programs in their own state and for becoming familiar with the policies, programs, practices, and funding priorities of other states.

SAMHSA has determined that data on Categories #2 and #3 mandated in the STOP Act (as listed on page 2; enforcement and educational programs and programs targeting youth, parents, and caregivers) as well as states' collaborations with tribal governments, use of social marketing or counter-advertising campaigns, state-level interagency collaborations, and prevention workforce development activities are not available from secondary sources and therefore must be collected from the states themselves. The State Survey is therefore necessary to fulfill the Congressional mandate found in the STOP Act. Furthermore, the uniform collection of these data from the states over the last 15 years has created a valuable longitudinal dataset, and the State Survey's renewal is vital to maintaining this resource.

The State Survey is a single document that is divided into three sections: (1) enforcement of underage drinking laws; (2A) underage drinking prevention programs targeted to youth, families, parents, and caregivers, including data on the approximate number of persons served by these programs; (2B) state collaborations and best practices; (2C) interagency collaborations and state participation in social marketing media campaigns intended to reduce underage drinking; and (3) workforce development activities, including strategies and funds expended on recruiting and retaining a behavioral health workforce.

SAMHSA collects the required data using an online survey data collection platform. Links to the survey are distributed to states via email. The State Survey is sent to each state governor's office and the Office of the Mayor of the District of Columbia. SAMHSA provides both telephone and electronic technical support to state agency staff and emphasizes that the states are expected to provide data from existing state databases and other data sources available to them. The burden estimate below considers these assumptions.

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
State Survey	51	1	51	18.5	943.50	$28.07	$26,484.05

Alcohol Policy Academy Evaluation

ICCPUD's Alcohol Policy Academy strives to reduce and prevent underage and excessive drinking by increasing the capacity of community coalitions to modify the community context through the policy process. The Alcohol Policy Academy includes 14 coalitions from across the U.S., with two individuals from each coalition serving as Academy participants. The Alcohol Policy Academy evaluation is designed to measure the effectiveness of increasing coalition capacity through the training and coaching of the policy process. Additionally, the evaluation will measure the increase in the policy training workforce through a mentee-to-coach development pipeline. The scope of the evaluation is limited to measuring the impact of the Alcohol Policy Academy curriculum on participants and coaches.

The evaluation comprises seven surveys and one focus group. Surveys are conducted after each monthly training and coaching call. The participant surveys seek feedback on changes in knowledge, skills, and confidence after each training and coaching call as well as feedback on the training content and training/coaching provider. The coach surveys track the progress of the coalitions. These surveys take the participants and coaches approximately 5–10 minutes each to complete. The participants also complete a baseline survey, a 12-month follow-up survey, and an 18-month follow-up survey. These surveys assess whether participants reach their own goals during the Alcohol Policy Academy, how they share their knowledge and skills gained, and how they continue to progress in the policy process. All surveys will be fielded using a web-based survey tool. The focus group within the cohort will collect qualitative data from the participants on their experience.

The table below indicates the estimated total annual burden on the participants and coaches of the Alcohol Policy Academy. The survey estimates include reading the instructions and questions and responding to each question. The focus group is scheduled for one hour and includes introductions, instructions, posing of questions, and open discussion.

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
Focus Group	28	1	28	1	28	$27.10	$758.80
Participant Post-Coaching Call Survey	28	10	280	0.125	35	27.10	948.50
Participant Post-Training Call Survey	28	10	280	0.125	35	27.10	948.50
Coach Post-Coaching Call Survey	3	70	210	0.17	35.7	50	1,785.00
Baseline	28	1	28	0.67	18.76	27.10	508.40
Follow-Up	28	1	28	1	28	27.10	758.80
Six-Month Follow-Up	28	1	28	0.67	18.76	27.10	508.40

''*Talk. They Hear You*''

The ''Talk They Hear You'' campaign comprises a variety of tools and resources designed to decrease underage drinking by encouraging families, parents and caregivers, educators, and community members/organizations to proactively engage youth in conversations about alcohol and other substances. Research has demonstrated that active and engaged adults can reduce underage drinking.[1]

''*Parents' Night Out*'' *Materials Download Survey*

The ''Parents' Night Out'' Materials Download Survey will facilitate the download of materials by interested organizations, including local coalitions, health departments, schools, and other community groups. The survey will ask questions relevant to providing training and technical assistance for implementation and contact information for automated delivery of the materials.

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
''Parents' Night Out'' Materials Download Survey	500	1	500	0.05	25	$27.10	$677.50

''*Parents' Night Out*'' *Evaluation*

The ''Parents' Night Out'' Evaluation will assess changes in knowledge, skills, and confidence of parents and caregivers after receiving the training and materials from ''Parents' Night Out'' and ''Talk. They Hear You.'' products. This evaluation will be delivered in collaboration with community partners, who will be exposed to varying combinations of ''Parents' Night Out'' and materials to determine change before and after exposure. The information gleaned in surveys of participants and presenters of the sessions will allow the evaluation team to assess whether ''Parents' Night Out'' is being implemented as intended and which products are most useful in increasing parents' and caregivers' capacity and intentions. The results will be shared with the implementation team for ''Parents' Night Out'' curriculum modifications and for updating ''Talk. They Hear You.'' materials. Similarly, information collected regarding technical assistance from the Presenter Survey will be used to continuously improve the materials to best serve the needs of the users.

The table below indicates the estimated total annual burden on the participants and presenters of ''Parents' Night Out''. The survey estimates include reading the instructions and questions and responding to each question.

The estimated *annual* response burden to collect this information is as follows:

[1] Glenn, S.D., Turrisi, R., Mallett, K.A., Waldron, M.S., Lenker, L.K. (2024). Examination of brief parent-based interventions to reduce drinking outcomes on a nationally representative sample of teenagers. *Journal of Adolescent Health, 74*(3) 449–457. *https://doi.org/10.1016/j.jadohealth.2023.09.010.*

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
''Parents' Night Out'' Participant Survey	1,000	1	1,000	0.12	120	*$17.50	$2,100.00
''Parents' Night Out'' Presenter Survey	200	1	200	0.08	16	27.10	433.60

* *https://www.dol.gov/agencies/whd/minimum-wage/state*.

Mobile App Parent Survey

The ''Talk. They Hear You.'' mobile app provides families, parents, and caregivers access to resources, conversation practice sessions, and Screen4Success. The mobile app's Parent Survey will be linked within the ''Talk. They Hear You.'' mobile app for parents and caregivers of youth ages 12–20 to complete. Parents and caregivers will be able to provide their insight on campaign materials, general demographic information, and details on their conversations with youth regarding underage drinking and substance use. This feedback will help the campaign team better serve parents and caregivers by tailoring resources to meet the age range of youth and parental areas of interest.

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
Mobile App Parent Survey	200	1	200	0.12	24	$17.50*	$420.00

* *https://www.dol.gov/agencies/whd/minimum-wage/state*.

Mobile App Satisfaction Survey

The campaign team is interested in continuing deployment of the User Satisfaction Survey. The overall objective of the survey is to determine users' satisfaction with the app and if the user would like to see any changes made to the app. The survey will inform SAMHSA on how the mobile app resonates with the intended users and determine whether the mobile app is effective at conveying the importance of talking with kids early and often about underage drinking and other substances use through guided conversations. This survey will be available at the bottom of each page of the mobile app and promoted through in-app pop-up notifications.

The table below indicates the estimated total *annual* burden on the respondents of the survey. The survey estimates include reading and responding to each question, and totals 3 minutes. The wage rate was determined based on the highest state minimum wage, as respondent locations are not collected.

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
Mobile App Satisfaction Survey	200	1	200	0.05	10	$17.50*	$175.00

* *https://www.dol.gov/agencies/whd/minimum-wage/state*.

Community Partner Newsletter Survey

The Newsletter Survey will be a brief survey designed for interested individuals to sign up to receive regular campaign communications via email. The newsletter is developed for organization members to engage with campaign materials, receive updates when new products are released, and participate in ''Talk. They Hear You.'' events. The newsletter also provides free pre-made social media content related to underage drinking prevention for organizations to share or customize.

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
Newsletter Survey	240	1	240	0.05	12	$17.50*	$210.00

* *https://www.dol.gov/agencies/whd/minimum-wage/state*.

Community Partner License Survey

The License Survey is designed for organizations to register and partner with the ''Talk. They Hear You.'' campaign. In contrast to the Newsletter Survey, the License Survey is designed to be filled out once per organization. Partners will receive regular communication from the campaign outreach team and can access technical assistance as needed. Partners help facilitate the campaign at the local level by engaging their community, parents and caregivers, families, and educators. The campaign will highlight the work of partners periodically in the newsletters to share their successes and valuable efforts to disseminate ''Talk. They Hear You.'' products.

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
License Survey	260	1	260	0.08	20.8	$27.10	$563.68

Community Partner Feedback Survey

The Partner Feedback Survey will provide an opportunity for partners to share feedback on community engagement meetings and evaluate how current community partners are engaging with ''Talk. They Hear You.'' Partners who attend the community engagement meetings will be asked to complete the survey after each quarterly meeting. The survey will gather both qualitative and quantitative evaluation data to be used for campaign refinement and to improve technical assistance to licensed partners. The data gathered through the Partner Feedback Survey will be used to continuously enhance the materials and community engagement provided by ''Talk. They Hear You.''

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
Partner Feedback Survey	86	1	86	0.17	14.62	$27.10	$396.20

Screen4Success

Screen4Success is designed for individuals and organizations to access free health, wellness, and well-being screening tools; collect consent/assent from parents and participants; navigate to local and national resources; and track referrals to services. Information collected at the consent of the participant will be shared with researchers to better inform prevention efforts and support services of the ''Talk. They Hear You.'' campaign. Additionally, organizations who use Screen4Success can utilize their aggregated, de-identified participant result data to inform local interventions, shape policy, and supplement applications to secure funding.

The estimated *annual* response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
Pre-Screener	1,000	1	1,000	0.08	80	*$17.50	$1,400.00
Screener	1,000	1	1,000	0.3	300	*17.50	5,250.00
Parental Consent/Assent	1,000	1	1,000	0.04	40	*17.50	700.00
Participant Consent/Assent	1,000	1	1,000	0.04	40	*17.50	700.00

* *https://www.dol.gov/agencies/whd/minimum-wage/state*.

The two tables shown below detail the aggregate and combined total burden of the data collection activities listed above.

COMBINED ESTIMATED BURDEN FOR RESPONDENTS

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
State Survey	51	1	51	18.5	943.50	$28.07	$26,484.05
Focus Group	28	1	28	1	28	27.10	758.80
Participant Post-Coaching Call Survey	28	10	280	0.125	35	27.10	948.50
Participant Post-Training Call Survey	28	10	280	0.125	35	27.10	948.50
Coach Post-Coaching Call Survey	3	70	210	0.17	35.7	50	1,785.00
Baseline	28	1	28	0.67	18.76	27.10	508.40
Follow-Up	28	1	28	1	28	27.10	758.80
Six-Month Follow-Up	28	1	28	0.67	18.76	27.10	508.40
''Parents' Night Out'' Materials Download Survey	500	1	500	0.05	25	27.10	677.50
''Parents' Night Out'' Participant Survey	1,000	1	1,000	0.12	120	*17.50	2,100.00
''Parents' Night Out'' Presenter Survey	200	1	200	0.08	16	27.10	433.60
Mobile App Parent Survey	200	1	200	0.12	24	*17.50	420.00
Mobile App Satisfaction Survey	200	1	200	0.05	10	*17.50	175.00
Newsletter Survey	240	1	240	0.05	12	*17.50	210.00
License Survey	260	1	260	0.08	20.8	27.10	563.68
Partner Feedback Survey	86	1	86	0.17	14.62	27.10	396.20
Pre-Screener	1,000	1	1,000	0.08	80	*17.50	1,400.00
Screener	1,000	1	1,000	0.3	300	*17.50	5,250.00
Parental Consent/Assent	1,000	1	1,000	0.04	40	*17.50	700.00
Participant Consent/Assent	1,000	1	1,000	0.04	40	*17.50	700.00

* *https://www.dol.gov/agencies/whd/minimum-wage/state*.

TOTAL BURDEN ON RESPONDENTS FOR ALL DATA COLLECTION TOOLS

Instrument	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hour burden	Wage rate	Total hour cost
Total	6,908	107	7,619	23.44	1,845.14	$489.07	$45,726.43

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.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2025–20742 Filed 11–21–25; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under Office of Management and Budget (OMB) review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Project: Data Resource Toolkit Protocol for the Crisis Counseling Assistance and Training Program (OMB No. 0930–0270)—Reinstatement

The SAMHSA Center for Mental Health Services (CMHS), as part of an interagency agreement with the Federal Emergency Management Agency (FEMA), provides a toolkit to be used for the purposes of collecting data on the Crisis Counseling Assistance and Training Program (CCP). The CCP provides supplemental funding to states, territories, and tribes for individual and community crisis intervention services after a presidentially declared major disaster.

The CCP has provided disaster behavioral health services to millions of disaster survivors since its inception, and, with more than 40 years of accumulated expertise, it has become an important model for federal response to a variety of catastrophic events. Recent CCP grants have been issued for nearly all 50 states, 5 territories, and at least 4 tribes. These grants have helped survivors of disasters such as Hurricanes Helene and Milton in 2024; the catastrophic Maui wildfire in 2023; and other wildfires, severe storms, flooding, earthquakes, and tornadoes in 2022 through 2025. CCPs address the short-term behavioral health needs of communities primarily through (a) outreach and public education, (b) individual and group counseling, and (c) referral. Outreach and public education serve primarily to make people aware of common disaster reactions and to engage people who may need further care. Crisis counseling assists survivors in coping with current stress and symptoms to return to pre-disaster functioning. Crisis counseling relies largely on ''active listening,'' [1] and crisis counselors also provide education (especially about the nature of responses to disaster, adversity, and trauma) and help participants build coping skills. Crisis counselors [2] typically work with a single participant once or a few times. Because crisis counseling is time-limited, referral is the third important function of CCPs. Counselors are expected to refer survivors to formal treatment if they have developed a mental and/or substance use disorder or are having difficulty in coping with their disaster reactions.

Data about services delivered and users of services are collected throughout the program period. The data are collected via the use of a toolkit that relies on standardized forms. At the program level, the data are entered quickly and easily into a cumulative database mainly through mobile data entry or paper forms to yield summary tables for quarterly and final reports for the program. Data entry allows for the data to be uploaded and linked to a national database that houses data collected across CCPs. The standardized data collection and database allow SAMHSA CMHS and FEMA to produce summary reports of services provided across all programs funded.

The components of the toolkit are listed and described below:

- *Encounter logs.* These forms document all services provided. The CCP requires crisis counselors to complete these logs. There are three types of encounter logs: (1) Individual/Family Crisis Counseling Services Encounter Log, (2) Group Encounter Log, and (3) Weekly Tally Sheet.
  - *Individual/Family Crisis Counseling Services Encounter Log.* Crisis counseling is defined as an interaction that lasts at least 15 minutes and involves participant-provided information. This form is completed by the crisis counselor for each participant, defined as the person or people who actively participated in the session (that is, by engaging in conversation), not someone who was merely present. One form may be completed for all family or household members who are actively engaged in the visit. Information collected includes demographics, service characteristics, risk factors, event reactions, and referral data.
  - *Group Encounter Log.* This form is used to collect data on either a group crisis counseling encounter or a group public education encounter. The crisis counselor indicates in a checkbox the class of activities (that is, counseling or education). Information collected includes service characteristics, group identity and characteristics, and group activities.
  - *Weekly Tally Sheet.* This form documents brief educational and supportive encounters not captured on any other form. Information collected includes service characteristics, daily tallies, and weekly totals for brief educational or supportive contacts, material distribution with no or minimal interaction, and social media activity.
- *Assessment and referral tools (ARTs).* These tools—one for adults and one for children and youth—can be administered at any time if the crisis counselor feels the participant is exhibiting distress or they would benefit from referral to other services. It is recommended that the ARTs be administered during encounters where more than four event reactions or certain risk categories are indicated. These tools will typically be used beginning 3 months after the disaster and will be completed by the crisis counselor.
- *Participant Feedback Survey Form.* These surveys are completed by and collected from a sample of participants, not every participant. Sampling is done on a biannual basis 6 months and 1 year after the disaster. Information collected includes satisfaction with services, perceived improvements in coping and functioning, types of exposure, and event reactions.
- *Service Provider Feedback Form.* These surveys are completed by and collected from the CCP service providers anonymously at 6 months and 1 year after the disaster. The survey is coded on several program-level as well as provider-level variables. However,

[1] Active listening requires the crisis counselor to engage fully with the survivor to understand what the survivor is communicating. The crisis counselor engages in activities such as asking questions, encouraging the survivor to respond candidly, reflecting on what the survivor says, and not judging the survivor's experiences or statements.

[2] CCP crisis counselors are paraprofessionals (*e.g.,* outreach workers, community health workers, resource linkage coordinators) trained to work with individuals, families, and groups to provide short-term counseling and support. Crisis counselors also assess survivors for reactions requiring referrals, and they provide referrals as needed.

the program survey data are only shared with program management if more than 10 individual provider staff members complete the survey.

There are no changes to the Weekly Tally Sheet since its last approval. Revisions to the Individual Encounter Log include updating the collection of adult age information to align with SAMHSA reporting convention, race and ethnicity information to align with updates to OMB guidance, and sex information to align with White House guidance; removing the question about recent immigration; adding ''stress management'' to the example for ''managing physical and emotional reactions''; adding a separate referral option for ''FEMA-funded programs;'' and changing ''self-help groups'' to ''self-help or support groups.'' For the Group Encounter Log, changes include updating the collection of race and ethnicity information to align with OMB guidance, adding a question about primary language spoken during the encounter, removing the question about recent immigration, and adding ''stress management'' to the example for ''managing physical and emotional reactions.''

For the Adult and Child/Youth ARTs, edits were made to update the collection of adult age information to align with SAMHSA reporting convention, race and ethnicity information to align with updated OMB guidance, and sex information to align with White House guidance; frame demographic information collection as questions; add a graphic showing response options, change ''self-help groups'' to ''self-help or support groups,'' and include a separate referral option for ''FEMA-funded programs''; and remove questions related to recent immigration and suicidal ideation. In addition, since the diagnostic criteria for posttraumatic stress disorder (PTSD) changed in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5), the PTSD assessment tool within the Child/Youth ART was updated to align with the new PTSD criteria via the validated and abbreviated University of California at Los Angeles PTSD Reaction Index for DSM–5 (Reaction Index-5) tool. The Child/Youth ART was also updated to use the terms ''caregiver'' and ''child or youth'' throughout, move the statement that is read to the respondents, and add a question about whether the primary respondent was the caregiver or child or youth.

Changes to the collection of age, race, ethnicity, sex, and disaster-related experiences information were made to the Participant Feedback Survey and Service Provider Feedback Forms to align with encounter and ART forms. In addition, the Participant Feedback Survey Form was updated to state more explicitly that the form is voluntary and the respondent may skip questions; add ''prefer not to answer'' options; ask about referral to ''FEMA-funded programs''; add ''using/misusing other substances'' to the examples for the ''In the past month to what extent have you had trouble taking care of your health (*e.g.,* eating poorly, not getting enough rest, smoking more, drinking more)?'' question; add a sentence noting that if the respondent was not impacted by the disaster, they should skip the next set of questions; and update response options for the question about education and household income.

The Service Provider Feedback Form language was further changed to include ''resources'' when asking providers to rate ''support, training, and resources provided to help you avoid compassion fatigue or to cope with the stress of listening to and helping others''; update the response options for questions about education and household income; and add a sentence noting that if the respondent was not impacted by the disaster, they should skip the next set of questions. The estimates of the annualized burden hours are provided in Table 1.

TABLE 1—ANNUALIZED HOUR BURDEN ESTIMATES

Data collection instrument	Estimated number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Individual/Family Crisis Counseling Services Encounter Log	[1] 800	[2] 200	160,000	0.13	20,800
Group Encounter Log	[3] 400	[3] 33	13,200	0.08	1,056
Weekly Tally Sheet	[1] 800	[4] 52	41,600	0.20	8,320
Adult Assessment and Referral Tool	[1] 800	9	[5] 7,200	0.17	1,224
Child/Youth Assessment and Referral Tool	[1] 800	1	[5] 800	0.08	64
Participant Feedback Survey Form	4,000	1	4,000	0.30	1,200
Service Provider Feedback Form	[6] 400	1	400	0.30	120
Total	8,000	.....	227,200	.....	32,784

[1] The value for estimated number of respondents (800) is based on a typical average of 40 crisis counselors (or 40 full-time equivalents [FTEs]) per grant with an approximate average of 20 grants per year (i.e., 40 × 20 = 800).
[2] On average, each FTE crisis counselor completes 200 forms over 1 year.
[3] On average, a pair of crisis counselors completes 1 form per week (i.e., 2 counselors completing 1 form = 400 crisis counselors) for 33 weeks.
[4] The average length of a CCP grant is 52 weeks.
[5] On average, 5% of the Individual/Family Crisis Counseling Services Encounter Logs completed result in the use of the assessment and referral tools (i.e., 160,000 individual × 5% = 8,000, which equals the total Adult and Child/Youth Assessment and Referral Tool responses).
[6] On average, 50% of service providers/crisis counselors may complete or use this tool.

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 information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2025–20747 Filed 11–21–25; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0012]

Agency Information Collection Activities; Reinstatement; Lien Notice (CBP Form 3485)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-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 24, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Please submit written comments and/or suggestions in English. 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: 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 proposed information collection was previously published in the **Federal Register** (90 FR 25068) on June 13, 2025, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. 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: Lien Notice (CBP Form 3485).

OMB Number: 1651–0012.

Form Number: Form 3485.

Current Actions: Reinstatement.

Type of Review: Reinstatement (without change).

Affected Public: Businesses.

Abstract: Section 564, Tariff Act of 19, as amended (19 U.S.C. 1564) provides that the claimant of a lien for freight can notify Customs and Border Protection (CBP) in writing of the existence of a lien, and CBP shall not permit delivery of the merchandise from a public store or a bonded warehouse until the lien is satisfied or discharged. The claimant shall file the notification of a lien on CBP Form 3485, *Lien Notice.* This form is usually prepared and submitted to CBP by carriers, cartmen and similar persons or firms. The data collected on this form is used by CBP to ensure that liens have been satisfied or discharged before delivery of the freight from public stores or bonded warehouses, and to ensure that proceeds from public auction sales are duly distributed to the lienholder. CBP Form 3485 is provided for by 19 CFR 141.112, and is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=3485&=Apply.*

Type of Information Collection: Lien Notice (Form 3485).

Estimated Number of Respondents: 112,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 112,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 28,000.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025–20765 Filed 11–21–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0075]

Agency Information Collection Activities; Reinstatement; Drawback Regulations

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-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 24, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Please submit written comments and/or suggestions in English. 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: 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 proposed information collection was previously published in the **Federal Register** (90 FR 25064) on June 13, 2025, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. 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: Drawback Process Regulations.

OMB Number: 1651–0075.

Form Number: 7553.

Current Actions: Reinstatement without change to information collection.

Type of Review: Reinstatement (without change).

Affected Public: Businesses.

Abstract: The collections of information related to the drawback process are required as per 19 CFR part 190 (Modernized Drawback), which provides for refunds of duties, taxes, and fees for certain merchandise that is imported into the United States where there is a subsequent related exportation or destruction. All claims for drawback, sometimes referred to as TFTEA-Drawback, must be filed electronically in the Automated Commercial Environment (ACE), in accordance with the Trade Facilitation Trade Enforcement Act of 2015 (TFTEA) (Pub. L. 114–125, 130 Stat. 122), and in compliance with the regulations in part 190, 181 (NAFTA Drawback) and 182 (USMCA Drawback). Specific information on completing a claim is available in the drawback CBP and Trade Automated Interface Requirement (CATAIR) document at: *https://www.cbp.gov/document/guidance/ace-drawback-catair-guidelines.*

CBP Form 7553, Notice of Intent to Export, Destroy or Return Merchandise for Purposes of Drawback (NOI), documents both the exportation and destruction of merchandise eligible for drawback. The NOI is the official notification to CBP that an exportation or destruction will occur for drawback eligible merchandise. The CBP Form 7553 has been updated to comply with TFTEA-Drawback requirements and is accessible at: *http://www.cbp.gov/newsroom/publications/forms.*

Relevant Regulations and Statutes: Title 19, part 190—*https://ecfr.io/Title-19/Part-190* 19 U.S.C. 1313 *https://www.govinfo.gov/content/pkg/USCODE-2011-title19/pdf/USCODE-2011-title19-chap4-subtitleII-partI-sec1313.pdf*

19 U.S.C. 1313 authorizes the information collected on the CBP form 7553 as well as in the ACE system for the electronic drawback claim.

This collection of information applies to the individuals and companies in the trade community who are and are not familiar with drawback, importing and exporting procedures, and with the CBP regulations.

Please note that CBP Forms 7551 and 7552 are both abolished. From February 24, 2019, onward, TFTEA-Drawback, as provided for in part 190, is the only legal framework for filing drawback claims. No new drawback claims may be filed under the paper-based processes previously provided for in part 191 (Drawback). Sections 190.51, 190.52, and 190.53 provide the requirements to submit a drawback claim electronically. The provisions of part 190 are similar to the provisions in part 191, except where necessary to outline all the data elements for a complete claim (previously contained in CBP form 7551) and modify those requirements to comply with TFTEA-Drawback. CBP form 7552, Certificates of Delivery and Certificates of Manufacturing & Delivery will no longer be requested or accepted to demonstrate the transfer of merchandise. Sections 190.10 and 190.24 require that any transfers of merchandise must be evidenced by business records, as defined in section 190.2.

Type of Information Collection: Form 7553.

Estimated Number of Respondents: 150.

Estimated Number of Annual Responses per Respondent: 20.

Estimated Number of Total Annual Responses: 3,000.

Estimated Time per Response: 33 minutes.

Estimated Total Annual Burden Hours: 1,650.

Seth D Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025–20764 Filed 11–21–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0048]

Agency Information Collection Activities; Reinstatement, Without Change, of a Previously Approved Collection: ICE Mutual Agreement Between Government and Employers (IMAGE)

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995 the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance. This information collection was previously published in the **Federal Register** on August 18, 2025, allowing for a 60-day comment period. ICE received no comments. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until December 24, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: If you have questions related to this collection, call or email Zachary Middleton, WSE Program Section Chief, 314–765–7015, email: *zachary.j.middleton@hsi.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(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; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Previously Approved Collection.

(2) *Title of the Form/Collection:* Immigration and Customs Enforcement (ICE) Mutual Agreement Between Government and Employers (IMAGE) Self-Assessment Questionnaire.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* 73–028; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit; Not-for-profit institutions. The U.S. Immigration and Customs Enforcement Mutual Agreement Between Government and Employers (IMAGE) program is the outreach and education component of the Homeland Security Investigations (HSI) Worksite Enforcement (WSE) program. IMAGE is designed to build cooperative relationships with the private sector to enhance compliance with immigration laws and reduce the number of unauthorized aliens within the American workforce. Under this program ICE will partner with businesses representing a cross-section of industries. A business will initially complete and prepare an IMAGE application so that ICE can properly evaluate the company for inclusion in the IMAGE program. The information provided by the company plays a vital role in determining its suitability for the program. While 8 U.S.C. 1324(a) makes it illegal to knowingly employ a person who is not in the U.S. legally, there is no requirement for any entity in the private sector to participate in the program and the information obtained from the company should also be available to the public.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 66 responses at 90 minutes (1.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden is 99 hours.

Dated: November 19, 2025.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2025–20719 Filed 11–21–25; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7092–N 36; OMB Control No.: 2506–0157]

30-Day Notice of Proposed Information Collection: Comment Request Self-Help Homeownership Opportunity Program (SHOP)

ACTION: Notice.

SUMMARY: 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 comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* December 24, 2025.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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: Anna Guido, PRA Compliance Officer, Paperwork Reduction Act Division, PRAD, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email at *PaperworkReductionActOffice@hud.gov,* ATTN: Anna Guido, telephone (202) 402–5535. This is not a toll-free number. HUD welcomes and is prepared to receive calls om 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.* Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 9, 2024 at 89 FR 97648.

A. Overview of Information Collection

Title of Information Collection: Notice of Application for Designation as a Single-Family Foreclosure Commissioner.

OMB Approval Number: 2506–0157.

Type of Request: Reinstatement, with change, of a previously approved collection.

Form Number: SF–424; SF–424B; HUD–424–B; HUD 424 CB; HUD 424 CBW; HUD 426; HUD 424 M; SF–424D; HUD 2880; HUD 50153; HUD 2996; HUD 50070; SF–LLL/OMB 0348–0046; SF–LLL/OMB 4040–0013; and Grant Reporting (Disaster Recover Grant Reporting/DRGR System).

Description of the need for the information and proposed use:

This is a proposed information collection for submission requirements under the SHOP Notice of Funding Availability (NOFO) and post-award

reporting requirements. Applicants are required to register in *SAM.gov* and submit all required SHOP NOFO specific narratives and forms in *Grants.gov*. HUD requires this information to ensure the eligibility of SHOP applicants and the compliance of SHOP proposals, to rate and rank SHOP applications, and to select applicants for grant awards. Information is collected on an annual basis from each applicant that responds to the SHOP NOFO. HUD also requires data such as semi-annual reports (which includes such information as activity and budget information as activity and budget information, drawdowns, performance reports, and federal financial reports) action plans, payment drawdown requests, environmental site certification, and semi-annual grant reporting post-award in order to ensure the SHOP grantees are complying with the terms of the Executed Grant Agreement. This information is reported in the Disaster Recovery Grant Reporting (DRGR) system.

Respondents: National and regional non-profit self-help housing organizations (including consortia) that apply for funds in response to the SHOP NOFO.

Information collection	Number of respondents	Frequency of response	Responses per annual	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Application for Federal Assistance SF–424 *	0	0	0	0	0	$0	$0
Assurances for Non-Construction Program SF–424B *	0	0	0	0	0	0	0
Assurances for Construction Programs SF–424D *	0	0	0	0	0	0	0
Applicant and Recipient Assurances and Certifications HUD–424–B	0	0	0	0	0	0	0
Certification Regarding Lobbying SF–LLL/OMB 0348–0046	0	0	0	0	0	0	0
Disclosure of Lobbying Activities SF–LLL/OMB 4040–0013	0	0	0	0	0	0	0
Grant Application Detailed Budget HUD–424CB	0	0	0	0	0	0	0
Grant Application Detailed Budget Worksheet HUD–424CBW	0	0	0	0	0	0	0
Indirect Cost Information for Award Applicant/Recipient HUD 426 **	10.00	1.00	10.00	0.25	2.5	86.76	216.90
Federal Assistance Funding Matrix and Certifications HUD 424M **	0	0	0	0	0	0	0
Applicant Recipient Disclosure Update Report HUD–2880	0	0	0	0	0	0	0
Promise Zone Certification HUD 50153	0	0	0	0	0	0	0
Opportunity Zone Certification HUD 2996 **	10.00	1.00	10.00	0.20	2	86.76	173.52
Certification for a Drug-Free Workplace HUD 50070 **	0	0	0	0	0	0	0
Applicant Eligibility	10.00	1.00	10.00	2.00	20.00	86.76	1,735.20
SHOP Program Design and Scope of Work	10.00	1.00	10.00	30.00	300.00	86.76	26,028.00
Rating Factor 1+	10.00	1.00	10.00	25.00	250.00	86.76	21,620.00
Rating Factor 2+	10.00	1.00	10.00	30.00	300.00	86.76	25,944.00
Rating Factor 3+	10.00	1.00	10.00	55.00	550.00	86.76	47,564.00
Rating Factor 4+	10.00	1.00	10.00	30.00	300.00	86.76	25,944.00
Rating Factor 5+	10.00	1.00	10.00	25.00	250.00	86.76	21,620.00
Grant Reporting (DRGR)	4.00	2.00	8.00	100.00	800.00	86.76	70,208.00
Total Annual Hour Burden	94.00	11.00	94.00	297.45	2,774.50		240,715.62

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 comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Anna Guido,

Department PRA Compliance Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2025–20783 Filed 11–21–25; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2025–0143; FXES11140800000–256–FF08EVEN00]

Receipt of Incidental Take Permit Application and Draft Habitat Conservation Plan and Draft Environmental Assessment for the California Department of Parks and Recreation, Oceano Dunes District, San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the receipt of an application from California Department of Parks and Recreation (CDPR; applicant) for an incidental take permit (ITP) under the Endangered Species Act (ESA). The applicant requests the ITP to take federally listed species incidental to lawful activities at Pismo State Beach and Oceano Dunes State Vehicular Recreation Area, San Luis Obispo County, California. The activities are described in the draft habitat conservation plan (HCP) and associated draft environmental assessment (EA) for CDPR activities. The CDPR developed the draft HCP as part of their application for an ITP. The Service prepared a draft EA in accordance with the National Environmental Policy Act (NEPA) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to CDPR. We are providing notice that the draft HCP and draft EA are both available for public review. We invite comment on these documents from the public and local, State, Tribal, and Federal agencies.

DATES: Please submit written comments on or before January 23, 2026.

ADDRESSES:

Obtaining documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online at *https://www.regulations.gov* in Docket No. FWS–R8–ES–2025–0143.

Submitting comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2025–0143.
- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS–R8–ES–2025–0143; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Catherine Darst, Field Supervisor, by telephone at 805–644–1766, email at *fw8venturaitp@fws.gov,* or by U.S. mail at 2493 Portola Road, Suite B, Ventura, CA 93003. 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), announce the receipt of an application from the CDPR for an ITP under the Endangered Species Act 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take federally listed species incidental to CDPR's public use, recreation management, natural resources management, and park and beach management activities on 5,005 acres of Pismo State Beach and Oceano Dunes State Vehicular Recreation Area, in San Luis Obispo County, California. The CDPR developed the draft HCP as part of its application for an ITP under the ESA. The Service prepared a draft EA in accordance with NEPA (42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to CDPR. We invite public comment on these documents.

Draft HCP Covered Species

The CDPR has developed a draft HCP that includes measures to mitigate and minimize impacts to the following 10 covered species and 2 proposed listed species:

Species	Listing information
Federally Listed as Endangered:	
California least tern (*Sterna antillarum browni*)	June 2, 1970 (35 FR 16047).
Tidewater goby (*Eucyclogobius newberryi*)	February 4, 1994 (59 FR 5494).
Gambel's watercress (*Rorippa gambelii*)	August 3, 1993 (58 FR 41378).
La Graciosa thistle (*Cirsium scariosum* var. *loncholepis*)	March 20, 2000 (65 FR 14888).
Marsh sandwort (*Arenaria paludicola*)	August 3, 1993 (58 FR 41378)
Nipomo Mesa lupine (*Lupinus nipomensis*)	March 20, 2000 (65 FR 14888).
Federally Listed as Threatened:	
Western snowy plover (*Charadrius nivosus nivosus*)	March 5, 1993 (58 FR 12864).
California red-legged frog (*Rana draytonii*)	May 23, 1996 (61 FR 25813).
State Listed as Threatened:	
Surf thistle (*Cirsium rhothophilum*)	1990.
Beach spectaclepod (*Dithyrea maritima*)	1990.
Proposed federal listing	
Southwestern pond turtle (*Actinemys pallida*)	2023 (88 FR 68370).
Western spadefoot (*Spea hammondii)*	2023 (88 FR 84252).

The ITP would authorize take of the four animal species (California least tern, tidewater goby, western snowy plover, and California red-legged frog) incidental to otherwise lawful activities associated with the HCP-covered activities. The draft HCP also includes minimization measures to reduce impacts on the two animal species that have been proposed for listing. In the event these animals become listed, the ITP will be amended to authorize the take of these species as outlined in the HCP.

Background

Section 9 of the ESA prohibits the take of fish or wildlife species listed as endangered. As applicable to the species affected by the proposed action, the ESA implementing regulations also prohibit take of fish or wildlife species listed as threatened. ''Take'' is defined under the ESA to include the following activities: ''[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such

conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 17.22, respectively. Under the ESA, protections for federally listed plants differ from the protections afforded to federally listed animals. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)) regarding conservation activities for the covered species.

Proposed Activities

The CDPR has applied for an ITP that would authorize incidental take of the four covered animal species that could result from covered activities described in the HCP. The covered area comprises 5,005 acres of Pismo State Beach and Oceano Dunes State Vehicular Recreation Area. The covered area includes designated critical habitat for the western snowy plover, tidewater goby, and La Graciosa thistle. The HCP describes measures CDPR will implement to avoid and minimize impacts and take of the covered species. Mitigation for unavoidable take would be accomplished through CDPR's existing conservation program and through meeting the biological goals and objectives outlined in the HCP. The conservation program is designed to protect and promote recovery of covered species, including managing habitat components to benefit covered species, minimizing human alteration or disturbance of native habitats, reducing conflicts between covered species and park users, restoring native habitats, and monitoring the success of these efforts.

Alternatives

We are considering four alternatives in the draft EA:

(1) The no action alternative, which would not result in issuance of an ITP for ongoing activities;

(2) The proposed action would be issuance of an ITP based on the activities described in draft HCP, including reduction of the existing protected area boundary (''southern exclosure'') for the California least tern and western snowy plover if the species' meet biological targets;

(3) Issuance of an ITP based on the draft HCP maintaining the existing ''southern exclosure'' boundary; and

(4) Issuance of an ITP based on the draft HCP with year-round exclosures.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, 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 view, we cannot guarantee that we will be able to do so.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue an ITP to the applicant.

Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 50 CFR 17.32), and NEPA (42 U.S.C. 4321 *et seq.*).

Catherine Darst,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2025–20724 Filed 11–21–25; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[267A2100DD/AAKC001030/ A0A501010.000000]

HEARTH Act Approval of Shivwits Band of Paiutes Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs approved the Shivwits Band of Paiutes (listed as Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)) Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into agriculture, business, residential, public, religious, educational, and recreational leases without further Secretary of the Interior approval.

DATES: The Assistant Secretary—Indian Affairs issued the approval on September 26, 2025.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, *carla.clark@bia.gov,* (702) 484–3233.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into leases of Tribal trust lands, for various uses, for a primary term of 25 years and, in some cases, up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious, or educational purposes for a primary term of up to 75 years without the approval of the Secretary.

Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes).

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests,

and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal Government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal Government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal Government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to 25 CFR part 162.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or 25 CFR part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes).

William Henry Kirkland III,

Assistant Secretary—Indian Affairs.

[FR Doc. 2025–20695 Filed 11–21–25; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[267A2100DD/AAKC001030/A0A501010.000000]

Indian Gaming; Approval by Operation of Law of the Amendment to the Sac and Fox Nation of Missouri in Kansas and Nebraska Kansas Class III Gaming Compact

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the approval by operation of law of the amendment to the Tribal-State compact for class III gaming between the Sac and Fox Nation of Missouri in Kansas and Nebraska and the State of Kansas governing the operation and regulation of class III gaming activities. The Amendment permits sports wagering including a hub-and-spoke betting model that deems wagers placed anywhere in the State occur on the Tribe's Indian lands where the servers are located, provided the wager is not placed on another Tribe's Indian lands.

DATES: The amendment takes effect on November 24, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. Troy Woodward, Acting Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, *IndianGaming@bia.gov;* (202) 219–4066.

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 *et seq.,* (IGRA) provides the Secretary of the Interior (Secretary) with 45 days to review and approve or disapprove the Tribal-State compact governing the conduct of class III gaming activity on the Tribe's Indian lands. *See* 25 U.S.C. 2710(d)(8). If the Secretary does not approve or disapprove a Tribal-State compact within the 45 days, IGRA provides the Tribal-State compact is considered to have been approved by the Secretary, but only to the extent the compact is

consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(D). The IGRA also requires the Secretary to publish in the **Federal Register** notice of the approved Tribal-State compacts for the purpose of engaging in class III gaming activities on Indian lands. *See* 25 U.S.C. 2710(d)(8)(D). As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment permits sports wagering including a hub-and-spoke betting model that permits wagers to be placed anywhere in the State provided it's not placed on another Tribe's Indian lands. The Secretary took no action on the Amendment to the Sac and Fox Nation of Missouri in Kansas and Nebraska Kansas Class III Gaming Compact (Amendment) within the 45-day statutory review period. Therefore, the Amendment is considered to have been approved, but only to the extent it is consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

William Henry Kirkland III,

Assistant Secretary—Indian Affairs.

[FR Doc. 2025–20696 Filed 11–21–25; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2025–0483]

Notice of Availability of the 11th National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program: 1st Analysis and Proposal MAA104000

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of Availability; request for comments.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) is announcing the availability of, and requests comments on, the Draft Proposed Program (DPP) for the 11th National Outer Continental Shelf (OCS) Oil and Gas Leasing Program (11th Program or National OCS Program).

DATES: Comments should be submitted by January 23, 2026 to the address specified in the **ADDRESSES** section of this notice.

ADDRESSES: Comments on the DPP may be submitted in one of the following ways:

1. Through the *Regulations.gov* web portal (preferred method): Navigate to *http://www.regulations.gov* and under the Search tab, in the space provided, type in Docket ID: BOEM–2025–0483 to submit comments and to view other comments already submitted.

2. Mailed in an envelope labeled ''Comments for the 11th National OCS Oil and Gas Leasing Program'' and mailed (or hand delivered) to Ms. Kelly Hammerle, Bureau of Ocean Energy Management (VAM–LD), 45600 Woodland Road, Sterling, VA 20166–9216, telephone (703) 342–8867.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly Hammerle, Program Manager, (703) 342–8867.

SUPPLEMENTARY INFORMATION: The OCS Lands Act declares that it is the policy of the United States that the OCS ''is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs.'' (43 U.S.C. 1332). BOEM requests information and comments from Tribal, state, and local governments; Native American and Native Alaskan organizations; Federal agencies; environmental and other public interest organizations; the oil and gas industry; non-energy industries; other interested organizations and entities; and the public for use in the preparation of the 11th National OCS Program. BOEM is seeking a wide array of information, including but not limited to information associated with the economic, social, and environmental values of all OCS resources, as well as the potential impact of oil and gas exploration and development on OCS resources and the marine, coastal, and human environments.

During this comment period, BOEM is soliciting nominations for environmentally sensitive areas that may be considered for exclusion from leasing. These may be analyzed in the environmental analysis document at the National OCS Program stage but may also be reviewed and considered at subsequent stages in the process. Ideally, nominations for areas to exclude from leasing would be discrete geographic areas that are smaller than a planning area (*e.g.,* areas of sensitive bottom habitat in the Gulf of America (GOA)).

Public Comment Procedure

BOEM will accept comments via the internet commenting system *regulations.gov,* or by regular U.S. mail. Comments submitted by other means may not be considered. BOEM's strong preference is to receive comments via *regulations.gov,* except when a comment contains proprietary information. Comments should include full names and addresses of the individual submitting the comment(s). Before including personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made publicly available. While you can ask BOEM in your comment to withhold your personal identifying information from public review, BOEM cannot guarantee that we will be able to do so. Even if BOEM withholds your information in the context of this notice, your submission is subject to the Freedom of Information Act (FOIA), and if your submission is requested under the FOIA, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

Published Documents: The 11th National Outer Continental Shelf Oil and Gas Leasing.

Draft Proposed Program: 1st Analysis and Proposal can be found at *https://www.boem.gov/National-Program.*

Background Information

The development of a new National OCS Program is a key component of the U.S. Department of the Interior's implementation of President Donald Trump's Executive Order (E.O.) 14154, ''Unleashing American Energy'' (January 20, 2025), and Secretary Burgum's Secretary's Order 3418, ''Unleashing American Energy'' (February 3, 2025). The E.O. states that it is ''in the national interest to unleash America's affordable and reliable energy and natural resources'' and that it ''is the policy of the United States . . . to encourage energy exploration and production on Federal lands and waters, including on the [OCS], in order to meet the needs of our citizens and solidify the United States as a global energy leader long into the future.''

As directed by the Secretary of the Interior (Secretary), BOEM initiated the development of the 11th Program by issuing a Request for Information and Comments (RFI) on April 30, 2025 (90 FR 17972). The National OCS Program development process is consistent with Section 18 of the Outer Continental Shelf Lands Act (OCS Lands Act), 43 U.S.C. 1344, and its implementing regulations, and includes the development of a DPP, a Proposed Program, a Proposed Final Program (PFP), and Secretarial approval of the 11th Program.

This Notice of Availability (NOA) announces the availability of the DPP

for public review and comment. The DPP includes an analysis of all 27 OCS Planning Areas under Section 18, called the 1st Analysis, and the Secretary's 1st Proposal of lease sales on the OCS for the 11th Program. This 1st Proposal provides the basis for gathering information and conducting analyses to inform the Secretary on which areas to include in the 2nd Proposal for further leasing consideration in the 11th Program.

The 1st Proposal for the 11th Program would make more than 85 percent of the estimated technically recoverable OCS oil and gas resources available for leasing during the five-year period following program approval. The 1st Proposal considers three of the four OCS Regions for leasing, including the program areas that are estimated to have some of the most prospective oil and gas resources and potential to provide beneficial effects for the U.S. economy and national security from reduced oil imports and stable energy sources.

The 1st Proposal will enable the Secretary to receive information necessary to conduct a thorough consideration of the section 18(a)(2) factors and to perform the balancing analysis required by Section 18(a)(3) of the OCS Lands Act necessary to select the timing and location of future leasing. Including areas in the 11th Program at this stage incentivizes industry to look to the U.S. OCS when considering long-term investment strategies in upstream energy development and encourages industry to employ their worldclass geological and technical expertise to assess and evaluate America's potential OCS oil and gas resources. This will, in turn, further America's understanding of the resources available on the OCS to meet national energy needs. The Secretary's approach to the 1st Proposal does not prematurely foreclose exploration planning, but fosters it, to allow for the potential discovery of oil and gas on the OCS.

Allowing for the potential discovery of new oil and gas reserves on the OCS is consistent with the Administration's policies, which seek to achieve energy security and resilience by reducing U.S. reliance on imported energy. Additionally, OCS oil and gas production benefits the United States by helping to reinvigorate American manufacturing and job growth and contributes to the U.S. gross domestic product. Many of the jobs in the oil and gas industry earn a significant wage premium; these employees have more purchasing power and can consume more goods and services, which increases their standard of living and contributes more to the economy.

Grounded in the above principles, and after careful consideration of public input and the OCS Lands Act Section 18(a)(2) factors, the 1st Proposal includes a schedule of 34 lease sales in three of the four OCS Regions, including all or portions of 21 of the 27 OCS planning areas (see Table 1 and Figures 1 and 2). This 1st Proposal does not include a potential lease sale in the North Aleutian Basin Planning Area, Washington/Oregon Planning Area, or any of the Atlantic planning areas. After considering relevant information and analysis, the Secretary intends to create a new South-Central GOA Planning Area, the boundaries of which would align with GOA Program Area B. Additionally, the Secretary has decided to remove the remaining areas within the current Eastern GOA Planning Area from further leasing consideration in the 11th Program (see Figure 2).

TABLE 1—1ST PROPOSAL LEASE SALE SCHEDULE

Count	Sale year	OCS region	Program area
1.	2026	Alaska	Beaufort Sea Program Area.
2.	2027	Pacific	Southern California Program Area.
3.	2027	Pacific	Central California Program Area.
4.	2027	Gulf of America	GOA Program Area A.
5.	2027	Alaska	Cook Inlet Program Area.
6.	2028	Alaska	Chukchi Sea Program Area.
7.	2028	Gulf of America	GOA Program Area A.
8.	2028	Alaska	Cook Inlet Program Area.
9.	2029	Pacific	Southern California Program Area.
10.	2029	Pacific	Northern California Program Area.
11.	2029	Pacific	Central California Program Area.
12.	2029	Gulf of America	GOA Program Area A.
13.	2029	Gulf of America	GOA Program Area B.
14.	2029	Alaska	Cook Inlet Program Area.
15.	2030	Alaska	Gulf of Alaska Program Area.
16.	2030	Alaska	Shumagin Program Area.
17.	2030	Alaska	Kodiak Program Area.
18.	2030	Gulf of America	GOA Program Area B.
19.	2030	Gulf of America	GOA Program Area A.
20.	2030	Alaska	Cook Inlet Program Area.
21.	2030	Pacific	Southern California Program Area.
22.	2030	Alaska	Chukchi Sea Program Area.
23.	2030	Alaska	Beaufort Sea Program Area.
24.	2030	Alaska	Hope Basin Program Area.
25.	2030	Alaska	Norton Basin Program Area.
26.	2030	Alaska	Navarin Basin Program Area.
27.	2030	Alaska	St. George Basin Program Area.
28.	2030	Alaska	High Arctic Program Area.
29.	2031	Gulf of America	GOA Program Area A.
30.	2031	Alaska	Cook Inlet Program Area.
31.	2031	Alaska	Aleutian Basin Program Area.
32.	2031	Alaska	Aleutian Arc Program Area.
33.	2031	Alaska	Bowers Basin Program Area.
34.	2031	Alaska	St. Matthew-Hall Program Area.

BILLING CODE 4340–98–P

Figure 1. Draft Proposed Program Areas: Alaska

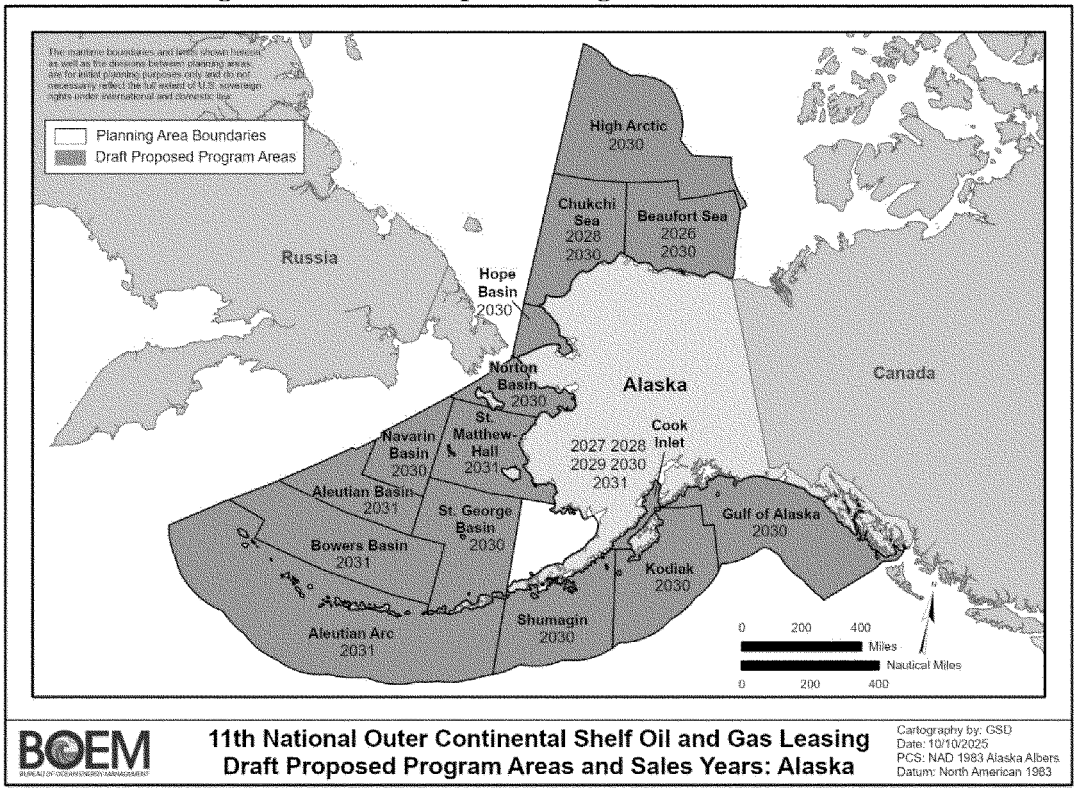
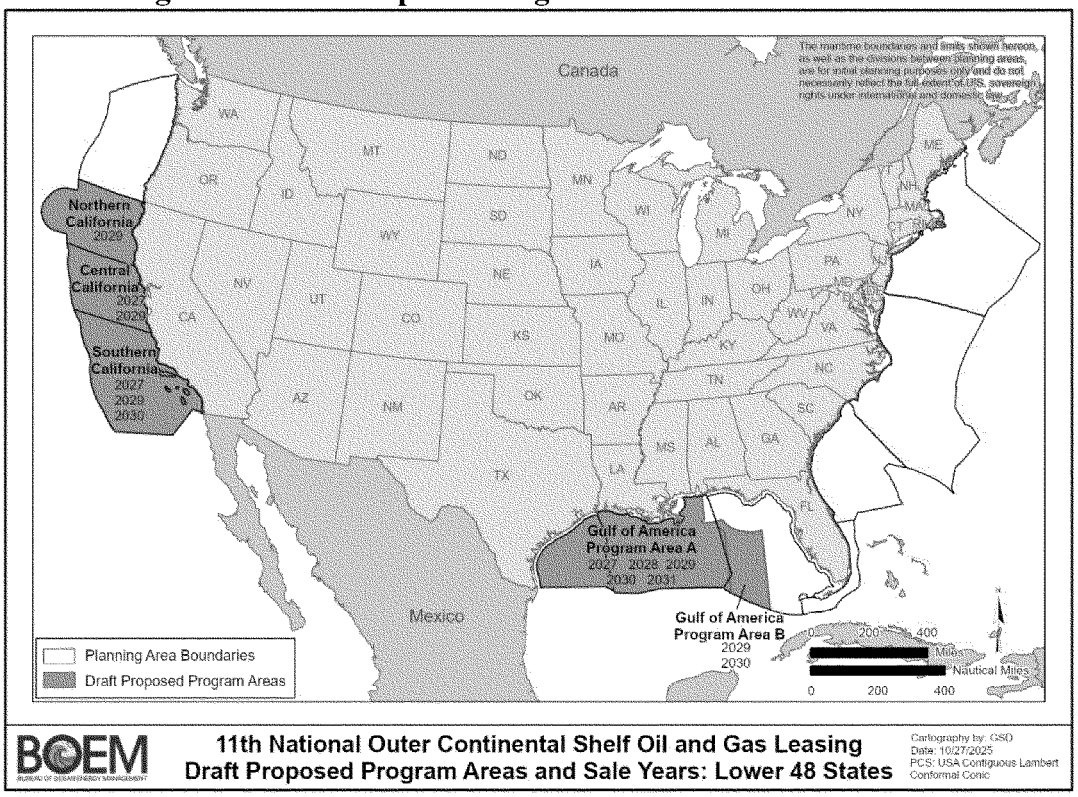


Figure 2. Draft Proposed Program Areas: Lower 48 States



Including 21 of the 27 planning areas in this 1st Proposal allows for flexibility in the future stages of the National OCS Program development process, as well as the opportunity to seek additional input and further coordinate with key stakeholders on those areas. The Secretary is committed to enhancing coordination and collaboration with other governmental entities—including Tribal governments, governors, and other Federal agencies—and key stakeholders, to discover solutions to multiple use challenges so oil and gas resources can be discovered and extracted, critical military and other ocean uses can continue, and our sensitive physical and biological resources are protected.

Authority: This NOA for the DPP for the 11th Program is published in accordance with Section 18 of the OCS Lands Act and its implementing regulations (30 CFR part 556).

Matthew Giacona,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2025–20760 Filed 11–21–25; 8:45 am]

BILLING CODE 4340–98–C

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–748–749 and 731–TA–1726–1727 (Final)]

Float Glass Products From China and Malaysia; Revised Schedule for the Subject Proceeding

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: November 20, 2025.

FOR FURTHER INFORMATION CONTACT: Kristina Lara (202–205–3386), 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 this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective July 15, 2025, the Commission established a schedule for the conduct of the subject proceeding (90 FR 38991, August 13, 2025). Due to the lapse in appropriations and ensuing cessation of Commission operations, the Commission is revising its schedule as follows: the prehearing staff report will be placed in the nonpublic record on December 23, 2025; the deadline for filing prehearing briefs is December 31, 2025; requests to appear at the hearing must be filed with the Secretary to the Commission on or before January 2, 2026; a prehearing conference will be held on January 6, 2026, if deemed necessary; parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than noon on January 7, 2026; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on January 8, 2026; the deadline for filing posthearing briefs and for written statements from any person who has not entered an appearance as a party is January 15, 2026; the Commission will make its final release of information on January 28, 2026; and final party comments are due on February 2, 2026.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 20, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–20766 Filed 11–21–25; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–742–745 and 731–TA–1720–1723 (Final)]

Hard Empty Capsules From Brazil, China, India, and Vietnam; Revised Schedule for the Subject Proceeding

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: November 20, 2025.

FOR FURTHER INFORMATION CONTACT: Julie Duffy ((202) 708–2579), 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 this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective May 29, 2025, the Commission established a schedule for the conduct of the subject proceeding (90 FR 27052, June 25, 2025). Due to the lapse in appropriations and ensuing cessation of Commission operations, the Commission is revising its schedule as follows: the deadline for filing prehearing briefs is November 24, 2025; requests to appear at the hearing must be filed with the Secretary to the Commission on November 25, 2025; a prehearing conference will be held on November 28, 2025, if deemed necessary; parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than noon on December 1, 2025; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on December 2, 2025; the deadline for filing posthearing briefs and for written statements from any person who has not entered an appearance as a party is December 9, 2025; the Commission will make its final release of information on December 19, 2025; and final party comments are due on December 23, 2025.

For further information concerning this proceeding, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 20, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–20757 Filed 11–21–25; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Meeting of the Religious Liberty Commission

AGENCY: Office of the Associate Attorney General, United States Department of Justice (DOJ).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DOJ is publishing this notice to announce the fourth Federal advisory committee meeting of the Religious Liberty Commission (Commission).

DATES: Open to the public December 10, 2025, from 8:30 a.m. to 1:30 p.m.

ADDRESSES: The meeting will be held at the Debate Chamber at the Old Parkland, 3819 Maple Ave., Dallas, TX 75219. The meeting will be recorded and broadcast at *justice.gov/live.*

FOR FURTHER INFORMATION CONTACT: Mary Margaret Bush, Religious Liberty Commission Director and Designated Federal Officer, *RLC@usdoj.gov,* 202–514–2046. Mrs. Bush can also be contacted to request a reasonable accommodation to attend the meeting.

Registration Information: Registration is required for in-person attendance. In-person attendance is limited to venue capacity. Members of the public may register on the Religious Liberty Commission website, *https://www.justice.gov/religious-liberty-commission.* Members of the public who attend in-person will be required to present identification and go through security screening.

We ask guests from the media to register through the Office of Public Affairs by December 5, 2025 at 5 p.m. Media should be prepared to go through security checks and present government-issued photo I.D. and valid media credentials.

SUPPLEMENTARY INFORMATION: The Religious Liberty Commission is a federal advisory committee established by the President through Executive Order 14291. The Commission is composed of a chair, a vice chair, and eleven members appointed by the President, including representatives from the private sector, employers, educational institutions, religious communities and States, and three ex-officio members. The Commission advises the Domestic Policy Council and the White House Faith Office on religious liberty policies of the United States, and will produce a comprehensive report to the President on the foundations of religious liberty in America, the impact of religious liberty on American society, current threats to domestic religious liberty, strategies to preserve and enhance religious liberty protections for future generations, and programs to increase awareness of and celebrate America's peaceful religious pluralism.

Agenda: During its fourth meeting on December 10, 2025, the Commission will discuss religious liberty in the military, as well as state and local religious liberty issues.

Public Comment: Written comments may be sent by email to *RLC@usdoj.gov* or by mail to U.S. Department of Justice, Office of the Associate Attorney General, ATTN: Religious Liberty Commission, 950 Pennsylvania Avenue NW, Room 5706 Washington, DC 20530. The deadline for comments is December 1, 2025.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*).

Dated: November 19, 2025.

Mary Margaret Bush,

Designated Federal Officer, Religious Liberty Commission.

[FR Doc. 2025–20694 Filed 11–21–25; 8:45 am]

BILLING CODE 4410–21–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–1NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; DEA Voluntary Wellness Program Healthcare Provider Clearance

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Drug Enforcement Administration, 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 December 24, 2025.

FOR FURTHER INFORMATION CONTACT: If you have 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: Benjamin Inks, Writer/Editor, Office of Compliance, Policy Administration Section, 700 Army Navy Drive, Arlington, VA 22202, telephone: 571–672–4524, email: *Benjamin.B.Inks@dea.gov.*

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on August 4, 2025, 90 FR 36453, allowing a 30-day comment period. 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 agency, 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;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—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 [1117–1NEW]. 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:* New.

2. *Title of the Form/Collection:* Voluntary Wellness Program (VWP) Healthcare Provider Clearance.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form number: DEA–315c. The sponsoring component is the Drug Enforcement Administration.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected Public: a licensed medical professional must complete the form prior to the DEA employee being allowed to participate in the VWP.

Abstract: The collection of information via the DEA–315c form is necessary to determine whether DEA employees are medically cleared to safely participate in physical fitness activities under the Voluntary Wellness Program (VWP). This requirement is both a matter of workplace safety and an essential component of the agency's broader health and wellness initiatives.

5. *Obligation to Respond:* Voluntary.

6. *Total Estimated Number of Respondents:* 100.

7. *Estimated Time per Respondent:* 45 minutes.

8. *Frequency:* 1x per year.

9. *Total Estimated Annual Time Burden:* 75 hours.

10. *Total Estimated Annual Other Costs Burden:* 0 for DEA.

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: November 19, 2025.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2025–20659 Filed 11–21–25; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0063]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Drug Use Statement

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Drug Enforcement Administration, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 23, 2026.

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 Benjamin Inks, Writer/Editor, Office of Compliance, Policy Administration Section 700 Army Navy Drive Arlington VA 22202, telephone: 571–672–4524, email: *Benjamin.B.Inks@dea.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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.

Abstract: The Drug Enforcement Administration (DEA) is a federal law enforcement agency charged with enforcing the controlled substances laws and regulations of the United States. Its principal responsibilities include investigation and prosecution of major violators of controlled substances laws.

Because of the nature of DEA's mission, and its status as a law enforcement agency, past use of illegal drugs by potential employees presents special concerns, and therefore the agency evaluates a job applicant's illegal drug use and abuse during the application process. Executive Order 12564 is supported in the DEA Pre-Employment Drug Policy that a history of illegal drug use or abuse may be a disqualification for employment with DEA.

This amended form notifies job applicants of the DEA Pre-Employment Drug Policy and asks them to acknowledge their understanding of those requirements to move forward in the employment process.

Overview of This Information Collection

1. *Type of Information Collection:* Revision.

2. *The Title of the Form/Collection:* Drug Enforcement Administration Pre-Employment Drug Policy Notification and Acknowledgement.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form number:* DEA–200. The sponsoring component is the Drug Enforcement Administration.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* DEA job applicants are asked to complete the form. While not mandatory, an applicant can be disqualified in the hiring process for failing to provide the requested acknowledgement.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total or estimated number of respondents for the DEA–200 is 4727. The time per response is 7 minutes.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 551 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

Total Burden Hours

Activity	Number of Respondents	Frequency	Total Annual Responses	Time Per Response	Total Annual Burden (Hours)
DEA Form 200	4727	1/annually	4727	7 min	551 hrs.
Unduplicated Totals	***4727***	***1/annually***	***4727***	***7 min***	***551 hrs.***

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street, NE, 4W–218, Washington, DC.

Dated: November 19, 2025.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2025–20665 Filed 11–21–25; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; National Science Foundation (NSF) Small Business Innovation Research (SBIR)/ Small Business Technology Transfer (STTR) Pre-Award Information Collection

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: 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: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

Comments: Comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents; 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 should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

Copies of the submission may be obtained by calling 703–292–7556. NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: National Science Foundation (NSF) Small Business Innovation Research (SBIR)/Small Business Technology Transfer (STTR) Pre-Award Information Collection.

OMB Control No.: 3145–0270.

Abstract: The NSF SBIR/STTR programs focus on transforming scientific discovery into products and services with commercial potential and/or societal benefit. Unlike fundamental or basic research activities that focus on scientific and engineering discoveries, the NSF SBIR/STTR programs support the creation of opportunities to move fundamental science and engineering out of the lab and into the market at scale, through startups and small businesses representing deep technology ventures.

The NSF SBIR/STTR programs have two phases: Phase I and Phase II. Phase I is a 6–12 month experimental or theoretical investigation that allows the awardees to determine the scientific and technical feasibility, as well as the commercial merit of the idea or concept. Phase II further develops the proposed concept, with a goal of working toward the commercial launch of the new product, process, or service being developed.

The NSF SBIR/STTR programs request the Office of Management and Budget (OMB) approval of this clearance that will allow the programs to collect information from a selected group of applicants—those that have been reviewed by independent experts and that NSF Program Directors are considering recommending for funding—for the purpose of making a funding decision. This information includes, but is not exclusive to, a list of company officers and the corresponding ownership status of each company officer within the startup,

whether the startup is associated or affiliated with other companies, whether there exist any relationships (personal, financial, and/or professional) between project personnel, and the locations of all the facilities where significant research will be performed for the proposed project. Such data will enable the NSF Program Directors to evaluate a given company's business structure, ascertain the level of commitment of the Principal Investigator (PI) and co-PIs to the startup venture, and identify conflicts of interests (if any), as part of the due diligence process that the programs undertake to verify there are no fraudulent or inappropriate business practices prior to recommending the small business for an award.

Following standard OMB requirements, NSF will request OMB approval in advance and provide OMB with a copy of the form containing these questions. Data collected will be used strictly for due-diligence, auditing, and/or legal purposes, and are needed for effective pre-award management, administration, and/or program monitoring. The applicants, if being considered for award, will only be asked to submit a signed form containing their responses to the questions once for *each* NSF SBIR/STTR proposal (Phase I and II, if applicable). The data collection burden to the selected applicants will be limited to no more than 10 minutes of the respondents' time in each instance. Summaries of the collected data are also being used to respond to queries from Congress, the Small Business Administration, the public, NSF's external merit reviewers who serve as advisors, including Committees of Visitors, NSF's Office of the Inspector General, and other pertinent stakeholders.

Respondents: PIs listed on the NSF SBIR/STTR proposals.

Estimated Number of Annual Respondents: 1,000.

Frequency: Once.

Average Time: 15 minutes.

Estimated Total Burden Hours: 250 hours per year.

Dated: November 20, 2025.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2025–20776 Filed 11–21–25; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346; NRC–2025–1699]

Vistra Operations Company LLC; Davis-Besse Nuclear Power Station, Unit No. 1; License Amendment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to comment, request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License (RFOL) No. NPF–3, issued to Vistra Operations Company LLC (Vistra OpCo, the licensee) for Davis-Besse Nuclear Power Station, Unit No. 1. (DBNPS). The proposed license amendment would extend the completion time (CT) to 15 days for Technical Specification 3.8.1, ''AC [alternating current] Sources-Operating,'' Action A.3 for one time only during Cycle 24. For this amendment request, the NRC proposes to determine that it involves no significant hazards consideration.

DATES: Submit comments by December 24, 2025. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Requests for a hearing or petition for leave to intervene must be filed by January 23, 2026.

ADDRESSES: You may submit comments by any of the following methods however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–1699. 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.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Kuntz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3733; email: *Robert.Kuntz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–1699 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–1699.
- *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 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.* The amendment request is available at ML25295A487.
- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2025–1699 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that

they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to RFOL No. NPF–3 for Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

The amendment would allow a one-time extension of the CT for Technical Specification 3.8.1, Action A.3, as described in their submittal dated October 22, 2025.

Before issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in section 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented as follows:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The startup transformers are standby equipment that are not normally used during power operations until after the initiation of an accident scenario, so extending the time the startup transformer X02 is allowed to be out of service does not increase the probability of an accident previously evaluated in the Updated Final Safety Analysis Report (UFSAR).

There is no significant increase in the consequences of an accident during the repairs to startup transformer X02. A risk assessment has been performed for plant configuration during the proposed CT change. The Probabilistic Risk Assessment (PRA) analysis supports this CT change to TS 3.8.1. The Incremental Conditional Core Damage Probability and the Incremental Conditional Large Early Release Probability both remain below the acceptance criterion described in Regulatory Guide 1.177. The increase in risk can be mitigated by the measures described in section 3.2 above, specifically protecting important equipment such as the Emergency Diesel Generators (EDGs), Station Blackout Diesel Generator (SBODG), and Emergency Feedwater System (EFW). The risk assessment recommends that these systems be maintained available and protected throughout the duration of the extended CT to mitigate the increased risk of a loss of offsite power and to mitigate the increased fire and seismic risk.

There is no change in the station response to a Loss of Offsite Power (LOOP) or Station Blackout (SBO) as a result of the CT change because X02 is not included in the designated equipment used in the LOOP and SBO coping strategies.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment involves repairs to startup transformer X02. This work is to be performed with the plant online. During normal online operations, startup transformer X02 is in a standby condition with plant loads being provided by auxiliary transformer X11. The proposed change does not alter the design, physical configuration, or mode of operation of any other plant structure, system, or component. The proposed extended X02 inoperability is bounded by the LOOP analysis. No physical changes are being made to any other portion of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the method governing normal plant operation; therefore, no new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this change. The proposed change to the CT to allow repairs of startup transformer X02 does not result in any new mechanisms that could initiate damage to the reactor or its principal safety barriers since all design and performance criteria will continue to be met and DBNPS will continue to be operated within the limits of its licensing basis. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment to extend the TS 3.8.1 Action A.3 CT does not significantly reduce the margin of safety for accident mitigation. During the proposed maintenance, both trains of emergency power will be supplied by auxiliary transformer X11 which is the normal configuration when the main generator is in service. Both EDGs will be maintained operable and the SBODG will be maintained functional and protected in the event of a LOOP. Compensatory measures will be implemented to minimize nuclear safety and generation risk.

To support a scheduled 13-day maintenance period, Vistra OpCo requests a CT of 15 days. PRA analysis (attachment 5 [of the application]) has determined a CT of 18 days remains within the Regulatory Guide 1.177 criterion. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance.

The Commission expects that the need to take this action will occur very infrequently.

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).

If a hearing is requested and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

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 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's public website (*https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate*).

IV. Electronic Submissions and 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 (*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 is created, the participant must submit adjudicatory documents in the 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 in order 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 otherwise 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.

For further details with respect to this action, see the application for license amendment dated October 22, 2025 (ADAMS Accession No. ML25295A487).

Attorney for licensee: Roland Blackhaus, Senior Lead Counsel-Nuclear, Vistra Corp., 325 7th Street NW, Suite 520, Washington, DC 20004.

NRC Branch Chief: Ilka Berrios.

Dated: November 20, 2025.

For the Nuclear Regulatory Commission.

David Wrona,

Chief, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2025–20791 Filed 11–21–25; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–318; NRC–2025–1700]

Constellation Energy Generation, LLC; Calvert Cliffs Nuclear Power Plant, Unit 2; License Amendment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to comment, request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License (RFOL) No. DPR–69, issued to Constellation Energy Generation, LLC (CEG, the licensee) for Calvert Cliffs Nuclear Power Plant, Unit 2 (CCNPP). The proposed license amendment would extend the completion time (CT) for Technical Specification 3.8.1, ''AC [alternating current] Sources-Operating,'' Action D.3. For this amendment request, the NRC proposes to determine that it involves no significant hazards consideration.

DATES: Submit comments by December 24, 2025. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Requests for a hearing or petition for leave to intervene must be filed by January 23, 2026.

ADDRESSES: You may submit comments by any of the following methods however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–1700. 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.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Sam Bina, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3425; email: *Samuel.Bina@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–1700 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–1700.
- *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 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.* The amendment request is available at ML25275A565.
- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2025–1700 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to RFOL No. DPR–69 for Calvert Cliffs Nuclear Power Plant, Unit 2, located in Calvert, Maryland.

The amendment would allow a one-time extension of the CT for Technical Specification 3.8.1, Action D.3, as described in their submittal dated October 2, 2025.

Before issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in section 50.92 of

title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented as follows:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed TS change will not increase the probability of an accident since it will only extend the time period that one qualified offsite circuit can be out of service. The extension of the time duration that one qualified offsite circuit is out of service has no direct physical impact on the plant. The proposed inoperable offsite circuit limits the available redundancy of the offsite electrical system to a period not to exceed 14 days for Unit 2. Therefore, the proposed TS change does not have a direct impact on the plant that would make an accident more likely to occur due to the extended completion time.

During transients or events which require these subsystems to be operating, there is sufficient capacity in the operable loops/subsystems and available but inoperable equipment to support plant operation or shutdown. Therefore, failures that are accident initiators will not occur more frequently than previously postulated as a result of the proposed change.

In addition, the consequences of an accident previously evaluated in the Updated Final Safety Analysis Report (UFSAR) will not be increased. With one offsite circuit inoperable, the consequences of any postulated accidents occurring during this CT extension were found to be bounded by the previous analyses as described in the UFSAR.

The minimum equipment required to mitigate the consequences of an accident and/or safely shut down the plant will be operable or available. Therefore, by extending the CT and extending the assumptions concerning the combinations of events for the longer duration of the extended CT, CEG concludes that at least the minimum equipment required to mitigate the consequences of an accident and/or safely shut down the plant will still be operable or available.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS change will not create the possibility of a new or different type of accident since it will only extend the time period that one of the offsite circuits can be out of service. The extension of the time duration that one offsite circuit can be out of service has no direct physical impact on the plant and does not create any new accident initiators. The systems involved are accident mitigation systems. All of the possible impacts that the inoperable equipment may have on its supported systems were previously analyzed in the UFSAR and are the basis for the present TS Action statements and CTs. The impact of inoperable support systems for a given time duration was previously evaluated and any accident initiators created by the inoperable systems was evaluated. The lengthening of the time duration does not create any additional accident initiators for the plant.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The present offsite circuit TS CT limits were set to ensure that sufficient safety-related equipment is available for response to all accident conditions and that sufficient decay heat removal capability is available for a loss-of-coolant accident (LOCA) coincident with a loss of offsite power (LOOP) on one unit and simultaneous safe shutdown of the other unit. A slight reduction in the margin of safety is incurred during the proposed extended CT due to the increased risk that an event could occur in a 14-day period versus a 72-hour period. This increased risk is judged to be minimal due to the low likelihood of an event occurring during the extended CT and maintaining the minimum ECCS/decay heat removal requirements.

The slight reduction in the margin of safety from the extension of one offsite circuit current CT limit is not significant since the remaining operable offsite circuit, the emergency diesel generators, the Station Blackout (SBO) Diesel, and the FLEX diesel generators provide an effective defense-in-depth plan to support the station electrical plant configurations during the extended CT period.

Operations personnel are fully qualified by normal periodic training to respond to, and mitigate, a Design Basis Accident, including the actions needed to ensure decay heat removal while CCNPP, Units 1 and 2 are in the operational electrical configurations described within this submittal. Accordingly, existing procedures are in place that address safe plant shutdown and decay heat removal for situations applicable to those in the proposed CTs. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

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).

If a hearing is requested and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

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 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=ML2034 0A053*) and on the NRC's public website (*https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate*).

IV. Electronic Submissions and 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 (*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 is created, the participant must submit adjudicatory documents in the 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 in order 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 otherwise 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.

For further details with respect to this action, see the application for license amendment dated October 2, 2025 (ADAMS Accession No. ML25275A565).

Attorney for licensee: Jason Zorn, Associate General Counsel, Constellation Energy Generation, LLC 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Hipolito Gonzalez.

Dated: November 20, 2025.

For the Nuclear Regulatory Commission.

David Wrona,

Chief, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2025–20792 Filed 11–21–25; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0149]

Draft Interim Staff Guidance: Treatment of Certain Loss-of-Coolant Accident Locations as Beyond-Design-Basis Accidents

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its draft Interim Staff Guidance (ISG), DSS–ISG–XX, ''Treatment of Certain Loss-of-Coolant Accident Locations as Beyond-Design-Basis Accidents.'' The purpose of the ISG is to communicate the key safety principles that would enable the NRC staff to determine that certain break locations that would normally be analyzed as design-basis loss-of-coolant accidents (LOCAs) for light-water reactors can be treated as beyond-design-basis accidents.

DATES: Submit comments by December 24, 2025. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–0149. 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 individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Carolyn Lauron, telephone: 301–415–2736; email: *Carolyn.Lauron@nrc.gov* or Vic Cusumano, telephone: 301–415–4011; email: *Victor.Cusumano@nrc.gov,* both in the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0149 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–0149.
- *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 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.* The draft ISG for the ''Treatment of Certain Loss-of-Coolant Accident Locations as Beyond-Design-Basis Accidents'' is available in ADAMS under Accession No. ML25043A335.
- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2025–0149 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

The emergency core cooling system (ECCS) performance requirements in section 50.46 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' assume as their starting point that a LOCA has occurred. Such an approach is called ''non-mechanistic'' and presumes reactor coolant pressure boundary rupture without regard to cause. Mechanistic (*i.e.,* based on physical processes or phenomena) rationales for determining that certain LOCAs are unlikely to occur have generally not been accepted.

The NRC, however, has accepted mechanistic rationales for dispositioning certain phenomena for limited purposes. For example, the dynamic effects of pipe ruptures can be excluded from consideration in the design bases under 10 CFR part 50, Appendix A, ''General Design Criteria [(GDC)] for Nuclear Power Plants,'' GDC

4 if certain conditions are met. Specifically, the NRC needs to review and approve analyses that demonstrate that the probability of fluid system piping rupture is ''extremely low'' under conditions consistent with the design basis for the piping. The determination that the probability of pipe ruptures is extremely low under GDC 4 is only for the analysis of dynamic effects and does not apply to the design-basis LOCA spectrum usually used to calculate ECCS or containment performance, among other aspects of system, structure, or component design. The NRC has nonetheless begun considering other aspects of reactor design for which engineering analysis methods have developed to a point that mechanistic considerations may be employed to exclude some LOCAs from the design basis while continuing to maintain high level of probability that the emergency core cooling function will be accomplished. Other design-basis analyses that depend on the results of ECCS analyses may also be affected by this approach. Further, the NRC has begun rulemaking efforts to apply relaxed analytical methods to certain classes of LOCAs.

The NRC is currently considering circumstances under which an alternative interpretation of the design-basis LOCA spectrum may be found to be acceptable. For some applications now under review and anticipated to be submitted in the near to medium term, designers have sought to holistically reduce LOCA risks (*e.g.,* reduced numbers of penetrations, larger volumes of water above the core, extended coping times, passive cooling systems). In consideration of design-specific information, the NRC can review justifications that design-basis LOCAs need not be postulated at all conceivable locations.

This draft guidance describes the mechanistic considerations that the NRC staff may consider in determining whether an applicant has proposed an adequately protective design-basis LOCA spectrum.

Dated: November 19, 2025.

For the Nuclear Regulatory Commission.

Victor Cusumano,

Deputy Director, Division of Safety Systems, Office of Nuclear Reactor Regulation.

[FR Doc. 2025–20707 Filed 11–21–25; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104220]

Order Cancelling Registration of Municipal Advisor, Melio & Company, LLC, Pursuant to Section 15B(c)(3) of the Securities Exchange Act of 1934

November 19, 2025.

Melio & Company, LLC (CIK No. 1620465, SEC File No. 866–00100–00), hereinafter referred to as the ''registrant,'' is registered with the Securities and Exchange Commission (the ''Commission'') as a municipal advisor pursuant to Sections 15B(a)(1)(B) and 15B(a)(2) of the Securities Exchange Act of 1934 (the ''Act'').

On September 23, 2025, a Notice of Intention to Cancel Registration of a Certain Municipal Advisor, including the registrant, was published in the **Federal Register** (Securities and Exchange Commission Release No. 34–103999). The notice gave interested persons an opportunity to request a hearing and stated that an order or orders cancelling the registration would be issued unless a hearing was ordered. No request for a hearing has been filed by any persons (including registrant), and the Commission has not ordered a hearing.

Pursuant to Section 15B(c)(3) of the Act, the Commission has found that registrant is no longer in existence or has ceased to do business as a municipal advisor.

Accordingly,

It is ordered, pursuant to Section 15B(c)(3) of the Act, that the registration of Melio & Company, LLC (CIK No. 1620465, SEC File No. 866–00100–00) be, and hereby is, cancelled.

For the Commission, by the Office of Municipal Securities, pursuant to delegated authority.[1]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20689 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[1] 17 CFR 200.30–3a(a)(1)(ii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104231; File No. SR–PHLX–2025–54]

Self-Regulatory Organizations; Nasdaq PHLX LLC.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule Equity 7, Section 3 (Nasdaq PSX Fees) To Establish Port and Disaster Recovery Fees for Newly Added CORE FIX Entry Ports and Remove the Temporary Fee Waiver Language Pertaining to OUCH 5.0

November 19, 2025.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2025, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule Equity 7, Section 3 (Nasdaq PSX Fees) to establish port and disaster recovery fees for newly added CORE FIX entry ports and remove the temporary fee waiver language pertaining to OUCH 5.0, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently established CORE FIX, a new Order [4] entry protocol that will cater to the customer segment that currently uses FIX but does not have a need for its routing capabilities.[5] CORE FIX will utilize the same standardized protocol as FIX but eliminate the intricate RASH-based software layer that provides for Order routing functionality. Currently, Phlx charges a $400/port/month port fee and a $25/port/month disaster recovery port fee for similar Order entry protocols such as OUCH and RASH.[6]

The Exchange proposes to amend Equity 7, Section 3 to adopt a fee of $400/port/month and a disaster recovery port fee of $25/port/month for the newly added CORE FIX order protocol, which is similar to other current port fees. Additionally, the Exchange proposes a 30-day waiver of the CORE FIX production port fee for up to five (5) newly added CORE FIX ports. The fee waiver would be offered for a three-month period, beginning on the date when CORE FIX first becomes available on the Exchange, which such date the Exchange shall announce in an Equity Trader Alert. At the end of the three-month period, users would no longer be eligible for the waiver. A user may only receive the 30-day waiver once per port (up to a maximum of five ports) within the three-month window. The Exchange proposes to offer this temporary waiver to encourage new, prospective customers to adopt, and returning customers to utilize, the CORE FIX Order entry protocol.

The Exchange also proposes to amend Equity 7, Section 3 to provide a 30-day waiver for the $300 Testing Facility fee described in ''Testing Facilities'' subparagraph (a) for up to five [7] newly added CORE FIX Testing Facility ports. This fee waiver would be offered for a three-month period, beginning on the date when CORE FIX first becomes available on the Exchange, which such date the Exchange shall announce in an Equity Trader Alert. At the end of the three-month period, users would no longer be eligible for the waiver. A user may only receive the 30-day waiver once per port (up to a maximum of five ports) within the three-month window. The Testing Facility provides subscribers with a virtual System test environment that closely approximates the production environment on which they may test their automated systems that integrate with the Exchange. For example, the Testing Facility provides subscribers with a virtual System environment for testing upcoming releases and product enhancements, as well as testing firm software prior to implementation. The Exchange proposes to offer this temporary waiver to encourage customers to test the updated version of the CORE FIX Order entry protocol free of charge.

The Exchange is also proposing to make a technical change to Equity 7, Section 3 to remove the temporary waiver provided to the OUCH Order entry ports. Similar to the proposed waiver for CORE FIX, the OUCH production port fee waiver was for a three-month period, which began in November 2022. The three-month waiver period for OUCH is no longer applicable. Therefore, the Exchange is proposing to amend the rules to remove the language.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] 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 fee schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The 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.'' [10]

Phlx believes that it is reasonable, equitable and not unfairly discriminatory to establish a port fee and a disaster recovery port fee for CORE FIX and to provide a temporary fee waiver for up to five newly added CORE FIX order entry ports (production and Testing Facility environments). As described above, the proposed fees are similar to the fees charged for other similar ports such as RASH and OUCH. Participants are not required to use the CORE FIX port. The Exchange also believes it is important to provide users an opportunity to test CORE FIX free of charge. The temporary fee waivers would encourage users to test and adopt the enhanced CORE FIX Order entry protocol.

Additionally, the Exchange believes that it is reasonable and not unfairly discriminatory to remove the language in Equity 7, Section 3 referencing the fee waiver for OUCH 5.0 because the three-month time period for the waiver has lapsed and is no longer applicable to OUCH 5.0 subscribers. The removal of

[4] *See* Securities Exchange Act Release No. 104020 (Sept. 23, 2025), the release is awaiting publication in the **Federal Register** but is available at, *https://www.sec.gov/files/rules/sro/phlx/2025/34-104020.pdf*. The term ''Order'' means an instruction to trade a specified number of shares in a specified System Security submitted to the System by a Participant. An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the System. An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the System. The available Order Types and Order Attributes, and the Order Attributes that may be associated with particular Order Types, are described in Rules 4702 and 4703. One or more Order Attributes may be assigned to a single Order; provided, however, that if the use of multiple Order Attributes would provide contradictory instructions to an Order, the System will reject the Order or remove non-conforming Order Attributes. *See* Equity 1, Section 1(a)(11).

[5] The CORE FIX Order entry protocol is a proprietary protocol that allows subscribers that do not utilize routing strategies to gain faster direct access to quickly enter orders into the System and receive executions. CORE FIX accepts limit Orders from members, and if there are matching Orders, they will execute. Nonmatching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. CORE FIX only provides a method for members to send Orders and receive status updates on those Orders.

[6] The OUCH Order entry protocol is a proprietary protocol that allows members to enter, replace, and cancel orders and receive executions. OUCH is intended to allow participants and their software developers to integrate NASDAQ into their proprietary trading systems or to build custom front ends. The RASH (Routing and Special Handling) Order entry protocol is a proprietary protocol that allows members to enter Orders, cancel existing Orders and receive executions. RASH allows participants to use advanced functionality, including discretion, random reserve, pegging and routing. See *https://www.nasdaqtrader.com/Trader.aspx?id=rash*.

[7] The fee waiver is limited to a maximum of five CORE FIX ports per CRD membership.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

the temporary fee waiver would be applicable to all market participants. The Exchange believes that it is necessary to a make non-technical change to the fee schedule to ensure that the fees are clear and accurately reflect the Exchange's intent.

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.

Intermarket Competition

The Exchange believes that the proposed fee and temporary fee waivers will not impose an undue burden on competition because utilization of the Exchange's ports and services are completely voluntary and subject to competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. Moreover, the proposed fees and waivers would facilitate adoption of a new Order entry protocol, which is pro-competitive because the new protocol bolsters the efficiency, functionality, and overall attractiveness of the Exchange in an absolute sense and relative to its peers. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members, participants, or competing order execution venues to maintain their competitive standing in the financial markets.

Additionally, the removal of the temporary OUCH fee waivers is a technical change to ensure that the Exchange's rulebook is current and accurately reflects the current fee offerings. Therefore, the Exchange does not believe that there is any burden on competition.

Intramarket Competition

In terms of intramarket competition, the proposed change to the fee available to a member does not impose a burden on competition and will not place any category of Exchange participant at a competitive disadvantage. The proposed fees and the change to temporarily waive fees for newly added CORE FIX order entry ports (production and Testing Facility environments) will apply uniformly to all similarly situated participants. The temporary fee waivers are available to all users and would enable users to test the CORE FIX enhancements at no cost. The Exchange notes that its members are free to trade on other venues to the extent they believe that these proposals are not attractive. Additionally, the removal of the temporary OUCH fee waivers is a non-substantive change that will not impose any burden on competition because the waivers are no longer applicable and the removal of the expired waivers will apply to all market participants.

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 is effective upon filing pursuant to Section 19(b)(3)(A) [11] of the Act and subparagraph (f)(2) of Rule 19b–4 [12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–PHLX–2025–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PHLX–2025–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PHLX–2025–54 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20683 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0728]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 17ab2–2

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or ''Commission'') is soliciting comments on the proposed collection of information provided for in Rule 17ab2–2 (17 CFR 240.17ab2–2) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Exchange Act Rule 17ab2–2 establishes procedures for making determinations affecting covered clearing agencies in certain defined circumstances. Exchange Act Rule 17ab2–2(a) establishes procedures for the Commission to make a determination, either of its own initiative or upon application by any clearing agency or member of a clearing agency, whether a covered clearing agency is systemically important in multiple jurisdictions. Exchange Act

Rule 17ab2–2(b) establishes procedures to determine, if the Commission deems appropriate, whether any of the activities of a clearing agency providing central counterparty services, in addition to clearing agencies registered with the Commission for the purpose of clearing security-based swaps, have a more complex risk profile. Exchange Act Rule 17ab2–2(c) provides a procedure for the Commission to determine, either of its own initiative or upon application by any clearing agency or member of a clearing agency, whether to rescind any such determinations previously made by the Commission.

A clearing agency or one of its members that seeks a determination from the Commission under Rule 17ab2– or rescission of any determination previously made by the Commission under Rule 17ab2–2 must submit an application to the Commission. A respondent would have the burden of preparing such application for submission to the Commission. The Commission would use the information in the collection to facilitate its determination regarding systemic importance in multiple jurisdictions or a recission of a determination. It is unlikely that confidential information would be included in the collection of information, but such information received would be kept confidential subject to provisions of the Freedom of Information Act.

Commission staff believes that Rule 17ab2–2 would impose a PRA burden on a clearing agency that applies for a determination from the Commission under the rule. Commission staff estimate that two respondent clearing agencies (or a member of a clearing agency) could submit an application for such a determination.

Commission staff estimates that each respondent clearing agency incurs a one-time burden of 10 hours and a one-time cost of $2,190 to draft and review a determination request submitted to the Commission, for a total of 20 hours and $4,380 for all respondents. The total annualized burden and cost for all respondents are 6.66 hours and $1,460.

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.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the 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 respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to *PaperworkReductionAct@sec.gov* by January 23, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: November 19, 2025.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20679 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104228; File No. SR–CBOE–2025–070]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.1

November 19, 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, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''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 Rule 5.1 to permit the Exchange to list two additional products during Global Trading Hours (''GTH'') and Curb Trading Hours (''Curb''). The text of the proposed rule change is provided in Exhibit 5. The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.1 to permit the Exchange to list Russell 2000 Index (''RUT'') and Mini-Russell 2000 Index (''MRUT'') options during GTH and Curb.

By way of background, Rule 5.1(c) provides that the Exchange may designate as eligible for trading during Global Trading Hours[3] any exclusively listed index option[4] designated for trading under Chapter 4, Section B.[5] Currently, options on S&P 500 Stock Index (''SPX''), Cboe Volatility Index (''VIX''), and Mini-SPX Index (''XSP'') are approved for trading during Global Trading Hours. Rule 5.1(d) provides that the Exchange may designate as eligible for trading during Curb[6] any

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Except under unusual conditions as may be determined by the Exchange or the Holiday hours set forth in Rule 5.1(d), Global Trading Hours are from 8:15 p.m. (previous day) to 9:25 a.m. on Monday through Friday. *See* Rule 5.1(c).

[4] An ''exclusively listed option'' is an option that trades exclusively on an exchange because the exchange has an exclusive license to list and trade the option or has the proprietary rights in the interest underlying the option. An exclusively listed option is different than a ''singly listed option,'' which is an option that is not an ''exclusively listed option'' but that is listed by one exchange and not by any other national securities exchange.

[5] If the Exchange designates a class of index options as eligible for trading during Global Trading Hours, FLEX Options with the same underlying index are also deemed eligible for trading during Global Trading Hours. *See* Rule 5.1(c)(1).

[6] Except under unusual conditions as may be determined by the Exchange, or the Holiday hours set forth in Rule 5.1(e), Curb Trading Hours are

Continued

exclusively listed option that the Exchange has designated for trading under Chapter 4, Section B.[7] Currently SPX, VIX, and XSP options are approved for trading during Curb.

By way of further background, the Exchange originally adopted the GTH trading session due to global demand from investors to trade SPX and VIX options, as alternatives for hedging and other investment purposes, particularly as a complementary investment tool to VIX futures.[8] In response to customer demand for additional options to trade during the GTH trading session for similar purposes, the Exchange later designated XSP options to be eligible for trading during GTH.[9] The Exchange later adopted a Curb trading session, to further maximize the overlap in time that such designated options could trade.

The Exchange now proposes to designate RUT and MRUT [10] options as eligible for trading during GTH and Curb. The proposed rule change amends Rules 5.1(c) and (d) to add these two products to the list of products the Exchange has approved for trading on the Exchange during GTH and Curb, respectively. The Exchange currently lists RUT and MRUT options during Regular Trading Hours (''RTH''); the proposed rule change merely extends the hours during which these options will trade on the Exchange. During GTH and Curb, RUT and MRUT options would trade in accordance with applicable Exchange Rules, as SPX, VIX and XSP currently do; the proposed rule change makes no changes to the trading rules applicable to GTH or Curb.[11]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will further improve the Exchange's marketplace for the benefit of investors. The listing of RUT and MRUT options for trading during GTH and Curb will provide more hedging and other investment opportunities within the options trading industry that is consistent with the continued globalization of the securities markets. The proposed change increases the overlap in time that RUT and MRUT options are open alongside the related futures contracts [15] and aims to provide global market participants with an expanded timeframe to trade RUT and MRUT options. Extending the timeframe in which investors may trade RUT and MRUT options is designed to provide investors with the ability to manage risk more efficiently, react to global macroeconomic events as they are happening and adjust RUT and MRUT options positions nearly around the clock.

During GTH and Curb, RUT and MRUT options would trade in accordance with Exchange Rules that apply to trading during GTH and Curb, as SPX, VIX and XSP options currently do. The proposed rule change makes no changes to the trading rules applicable to GTH or Curb; it merely permits the Exchange to list two additional products during GTH and Curb, which two products already trade on the Exchange during RTH. The Exchange therefore believes that the proposed rule change is reasonably designed to provide an appropriate mechanism for extending the trading time for RUT and MRUT options, while providing for appropriate Exchange oversight pursuant to the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. If the Exchange determines to list RUT and/or MRTU options list for trading during GTH and Curb, all Trading Permits Holders (''TPHs'') will be able, but not be required, to trade RUT and MRUT options during GTH and Curb trading sessions. The proposed rule change is merely extending the permissible trading hours of two products that currently trade on the Exchange during RTH.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because RUT and MRUT options are proprietary Exchange products. To the extent that listing RUT and MRUT on the Exchange during GTH and Curb may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Other exchanges are free to update their rules to permit extended trading hours in products that trade on their markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the

from 4:15 p.m. to 5:00 p.m. on Monday through Friday. *See* Rule 5.1(d).

[7] If the Exchange designates a class of index options as eligible for trading during Curb, FLEX Options with the same underlying index are also deemed eligible for trading during Curb. *See* Rule 5.1(d)(1).

[8] *See* Securities Exchange Act Release No. 34–73017 (September 8, 2014), 79 FR 54758 (September 12, 2014) (SR–CBOE–2014–062).

[9] *See* Securities Exchange Act Release No. 34–75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR–CBOE–2015–079).

[10] *See* Rule 4.13(a)(3), which provides that RUT and MRUT are approved for trading on the Exchange.

[11] For example, business conduct rules in Chapter 8 and rules related to doing business with the public in Chapter 9 will continue to apply during the GTH session. Additionally, a broker-dealer's due diligence and best execution obligations apply during the GTH trading session. As there will still be no open outcry trading on the floor during the GTH trading, Chapter 5, Section G will continue not to apply as such rules pertain to manual order handling and open-outcry trading.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] *See, e.g.,* trading hours for E-mini Russell 2000 Index available here: *https://www.cmegroup.com/markets/equities/russell/e-mini-russell-2000.contractSpecs.html.*

Act[16] and Rule 19b–4(f)(6)[17] 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–CBOE–2025–070 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–CBOE–2025–070. 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–CBOE–2025–070 and should be submitted on or before December 15, 2025.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20685 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0410]

Agency Information Collection Activities; Submission for OMB Review;

Comment Request; Extension: Rules 17h–1T and 17h–2T

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or ''Commission'') is submitting to the Office of Management and Budget (''OMB'') this request for an extension of the proposed collection of information in Rules 17h–1T and 17h–2T.

Rule 17h–1T requires a covered broker-dealer to maintain and preserve records and other information concerning certain entities that are associated with the broker-dealer. This requirement extends to the financial and securities activities of the holding company, affiliates and subsidiaries of the broker-dealer that are reasonably likely to have a material impact on the financial or operational condition of the broker-dealer. Rule 17h–2T requires a covered broker-dealer to file with the Commission quarterly reports and a cumulative year-end report concerning the information required to be maintained and preserved under Rule 17h–1T.

The collection of information required by Rules 17h–1T and 17h–2T, collectively referred to as the ''risk assessment rules'', is mandatory and is necessary to enable the Commission to monitor the activities of a broker-dealer affiliate whose business activities are reasonably likely to have a material impact on the financial and operational condition of the broker-dealer. Without this information, the Commission would be unable to assess the potentially damaging impact of the affiliate's activities on the broker-dealer.

There are currently 238 respondents that must comply with Rules 17h–1T and 17h–2T. Each of these 238 respondents are estimated to require 10 hours per year to maintain the records required under Rule 17h–1T, for an aggregate estimated annual burden of 2,380 hours (238 respondents − 10 hours). In addition, each of these 238 respondents must make five annual responses under Rule 17h–2T. These five responses are estimated to require 14 hours per respondent per year for an aggregate estimated annual burden of 3,332 hours (238 respondents × 14 hours).

In addition, new respondents must draft an organizational chart required under Rule 17h–1T and establish a system for complying with the risk assessment rules. The staff estimates that drafting the required organizational chart requires one hour and establishing a system for complying with the risk assessment rules requires three hours. Based on the reduction in the number of filers in recent years, the staff estimates there will be four new respondents, and thus, a corresponding estimated burden of four hours for new respondents.

In addition, the Commission adopted amendments in 2024 that require broker-dealers subject to Rule 17h–2T to file Form 17h–2T electronically on EDGAR and that would require a portion of the form to be filed using Inline XBRL. Thus, the Commission estimates an average additional burden of 2 hour per response four times a year (quarterly) for 238 respondents, resulting in a total industrywide burden of 1,904 hours[1] per year for Form 17–H filers to structure their financial statements (Item 4 of Form 17–H) in Inline XBRL. The total compliance burden per year is approximately 7,620 burden hours (2,380 hours + 3,332 hours + 4 hours + 1,904 hours).[2]

On September 12, 2025, the Commission published a **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information. One comment letter was received. The comment letter supports the Commission's recent extension of the compliance date for the 2024 amendments and agrees with the collection of data in Inline XBRL format. The comment letter does not discuss the estimated burdens for the collection of

[1] (238 respondents × 8 hours = 1,904 hours.)

[2] The Commission recently extended the compliance date for certain of the 2024 rule amendments by twelve months. *See* Extension of Compliance Dates for Electronic Submission of Certain Materials Under the Securities Exchange Act of 1934; Amendments Regarding the FOCUS Report; SEC Release Nos. 33–11386; 34–103877; IC–35738; (Sept. 8, 2025); 90 FR 43552 (Sept. 10, 2025) (File No. S7–08–23).

information, and changes were not made to the estimated burdens in connection with the comment letter.[3]

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 public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202509-3235-002* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by December 26, 2025.

Dated: November 20, 2025.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20739 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104229; File No. SR–BX–2025–023]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To amend Rule Equity 7, Section 115 To Establish Port and Disaster Recovery Fees for CORE FIX Order Entry Ports, Amend Rule Equity 7, Section 130 To Waive the BX Testing Facility Fee for CORE FIX Entry Ports, and Amend the Language in Sections of 115 and 130 To Remove the Temporary Fee Waiver Language Pertaining to OUCH 5.0

November 19, 2025.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2025, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''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.

[3] Letter from Campbell Pryde, XBRL US, November 12, 2025.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule Equity 7, Section 115 (Ports and Services) to establish port and disaster recovery fees for newly added CORE FIX Order entry ports and to make a non-substantive change to add a symbol that was inadvertently removed from this section, (2) amend Rule Equity 7, Section 130 (Other Services) to waive the BX testing facility fee for the newly added CORE FIX entry ports, and (3) amend the language in Sections of 115 and 130 to remove the temporary fee waiver language pertaining to OUCH 5.0, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently established CORE FIX, a new Order[4] entry protocol that will cater to the customer segment that currently uses FIX but does not have a need for its routing capabilities.[5] CORE FIX will utilize the same standardized protocol as FIX but eliminate the intricate RASH-based software layer that provides for Order routing functionality. Currently, BX charges a $500/port/month port fee and a $25/port/month disaster recovery port fee for similar Order entry protocols such as OUCH and RASH.[6]

The Exchange proposes to amend Equity 7, Section 115 to adopt a fee of $500/port/month and a disaster recovery port fee of $25/port/month for the newly added CORE FIX order protocol, which is similar to other current port fees. Additionally, the Exchange proposes a 30-day waiver of the CORE FIX production port fee for up to five (5) newly added CORE FIX ports. The fee waiver would be offered for a three-month period, beginning on the date when CORE FIX first becomes available on the Exchange, which such date the Exchange shall announce in an Equity Trader Alert. At the end of the three-month period, users would no longer be eligible for the waiver. A user may only receive the 30-day waiver once per port (up to a maximum of five ports) within the three-month window. The Exchange proposes to offer this temporary waiver to encourage new, prospective customers to adopt, and returning customers to utilize, the CORE FIX Order entry protocol.

The Exchange also proposes to amend Equity 7, Section 130 to provide a 30-day waiver for the $300 Testing Facility fee in Section 130(d)(1) for up to five[7] newly added CORE FIX Testing Facility ports. This fee waiver would be offered for a three-month period, beginning on

[4] *See* Securities Exchange Act Release No. 103891(Sept. 5, 2025), 90 FR 43705 (Sept. 10, 2025) (SR–BX–2025–017). The term ''Order'' means an instruction to trade a specified number of shares in a specified System Security submitted to the System by a Participant. An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the System. An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the System. The available Order Types and Order Attributes, and the Order Attributes that may be associated with particular Order Types, are described in Rules 4702 and 4703. One or more Order Attributes may be assigned to a single Order; provided, however, that if the use of multiple Order Attributes would provide contradictory instructions to an Order, the System will reject the Order or remove non-conforming Order Attributes. *See* Equity 1, Section 1(a)(11).

[5] The CORE FIX Order entry protocol is a proprietary protocol that allows subscribers that do not utilize routing strategies to gain faster direct access to quickly enter orders into the System and receive executions. CORE FIX accepts limit Orders from members, and if there are matching Orders, they will execute. Nonmatching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. CORE FIX only provides a method for members to send Orders and receive status updates on those Orders.

[6] The OUCH Order entry protocol is a proprietary protocol that allows members to enter, replace, and cancel orders and receive executions. OUCH is intended to allow participants and their software developers to integrate NASDAQ into their proprietary trading systems or to build custom front ends. The RASH (Routing and Special Handling) Order entry protocol is a proprietary protocol that allows members to enter Orders, cancel existing Orders and receive executions. RASH allows participants to use advanced functionality, including discretion, random reserve, pegging and routing. See *https://www.nasdaqtrader.com/Trader.aspx?id=rash.*

[7] The fee waiver is limited to a maximum of five CORE FIX ports per CRD membership.

the date when CORE FIX first becomes available on the Exchange, which such date the Exchange shall announce in an Equity Trader Alert. At the end of the three-month period, users would no longer be eligible for the waiver. A user may only receive the 30-day waiver once per port (up to a maximum of five ports) within the three-month window. The Testing Facility provides subscribers with a virtual System test environment that closely approximates the production environment on which they may test their automated systems that integrate with the Exchange. For example, the Testing Facility provides subscribers with a virtual System environment for testing upcoming releases and product enhancements, as well as testing firm software prior to implementation. The Exchange proposes to offer this temporary waiver to encourage customers to test the updated version of the CORE FIX Order entry protocol free of charge.

The Exchange is also proposing to make a two technical change to Equity 7, Sections 115 and 130 to remove the temporary waiver provided to the OUCH Order entry ports. Similar to the proposed waiver for CORE FIX, the OUCH production port fee waiver was for a three-month period, which began in November 2022. The three-month waiver period for OUCH is no longer applicable. Therefore, the Exchange is proposing to amend the rules to remove the language. Additionally, the Exchange is adding a footnote symbol next to the title of Section 115 that was inadvertently removed from the fee schedule. The symbol provides clarity to the footnote at the end of Section 115.[8]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] 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 fee schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The 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.'' [11]

BX believes that it is reasonable, equitable and not unfairly discriminatory to establish a port fee and a disaster recovery port fee for CORE FIX and to provide a temporary fee waiver for up to five newly added CORE FIX order entry ports (production and Testing Facility environments). As described above, the proposed fees are similar to the fees charged for other similar ports such as RASH and OUCH. Participants are not required to use the CORE FIX port. The Exchange also believes it is important to provide users an opportunity to test CORE FIX free of charge. The temporary fee waivers would encourage users to test and adopt the enhanced CORE FIX Order entry protocol.

Additionally, the Exchange believes that it is reasonable and not unfairly discriminatory to remove the language in Sections 115 and 130 referencing the fee waiver for OUCH 5.0 because the three-month time period for the waiver has lapsed and is no longer applicable to OUCH 5.0 subscribers. The removal of the temporary fee waiver would be applicable to all market participants. The Exchange believes that it is necessary to make non-technical changes to the fee schedule to ensure that the fees are clear and accurately reflect the Exchange's intent. Therefore, the Exchange believes that it is reasonable to add the footnote symbol to Section 115.

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.

Intermarket Competition

The Exchange believes that the proposed fee and temporary fee waivers will not impose an undue burden on competition because utilization of the Exchange's ports and services are completely voluntary and subject to competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. Moreover, the proposed fees and waivers would facilitate adoption of a new Order entry protocol, which is pro-competitive because the new protocol bolsters the efficiency, functionality, and overall attractiveness of the Exchange in an absolute sense and relative to its peers. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members, participants, or competing order execution venues to maintain their competitive standing in the financial markets.

Additionally, the removal of the temporary OUCH fee waivers and adding a footnote symbol are technical changes to ensure that the Exchange's rulebook is current and accurately reflects the current fee offerings. Therefore, the Exchange does not believe that there is any burden on competition.

Intramarket Competition

In terms of intramarket competition, the proposed change to the fee available to a member does not impose a burden on competition and will not place any category of Exchange participant at a competitive disadvantage. The proposed fees and the change to temporarily waive fees for newly added CORE FIX order entry ports (production and Testing Facility environments) will apply uniformly to all similarly situated participants. The temporary fee waivers are available to all users and would enable users to test the CORE FIX enhancements at no cost. The Exchange notes that its members are free to trade on other venues to the extent they believe that these proposals are not attractive. Additionally, the removal of the temporary OUCH fee waivers and addition of a footnote symbol are non-substantive changes that will not impose any burden on competition because the waivers are no longer applicable and the removal of the expired waivers will apply to all market participants.

[8] The footnote at the end of Section 115 provides that fees are prorated for the first month of service under this section. Upon cancellation, participants are required to pay for service for the remainder of the month, regardless of whether it is the first month of service.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

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 is effective upon filing pursuant to Section 19(b)(3)(A) [12] of the Act and subparagraph (f)(2) of Rule 19b–4 [13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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.

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–BX–2025–023 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–BX–2025–023. 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–BX–2025–023 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20692 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104227; File No. SR–CBOE–2025–071]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.1

November 19, 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, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''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 Rule 5.1 to permit the Exchange to list Cboe Magnificent 10 Index (''MGTN'') options during Global Trading Hours (''GTH'') and Curb Trading Hours (''Curb''). The text of the proposed rule change is provided in Exhibit 5.[3] The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The rule text set forth in Exhibit 5 reflects changes that are effective but not yet operative. *See* SR–CBOE–2025–070 (September 26, 2025).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.1 to permit the Exchange to list Cboe Magnificent 10 Index (''MGTN'') options during GTH and Curb.

By way of background, Rule 5.1(c) provides that the Exchange may designate as eligible for trading during GTH [4] any exclusively listed index option [5] designated for trading under Chapter 4, Section B.[6] Currently, options on S&P 500 Stock Index (''SPX''), Cboe Volatility Index (''VIX''), and Mini-SPX Index (''XSP'') are approved for trading during GTH. Rule 5.1(d) provides that the Exchange may designate as eligible for trading during Curb [7] any exclusively listed option that the Exchange has designated for trading under Chapter 4, Section B.[8] Currently

[4] Except under unusual conditions as may be determined by the Exchange or the Holiday hours set forth in Rule 5.1(d), Global Trading Hours are from 8:15 p.m. (previous day) to 9:25 a.m. on Monday through Friday. *See* Rule 5.1(c).

[5] An ''exclusively listed option'' is an option that trades exclusively on an exchange because the exchange has an exclusive license to list and trade the option or has the proprietary rights in the interest underlying the option. An exclusively listed option is different than a ''singly listed option,'' which is an option that is not an ''exclusively listed option'' but that is listed by one exchange and not by any other national securities exchange.

[6] If the Exchange designates a class of index options as eligible for trading during Global Trading Hours, FLEX Options with the same underlying index are also deemed eligible for trading during Global Trading Hours. *See* Rule 5.1(c)(1).

[7] Except under unusual conditions as may be determined by the Exchange, or the Holiday hours set forth in Rule 5.1(e), Curb Trading Hours are from 4:15 p.m. to 5:00 p.m. on Monday through Friday. *See* Rule 5.1(d).

[8] If the Exchange designates a class of index options as eligible for trading during Curb, FLEX Options with the same underlying index are also deemed eligible for trading during Curb. *See* Rule 5.1(d)(1).

SPX, VIX, and XSP options are approved for trading during Curb.[9]

By way of further background, the Exchange originally adopted the GTH trading session due to global demand from investors to trade SPX and VIX options, as alternatives for hedging and other investment purposes, particularly as a complementary investment tool to VIX futures.[10] In response to customer demand for additional options to trade during the GTH trading session for similar purposes, the Exchange later designated XSP options to be eligible for trading during GTH.[11] The Exchange later adopted a Curb trading session, to further maximize the overlap in time that such designated options could trade.

The Exchange now proposes to designate MGTN [12] options as eligible for trading during GTH and Curb. The proposed rule change amends Rules 5.1(c) and (d) to add this product to the list of products the Exchange has approved for trading on the Exchange during GTH and Curb, respectively. The Exchange plans to list MGTN options during Regular Trading Hours (''RTH''); [13] the proposed rule change merely extends the hours during which these options will trade on the Exchange.[14] During GTH and Curb, MGTN options would trade in accordance with applicable Exchange Rules, as SPX, VIX and XSP currently do; the proposed rule change makes no changes to the trading rules applicable to GTH or Curb.[15]

[9] Pursuant to SR–CBOE–2025–070 (September 26, 2025), which is effective but not yet operative, the Exchange may also list options on the Russell 2000 Index (''RUT'') and Mini-Russell 2000 Index (''MRUT'') during GTH and Curb once that filing becomes operative.

[10] *See* Securities Exchange Act Release No. 34–73017 (September 8, 2014), 79 FR 54758 (September 12, 2014) (SR–CBOE–2014–062).

[11] *See* Securities Exchange Act Release No. 34–75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR–CBOE–2015–079).

[12] *See* Rule 4.13(a)(3), which provides that MGTN is approved for trading on the Exchange.

[13] The Cboe Magnificent 10 Index is a narrow-based index (as defined in Rule 4.11) that satisfies the initial listing criteria of a narrow-based index set forth in Rule 4.10(b). Therefore, in accordance with Rule 4.10(b) and Rule 19b–4(e) under the Act, options on the Cboe Magnificent 10 Index are eligible for trading on the Exchange without a rule filing. The Exchange intends to submit a Form 19b–4(e) to the Securities and Exchange Commission (the ''Commission'') regarding the listing of MGTN options no later than five days after the Exchange begins listing those options for trading.

[14] The Exchange intends to list MGTN options during GTH concurrently with or soon after the listing of MGTN options during RTH.

[15] For example, business conduct rules in Chapter 8 and rules related to doing business with the public in Chapter 9 will continue to apply during the GTH session. Additionally, a broker-dealer's due diligence and best execution obligations apply during the GTH trading session. As there will still be no open outcry trading on the floor during the GTH trading, Chapter 5, Section G will continue not to apply as such rules pertain to manual order handling and open-outcry trading.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] requirements that the rules of an exchange be 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will further improve the Exchange's marketplace for the benefit of investors. The listing of MGTN options for trading during GTH and Curb will provide more hedging and other investment opportunities within the options trading industry that is consistent with the continued globalization of the securities markets. The proposed change will allow MGTN options to trade when the related futures contracts are also available for trading [19] and aims to provide global market participants with an expanded timeframe to trade MGTN options. Extending the timeframe in which investors may trade MGTN options is designed to provide investors with the ability to manage risk more efficiently, react to global macroeconomic events as they are happening and adjust MGTN options positions nearly around the clock.

During GTH and Curb, MGTN options would trade in accordance with Exchange Rules that apply to trading during GTH and Curb, as SPX, VIX and XSP options currently do. The proposed rule change makes no changes to the trading rules applicable to GTH or Curb; it merely permits the Exchange to list an additional product during GTH and Curb, which product will trade on the Exchange during RTH. The Exchange therefore believes that the proposed rule change is reasonably designed to provide an appropriate mechanism for extending the trading time for MGTN options, while providing for appropriate Exchange oversight pursuant to the Act.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

[19] *See, e.g.,* trading hours for MGTN futures available here: *https://ww2.cboe.com/insights/posts/cboe-magnificent-10-announcement/.*

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. If the Exchange determines to list MGTN options for trading during GTH and Curb, all Trading Permits Holders (''TPHs'') will be able, but not be required, to trade MGTN options during GTH and Curb trading sessions. The proposed rule change is merely extending the permissible trading hours of a product that will trade on the Exchange during RTH.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because MGTN options are a proprietary Exchange product. To the extent that listing MGTN on the Exchange during GTH and Curb may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Other exchanges are free to update their rules to permit extended trading hours in products that trade on their markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the

Act [20] and Rule 19b–4(f)(6) [21] 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–CBOE–2025–071 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–CBOE–2025–071. 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–CBOE–2025–071 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20690 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104223; File No. SR–24X–2025–13]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Transaction Fees and Rebates Applicable to Members of the Exchange

November 19, 2025.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 30, 2025, 24X National Exchange LLC (''24X'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 transaction fees and rebates applicable to Members [4] of the Exchange pursuant to Exchange Rule 15.1(a) and (c). The proposed rule change is available on the Exchange's website at *https://equities.24exchange.com/regulation* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the transaction fees and rebates applicable to Members of the Exchange. Specifically, the Exchange proposes the following with respect to securities priced below $1.00 per share (''Sub-Dollar Securities''): (i) to reduce the fee for executions of orders that remove liquidity from the 24X Book [5] (''Removed Volume'') from 0.28% of total dollar value to 0.15% of total dollar value, and (ii) to increase the rebate for executions of orders that are displayed on the 24X Book and add liquidity to the Exchange (''Added Displayed Volume'') [6] from 0.075% of total dollar value to 0.15% of total dollar value. The Exchange will commence operations as a national securities exchange on October 14, 2025, and will implement these changes as of that date.

The proposed decreased fee for Removed Volume and increased rebate for Added Displayed Volume in Sub-Dollar Securities are more consistent with the fees charged and rebates provided by other exchanges,[7] and are intended to promote order flow in Sub-Dollar Securities to the Exchange by incentivizing Members to increase the liquidity-providing orders they submit to the Exchange, which would support price discovery on the Exchange and provide additional liquidity for incoming orders. The Exchange also believes this change will promote market quality by encouraging narrower spreads in Sub-Dollar Securities, which

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Exchange Rule 1.5(u).

[5] ''24X Book'' refers to the Exchange system's electronic file of orders. *See* Exchange Rule 1.5(a).

[6] Such executions will be indicated by a fee code of ''1'' in execution reports provided by the Exchange.

[7] *See* Long-Term Stock Exchange, Inc. (''LTSE'') fee schedule, available at: *https://cdn.prod.website-files.com/6462417e8db99f8baa06952c/68a7887113d19e3c58f358ca_LTSE%20Fee%20Schedule_August%2021%2C%202025%20(Date%20Update).pdf;* Cboe EDGA Exchange, Inc. (''Cboe EDGA'') fee schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/edga/;* MIAX PEARL, LLC (''MIAX Pearl'') fee schedule, available at: *https://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Equities_Fee_Schedule_08012025.pdf;* and NYSE Texas, Inc. (''NYSE Texas'') fee schedule, available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse-texas/NYSE_Texas_Fee_Schedule.pdf.*

are often characterized by lower depth and wider bid-ask differentials.

The proposed rule change does not include different fees or rebates for transactions in Sub-Dollar Securities that depend on the number of orders submitted to, or transactions executed on or through, the Exchange. Accordingly, all fees and rebates described above are applicable to all Members, regardless of the overall volume of a Member's trading activities on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [8] of the Act in general, and furthers the objectives of Section 6(b)(4) [9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees and rebates are consistent with the objectives of Section 6(b)(5) [10] of the Act in that they are designed 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 national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Upon its commencement of operations as a national securities exchange, the Exchange will operate in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that the proposed amended fee and rebate reflect a simple and competitive pricing structure designed to incentivize market participants to add aggressively priced displayed liquidity and direct their order flow to the Exchange, which the Exchange believes would promote price discovery and price formation and deepen liquidity that is subject to the Exchange's transparency, regulation, and oversight as an exchange, thereby enhancing market quality to the benefit of all Members and investors. The Exchange also believes this change will promote market quality by encouraging narrower spreads in Sub-Dollar Securities, which are often characterized by lower market depth and wider bid-ask differentials.

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.'' [11]

As illustrated in the following table, the Exchange notes that the proposed amended fee and rebate are comparable to those in place on other exchanges: [12]

Exchange	Fee for removing sub-dollar volume (percent)	Rebate for adding sub-dollar volume (percent)
24X	0.15	(0.15)
LTSE	0.20	(0.15)
Cboe EDGA	0.15	(0.15)
MIAX Pearl	0.20	(0.15)
NYSE Texas	0.10	(0.10)

The Exchange believes that it is appropriate, reasonable, and consistent with the Act to charge a standard fee of 0.15% of total dollar value for Removed Volume in Sub-Dollar Securities, because it is more comparable to the transaction fees charged by other exchanges for removing liquidity in Sub-Dollar Securities.[13] The Exchange further believes that this fee is equitably allocated and not unfairly discriminatory because it applies equally to all Members, and is designed to facilitate increased activity on the Exchange to the benefit of all Members by providing more trading opportunities and promoting price discovery.

The Exchange believes that it is appropriate, reasonable, and consistent with the Act to provide a standard rebate of 0.15% of the total dollar value for Added Displayed Volume in Sub-Dollar Securities, because it is also more consistent with rebates provided by other exchanges for transactions that add volume in Sub-Dollar Securities.[14] The Exchange further believes that this rebate structure is equitably allocated and not unfairly discriminatory because it applies equally to all Members.

The Exchange notes that under the proposed amended fee structure, it will pay the same rebate for Added Displayed Volume in Sub-Dollar Securities as the fee it charges for removing such volume, and as such the Exchange will have no net capture (*i.e.,* will not make money) with respect to transactions in Sub-Dollar Securities. As noted above, the Exchange will operate in a highly competitive market, and the Exchange believes this pricing structure will enable it to effectively compete with other exchanges by attracting Members and order flow to the Exchange, which will help the Exchange to gain market share for executions. The Exchange may determine to modify its pricing structure after it has gained sufficient participation from market participants to instead be profitable with respect to such transactions. The Exchange believes this pricing structure, including the zero net capture for Added Displayed Volume transactions in Sub-Dollar Securities, is designed to incentivize market participants to add aggressively priced displayed liquidity and direct their order flow to the Exchange, which the Exchange believes would promote price discovery, price formation, and narrower spreads, and deepen liquidity that is subject to the Exchange's transparency, regulation, and oversight as an exchange, thereby enhancing market quality to the benefit of all Members and investors. The Exchange does not believe that the zero

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[12] *See supra* note 7.

[13] *Id.*

[14] *Id.*

net capture with respect to Added Displayed Volume transactions in Sub-Dollar Securities will materially impact the capitalization of the Exchange or otherwise impair the Exchange's ability to operate or regulate itself. The Exchange is well-capitalized and the Exchange's parent company, 24X US Holdings LLC, has agreed to provide adequate funding for the Exchange's operations, including the regulation of the Exchange.

In conclusion, the Exchange submits that its proposed amended fee structure satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act for the reasons discussed above in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities, does not permit unfair discrimination between customers, issuers, brokers, or dealers, and 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, particularly as the proposal neither targets nor will it have a disparate impact on any particular category of market participant. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that it is subject to significant competitive forces, and that its proposed amended fee and rebate structure is an appropriate effort to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives, and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [15]

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed amended pricing structure will increase competition and is intended to draw volume to the Exchange as it commences operations. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or reduce use of certain categories of products in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. As a new exchange, the Exchange expects to face intense competition from existing exchanges and other non-exchange venues that provide markets for equities trading. With respect to the Exchange's proposal to operate with zero net capture for transactions involving Added Displayed Volume in Sub-Dollar Securities, the Exchange is proposing this pricing in an effort to encourage market participants to join, connect to, and participate on the Exchange. The Exchange may modify its pricing structure after it has gained sufficient participation from market participants to eliminate the zero net capture and instead be profitable with respect to such transactions.

Although this pricing incentive is intended to attract liquidity to the Exchange, most other exchanges in operation today already offer multiple incentives to their participants, including tiered pricing that provides higher rebates or discounted executions, and other exchanges will be able to modify such incentives in order to compete with the Exchange. As discussed above, the Exchange notes that the proposed amended fee and rebate are comparable to those in place on other exchanges. Accordingly, with respect to a market participant deciding to either submit an order to add or remove liquidity in Sub-Dollar Securities, there are multiple exchanges that will continue to be competitively priced for such orders when compared to the Exchange's pricing. Further, while pricing incentives do cause shifts of liquidity between trading centers, market participants make determinations on where to provide liquidity or route orders to take liquidity based on factors other than pricing, including technology, functionality, and other considerations. Consequently, the Exchange believes that the degree to which its proposed amended fee and rebate could impose any burden on competition is extremely limited, and does not believe that such pricing structure would burden competition of Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed amended fee and rebate apply equally to all Members. The proposed pricing structure is intended to encourage market participants to add and remove displayed liquidity in Sub-Dollar Securities on the Exchange by providing a fee and rebate that are more comparable to those offered by other exchanges, which the Exchange believes will help to encourage Members to send orders to the Exchange to the benefit of all Exchange participants. As the proposed rates are equally applicable to all market participants, the Exchange does not believe there is any burden on intramarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [16] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder,[17] because it establishes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [18] of the Act to determine whether the proposed rule

[15] Regulation NMS Adopting Release at 37499.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(2).

[18] 15 U.S.C. 78s(b)(2)(B).

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–24X–2025–13 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–24X–2025–13. 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–24X–2025–13 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20682 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104224; File No. SR–MEMX–2025–31]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule Concerning Equities Transaction Pricing

November 19, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on September 30, 2025, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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 is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members [3] (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). As is further described below, the Exchange proposes to (i) increase the base rebates for executions of orders that add non-displayed liquidity to the Exchange (such orders, ''Added Non-Displayed Volume'') in securities priced at or above $1.00 per share; (ii) increase the base rebates for executions of Added Non-Displayed Volume in securities priced below $1.00 per share (such orders, ''Added Non-Displayed Sub-Dollar Volume''); (iii) increase the base rebates provided for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange (such orders, ''Added Displayed Sub-Dollar Volume''); (iv) modify the Non-Display Add Tiers by eliminating Non-Display Add Tiers 2 and 3; (v) adopt new standard fees for executions of orders that remove liquidity from the Exchange (such orders, ''Removed Volume''), separated by Tapes A, B, and C; (vi) reduce the fee for executions of Retail Orders [4] in securities priced at or above $1.00 per share that remove liquidity from the Exchange (such orders, ''Removed Retail Volume''); (vii) eliminate the Sub-Dollar Rebate Tier; and (viii) modify the required criteria under the Tape A Quoting Tier. The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal immediately. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule to: (i) increase the base rebates for executions of orders that add non-displayed liquidity to the Exchange (such orders, ''Added Non-Displayed Volume'') in securities priced at or above $1.00 per share; (ii) increase the base rebates for executions of Added Non-Displayed Volume in securities priced below $1.00 per share (such orders, ''Added Non-Displayed Sub-Dollar Volume''); (iii) increase the base rebates provided for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange (such orders, ''Added Displayed Sub-Dollar Volume''); (iv) modify the Non-Display Add Tiers by eliminating Non-Display Add Tiers 2 and 3; (v) adopt new standard fees for executions of orders that remove liquidity from the Exchange (such orders, ''Removed Volume''), separated by Tapes A, B, and C; (vi) reduce the fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

[4] A ''Retail Order'' means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization (''RMO''), provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Exchange Rule 11.21(a).

for executions of Retail Orders [5] in securities priced at or above $1.00 per share that remove liquidity from the Exchange (such orders, ''Removed Retail Volume''); (vii) eliminate the Sub-Dollar Rebate Tier; and (viii) modify the required criteria under the Tape A Quoting Tier, each as further described below.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 18 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 14% of the total market share of executed volume of equities trading.[6] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 2% of the overall market share.[7] The Exchange in particular operates a ''Maker-Taker'' model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Increase Base Rebates for Added Non-Displayed Volume

The Exchange is proposing to uniformly increase the rebates provided for executions of Added Non-Displayed Volume in securities priced at or above $1.00 per share. Added Non-Displayed Volume is comprised of the three following types of orders: (i) orders subject to Display-Price Sliding that receive price improvement when executed (such orders, ''Added Price-Improved Volume''); (ii) Pegged orders [8] with a Midpoint Peg [9] instruction that add non-displayed liquidity to the Exchange (such orders, ''Added Midpoint Volume''); and (iii) orders which are not orders subject to Display-Price Sliding that receive price improvement when executed or Midpoint Peg Orders, that add non-displayed liquidity to the Exchange (such orders, ''Added Non-Midpoint Hidden Volume'').

Currently, the Exchange provides a base rebate of $0.0008 per share for executions of Added Price-Improved Volume, Added Midpoint Volume, and Added Non-Midpoint Hidden Volume in securities priced at or above $1.00 per share. The Exchange now proposes to increase each of these base rebates to $0.0025 per share.[10] The purpose of the rebate increase for executions of Added Non-Displayed Volume is to encourage participants to add liquidity on the Exchange. The Exchange believes is it appropriate to provide the same rebate for executions of Added Price-Improved Volume, Added Midpoint Volume, and Added Non-Midpoint Hidden Volume, as all of these orders similarly add liquidity to the Exchange and are executed at prices at are not displayed on the MEMX order book, and the Exchange notes that all of these orders are also currently subject to same pricing today.

Increase Base Rebates for Added Non-Displayed Sub-Dollar Volume

The Exchange is also proposing to increase the rebates provided for all sub-dollar executions of Added Non-Displayed Volume. As noted above, Added Non-Displayed Volume is comprised of the three following types of orders: (i) Added Price-Improved Volume; (ii) Added Midpoint Volume; and (iii) Added Non-Midpoint Hidden Volume. Currently, the Exchange provides a rebate of 0.075% of the total dollar value for each execution of Added Non-Displayed Volume in securities priced below $1.00 per share. This pricing structure is similarly applied to all executions of Added Non-Displayed Volume by Members that qualify for enhanced rebates in securities priced below $1.00 per share pursuant to the Non-Display Add Tiers. The Exchange now proposes to increase the rebate for all Added Non-Displayed Volume to 0.15% of total dollar value. Specifically, the Exchange will provide a rebate of 0.15% of the total dollar value for each execution of Added Midpoint Volume, Added Non-Midpoint Hidden Volume, and Added Price-Improved Volume in securities priced below $1.00 per share. The Exchange is similarly proposing to provide a rebate of 0.15% of the total dollar value to Members that qualify for an enhanced rebate pursuant to the Non-Display Add Tier 1 [11] in securities priced below $1.00 per share. Thus, all Added Non-Displayed Volume will qualify for the same rebate for executions in securities priced below $1.00 per share.

The purpose of the rebate increase for sub-dollar executions of Added Non-Displayed Volume is to encourage participants to add sub-dollar liquidity on the Exchange. The proposed new rebate of 0.15% of the total dollar value will be the same rebate that is being proposed to be provided for sub-dollar executions which add displayed liquidity on the Exchange, as discussed further below. The Exchange believes by offering the same rebate for sub-dollar non-displayed liquidity as for displayed liquidity, the resulting pricing structure will encourage the provision of sub-dollar liquidity on the Exchange.

[5] A ''Retail Order'' means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization (''RMO''), provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Exchange Rule 11.21(a).

[6] Market share percentage calculated as of September 29, 2025. The Exchange receives and processes data made available through consolidated data feeds (*i.e.,* CTS and UTDF).

[7] *Id.*

[8] *See* Exchange Rule 11.6(h).

[9] *See* Exchange Rule 11.6(h)(2).

[10] The proposed base rebate for executions of Added Price-Improved Volume is referred to by the Exchange on the Fee Schedule under the existing description ''Added volume, order subject to Display-Price Sliding that receives price improvement when executed'' and such orders will continue to receive a Fee Code of ''P'' on execution reports. The proposed base rebate for executions of Added Midpoint Volume is referred to by the Exchange on the Fee Schedule under the existing description ''Added non-displayed volume, Midpoint Peg'', and such orders will continue to receive a Fee Code of ''M'' on execution reports. The proposed base rebate for executions of Added Non-Midpoint Hidden Volume is referred to by the Exchange on the Fee Schedule under the existing description ''Added non-displayed volume'' and such orders will continue to receive a Fee Code of ''H'' on execution reports.

[11] The Exchange currently offers Non-Display Add Tiers 1, 2, and 3, however, as discussed further below, it is proposing to eliminate Non-Display Add Tiers 2 and 3, and as such, Non-Display Add Tier 1 will be the only Non-Display Add Tier remaining.

Additionally, the Exchange believes it is appropriate to provide the same rebate for sub-dollar executions of Added Price-Improved Volume and Added Midpoint Volume as for Added Non-Midpoint Hidden Volume, as all of these orders similarly add liquidity to the Exchange and are executed at prices that are not displayed on the Exchange's order book, and the Exchange notes that all of these orders are also currently subject to the same sub-dollar rebate and pricing structure today.

Increase Base Rebates for Added Displayed Sub-Dollar Volume

The Exchange is also proposing to increase the rebates provided for all executions of Added Displayed Sub-Dollar Volume. Currently, the Exchange provides a rebate of 0.075% of the total dollar value for each execution of Added Displayed Volume in securities priced below $1.00 per share. This pricing structure is similarly applied to all executions of Added Displayed Volume by Members that qualify for enhanced rebates in securities priced below $1.00 per share pursuant to Liquidity Provision Tiers 1–5, DLI Tiers 1–2, and Cross Asset Tier 1. The Exchange now proposes to increase the rebate for all Added Displayed Sub-Dollar Volume to 0.15% of the total dollar value. Specifically, the Exchange will provide a rebate of 0.15% of the total dollar value for each of execution of Added Displayed Volume in securities priced below $1.00 per share. The Exchange is similarly proposing to provide a rebate of 0.15% of total dollar value to Members that qualify for an enhanced rebate pursuant to the Liquidity Provision Tiers, the DLI Tiers, and Cross Asset Tier 1 in securities priced below $1.00 per share. Thus, all Added Displayed Volume will qualify for the same rebate for executions in securities priced below $1.00 per share.[12]

The purpose of the rebate increase for executions of Added Displayed Sub-Dollar Volume is to encourage participants to add sub-dollar liquidity on the Exchange. The proposed new rebate of 0.15% of the total dollar value will be the same rebate that is being proposed for sub-dollar executions which provide non-displayed liquidity on the Exchange, as discussed above. The Exchange believes by offering the same rebate for sub-dollar non-displayed liquidity as for displayed liquidity, the resulting pricing structure will encourage the provision of sub-dollar liquidity on the Exchange.

Non-Display Add Tiers

The Exchange currently offers Non-Display Add Tiers 1–3 under which a Member may receive an enhanced rebate for executions of Added Non-Displayed Volume by achieving the corresponding required volume criteria for each such tier. The Exchange now proposes to modify the Non-Display Add Tiers by eliminating Non-Display Add Tiers 2 and 3.

With respect to Non-Display Add Tier 2, the Exchange provides an enhanced rebate of $0.0025 per share for executions of Added Non-Displayed Volume in securities priced at or above $1.00 per share for Members that qualify for such tier by achieving a Non-Displayed ADAV [13] that is equal to or greater than 2,00,000 shares. Under Non-Display Add Tier 3, the Exchange provides an enhanced rebate of $0.0018 per share for executions of Added Non-Displayed Volume in securities priced at or above $1.00 per share for Members that qualify for such tier by achieving a Non-Displayed ADAV that is equal to or greater than 1,000,000 shares. The Exchange now proposes to eliminate Non-Display Add Tiers 2 and 3, as the Exchange no longer wishes to, nor is it required to, maintain such tiers. With respect to the current Non-Display Add Tier 1, the Exchange is not proposing to make any changes to the rebate provided or the required criteria under such tier, however, as noted above, the Exchange has proposed to increase the rebate provided for all executions of Added Non-Displayed Sub-Dollar Volume, and as such, the Exchange is proposing to provide a rebate of 0.15% of the total value of executions of Added Non-Displayed Sub-Dollar volume for Members that qualify for an enhanced rebate pursuant to the Non-Display Add Tier 1.[14]

Fees for Removed Volume

The Exchange currently charges a standard fee of $0.0030 per share for executions of Removed Volume.[15] The Exchange now wishes to modify the pricing for executions of Removed Volume by charging separate fees for Removed Volume based on whether the execution occurs in a Tape A, B, or C security, respectively. Specifically, the Exchange is proposing to charge a standard fee of $0.0029 per share for executions of Removed Volume in Tape A securities (such orders, ''Tape A Removed Volume''),[16] a standard fee of $0.0030 per share for executions of Removed Volume in Tape B securities (such orders, ''Tape B Removed Volume''),[17] and a standard fee of $0.0030 per share for executions of Removed Volume in Tape C securities (such orders, ''Tape C Removed Volume'').[18] The Exchange is proposing to continue to charge a fee of 0.28% of the total dollar value for all three categories of Removed Volume in securities priced below $1.00 per share, which is the current fee charged for such executions.

The purpose of creating separate fees for Removed Volume by Tape and effectively charging a reduced fee of $0.0029 per share for executions of Tape A Removed Volume and maintaining a fee of $0.0030 per share for executions of Tape B and Tape C Removed Volume is for business and competitive reasons, as the Exchange believes that such changes would incentivize Members to submit additional order flow in Tape A securities, thereby promoting price discovery and market quality on the Exchange with regard to such Tape A securities. Further, other exchanges similarly separate out their fee structure by Tape, and currently or have historically charged separate fees or provided separate rebates for executions based on Tape.[19] The Exchange believes

[12] The Exchange notes that executions of Added Displayed Volume in Retail Orders in securities priced below $1.00 per share are currently provided a base rebate of 0.15% of the total dollar value of the Exchange. This sub-dollar rebate also applies to executions of Added Displayed Volume in Retail Orders in sub-dollar securities that meet the required criteria under Retail Tier 1.

[13] As set forth on the Fee Schedule, ''ADAV'' means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis, and ''Non-Displayed ADAV'' means ADAV with respect to non-displayed orders.

[14] The pricing for Non-Display Add Tier 1 is referred to by the Exchange on the Fee Schedule under the existing description ''Added non-displayed volume, Non-Display Add Tier 1'' with a Fee Code of ''H1'', ''M1'', or ''P1'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[15] The standard fee for Removed Volume is referred to the Exchange on the Fee Schedule under the description, ''Removed volume from the MEMX Book'' with a Fee Code of ''R'' assigned by the Exchange.

[16] The proposed standard fee for executions of Tape A Removed Volume will be referred to by the Exchange on the Fee Schedule under the description ''Removed volume from MEMX Book, Tape A'' with a Fee Code of ''Ra'' on execution reports.

[17] The proposed standard fee for executions of Tape B Removed Volume will be referred to by the Exchange on the Fee Schedule under the description ''Removed volume from MEMX Book, Tape B'' with a Fee Code of ''Rb'' on execution reports.

[18] The proposed standard fee for executions of Tape C Removed Volume will be referred to by the Exchange on the Fee Schedule under the description ''Removed volume from MEMX Book, Tape C'' with a Fee Code of ''Rc'' on execution reports.

[19] *See, e.g.,* the NYSE Price List, available at: *https://www.nyse.com/publicdocs/nyse/markets/*

Continued

that the proposed fee structure to charge separate fees by Tape is aligned with and comparable to such other national securities' exchanges.

Reduce Standard Fee for Removed Retail Volume

Currently, the Exchange charges a standard fee of $0.0030 per share for executions of Removed Retail Volume. The Exchange now proposes to reduce the standard fee for executions of Removed Retail Volume to $0.0029 per share.[20] The purpose of reducing the fee for executions of Removed Retail Volume is to incentivize Members to submit additional Retail orders to the Exchange. Additionally, the Exchange believes by offering the same reduced fee for Removed Retail Volume as the best priced fee for Removed (non-Retail Volume),[21] the resulting pricing structure will encourage the provision of Retail orders on the Exchange.

Sub-Dollar Rebate Tier

Currently, the Exchange offers a Sub-Dollar Rebate Tier under which a Member may receive an enhanced rebate of 0.15% of the total dollar value of the transaction for executions of orders in securities priced below $1.00 per share that add liquidity to the Exchange (such orders, ''Added Sub-Dollar Volume'') for Members that qualify for such tier by achieving a Sub-Dollar ADAV [22] that is equal to or greater than 5,000,000 shares. The Exchange now proposes to eliminate this tier, as the Exchange's above-described proposal to increase the base rebate for all Added Sub-Dollar Volume to 0.15% of the total dollar value of the transaction renders the enhanced rebate provided under this tier obsolete.

Tape A Quoting Tier

The Exchange currently offers the Tape A Quoting Tier under which a Member may receive an additive rebate of $0.0002 per share for a qualifying Member's executions of Added Displayed Volume (other than Retail Orders) in Tape A securities priced over $1.00 per share by achieving an NBBO Time [23] of at least 50% in an average of at least 500 Tape A securities per trading day during the month. Now, the Exchange proposes to modify the required criteria under the Tape A Quoting Tier such that a Member would now qualify for such tier by achieving an NBBO time of at least 25% in an average of at least 100 Tape A securities per trading day during the month.[24] Thus, such proposed change would reduce the NBBO quoting time as well as the number of Tape A securities in which a Member is required to quote at the NBBO. The Exchange is not proposing to change the amount of the additive rebate provided under the Tape A Quoting Tier.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[25] in general, and with 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 its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. 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, 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.'' [27]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional order flow, including displayed, non-displayed, liquidity-adding and/or liquidity-removing orders to the Exchange, in both securities priced at or above $1.00 per share and in Sub-Dollar securities, which the Exchange believes would promote price discovery and enhance liquidity and market quality on the Exchange to the benefit of all Members and market participants.

The Exchange believes that the proposed changes to increase the base rebates provided for all Added Non-Displayed Volume (both Sub-Dollar and above $1.00 per share), to increase the base rebates provided for all executions of Added Displayed Sub-Dollar Volume, and to eliminate the now obsolete Sub-Dollar Rebate Tier as a result, are reasonable because, as described above, such changes are designed to encourage Members to submit additional liquidity adding orders to the Exchange, promoting price discovery and enhancing liquidity on the Exchange to the benefit of all Member and market participants. Additionally, the Exchange believes that the proposed base rebates provided for executions of Added Non-Displayed Volume, Added Non-Displayed Sub-Dollar Volume and Added Displayed Sub-Dollar Volume are equitable and not unfairly discriminatory, as such base rebates will apply equally to all Members.

The Exchange similarly believes that the proposed changes to separate the fees for Removed Volume out by Tape, thus charging a reduced fee for executions of Tape A Removed Volume and continuing to charge the same fee

nyse/NYSE_Price_List.pdf, and the Nasdaq Price List, available at: *https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2. See also* reference to Nasdaq PSX pricing providing different fees per share for liquidity removal in Tape A and B securities versus for Tape C securities in NYSE's rule filing: Securities Exchange Act Release No. 34–85864 (May 9, 2019), 84 FR 23109 (May 21, 2019).

[20] The proposed standard fee for executions of Removed Retail Volume is referred to by the Exchange on the Fee Schedule under the existing description ''Removed volume from MEMX Book, Retail Order'' with a Fee Code of ''RrA'' on execution reports.

[21] As noted previously, the lowest fee for Removed Volume proposed herein is similarly $0.0029 per share, for Tape A Removed Volume.

[22] ''Sub-Dollar ADAV'' means ADAV with respect to orders in securities priced below $1.00 per share. ''ADAV'' means average daily added volume calculated as the number of shares added per day, calculated on a monthly basis.

[23] As set forth on the Fee Schedule, ''NBBO Time'' means the aggregate of the percentage of time during regular trading hours during which one of a Member's MPIDs has a displayed order of at least one round lot at the national best bed or the national best offer.

[24] The pricing for the Tape A Quoting Tier is referred to by the Exchange on the Fee Schedule under the existing description ''Tape A Quoting'' Tier with a Fee Code of ''a'' to be appended to the otherwise applicable Fee Code assigned by the Exchange on the monthly invoices for qualifying executions.

[25] 15 U.S.C. 78f.

[26] 15 U.S.C. 78f(b)(4) and (5).

[27] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

for executions of Tape B and C Removed Volume, as well as the proposed change to reduce the fee for Removed Retail Volume, are reasonable because such changes are designed to encourage Members to submit additional liquidity removing orders to the Exchange, particularly in Tape A securities, as well as Retail Removing orders, and the proposed fees are equitable and unfairly discriminatory as such fees will apply equally to all Members. Further, other exchanges have historically and currently charge separate fees and provide separate rebates based on the Tape of a security, and as such, the Exchange's proposed Tape A, B and C Remove Volume fee structure is consistent with that of other market centers.[28]

The Exchange believes the proposed change to eliminate Non-Display Add Tiers 2 and 3 while maintaining Non-Display Add Tier 1 is reasonable because, as noted above, the Exchange is not required to maintain such tiers and the opportunity to qualify for Non-Display Add Tier 1 continues to be equally available to all Members, and continues to provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

The Exchange notes that volume and quoting-based incentives (such as tiers) have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the Tape A Quoting Tier, as modified by the proposed changes to the required criteria under such tier, is reasonable, equitable and not unfairly discriminatory for these same reasons, as such tier will continue to provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, is available to all Members on an equal basis, and, as described above, is designed to encourage Members to maintain or increase their order flow, including in the form of displayed, liquidity-adding, orders to the Exchange in Tape A securities in order to qualify for an additive rebate for executions of Added Displayed Volume in Tape A securities, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants. The Exchange also believes that the proposed changes to such tier reflects a reasonable and equitable allocation of fees and rebates, because, as noted above, the Exchange believes that the additive rebate under the Tape A Quoting Tier remains commensurate with the corresponding required criteria under such tier, and is reasonably related to the market quality benefits that the tier is designed to achieve.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act[29] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed rebates described herein are appropriate to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to incentivize market participants to direct additional order flow to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members and market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [30]

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow, including displayed, non-displayed, liquidity-adding and removing orders to the Exchange, in both Sub-Dollar securities as well as securities over $1.00 per share, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members, as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange does not believe that the proposed changes to increase the base rebates for executions of Added Displayed Sub-Dollar Volume, Added Non-Displayed Volume, and Added Non-Displayed Sub-Dollar Volume, the proposal to separate the Remove Volume fees by Tape and thus reduce the standard fee for Tape A Volume, or the proposal to reduce the standard fee for Removed Retail Volume would impose any burden on intramarket competition because such changes will apply to all Members uniformly in that the proposed base rebates and fee for such executions would be the base rebates and fees applicable to all Members, and the opportunity to qualify for enhanced rebates or discounted fees, as applicable, is available to all Members. Further, the opportunity to qualify for Non-Display Add Tier 1, and thus receive the proposed enhanced rebate for executions of Added Non-Displayed Volume under such tier, and the opportunity to qualify for the modified Tape A Quoting Tier and thus receive the proposed additive rebate for executions of Tape A Volume, would be available to all Members that meet the associated volume or quoting requirements in any month. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a

[28] *See supra* note 19.

[29] 15 U.S.C. 78f(b)(4) and (5).

[30] *See supra* note 27.

particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 17 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 14% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added, Removed, Displayed, Non-Displayed, Sub-Dollar, and Tape A Volume, and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed changes represent a competitive proposal through which the Exchange is seeking to generate additional revenue with respect to its transaction pricing and to encourage the submission of additional order flow to the Exchange through volume and quoting-based tiers, which have been widely adopted by exchanges, including the Exchange. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, 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.'' [31] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *SEC,* 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'. . . .''.[32] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

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 [33] and Rule 19b–4(f)(2) [34] 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 shall 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–MEMX–2025–31 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–MEMX–2025–31. 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 also 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–MEMX–2025–31 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20693 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[31] *Id.*

[32] *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–NYSE–2006–21)).

[33] 15 U.S.C. 78s(b)(3)(A)(ii).

[34] 17 CFR 240.19b–4(f)(2).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35792; File No. 812–15845]

Willow Tree Capital Corporation, et al.

November 19, 2025.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

Applicants: Willow Tree Capital Corporation, Willow Tree Capital Corp Advisors LLC, Willow Tree Credit Partners LP, Willow Tree Credit Partners SBIC Management LP, and certain of their affiliated entities as described in Schedule A to the Application.

Filing Dates: The application was filed on July 3, 2025.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on December 15, 2025, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Justin Lee, Willow Tree Credit Partners LP, *lee@willowtreelp.com,* Anne G. Oberndorf, Esq., *anneoberndorf@eversheds-sutherland.com*.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, Stephan N. Packs, Senior Counsel, or Daniele Marchesani, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated July 3, 2025, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/companysearch.html*. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20687 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104225; File No. SR–BOX–2025–28]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5020 (Criteria for Underlying Securities) To Adopt Listing Criteria for Options on Commodity-Based Trust Shares

November 19, 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 November 14, 2025, BOX Exchange LLC (''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 5020 (Criteria for Underlying Securities) to adopt listing criteria for options on Commodity-Based Trust Shares. Specifically, the Exchange is proposing to amend Rule 5020 to (1) redefine a Commodity-Based Trust Share, (2) require additional qualifying criteria to list options on a Commodity-Based Trust, and (3) require that the crypto asset held by the Commodity-Based Trust have a comprehensive surveillance sharing agreement. The text of the proposed rule change is available from the principal office of the Exchange, and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Rule 5020 (Criteria for Underlying Securities). Specifically, the Exchange proposes to modify Rule 5020(h), regarding the criteria for listing and trading options on Exchange-Traded Fund Shares (''ETFs''), to allow options on units that represent interests in a trust that is a Commodity-Based Trust. The Exchange initially filed SR–BOX–2025–12, a proposed rule change to amend its listing rules at Rule 5020 (Criteria for Underlying Securities) to allow the listing and trading of options on interests in a Commodity-Based Trust on April 25, 2025. On May 7, 2025, the Exchange filed Amendment No. 1 to the proposed rule change and SR–BOX–2025–12 was published in the **Federal Register** on May 15, 2025.[3] On June 17, 2025, the Securities and Exchange Commission (the ''Commission'') issued an order instituting proceedings and designated November 11, 2025, as the date by which to issue an order approving or disapproving SR–BOX–2025–12.[4] The Commission did not act to either approve or disapprove SR–BOX–2025–12 on or before November 11, 2025, therefore the proposal, as published in the **Federal Register** on May 15, 2025, was deemed approved as of November

[3] *See* Securities Exchange Act Release No. 103015 (May 9, 2025), 90 FR 20699 (May 15, 2025) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, to Amend Rule 5020 (Criteria for Underlying Securities) to Permit the Listing of Options on Commodity-Based Trust Shares).

[4] *See* Securities Exchange Act Release No. 103284 (June 17, 2025), 90 FR 26629 (June 23, 2025) (Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Rule 5020, Criteria for Underlying Securities, to Permit the Listing of Options on Commodity-Based Trust Shares).

12, 2025. On November 5, 2025, during the government shutdown, the Exchange submitted SR–BOX–2025–12, Amendment 2. The Exchange is now proposing the current rule change to reiterate the changes proposed in SR–BOX–2025–12, Amendment 2 to codify the proposed rule text in the Exchange's Rulebook.[5] The Exchange also notes that this proposal is competitive as a substantially identical proposal from Nasdaq ISE, LLC (''Nasdaq ISE'') was deemed approved by the Commission.[6]

The Exchange proposes to amend Rule 5020 to adopt new listing criteria in subparagraph (h)(v) to permit the listing and trading of options on a Commodity-Based Trust that meets the generic criteria of a U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust,[7] except that the Commodity-Based Trust holds a single crypto asset as defined in subparagraph (3) below.

The Exchange also proposes to amend Rule 5020(h) to create a new subparagraph (3) that states:

Additionally, with respect to a Commodity-Based Trust that meets the requirements of Rule 5020(v), the following requirements are satisfied: (A) the total global supply of the underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the Intermarket Surveillance Group (''ISG''). For purposes of this rule the term ''crypto asset'' means an asset that is generated, issued and/or transferred using a blockchain or similar distributive ledger technology network, including but not limited to, assets known as ''tokens,'' ''digital assets,'' ''virtual currencies,'' and ''coins'' and that relies on cryptographic protocols.

The proposed additional criteria would require a Commodity-Based Trust to: (1) meet the generic criteria of the U.S securities exchange that is the primary equities listing market for the Commodity-Based Trust and hold only a single crypto asset; (2) meet the criteria and guidelines set forth in Rules 5020(a)[8] and (b),[9] or Rule 5020(h)(1)(ii);[10] and (3) meet the requirements in Rule 5020(h)(3) prior to listing options on the Commodity-Based Trust.

As proposed, Rule 5020(h)(3) requires a Commodity-Based Trust that meets the requirements of proposed 5020(h)(v) to also satisfy the following requirements: (A) the total global supply of the underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the ISG.

The Exchange defines a ''crypto asset'' at proposed Rule 5020(h)(3) to mean, for purposes of this rule, an asset that is generated, issued and/or transferred using a blockchain or similar distributive ledger technology network, including but not limited to, assets known as ''tokens,'' ''digital assets,'' ''virtual currencies,'' and ''coins'' and that relies on cryptographic protocols. The market value of the underlying crypto asset will be calculated by taking the total global supply of the particular crypto asset multiplied by the token price.[11] Total supply of crypto assets includes all crypto assets currently issued and does not include unissued crypto assets.[12] Further, the Exchange has specified in proposed Rule 5020(h)(3) that the crypto asset held by the Commodity-Based Trust must underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.[13] The Exchange will be required to ensure that this requirement is met prior to listing options on a Commodity-Based Trust pursuant to proposed Rule 5020(h)(v). As a result of this amendment, the proposed listing criteria would permit a Commodity-Based Trust that is generically listed on a U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust and holds a single crypto asset to qualify for the listing of options on that ETF, provided Rule 5020(h)(3) has also been met, as well as the listing criteria in Rules 5020(a) and (b) or Rule 5020(h)(1)(ii).

The Exchange lastly proposes to amend Rule 5020(h)(iv) to replace the language that was added in SR–BOX–2025–12, Amendment 1, with the previously existing rule text. Specifically, the Exchange is proposing to replace current subsection (h)(iv) with the following:

(iv) Represents interests in the SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the abrdn Gold ETF

[5] *See* Regulatory Notice 2025–059 (Proposal to List and Trade Certain Options on a Commodity-Based Trust Deemed Approved). Available at *https://boxexchange.com/assets/Notice-2025-059-Proposal-to-List-and-Trade-Certain-Options-on-a-Commodity-Based-Trust-Deemed-Approved.pdf.* The Exchange notes that in Amendment No. 2 to SR–BOX–2025–12, proposed 5020(h)(v) provided that the security must represent interests in a Commodity-Based Trust that meet the generic criteria of The Nasdaq Stock Market LLC Rule 5711(d), but the Exchange is now proposing to require that the security meets the generic criteria of the U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust.

[6] SR–ISE–2025–08, Amendment 1 was deemed approved as of October 27, 2025. *See* Securities Exchange Act Release No. 102465 (February 20, 2025), 90 FR 10740 (February 26, 2025) (SR–ISE–2025–08 Amendment 1) (Notice of Filing of Proposed Rule Change to Amend Options 4, Section 3, Criteria for Underlying Securities to permit options on Commodity-Based Trust Shares).

[7] A Commodity-Based Trust is defined in Cboe BZX Exchange, Inc. 14.11(e)(4), NYSE Arca, Inc. Rule 8.201(c)(1), and The Nasdaq Stock Market LLC Rule 5711(d)(iv) (the three current U.S. equities exchanges that serve as primary listing markets) as a security (a) that is issued by a trust (''Trust'') that holds (1) a specified commodity deposited with the Trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash (''Commodity-Based Trust Share'').

[8] Rule 5020(a) provides that Underlying securities with respect to which put or call options contracts are approved for listing and trading on BOX must meet the following criteria: (1) the security must be registered with the SEC and be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Exchange Act; and (2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.

[9] Rule 5020(b) provides criteria and guidelines when evaluating potential underlying securities for the listing of options.

[10] Rule 5020(h)(1)(ii) provides that the Exchange-Traded Fund Shares are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares' prospectus.

[11] The market supply information can be obtained from publicly available sources such as *coingecko.com* or *coinmarketcap.com.*

[12] For example, if Bitcoin were the underlying crypto asset, the Exchange would consider the total supply of all Bitcoin currently issued instead of the maximum supply, which would be currently issued as well as unminted Bitcoin. As of September 12, 2025, Bitcoin's total supply was 19,919,915 (the maximum supply was 21,000,000). *See https://www.coingecko.com/en/coins/bitcoin.* The Exchange would calculate market value by utilizing the total supply number multiplied by the Bitcoin price on that day.

[13] For a list of the current members and affiliate members of ISG, see *https://isgportal.org/public-members.*

Trust, the abrdn Silver ETF Trust, the abrdn Palladium ETF Trust, the abrdn Platinum ETF Trust, the Sprott Physical Gold Trust, the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, the Bitwise Bitcoin ETF, the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Ethereum Trust, the Grayscale Ethereum Trust ETF, the Grayscale Ethereum Mini Trust ETF, the Bitwise Ethereum ETF, or the Fidelity Ethereum Fund; or.

The Exchange is proposing this change to revert existing Rule 5020(h)(iv) back to its previously existing rule text, because the proposed new subsection (h)(v) detailed in SR–BOX–2025–12, Amendment 2, and the current filing, codifies the requirements for Commodity-Based Trusts, thus making the previous change to 5020(h)(iv) unnecessary and duplicative. Accordingly, the Exchange is to amend Rule 5020(h)(iv) to align with the proposed changes herein.

The Exchange's initial listing standards in Rule 5020(a) will apply to options on Commodity-Based Trust Shares. Rule 5020(a) requires that, a security on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act) and be characterized by a substantial number of outstanding shares that are widely held and actively traded.[14] Further, for an ETF to qualify for options transactions pursuant to Rule 5020(h), the ETF must either (1) meet the criteria for underlying securities set forth in Rule 5020(a) and (b),[15] or (2) be available for creation and redemption each business day as set forth in Rule 5020(h)(1).[16]

Additionally, Commodity-Based Trust Shares will also be subject to the Exchange's continued listing standards for options on ETFs, including those set out in Rule 5030(h). Moreover, Commodity-Based Trust Shares will not be deemed to meet the requirements for continued approval, and the Exchange will not open for trading any additional series of option contracts covering Commodity-Based Trust Shares if such security ceases to be an ''NMS stock'' as provided for in Rule 5030(b)(6) or the Commodity-Based Trust Share is halted from trading on its primary market.[17] The Exchange notes that ETFs that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options pursuant to Rule 5020(h), are trusts structured in substantially the same manner as options on a Commodity-Based Trust Share and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any ETF options, including ETFs that hold commodities that it currently lists and trades on BOX.

Consistent with Rule 5050, which governs the opening of options series on a specific underlying security (including ETFs), BOX will open at least one expiration month for options on a Commodity-Based Trust Share[18] at the commencement of trading on BOX and may also list series of options on such Commodity-Based Trust Share for trading on a weekly,[19] monthly,[20] or quarterly[21] basis. BOX may also list long-term equity option series (''LEAPS'') that expire from twelve to one hundred eighty months from the time they are listed.[22]

Pursuant to IM–5050–1(b), which governs strike prices of series of options on ETFs, the interval between strike prices of series of options on a Commodity-Based Trust Share will be $1 or greater when the strike price is $200 or less and $5 or greater where the strike price is over $200.[23] Additionally, BOX may list series of options pursuant to the $1 Strike Price Interval Program,[24] the $0.50 Strike Program,[25] the $2.50 Strike Price Program,[26] and the $5.00 Strike Program.[27] Pursuant to Rule 7050, where the price of a series of options on a Commodity-Based Trust Share is less than $3.00, the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10.[28] Any and all new series of options on a Commodity-Based Trust Share that BOX lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 5050 and 7050, as applicable. Further, the Exchange notes that Rule Series 10100, which governs margin requirements applicable to the trading of all options on BOX, including options on ETFs, will also apply to the trading of options on a Commodity-Based Trust Share.

Options on a Commodity-Based Trust Share will trade in the same manner as options on other ETFs on BOX. The Exchange Rules that currently apply to the listing and trading of all options on ETFs on BOX, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures would apply to the listing and trading of options on a Commodity-Based Trust Share on BOX in the same manner as they apply to other options on all other ETFs that are listed and traded on BOX.

[14] *See* BOX Rules 5020(a) and (b).

[15] The criteria and guidelines for a security to be considered widely held and actively traded are set forth in BOX Rule 5020(b), subject to the exceptions outlined in Rule 5020(b)(6).

[16] BOX Rule 5020(h)(1) requires that the Exchange-Traded Fund Shares are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares' prospectus.

[17] *See* BOX Rule 5030(h).

[18] *See* BOX Rule 5050(b). The standard expirations are subject to certain listing criteria for underlying securities described within BOX Rule 5020. Standard listings expire the third Friday of the month. The term ''expiration date'' (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. *See* OCC By-Laws Article I, Section 1. Pursuant to BOX Rule 5050(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration in the case of an option contract expiring on a business day, or, in the case of an option contract expiring on a day that is not a business day, on the second business day prior to the expiration.

[19] *See* BOX IM–5050–6.

[20] *See* BOX IM–5050–13.

[21] *See* BOX IM–5050–4.

[22] *See* BOX Rule 5070.

[23] The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Monthly Options Series Program, and the Quarterly Options Series Program, IM–5050–6, IM–5050–13, and IM–5050–4, specifically set forth intervals between strike prices on Short Term Option Series, Monthly Options Series, and Quarterly Options Series, respectively.

[24] *See* BOX IM–5050–2.

[25] *See* BOX IM–5050–5.

[26] *See* BOX IM–5050–3.

[27] *See* BOX Rule 5050(d)(5).

[28] If options on a Commodity-Based Trust Share are eligible to participate in the Penny Interval Program, the minimum increment of $0.01 below $3.00 and $0.05 above $3.00 would apply. *See* BOX Rule 7050(a)(3). *See also* BOX Rule 7260 (which describes the requirements for the Penny Interval Program).

Position and exercise limits for options, including options on a Commodity-Based Trust Share are determined pursuant to Rules 3120 and 3140, respectively. Position and exercise limits for options on ETFs vary according to the number of outstanding shares and the trading volumes of the underlying security over the past six months, where the largest in capitalization and the most frequently traded funds have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, *etc.*) on the same side of the market; and smaller capitalization funds have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, *etc.*) on the same side of the market.[29]

The Exchange represents that the surveillance procedures applicable to all other options on ETFs will apply to options on Commodity-Based Trust Shares, and that the Exchange has the necessary systems capacity to support the new option series. The Exchange's existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on ETFs, including options on Commodity-Based Trust Shares. Also, the Exchange may obtain trading information via the ISG [30] related to a financial instrument that is based, in whole or in part, upon an interest in or performance of a crypto asset, as applicable, from other exchanges who are members of the ISG. The Exchange has specified in proposed Rule 5020(h)(3) that each crypto asset held by the Commodity-Based Trust must underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.[31] The Exchange will be required to ensure that this requirement is met prior to listing options on a Commodity-Based Trust listed pursuant to proposed Rule 5020(h)(v). In addition, the Exchange has a Regulatory Services Agreement with the Financial Industry Regulatory Authority (''FINRA''). Pursuant to a multi-party 17d–2 joint plan, all options exchanges allocate regulatory responsibilities to FINRA to conduct certain options-related market surveillances. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Commodity-Based Trust Shares.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of new series of ETFs, including options on a Commodity-Based Trust Share, up to the number of expirations currently permissible under the Exchange Rules.

Finally, today, the Exchange lists and trades options on ETFs that would qualify for listing as an option on a Commodity-Based Trust under proposed Rule 5020(h)(v),[32] and it has not identified any issues with the listing and trading of options on those ETFs.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[33] in general, and Section 6(b)(5) of the Act,[34] 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.

In particular, the Exchange believes that its proposal to establish new listing criteria at Rule 5020(h)(v) with respect to options on Commodity-Based Trusts, without the need for additional approvals, will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because it would allow the Exchange to immediately list and trade qualifying options on Commodity-Based Trusts, provided the initial listing criteria has been met, without any additional approvals from the Commission.

Specifically, the Exchange's proposal to adopt Rule 5020(h)(v) to allow the listing and trading of options on units that represent interests in Commodity-Based Trusts that meet the generic criteria of the U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust,[35] and hold a single crypto asset, is consistent with the Act because it will permit the Exchange to offer options on certain Commodity-Based Trusts soon after the listing of the ETF on Nasdaq, provided all listing criteria have been met. Listing these options will avail market participants of the opportunity to hedge their positions in the Commodity-Based Trusts in a timely manner, thereby providing investors with the ability to hedge their exposure to the underlying Commodity-Based Trust. Options on Commodity-Based Trusts benefits investors, similar to the listing of any other option on an ETF, by providing investors with a relatively lower-cost risk management tool to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of a crypto asset. Additionally, listing options on Commodity-Based Trusts provides investors with the ability to transact in such options on a listed market as opposed to the OTC options market, which increases market transparency and enhances the process of price discovery to the benefit of all investors.

Also, this proposal would permit options on certain Commodity-Based Trusts to be listed on the Exchange in the same manner as options on ETFs that are subject to the current listing criteria in Rule 5020(h). The Exchange notes that the majority of ETFs are able to list and trade options once the initial listing criteria have been met without the need for additional approvals. The proposed rule change would allow options on certain Commodity-Based Trusts to likewise list and trade once the proposed listing criteria have been met without the need for additional approvals.

As proposed, the Exchange would list options in a Commodity-Based Trust that met the generic criteria of the U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust, provided the Commodity-Based Trust held only a single crypto asset. Further, these options on Commodity-Based Trusts would also be required to satisfy the conditions in proposed Rule 5020(h)(3). Specifically, a Commodity-Based Trust that met the requirements of proposed

[29] *See* BOX Rules 3120(d) and 3140(c).

[30] A complete list of the current members of the ISG, is available at *http://www.isgportal.org.*

[31] There are a number of futures contracts on digital asset commodities that are listed and trading on the CME and Coinbase Derivatives, both of which are ISG members. *See https://www.cmegroup.com/markets/cryptocurrencies.html#products. See also https://www.coinbase.com/derivatives.*

[32] The following ETFs currently have options listed on them on the Exchange: iShares Bitcoin Trust ETF (IBIT), the Fidelity Wise Origin Bitcoin Fund (FBTC), the ARK21Shares Bitcoin ETF (ARKB), the Grayscale Bitcoin Trust ETF (GBTC), the Grayscale Bitcoin Mini Trust ETF (BTC), and the Bitwise Bitcoin ETF (BITB). *See* Rule 5020(h)(iv). The Exchange filed rule proposals and received the appropriate regulatory notice or approval to list the aforementioned options on the ETFs.

[33] 15 U.S.C. 78f(b).

[34] 15 U.S.C. 78f(b)(5).

[35] *See supra* note 7.

Rule 5020(h)(v) would also have to satisfy the following requirements in proposed Rule 5020(h)(3): (A) the total global supply of the underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the ISG.

These requirements are consistent with the Act and the protection of investors as they should ensure that the underlying ETF has sufficient liquidity prior to listing options, which will serve to prevent disruption to the underlying market. The Exchange believes that market supply serves as a good measure of liquidity to prevent the addition of options trading on the Commodity-Based Trust from disrupting the market for the underlying security. Requiring the underlying crypto asset to have a requisite amount of deliverable supply, in addition to all the other criteria the ETF is required to have under the rules of the primary equities listing market for the ETF, should ensure adequate liquidity prior to listing. Further, ensuring the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the ISG, will provide the Exchange with information to adequately surveil options on qualifying Commodity-Based Trusts. Today, the Exchange has a comprehensive surveillance sharing agreement in place with both the CME and Coinbase Derivatives through its common membership in ISG. 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 digital asset futures markets.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules, previously filed with the Commission. Options on qualifying Commodity-Based Trusts must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all ETFs, including ETFs that hold other crypto assets already deemed appropriate for options trading on the Exchange in addition to the proposed criteria. Options on qualifying Commodity-Based Trusts would trade in the same manner as any other ETF options—the same Exchange Rules that currently govern the listing and trading of all ETF options, including permissible expirations, strike prices and minimum increments, and applicable position and exercise limits and margin requirements, will govern the listing and trading of options on qualifying Commodity-Based Trusts.

The Exchange represents that it has the necessary systems capacity to support the listing and trading of options on qualifying Commodity-Based Trusts. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading of these options on Commodity-Based Trust, particularly in light of the additional requirement that the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG. Finally, today, the Exchange lists and trades options on ETFs that would qualify for listing as an option on a Commodity-Based Trust under proposed Rule 5020(h)(v),[36] and it has not identified any issues with the listing and trading of options on those ETFs.

The Exchange believes the proposed changes to Rule 5020(h)(iv) will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it will revert the rule text back to the previously existing language to remove the now unnecessary and duplicative requirements relating to Commodity-Based Trust Shares and conform the subsection with the changes proposed herein.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal to amend the listing criteria at Rule 5020(h)(v), with respect to ETFs, to adopt new criteria to permit the listing and trading of options on certain Commodity-Based Trusts that hold a single crypto asset, and that were listed pursuant to the generic criteria of the U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust, without the need for additional approvals, will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Options on qualifying Commodity-Based Trusts would need to satisfy the initial listing standards set forth in the Exchange Rules in the same manner as any other ETF before the Exchange could list options on them. Additionally, options on qualifying Commodity-Based Trusts will be equally available to all market participants who wish to trade such options. The Exchange Rules currently applicable to the listing and trading of options on ETFs on the Exchange will apply in the same manner to the listing and trading of all options on qualifying Commodity-Based Trusts.

Additionally, the Exchange notes that listing and trading options on qualifying Commodity-Based Trusts on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios in a timely manner.

The Exchange does not believe that the proposal to adopt new listing criteria at Rule 5020(h)(v) to permit the listing and trading of certain options on a Commodity-Based Trust, without the need for additional approvals, will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as nothing prevents other options exchanges from proposing similar rules to list and trade options on Commodity-Based Trusts. Other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Commodity-Based Trusts. As noted herein, a substantively identical proposal submitted by another options exchange has recently been deemed approved by the Securities and Exchange Commission.[37]

The Exchange does not believe the proposed change to revert Rule 5020(h)(iv) back to the previously existing rule text will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it seeks to remove the now unnecessary and duplicative requirements relating to Commodity-Based Trust Shares and

[36] *See supra* note 32.

[37] *See supra* note 6.

conform the subsection with the changes proposed herein.

As such, 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[38]

A proposed rule change filed under Rule 19b–4(f)(6)[39] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[40] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would ensure fair competition among the exchanges and reduce the potential for investor confusion. The Exchange states that waiver of the 30-day operative delay would allow the Exchange to update Rule 5020 to codify the changes proposed in SR–BOX–2025–12, Amendment 2, which was filed during the government shutdown, and which is substantially similar in all material respects to a proposal submitted by another exchange that was recently deemed approved by the Commission.[41] For these reasons, the Commission finds that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[42]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[43] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–BOX–2025–28 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–BOX–2025–28. 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–BOX–2025–28 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20686 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[38] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[39] 17 CFR 240.19b–4(f)(6).

[40] 17 CFR 240.19b–4(f)(6)(iii).

[41] *See supra* note 6.

[42] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78s(b)(2)(B).

[44] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, December 4, 2025.

PLACE: The meeting will be held via remote means and at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: November 20, 2025.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2025–20836 Filed 11–20–25; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104222; File No. SR–BOX–2025–27]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the QOO and FOO Order Rebate in Section V. (Manual Transaction Fees) of the Fee Schedule for Trading on the BOX Options Market LLC Facility

November 19, 2025.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2025, BOX Exchange LLC (''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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC (''BOX'') options facility. The Exchange proposes to amend the QOO (Qualified Open Outcry) and FOO (FLEX Open Outcry) Order Rebate in Section V. (Manual Transaction Fees) of the Fee Schedule. Specifically, the Exchange proposes to add an enhanced rebate. While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on October 1, 2025. The text of the proposed rule change is available from the principal office of the Exchange, and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

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 amend the QOO and FOO Order Rebate in Section V. (Manual Transaction Fees) of the Fee Schedule. Specifically, the Exchange proposes to add an enhanced rebate. The Exchange notes that this is a competitive filing that is based on a proposal submitted by MIAX Sapphire, LLC (''MIAX Sapphire''), as MIAX Sapphire submitted a filing on September 11, 2025, to describe the fees and rebates that will be applicable to transactions on its trading floor.[5] In particular, MIAX Sapphire is offering a Floor Broker Breakup Credit. The MIAX Sapphire Floor Broker Breakup Credit will apply to the Floor Broker that submits the QFO (Qualified Floor Order) or cQFO (Complex Qualified Floor Order) instead of the Floor Broker rebate for executions that trade with a Floor Market Maker. BOX is now proposing to add a similar incentive to its Fee Schedule. The Exchange notes that BOX refers to this incentive as an enhanced rebate while MIAX Sapphire refers to it as a breakup credit. The Exchange believes that the term enhanced rebate is consistent with Section V. (Manual Transaction Fees) of the Fee Schedule and that referring to Floor Broker incentives in this section as rebates promotes clarity and avoids confusion among Floor Participants. Additionally, referring to the proposed incentive as an enhanced rebate instead of a breakup credit is consistent with how the rebate will be reported to Floor Participants.

Currently, Floor Brokers on BOX receive a $0.10 per contract rebate for all Broker Dealer and Market Maker QOO and FOO Orders presented on the Trading Floor and $0.05 per contract rebate for all Professional Customer QOO and FOO Orders presented on the Trading Floor. The rebate does not apply to Public Customer executions, executions subject to Section V.D of the BOX Fee Schedule, or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer.[6]

The Exchange now proposes that Floor Brokers that submit QOO and FOO Orders will receive $0.20 per contract enhanced rebate for executions that trade with a Floor Market Maker, in lieu of the existing $0.10 and $0.05 per contract rebates described in Section V.C. Accordingly, under the proposal, Floor Brokers that submit QOO and FOO Orders will now receive an enhanced rebate of $0.20 per contract, instead of the existing rebates of $0.10 or $0.05 per contract, for executions that trade with a Floor Market Maker. The enhanced rebate will not apply to Public Customer executions, executions subject to Section V.D (Strategy QOO Order Fee Cap and Rebate & Strategy FOO Order Fee Cap and Rebate), or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer. The Exchange notes that Section V.D contains separate fee caps and rebates for certain Strategy QOO and FOO Orders and dividend strategies.

The proposed changes are designed to attract order flow to BOX. The Exchange believes that offering the enhanced rebate provides an additional incentive for Floor Brokers to bring orders to the BOX Trading Floor.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* SR–SAPPHIRE–2025–39, available at *https://www.miaxglobal.com/sites/default/files/filing-files/SR_SAPPHIRE_2025_39_1.pdf.*

[6] *See* BOX Exchange Fee Schedule Section V.C.

[7] 15 U.S.C. 78f(b)(4) and (5).

does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange notes that it operates in a highly competitive environment. Indeed, there are currently 18 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 17% of the U.S. options market share. More specifically, in June 2025, BOX had 6.79% market share of options contracts traded, 6.22% in July 2025, and 6.39% in August 2025.[8] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, 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.'' [9] As stated above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed fee change reflects a competitive pricing structure designed to incentivize Floor Brokers to bring orders to the BOX Trading Floor.

The Exchange believes its proposal to offer Floor Brokers an enhanced rebate of $0.20 is reasonable, equitably allocated and not unfairly discriminatory as this proposal applies equally to all Floor Brokers. The Exchange believes that its proposal will encourage Floor Broker liquidity in all classes. Additional liquidity benefits all market participants by providing more trading opportunities. Specifically, the Exchange believes that Floor Brokers serve an important function in facilitating the execution of orders and price discovery for all market participants.

The Exchange believes it is equitable and not unfairly discriminatory to only apply the rebate to Floor Brokers and not to Floor Market Makers. Floor Market Makers only represent their own interest on the Trading Floor and therefore do not need a similar incentive. Further, the Exchange believes it is equitable and not unfairly discriminatory to not apply the enhanced rebate to Public Customer executions or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer, as these executions are not assessed a fee for their QOO or FOO Orders. Further, the Exchange believes it is equitable and not unfairly discriminatory to not apply the enhanced rebate to executions subject to the Strategy QOO Order Fee Cap and Rebate & Strategy FOO Order Fee Cap and Rebate because additional incentives for these orders are not necessary, as they are subject to different rebates and fee caps.

The Exchange's proposal to pay Floor Brokers an enhanced rebate for executions that trade with a Floor Market Maker is consistent with Section 6(b)(4) of the Act because it will encourage market participants to execute orders on the Trading Floor. The Exchange believes that the enhanced rebate could improve liquidity on the Exchange to the benefit of all market participants. Additionally, the proposal is also consistent with Section 6(b)(5) of the Act because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because it applies equally to all Floor Broker QOO Orders and FOO Orders which are subject to an enhanced rebate and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange notes that the proposed enhanced rebate is similar to breakup credits used to encourage Participants to submit PIP, COPIP, Facilitation and Solicitation orders.[10] Specifically, the proposed enhanced rebate is consistent with the PIP and COPIP Break-Up Credit and the Facilitation and Solicitation Break-Up Credit. In these mechanisms, break-up credits are provided to Participants representing the agency order. Similarly, the Exchange proposes to provide an enhanced rebate to Floor Brokers for executions that trade with a Floor Market Maker. The Exchange believes that providing an enhanced rebate will incentivize Floor Brokers to bring order flow to the BOX Trading Floor which will result in increased trading opportunities for all Floor Participants.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow and discontinue or reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated differently, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange believes the proposed changes are a reasonable attempt to effectively compete for Floor Broker orders. The Exchange believes that the proposed changes may incentivize Floor Brokers to bring order flow and, in turn, may make BOX a more competitive venue for order execution to the benefit of all market participants. As such, the Exchange believes the proposed changes are consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposal does not impose an undue burden on intra-market competition because all Floor Brokers are eligible to transact QOO Orders and FOO Orders [11] and receive a rebate, if applicable. The Exchange believes that its proposal will encourage Floor Broker liquidity in all classes. Additional liquidity benefits all market participants by providing more trading opportunities. Further, additional liquidity will contribute to a robust trading environment on the BOX Trading Floor.

The Exchange notes that BOX will not collect additional fees on any given transaction under the proposal but will provide Floor Brokers an enhanced rebate for executions that trade with a Floor Market Maker. The Exchange does not believe that Floor Market Makers will be discouraged from transacting on the Trading Floor as Floor Market Makers trade for their own accounts and benefit from having access to interact with orders that are made available in open outcry on the Trading Floor. The Exchange also believes that Floor Market Maker fees relative to other market participants do not impose an undue burden on competition because Floor Market Makers are not obligated to engage in transactions on the Trading Floor. To the extent that there is an additional competitive burden on Floor

[8] *See https://www.cboe.com/us/options/market_share/market/2025-06-30/, https://www.cboe.com/us/options/market_share/market/2025-07-31/* and *https://www.cboe.com/us/options/market_share/market/2025-08-29//* (Month-to-Date (''MTD'') % of Mkt as of September 12, 2025).

[9] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[10] *See* BOX Exchange Fee Schedule Sections IV.B (PIP and COPIP Transactions) and IV.C (Facilitation and Solicitation Transactions).

[11] The Exchange notes that to be qualified to trade FOO Orders, a Floor Broker must: (i) be registered as a Floor Broker under Exchange Rules; (ii) have passed the FLEX Floor Exam; and (iii) have submitted a Flex Equity Options Participant Clearing Authorization (Non-Market Maker) to the Exchange.

Market Makers, the Exchange believes that any such burden would be appropriate because Floor Brokers serve an important function in facilitating the execution of orders and price discovery for all market participants. Further, to the extent this proposal is successful, it will increase trading opportunities for Floor Market Makers because Floor Market Makers trade for their own accounts and benefit from having the opportunity to interact with orders that are made available in open outcry on the Trading Floor.

The Exchange does not believe that not applying the enhanced rebate to Public Customer executions or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer, will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as these executions are not assessed a fee for their QOO or FOO Orders. Further, the Exchange does not believe that not applying the enhanced rebate to executions subject to the Strategy QOO Order Fee Cap and Rebate & Strategy FOO Order Fee Cap and Rebate will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because these orders are subject to different rebates and fee caps and additional incentives for these orders are not necessary. The Exchange believes that the proposed enhanced rebate will not impair these Participants from adding liquidity and competing in open outcry on the Trading Floor and will help promote competition by providing incentives for Floor Brokers to submit customer order flow to the BOX Trading Floor and thus, create a greater opportunity for customer executions.

The Exchange does not believe that offering Floor Brokers an enhanced rebate will impose an undue burden on competition because all qualified Floor Brokers are eligible to transact QOO and FOO Orders and thus may improve intra-market competition.[12] Accordingly, the Exchange believes that providing an enhanced rebate to Floor Brokers for executions that trade with a Floor Market Maker does not impose an undue burden on intra-market competition.

The Exchange believes the proposal does not impose an undue burden on intermarket competition because the proposed changes to the BOX Fee Schedule remain competitive with other options markets and will offer market participants with another choice of where to transact its business. Further, the Exchange believes that the rebate will promote competition by allowing Floor Brokers to competitively price their services and for the Exchange to remain competitive with other exchanges with open outcry trading floors. 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 and rebates to remain competitive with other exchanges. Because competitors are free to modify their own fees and rebates 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. The Exchange again notes that the proposed changes are a competitive response to a proposal submitted by MIAX Sapphire.[13] For the reasons described above, the Exchange believes that the proposed rule change will encourage intermarket competition.

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 Exchange Act[14] and Rule 19b–4(f)(2) thereunder,[15] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2025–27 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–BOX–2025–27. 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–BOX–2025–27 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20691 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104221; File No. SR–IEX–2025–27]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX's Fee Schedule Concerning the Supplemental Market Quality Program

November 19, 2025.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the

[12] *Id.*

[13] *See supra* note 5.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 30, 2025, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Exchange's fee schedule applicable to Members [6] (the ''Fee Schedule'' [7]) pursuant to IEX Rule 15.110(a) and (c) to modify the Supplemental Market Quality Program by introducing a second tier of qualifying securities and making it easier for Members to qualify for the incentive fees. Changes to the Fee Schedule pursuant to this proposal are effective upon filing,[8] and will be operative beginning on October 1, 2025.

The text of the proposed rule change is available at the Exchange's website at *https://www.iexexchange.io/resources/regulation/rule-filings* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to modify the Supplemental Market Quality Program (''SMQ'' or the ''Program'') [9] by introducing a second tier of qualifying securities and modifying the quoting requirements to make it easier for Members to qualify for the SMQ incentive payments. The Program is intended to increase displayed liquidity and promote order flow to the Exchange by offering a financial incentive for Members to enter displayed orders or quotes (*i.e.,* displayed trading interest) priced at the NBBO [10] on the Exchange for a significant portion of the day in certain securities designated by the Exchange (''SMQ Securities''). The Exchange now proposes to modify the SMQ by: (i) expanding the number of securities covered by the current SMQ (as explained below, these securities will now be referred to as ''SMQ Level 1 Securities'') and creating a new, higher incentive payment tier for certain newly added securities which are more difficult to quote (which will be referred to as ''SMQ Level 2 Securities''); (ii) increasing the minimum number of securities in which a Member must have qualifying quoting activity in the current Program from 50 securities to 100 securities; and (iii) changing the quoting requirements to qualify for the SMQ [11] by basing qualifying quoting activity on a Member's percentage of market hours quoting on the NBB [12] plus that Member's percentage of market hours quoting on the NBO.[13] Notwithstanding the increase in the minimum number of securities in which a Member must have qualifying quoting activity, the Exchange believes that this change to the quoting requirements will make it easier for Members to achieve the minimum threshold required to be eligible for payment under the Program because more quoting activity will qualify under this proposed change.

Expansion of Securities Covered by the SMQ Program

As set forth in the SMQ Product Filing, the Exchange determines which securities to designate as SMQ Securities by applying several objective factors concerning each security's trading characteristics and generally designates as SMQ Securities those securities that meet certain thresholds with respect to these factors.[14] These factors include IEX's current relative quote presence in each security (*i.e.,* displayed order volume and time at the NBBO for each security traded on the Exchange), the number of market-wide daily price changes and the average market-wide quote size for each security, and each security's share price and average notional value traded.[15] IEX uses these factors to assess which securities are suitable for inclusion in the list of SMQ Securities, with a goal of identifying securities in which increased quoting would be impactful to both IEX and the market, but not unduly burdensome to its Members in meeting the quoting requirements to qualify for the SMQ.

As noted above, IEX is proposing to expand the number of securities included in the list of SMQ Securities. To do so, IEX is adjusting the thresholds it applies to the objective criteria described above, but is making no changes to the criteria used to assess a security's suitability for inclusion in the SMQ.

IEX also proposes to expand the SMQ by introducing a second tier of SMQ Securities, which it proposes to call ''SMQ Level 2 Securities.'' SMQ Level 2 Securities will be selected from among the newly added SMQ Securities using the same objective criteria used for the current SMQ Securities, but the threshold values will be adjusted to select for symbols that are more difficult to quote (for example they are generally more expensive per share and experience more quote changes). As a result, market participants entering displayed trading interest in these securities put more capital at risk, potentially face higher risk of adverse

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] *See* IEX Rule 1.160(s).

[7] *See* Investors Exchange Fee Schedule, available at *https://www.iexexchange.io/resources/trading/fee-schedule.*

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] The Exchange filed the proposed rule change establishing the SMQ on May 16, 2025. *See* Securities Exchange Act Release No. 103131 (May 27, 2025), 90 FR 23397 (June 2, 2025) (SR–IEX–2025–07) (''SMQ Product Filing'').

[10] *See* IEX Rule 1.160(u).

[11] Currently, if a Member quotes on the NBB and NBO concurrently for 20% of market hours, the Member's Percent Time at the NBBO would be 20%. Under this proposal, the Percent Time at NBB and Percent Time at NBO would be added together and become ''NBBO Time.'' In this example, the Member's NBBO Time would be 40%. As set forth in SR–IEX–2025–26 (the ''ETP Quoting Filing'') and explained *infra,* IEX proposes to define ''NBBO Time'' as the sum of the Member's ''Percent Time at NBB'' and ''Percent Time at NBO.'' And IEX proposes to define ''Percent Time at NBB'' and ''Percent Time at NBO'' as the aggregate percentage of time during Regular Market Hours where a Member has a displayed order of at least one round lot at the NBB or NBO, respectively.

[12] *See* IEX Rule 1.160(u).

[13] *See* IEX Rule 1.160(u).

[14] As set forth in the SMQ Product Filing, the Exchange discussed with Commission staff the thresholds it applies to these objective factors. *See* SMQ Product Filing, *supra* note 9 at 90 FR at 23398.

[15] *See* SMQ Product Filing, *supra* note 9 at 90 FR at 23398.

selection, and due to the increased frequency of quote changes, may be required to more closely manage their quotes in order to maintain a quote at the NBB, NBO, or the NBBO. To incentivize displayed trading interest in these SMQ Level 2 Securities, the Exchange proposes to provide a higher SMQ Incentive Payment [16] that will apply to qualifying quoting activity in these securities of $400 per qualified security per month. In order to receive the SMQ Incentive Payment for quoting in SMQ Level 2 Securities, a Member must have an NBBO Time of at least 40% in at least 20 or more SMQ Level 2 Securities. The Exchange believes that introducing a new, higher incentive fee for the SMQ Level 2 Securities would be particularly impactful to IEX and the market more generally by increasing quoting competition in securities that are relatively more difficult to quote.

The Exchange will identify all securities that it determines are suitable to be included in the Level 2 tier, and identify them as such in the list of SMQ Level 2 Securities that the Exchange will maintain on its website. The Exchange also proposes to add to the SMQ section of the Fee Schedule a new Calculation Table (the ''SMQ Level 2 Calculation Table''), which will specify the above criteria for qualifying for the SMQ Incentive Payment based upon quoting activity in SMQ Level 2 Securities. The new SMQ Level 2 Calculation Table will be as follows:

SMQ Level 2 Calculation Table

SMQ qualifying activity: average daily number of SMQ Level 2 securities with an NBBO Time of at least 40%	SMQ incentive payment
0–19	$0 per qualified security per month.
20 or more SMQ Level 2 Securities**	$400 per qualified security per month.

** SMQ Payouts will be made for all qualified securities if Member had SMQ Qualifying Activity in at least 20 SMQ Level 2 Securities during the month.

To distinguish the SMQ Level 2 Securities from the rest of the SMQ Securities, IEX proposes to rename the first tier of SMQ qualifying securities from ''SMQ Securities'' to ''SMQ Level 1 Securities,'' and revise the definition of ''SMQ Securities'' to include SMQ Level 1 and Level 2 Securities. Thus, as proposed, the SMQ section of the Fee Schedule will contain the following definitions of SMQ Securities:

- ''SMQ Securities'' shall mean either SMQ Level 1 or SMQ Level 2 Securities, as defined below.
- ''SMQ Level 1 Securities'' shall mean a list of securities designated as such, that are used for purposes of qualifying for the SMQ. The universe of these securities will be determined by the Exchange and published on the Exchange's website here. Prior to the start of each month, the Exchange will reevaluate and, as applicable, update its list of SMQ Level 1 Securities, and it will publish the updated list on the Fee Schedule at least one day prior to the start of the month.
- ''SMQ Level 2 Securities'' shall mean a list of securities designated as such, that are used for purposes of qualifying for the SMQ. The universe of these securities will be determined by the Exchange and published on the Exchange's website here. Prior to the start of each month, the Exchange will reevaluate and, as applicable, update its list of SMQ Level 2 Securities, and it will publish the updated list on the Fee Schedule at least one day prior to the start of the month.

Increasing the Quoting Activity Required To Qualify for SMQ Level 1 Securities

To qualify for the SMQ Incentive Payment currently, a Member must enter displayed trading interest (*i.e.,* at least one displayed order or quote of at least one round lot size) at either the NBB, the NBO, or the NBBO, for at least 40% of time during regular market hours [17] in at least 50 of the SMQ Level 1 Securities (based on an average daily number) during the month. The Exchange proposes to increase the average daily number of SMQ Level 1 Securities in which a Member must have the minimum amount of qualifying quoting activity from 50 SMQ Securities to 100 SMQ Level 1 Securities. The Exchange also proposes to rename the current SMQ Calculation Table in the SMQ section of the Fee Schedule as the ''SMQ Level 1 Calculation Table'', and to update the text as follows:

SMQ Level 1 Calculation Table

SMQ qualifying activity: average daily number of SMQ Level 1 securities with an NBBO Time of at least 40%	SMQ incentive payment
0–99	$0 per qualified security per month.
100 or more SMQ Level 1 Securities*	$125 per qualified security per month.

* SMQ Payouts will be made for all qualified securities if Member had SMQ Qualifying Activity in at least 100 SMQ Level 1 Securities during the month.

The Exchange believes this increase is commensurate with the other modifications described herein, namely the increase in the number of securities that will be on the SMQ Level 1 Securities list, as described above, and the manner in which IEX will make it easier for Members to meet the quoting requirements, as described below. While this increase will require Members to engage in more quoting activity to qualify for SMQ Payments, Members will now have a larger number of securities in which to quote and, as described below, more relaxed quoting requirements. Taken together, the Exchange believes these changes will make it easier for Members to satisfy the

[16] As described *infra,* ''SMQ Incentive Payment'' shall mean ''the fixed dollar amount paid per SMQ Security to a Member that satisfies the requirements for the SMQ listed herein.''

[17] In the ETP Quoting Filing (SR–IEX–2025–26), the Exchange amended references to ''regular trading hours'' in the Fee Schedule to ''Regular Market Hours.''

minimum requirements. In addition, the Exchange believes that increasing the minimum average daily number of SMQ Level 1 Securities is appropriate to ensure the continuing effectiveness of the SMQ Program in improving trading conditions for all market participants through increased quoting competition on the Exchange in a larger number of securities.

The Exchange also proposes to revise two defined terms in the SMQ section of the Fee Schedule for clarity and consistency. Specifically, IEX proposes to rename the ''SMQ Incentive Fee'' as the ''SMQ Incentive Payment.'' IEX proposes to make this change because it is a more accurate description of the payments Members receive for participation in the SMQ, which are in fact payments, not fees charged to them. Consistent with this change, IEX proposes to revise the right-hand column in the SMQ Calculation Tables to now refer to the ''SMQ Incentive Payment.'' To avoid any potential confusion, IEX proposes to rename the otherwise-similarly named term ''SMQ Payment'' as the ''SMQ Payout'', and to update the footnote to both SMQ Calculation Tables to now refer to SMQ Payouts. These proposed changes are designed to improve the clarity and accuracy of the SMQ section of the Fee Schedule.

Expansion of SMQ Qualifying Quoting Activity

Currently, a Member qualifies for the SMQ by entering displayed trading interest at either the NBB, the NBO, or the NBBO, for at least 40% of time during regular market hours in at least 50 of the SMQ Securities on average per day during the month (the ''Percent Time at NBBO'' requirement). The Exchange calculates the number of SMQ Securities for which each Member's Percent Time at NBBO was at least 40% (''SMQ Qualifying Activity'') on a daily basis. At the end of the month, the Exchange calculates the monthly average of the number of SMQ Securities in which the Member had SMQ Qualifying Activity. If a Member, on an average daily basis, has SMQ Qualifying Activity in at least 50 of the SMQ Securities during the month, the Exchange pays the Member the ''SMQ Incentive Payment'' of $125 per SMQ Security for which the Member satisfied the SMQ requirements.[18]

As discussed above, the Exchange proposes to change the quoting requirements to qualify for the SMQ by basing qualifying quoting activity on a Member's NBBO Time: the Member's percentage of market hours quoting on the NBB plus the Member's percentage of market hours quoting on the NBO. For example, for a particular security, if a Member's Percent Time at NBB is 25% and Percent Time at NBO is 15%, its NBBO Time would be 40%. Alternatively, if a Member's Percent Time at NBB is 20% and concurrently, the Member's Percent Time at NBO is also 20%, then that Member's NBBO Time also would be 40%. Put differently, quoting activity on either side of the NBBO will now count toward the relevant eligibility threshold.

In a rule filing filed by the Exchange concurrently with this one,[19] the Exchange moved certain terms and definitions in the SMQ section of the Fee Schedule that were applicable to other parts of the Fee Schedule to the Definitions and Notes subheadings of the Transaction Fees section of the Fee Schedule. Thus, the term ''Percent Time at NBBO'' has been removed from the Fee Schedule and replaced with the terms ''Percent Time at NBB,'' [20] ''Percent Time at NBO'' [21] and ''NBBO Time'' [22] which appear in the ''Definitions'' subheading of the Transaction Fees section of the Fee Schedule. Additionally, the ETP Quoting Filing moved the language about trading days and hours that are excluded from the quoting calculations as well as how Members can aggregate their activity with their affiliates from the SMQ section of the Fee Schedule to the Notes subheading of the Transaction Fees section of the Fee Schedule. IEX also modified the language, so that it now describes how the Exchange applies these exclusions and aggregations to the SMQ as well as to certain other quoting and trading based fee incentives. For clarity purposes, IEX proposes to add a bullet under the ''Supplemental Market Quality Program'' subheading that reads:

> Please refer to the Definitions and Notes sections located at the beginning of the Transaction Fees section for the definition of NBBO Time as well as information about how the Exchange calculates NBBO Time and allows Members to aggregate their NBBO Time with their affiliates.

The effect of these proposed changes will be to relax the quoting activity requirements to qualify for the SMQ Program so that any quoting activity at the NBB or the NBO (or NBB and NBO combined) will count toward the eligibility threshold. The Exchange believes that this proposed change will make it easier for Members to qualify for, and expand opportunities to participate in, the Program, thereby providing enhanced liquidity for all market participants through increased displayed trading interest and narrower bid-ask spreads on the Exchange.

All other aspects of calculating a Member's eligibility for SMQ payments remain unchanged. As the Exchange does currently, on a daily basis the Exchange will calculate the average daily number of SMQ Level 1 Securities in which the Member had SMQ Qualifying Activity based on the Member's daily quoting activity. For clarity and consistency, IEX proposes to modify the definition of SMQ Qualifying Activity in the SMQ section of the Fee Schedule to read as follows:

> ''SMQ Qualifying Activity'': As described in the Notes section, above, on a daily basis, the Exchange will determine the number of SMQ Level 1 and/or Level 2 Securities in which a Member meets the threshold for NBBO Time set forth in the below SMQ Calculation Tables. At the end of the month, the Exchange will calculate the SMQ Qualifying Activity by taking the average (rounded to the nearest whole number) of the number of SMQ Level 1 and/or Level 2 Securities for which the Member's NBBO Time was at least the threshold value set forth in the Calculation Tables below.

The relevant text in the Notes section referred to in the definition of SMQ Qualifying Activity [23] reads as follows:

> Unless otherwise specified, for any tiers that include NBBO Time as a required criteria (for example, the Displayed Liquidity Adding Rebate Tiers in footnote 4 and the Supplemental Market Quality Program), on a daily basis, the Exchange will determine the number of securities in which a Member meets the threshold value (set forth in the tier) for NBBO Time for that day. At the end of the month, the Exchange will take the average (rounded to the nearest whole number) of the number of securities in which a Member's NBBO Time was at least the

[18] Currently, the Exchange pays SMQ Payments for all qualified securities if the Member had SMQ Qualifying Activity in at least 50 SMQ Securities during the month.

[19] *See* ETP Quoting Filing (SR–IEX–2025–26).

[20] The Fee Schedule defines this term as ''the aggregate of the percentage of time during Regular Market Hours where a Member has a displayed order of at least one round lot at the national best bid ('NBB').''

[21] The Fee Schedule defines this term as ''the aggregate of the percentage of time during Regular Market Hours where a Member has a displayed order of at least one round lot at the national best offer ('NBO').''

[22] The Fee Schedule defines this term as ''the Member's Percent Time at NBB plus the Member's Percent Time at NBO. For example, for a particular security, if a Member's Percent Time at NBB is 25% and Percent Time at NBO is 15%, its NBBO Time would be 40%. Alternatively, if a Member's Percent Time at NBB is 20% and concurrently, the Member's Percent Time at NBO is also 20%, then that Member's NBBO Time would be 40%.''

[23] This text was added to the Fee Schedule by the ETP Quoting Filing.

threshold value set forth in the applicable tier.

In summary, if a Member has SMQ Qualifying Activity in an average of at least 100 of the SMQ Level 1 Securities during the month, the Exchange will pay the Member $125 per qualified security.[24] If a Member has SMQ Qualifying Activity in an average of at least 20 SMQ Level 2 Securities, the Exchange will pay the Member $400 per qualified security. Furthermore, both SMQ Level 1 and Level 2 Calculation Tables will have a footnote explaining that SMQ Payments will be made for all qualified securities if the Member had SMQ Qualifying Activity in at least the threshold number of SMQ Securities during the month.

The following examples illustrate how the amended SMQ will work.

Example No. 1 (SMQ Level 1 Securities)

Assume that in a particular month, IEX has designated 500 securities as SMQ Level 1 Securities. There are 20 trading days in that month, and on ten of those days Member A's NBBO Time is 40% for 200 of the SMQ Level 1 Securities. On the other ten trading days, Member A's NBBO Time is 40% for 100 of the SMQ Securities. At the end of the month, IEX calculates the average number of SMQ Securities in which Member A has at least 40 Percent NBBO Time on a daily basis to be 150 SMQ Level 1 Securities. IEX provides a lump sum payment of $18,750 to Member A ($125 × 150 SMQ Level 1 Securities) (the ''SMQ Payment'').

Example No. 2 (SMQ Level 2 Securities)

Assume that in a particular month, IEX has designated 100 securities as SMQ Level 2 Securities. There are 21 trading days in that month, and on eleven of those days Member B's NBBO Time is 40% for 25 of the SMQ Level 2 Securities. On the other ten trading days, Member B's NBBO Time is 40% for 30 of the SMQ Level 2 Securities. At the end of the month, IEX calculates the average daily number of SMQ Level 2 Securities in which Member B had at least 40 Percent NBBO Time to be 27 [25] SMQ Level 2 Securities. IEX provides a lump sum payment of $10,800 to Member B ($400 × 27 SMQ Level 2 Securities) (the ''SMQ Payment'').

As noted above, the Exchange will apply the same exclusions to the calculation of NBBO Time that currently apply to the SMQ (*e.g.,* excluding time periods of system disruptions, days with scheduled early market close, or any regular market hours when an SMQ Security is subject to a trading halt or Limit Up-Limit Down pause).[26] For example, if an SMQ Security was halted for 30 minutes during one trading day, and a Member provided displayed trading interest in that security at the NBB (NBO) for 2.4 hours of that trading day, the Member's Percent Time at NBB (NBO) for that day would be 40%, because 2.4 hours is 40% of 6 hours.[27]

The Exchange will continue to allow Members to aggregate their Percent Time at NBB and their Percent Time at NBO (and thus their NBBO Time) with other Members with which they are affiliated,[28] if Members provide prior notice to the Exchange. As proposed, to the extent that two or more affiliated companies maintain separate memberships with the Exchange and can demonstrate their affiliation by showing they control, are controlled by, or are under common control with each other, the Exchange would permit such Members to aggregate their Percent Time at NBB (and their Percent Time at NBO). Members will be responsible for having proper internal documentation in their books and records substantiating that the two or more Members seeking to aggregate their Percent Time at NBB and their Percent Time at NBO are affiliates of one another.

The SMQ, as amended with the changes described herein, will remain open to all Members and will not impose any two-sided quotation obligations on any Member seeking to qualify for the SMQ. Accordingly, the amended SMQ will continue to be designed to attract liquidity from any firm willing to provide liquidity at the NBB or NBO in SMQ Level 1 or Level 2 Securities. Through these proposed changes, the Exchange is proposing to increase opportunities for Members to earn an SMQ Payment by increasing the number of securities in the Program, offering an increased incentive payment for displayed trading interest in relatively more difficult-to-quote securities, and changing the quoting activity calculation to count time quoting at either the NBB or the NBO as the basis for the SMQ Qualifying Activity, thereby making it easier to satisfy the quoting activity requirement. As noted in the SMQ Product Filing, the SMQ Program is similar to quote incentive programs at other national securities exchanges.[29]

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [30] of the Act in general, and furthers the objectives of Sections 6(b)(4) [31] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed fee change is reasonable, fair and equitable, and non-discriminatory.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Based upon informal discussions with Members regarding the current SMQ Program, IEX has concluded that it will be able to more effectively compete with other exchanges for order flow by expanding the list of SMQ-eligible securities; offering Members an increased incentive payment for posting displayed liquidity on the Exchange in securities that are relatively more difficult-to-quote compared to other securities; and relaxing the quoting activity that qualifies for the SMQ. IEX believes that Members and other market participants may be more willing to send displayed trading interest to IEX if the proposed rule changes are adopted.

Accordingly, IEX has designed the proposed changes to further incentivize Members to send displayed quotes at the NBB (NBO) in a wider range of securities and specifically, in lower displayed volume securities. IEX believes that an increase in displayed liquidity and order flow to the Exchange will, in turn, improve the quality of the IEX market and increase its attractiveness to existing and prospective participants. In addition,

[24] The SMQ Incentive Payment for SMQ Level 1 Securities will remain unchanged at $125 per qualified security.

[25] As set forth in the proposed Fee Schedule, the Exchange will calculate the SMQ Qualifying Activity by taking the average of the number of SMQ Level 2 Securities for which the Member's NBBO Time was at least 40% and round that number to the nearest whole number. Thus, 27.38 SMQ Securities is rounded to 27.

[26] *See, e.g.,* IEX Rules 11.271 and 11.280.

[27] If IEX did not exclude the time a security is halted from its calculation of Percent Time at NBB (NBO), in this example the Member's Percent Time at NBB (NBO) would be 37% (2.4 hours divided by the full 6.5 hour trading day), and the Member's trading activity in that security for that day would not count towards its SMQ Qualifying Activity.

[28] As defined in Rule 12b–2 under the Act, 17 CFR 240.12b–2.

[29] *See* SMQ Product Filing, *supra* note 9, 90 FR at 23400 (comparing the SMQ to the Enhanced Market Quality Program offered by Nasdaq BX, the Market Quality program offered by MIAX PEARL, and Cboe EDGA's NBBO Setter Program); see also LTSE's Liquidity Incentive Program, available at *https://ltse.com/trading/fee-schedules.*

[30] 15 U.S.C. 78f.

[31] 15 U.S.C. 78f(b)(4).

the proposal is equitable and not unfairly discriminatory as the proposal would equitably allocate SMQ Payments among Members by paying Members based on their total quoting activity in SMQ Level 1 Securities and SMQ Level 2 Securities in any given month.

As noted in the Purpose section, the Exchange believes the proposed incentive payments in the Supplemental Market Quality Program will incentivize Members to direct additional displayed liquidity-providing orders to the Exchange in SMQ Securities, thereby promoting price discovery and market quality in the SMQ Securities and more generally on the Exchange, and, further, that the resulting increased displayed liquidity and narrower spreads will benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, enhancing quoting competition across all exchanges, and promoting market transparency.

As discussed above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The SMQ is comparable to quote incentive programs at other exchanges and thus IEX does not believe that the proposal raises any new or novel issues not already considered by the Commission in the context of other exchanges' fees.[32] To the extent this proposed fee change is successful in incentivizing the entry and execution of displayed trading interest on IEX, such greater liquidity will benefit all market participants by increasing price discovery and price formation as well as market quality and execution opportunities.

Finally, the Exchange believes that the textual changes to the Fee Schedule, specifically moving some definitions to the Transaction Fees section of the Fee Schedule and updating definitions in the SMQ section of the terms ''SMQ Qualifying Activity'', ''SMQ Incentive Payments'', and ''SMQ Payouts''; is consistent with the requirements above. These proposed changes are designed to reduce any potential confusion for market participants using IEX's Fee Schedule and to provide clarity, accuracy, and consistency between the Fee Schedule and the Rule Book. Further, IEX believes these changes would contribute to reasonably ensuring that the requirements of the SMQ Program, and any other activity-based incentive or rebate described in the Fee Schedule, are clear, accurate, and consistent with the Rule Book.

[32] *See supra* note 29.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited and does not believe that such fees would burden competition between Members or competing venues. Moreover, as noted in the Statutory Basis section, the Exchange does not believe that the proposed changes raise any new or novel issues not already considered by the Commission.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different Members may qualify for different amounts of SMQ Payments, these payments are not based on the type of Member entering the displayed trading interest, but rather on the amount of displayed trading interest in a wide range of eligible securities that each Member submits to the Exchange. Further, the proposed fee changes are intended to incentivize market participants to bring increased order flow to the Exchange, which benefits all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [33] of the Act and subparagraph (f)(2) of Rule 19b–4 [34] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(2).

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.

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–IEX–2025–27 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–IEX–2025–27. 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–IEX–2025–27 and should be submitted on or before December 15, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20745 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104226; File No. SR–CboeBZX–2025–115]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the Canary Staked INJ ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

November 19, 2025.

I. Introduction

On August 11, 2025, Cboe BZX Exchange, Inc. (''BZX'' 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 list and trade shares (''Shares'') of the Canary Staked INJ ETF (''Trust'') under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on August 28, 2025.[3]

On September 25, 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] This order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

II. Summary of the Proposal

As described in more detail in the Notice,[7] the Exchange proposes to list and trade the Shares of the Trust under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

The investment objective of the Trust is to seek to track the performance of INJ,[8] as measured by the CoinDesk INJ USD CCIX 60 min NY Rate (''Pricing Benchmark''), adjusted for the Trust's expenses and other liabilities.[9] In seeking to achieve its investment objective, the Trust will hold INJ and will value its Shares daily as of 4:00 p.m. ET using the same methodology used to calculate the Pricing Benchmark.[10] The Trust's assets will only consist of INJ, cash, and cash equivalents.[11] When the Trust sells or redeems its Shares, it will do so in cash or in-kind transactions with authorized participants in blocks of 10,000 Shares.[12] The Sponsor may stake, or cause to be staked, all or a portion of the Trust's INJ through one or more trusted staking providers and, in consideration for any staking activity in which the Trust may engage, the Trust would receive all or a portion of the staking rewards generated through staking activities.[13]

III. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2025–115 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [14] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[15] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.'' [16]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the proposal to list and trade Shares of the Trust, which would hold INJ, is designed to prevent fraudulent and manipulative acts and practices or raises any new or novel concerns not previously contemplated by the Commission.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[17]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by December 15, 2025. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 29, 2025.

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

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 103769 (Aug. 25, 2025), 90 FR 42041 (''Notice''). The Commission has received no comment letters on the proposed rule change.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 104067, 90 FR 47008 (Sept. 30, 2025). The Commission designated November 26, 2025, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3.

[8] The Exchange states that INJ is the native, proof-of-stake cryptographic token of the Injective Network, a decentralized blockchain platform designed to support a wide range of financial applications and decentralized exchange functionality. *See id.* at 42042.

[9] *See id.* at 42044. Canary Capital Group LLC is the sponsor of the Trust, CSC Delaware Trust Company is the trustee, and a third-party custodian will be responsible for custody of the Trust's INJ. *See id.* at 42041, 42043.

[10] *See id.* at 42044.

[11] *See id.* at 42043.

[12] *See id.* at 42043–44.

[13] *See id.* at 42043.

[14] 15 U.S.C. 78s(b)(2)(B).

[15] *Id.*

[16] 15 U.S.C. 78f(b)(5).

[17] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

• Send an email to *rule-comments@sec.gov*. Please include file number SR–CboeBZX–2025–115 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–CboeBZX–2025–115. 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–CboeBZX–2025–115 and should be submitted on or before December 15, 2025. Rebuttal comments should be submitted by December 29, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–20688 Filed 11–21–25; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2025–0651]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a revision of OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235, Fax: 833–410–1631, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAmain* by clicking on Currently under Review—Open for Public Comments and choosing to click on one of SSA's published items. Please reference Docket ID Number [SSA–2025–0651] in your submitted response.

SSA submitted the information collection below to OMB for clearance. Your comments regarding this information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than December 24, 2025. Individuals can obtain copies of the OMB clearance package by writing to the *OR.Reports.Clearance@ssa.gov.*

Fee Agreement for Representation before the Social Security Administration—0960–0810. The Social Security Act requires individuals who represent a claimant before the agency and want to receive a fee for their services to obtain SSA's authorization of the fee. One way to obtain the authorization is to submit the fee agreement to the agency either in writing or through using Form SSA–1693, Fee Agreement for Representation before the Social Security Administration. Since representatives currently use fee agreements which vary in length, content, and complexity, submission of a free-form fee agreement may cause delays in SSA's review time. SSA encourages respondents to use Form SSA–1693 to submit the information either using the paper form or the electronically submittable e1693 through SSA's website. SSA uses the information from the SSA–1693 to review the request and authorize any fee to representatives who seek to charge and collect a fee from a claimant. The respondents are the representatives who help claimants through the application process, and the claimants who they represent.

Note: We are revising the burden for this information collection, and updating the Privacy Act Statement to comply with current legal requirements.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–1693 (paper)	4,225	1	12	845	* $60.26	** 16	*** $118,833
e1693	1,745	1	13	378	* 60.26		*** 22,778
Written Agreements on Representative's Stationary	1,575,773	1	20	525,257	* 60.26		*** 31,651,987
Totals	1,581,743			526,480			*** 31,793,598

* We based this figure on the averaged total of the average Lawyer's Legal Services wages, as reported by Bureau of Labor Statistics data, and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2026 wait times for field offices (16 minutes), based on SSA's current management information data. This figure reflects the data posted on our public facing website (800 number performance √ SSA) on the date we drafted this notice. As the figures fluctuate daily, the wait times may be different on the publication date of this notice. While we are including this theoretical cost, respondents typically choose to mail or fax the paper form rather than deliver the form in person to a field office.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application*

[18] 17 CFR 200.30–3(a)(57).

Mark Steffensen,

General Counsel, Deputy Commissioner for Law and Policy, Social Security Administration.

[FR Doc. 2025–20652 Filed 11–21–25; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 12869]

Foreign Terrorist Organization Designation of Cartel de los Soles

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to: Cartel de los Soles (also known as Cartel of the Suns).

Therefore, I hereby designate the aforementioned organization and its respective aliases as a Foreign Terrorist Organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**. The designation goes into effect upon publication.

Dated: November 16, 2025.

Marco Rubio,

Secretary of State.

[FR Doc. 2025–20750 Filed 11–21–25; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 12867]

60-Day Notice of Proposed Information Collection: JADE Act Questionnaire

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *January 23, 2026.*

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2025–0401'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: PRA_BurdenComments@state.gov.*
- *Regular Mail:* Send written comments to: Regulatory Coordinator, Visa Services, Department of State, 600 19th St. NW, Washington, DC 20006.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* JADE Act Questionnaire.
- *OMB Control Number:* 1405–0236.
- *Type of Request:* Renewal of a Currently Approved Collection.
- *Originating Office:* CA/VO.
- *Form Number:* DS–5537.
- *Respondents:* Burmese Applicants for U.S. Visas.
- *Estimated Number of Respondents:* 22,800.
- *Estimated Number of Responses:* 22,800.
- *Average Time per Response:* 30 minutes.
- *Total Estimated Burden Time:* 11,400 hours.
- *Frequency:* Once per application.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Consular officers use the DS–5537 to evaluate and adjudicate an applicant's eligibility for a visa in accordance with the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008, Public Law 110–286. The JADE Act renders certain individuals involved in specified Burmese organizations or activities, as well as their immediate family members, ineligible for U.S. visas.

Methodology

All Burmese nationals applying for a U.S. visa are required to complete the JADE Act questionnaire. The form is available on Embassy Rangoon's website, or consular staff may provide the applicant with a copy of the form directly. Immigrant visa applicants receive an email with detailed guidance for the interview and the questionnaire as an attachment. Nonimmigrant visa applicants typically receive the questionnaire through their appointment confirmation or from the embassy website. Applicants are required to bring the completed and signed form to the interview.

Stuart R. Wilson,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2025–20722 Filed 11–21–25; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2025–1218]

Notice of Availability of Draft FAA Order 8000.95D, Change 1, Regarding Individual Designee Management Policy

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: Draft FAA Order 8000.95D, Change 1, Designee Management Policy (Draft Change 1) would transition from the Designee Registration System to the Designee Management System (DMS) and would align the Order 8000.95 with the DMS tool workflows. The draft would revise several procedural descriptions to better match DMS workflows, including updates to digital signatures and automation for registering, enrolling, tracking, and recording designee training completions. The draft would also change the algorithm for the frequency of direct observation oversight intervals required of Flight Standards managing specialists and would update email addresses and website links.

DATES: Send comments on or before January 23, 2026.

ADDRESSES: Send comments identified by docket number FAA–2025–1218, using any of the following methods:

Federal eRulemaking Portal: Go to *https://www.regulations.gov* and follow the online instructions for sending your comments electronically.

Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

Hand Delivery or Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

Fax: Fax comments to Docket Operations at (202) 493–2251.

Privacy: In addition to the final Order 8000.95D, Change 1, the FAA will post all comments it receives, without change, to *https://regulations.gov,* including any personal information the commenter provides. DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19476).

FOR FURTHER INFORMATION CONTACT: Mr. Scott Geddie, Policy and Oversight Integration Section, AVS–64, AVS ODA Office, Federal Aviation Administration, by telephone at 405–954–6897 or by email at *Scott.Geddie@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Draft FAA Order 8000.95D, Change 1, Designee Management Policy (Draft Change 1) would transition from the Designee Registration System to the Designee Management System (DMS) and would align the Order 8000.95 with the DMS tool workflows. The revisions would align designee training procedures with the new features of the DMS tool. Draft Change 1 would revise Volume 3, Designated Pilot Examiner (DPE), Specialty Aircraft Examiner (SAE), and Administrative Pilot Examiner (Admin PE) Designee Policy to update the documentation of training, require designees to submit training certificates through DMS, and establish suspension protocols for incomplete training, while clarifying training terminology and categories. Draft Change 1 would update the web link for the training matrix in Volume 4, Designated Aircraft Dispatcher Examiner (DADE) Designee Policy. In Volume 5, Designated Mechanic Examiner (DME), Designated Parachute Rigger Examiner (DPRE), and Designated Airworthiness Representative—Maintenance (DAR–T) Designee Policy, Draft Change 1 would move training processes to the DMS system, automating updates to training records and streamlining scheduling and completion with automatic suspension and reinstatement for training compliance. Draft Change 1 would revise Volumes 3 (DPE, SAE and Admin PE Designee Policy), 5 (DME, DPRE, DAR–T Designee Policy), 6 (Aircrew Program Designee (APD)) Designee Policy, and 7 (Training Center Evaluator (TCE) Designee Policy) to change how direct observation oversight intervals are determined. In Volume 8, Designated Manufacturing Inspection Representative (DMIR) and Designated Airworthiness Representative—Manufacturing (DAR–F) Designee Policy, Draft Change 1 would revise training procedures to align with DMS workflows and standards for course information, registration, and automatic suspension and reinstatement for training compliance. In Volume 9, Designated Engineering Representative (DER) Designee Policy, Draft Change 1 would revise web links and sections related to engineering designee training for clarity and accuracy. In Volume 10, Designated Control Tower Operator Examiner (DCTO–E) Designee Policy, Draft Change 1 would update the requirements for demonstrated history of professional performance and established compliance with applicable standards, and would add an overall performance results table.

In addition to Draft Change 1's proposed changes to designee training and direct observation oversight intervals, other changes would include updating email addresses and website links, establishing digital signature provisions, providing early preapprovals to improve process efficiency, and removing outdated references to streamline the documentation.

Draft Order 8000.95D, Change 1 would affect all individual designee types. You may examine draft Order 8000.95D, Change 1 and the preferred comment log template for providing comments in the docket or at: *https://www.faa.gov/aircraft/draft_docs/*.

Comments Invited

The FAA invites the public to submit comments on draft Order 8000.95D, Change 1, as specified in the **ADDRESSES** section of this Notice. Commenters should include docket number FAA–2025–1218 and the subject line, ''Comments to Draft FAA Order 8000.95D, Change 1'' on all comments submitted to the FAA. The most helpful comments provide a specific recommendation, explain the reason for any recommended change, identify the paragraph(s) and/or subparagraph(s) associated with the recommendation, and include supporting information. The preferred comment log template can be used to provide this information. The FAA will consider all comments received on or before the closing date before issuing the final Order. The FAA will also consider late-filed comments if it is possible to do so without incurring expense or delay.

Authority: 49 U.S.C. 44702.

Scott A. Geddie,

Manager, AVS–64, Policy and Oversight Integration Section, AVS ODA Office.

[FR Doc. 2025–20741 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0424]

Parts and Accessories Necessary for Safe Operation; Application for Exemption From Atlantic Aviation Orlando, LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for a 5-year exemption submitted by Atlantic Aviation Orlando, LLC (Atlantic). Atlantic seeks an exemption from 49 CFR 393.83(e), which requires the exhaust system on certain commercial motor vehicles to discharge at or near the rear of the cab. The exemption would allow Atlantic's jet-fueler trucks to discharge exhaust forward of the cab when operating on public roads. FMCSA requests public comment on Atlantic's application.

DATES: Comments must be received on or before December 24, 2025.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2025–0424 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building,

Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2025–0424) for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption 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 *https://www.transportation.gov/privacy,* the comments are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Chief, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, FMCSA, at (202)–961–1373, or by email at *MCPSV@dot.gov.*

If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2025–0424), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number ''FMCSA–2025–0424'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

Current Regulatory Requirements

Section 393.83(e) of the FMCSRs requires the exhaust system of a bus, truck, or truck tractor to discharge to the atmosphere at or near the rear of the cab (*i.e.,* not forward of the cab).

Applicant's Request

Atlantic Aviation Orlando, LLC requests an exemption from 49 CFR 393.83(e) to allow four jet-fuel refueler straight trucks (units JT–01, JT–03, JT–04, and JT–07) to continue operating with exhaust outlets located forward of the cab, as designed, while conducting escorted movements within Orlando International Airport, traveling approximately a one-mile round trip between Atlantic's facilities at 9245 Tradeport Drive and the Airport Fuel facilities at 3800 Express Street. Atlantic states the vehicles' exhaust outlets were installed below the front bumper to comply with the National Fire Protection Association (NFPA) 407 Section 6.1.13.4, which prohibits discharging exhaust where it could ignite fuel vapors present during normal operations or released by accidental spillage or leakage. Atlantic asserts that discharging exhaust rearward, where fuel vapors may be present, poses a safety risk that could create ignition hazards or risk aircraft damage.

To support an equivalent level of safety, Atlantic provided results of in-cab carbon monoxide (CO) testing on three of their jet-fuel refulers trucks JT–01, JT–03 and JT–07, showing 0 parts per million (ppm) CO under idle and top-speed conditions, corresponding to an 8-hour time-weighted average of 0 ppm which is below the Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) of 50 ppm.

A copy of Atlantic's application for exemption, and all supporting materials, are available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Atlantic's application for a five-year exemption from 49 CFR 393.95(f), 392.22(a), and 392.22(b) (f).

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and may be considered to the

extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2025–20675 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0524]

Commercial Driver's License; Electronic Logging Device Requirements: Diamond Excursions Ladies Edition d/b/a Project Gap; Application for Exemptions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of application for exemptions; request for comments.

SUMMARY: FMCSA requests public comment on the application from Diamond Excursions Ladies Edition, doing business as Project Gap (Project Gap), for exemptions from the commercial driver's license (CDL) and electronic logging device (ELD) regulations.

DATES: Comments must be received on or before December 24, 2025.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2025–0524 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2025–0524) for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; (202) 913–0704; or *pearlie.robinson@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2025–0524), indicate the specific section of this document to which the comment applies, and provide a reason for your suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2025-0524/document,* click on this notice, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

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 responsive to the 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 the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at *brian.g.dahlin@dot.gov.* At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* insert FMCSA–2025–0524 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket by visiting Docket Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application,

including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

Current Regulatory Requirements

Under 49 CFR 383.23, no person shall operate a commercial motor vehicle (CMV) without having taken and passed both knowledge and driving skills tests for a commercial learner's permit or CDL for the CMV that person operates or expects to operate that meet the Federal standards contained in subparts F, G, and H of Part 383. Under 49 CFR 395.8(a)(1)(i), drivers required to prepare records of duty status must do so using ELDs. Under 49 CFR 395.8(a)(1)(ii)(A)(*1*), a motor carrier may allow its drivers to record their duty status manually, rather than use an ELD, if the driver is operating a CMV ''[i]n a manner requiring completion of a record of duty status on not more than 8 days within any 30-day period.''

Applicant's Request

Project Gap is a food pantry and emergency supply program operated by Diamond Excursions Ladies Edition a 501(c)(3) tax-exempt organization. Project Gap delivers and picks up donated goods—including food, water, hygiene items, and essential supplies—for underserved communities and areas affected by natural disasters. Unpaid, volunteer drivers conduct all transportation. According to Project Gap, the vehicle use is limited to donation collection, community distribution events, and disaster relief missions, some in interstate commerce. Project Gap states that these trips are infrequent and mission specific. Project Gap confirmed to FMCSA that its trips exceed 8 days in a 30-day period, so it is not eligible for the exception in 49 CFR 395.8(a)(1)(ii)(A)(*1*). Project Gap states that compliance with the CDL requirements in 49 CFR part 383 and the ELD requirements in 49 CFR part 395 pose significant burdens on Project Gap's ability to serve affected communities, particularly during emergencies and natural disasters.

Applicant's Equivalent Level of Safety

Project Gap states that it is committed to operating safely and responsibly. It says that all drivers are trained and insured and comply with medical and safety screenings. These drivers, however, do not have CDLs. Project Gap states that it maintains detailed records of vehicle use, routes, and trip purposes.

A copy of the applicant's application for exemptions is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Project Gap's application for exemptions from the CDL requirements in 49 CFR 383.23 and the ELD requirements in 49 CFR 395.8(a)(1)(i). All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator of Policy.

[FR Doc. 2025–20677 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0226]

Commercial Driver's License: Agri-Tech Aviation; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on Agri-Tech Aviation, Inc.'s application for an exemption to allow its commercial learner's permit (CLP) holders who have passed the commercial driver's license (CDL) skills test but not yet obtained a CDL license to drive its commercial motor vehicles (CMV) without being accompanied by a CDL holder in the passenger seat.

DATES: Comments must be received on or before December 24, 2025.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2025–0226 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2025–0226) for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Bernadette Walker, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202–507–0363 or *bernadette.walker@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2025–0226), indicate the specific section of this document to which the comment applies, and provide a reason for your suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2025-0226/document,* click on this notice, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

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 responsive to the 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 the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at *brian.g.dahlin@dot.gov.* At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* insert FMCSA–2025–0226 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket by visiting Docket Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590—0001, between 9 a.m. and 5 p.m., ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

Current Regulatory Requirements

Under 49 CFR 383.25(a)(1), a CLP holder, when operating a CMV, must be accompanied by a CDL holder with the proper CDL class and endorsements necessary to operate the CMV. The CDL holder must be physically present in the front seat of the CMV next to the CLP holder at all times.

Applicant's Request

Agri-Tech Aviation states that it serves farmers in Iowa with aerial application needs. The organization has been in business since 1987 and operates with a fleet of five CMVs; two straight trucks that hold 500 gallons of jet fuel for dry operations, and three Ford F550 flatbed trucks with a 30-foot gooseneck capable of carrying up to 900 gallons of jet fuel and 1350 gallons of crop protection products, most of which fall under Class 9 (miscellaneous hazardous materials) and do not require placarding. The applicant states that it operates only in Iowa. Its drivers operate within a 150-air mile radius from their home base, departing before sunrise and returning before sunset. The applicant operates with team drivers for 2–3 hours a day, usually during light traffic. The applicant describes its employees as seasonal staff who are college students and individuals over the age 18.

The applicant stated that the brief operational season for aerial applications makes it ''nearly impossible to recruit qualified drivers.'' According to the applicant, as a seasonal business, it takes more than a full season for a potential driver to fulfill the requirements for a Class A CDL with combination and hazmat endorsements. The applicant stated it's ''full request'' is an exemption from the requirement in 49 CFR 383.25(a)(1), for ''drivers to be able to drive our vehicles with commercial learner's permit holders who have passed the commercial driver's license (CDL) skills test but have not obtained the CDL document from their State of domicile to drive a commercial motor vehicle without having a CDL holder seated in the passenger seat.'' FMCSA understand this to be a request about current CLP holders, so that drivers with CLPs working for the applicant can drive the applicant's CMVs without a CDL holder seated in the front seat of the CMV. If granted, this exemption would apply to six drivers.

Additionally, because its operation is seasonal and ''serves farmers directly with critical service to protect their farms,'' the applicant also requests that

its CMVs be included in the definition of a ''covered farm vehicle,'' as defined in 49 CFR 390.5. The applicant states that this ''will require these drivers to stay within 150 air miles and will only be allowed to drive in the state of Iowa.'' Under 49 CFR 390.39, ''covered farm vehicles'' are exempt from all requirements in 49 parts 382, 383, 391 (subpart E), 395, and 396. As defined in 49 CFR 390.5, ''covered farm vehicles'' with a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR), or gross vehicle weight (GVW) or gross combination weight (GCW), whichever is greater, of more than 26,001 pounds may use the exemptions in 49 CFR 390.39 within the State of registration and across State lines within 150 air miles of the farm or ranch with respect to which the vehicle is being operated, while vehicles with a GVWR, GCWR, GVW, or GCW of 26,001 pounds or less may use the exemptions anywhere in the United States. Based on this request, FMCSA attempted to clarify whether Applicant was seeking exemptions from all of parts 382, 383, 391 (subpart E), 395, and 396, but was unable to verify the provisions the applicant sought an exemption from. Under 49 CFR 390.39(a)(1), drivers of ''covered farm vehicles'' are exempt from the CDL requirements. Agri-Tech Aviation's request to have FMCSA classify its trucks as ''covered farm vehicles'' is therefore incompatible with its request for an exemption from the CDL requirement of 49 CFR 383.25(a)(1). Because the applicant's ''full request'' did not specifically seek an exemption other than from 49 CFR 383.25(a)(1), FMCSA is not seeking comment on the portion of the applicant's request pertaining to the definition of ''covered farm vehicles.''

A copy of Agri-Tech Aviation's application for exemption is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Agri-Tech Aviation's application for an exemption from the requirement that a CLP holder be accompanied by a CDL holder, seated in the front seat, while the CMV is being driven by the CLP holder.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2025–20676 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2025–0852, Notice No. 1]

Review of Quiet Zone in Miami, Florida

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of quiet zone review.

SUMMARY: FRA is providing notice of its intent to review a quiet zone (THR–000000111223) located in Miami, Florida. Based on a high rate of reported accidents/incidents between January 2020 and January 2025, FRA has made a preliminary determination that safety systems and measures implemented within the quiet zone do not fully compensate for the absence of routine sounding of the locomotive horn due to a substantial increase in risk with respect to loss of life or serious personal injury within the quiet zone. Further, FRA discovered that the documentation submitted and relied upon by the City of Miami (the Public Authority) to establish the quiet zone may contain substantial errors that have an adverse impact on public safety. Therefore, FRA intends to review existing conditions within the quiet zone to determine whether it should be terminated or whether additional safety measures may be necessary to ensure safety.

DATES: Written comments must be received on or before December 24, 2025. FRA will consider comments filed after this date to the extent practicable.

ADDRESSES:

Comments: Comments related to this notice may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number (FRA–2025–0852). Please note that comments submitted online via *www.regulations.gov* are not immediately posted to the docket. Several business days may elapse after a comment has been submitted online before it is posted to the docket.

Privacy Act: DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy*. To facilitate comment tracking and response, commenters are encouraged to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Docket: For access to the docket to read comments received, please visit *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: James Payne, Staff Director, Highway-Rail Crossing and Trespasser Programs Division, at telephone: (202) 441–2787 or email: *james.payne@dot.gov*; or Kathryn Gresham, Attorney-Adviser, Office of the Chief Counsel, at telephone: (202) 577–7142 or email: *kathryn.gresham@dot.gov*.

SUPPLEMENTARY INFORMATION:

Background

In a Notice of Quiet Zone Establishment (NOE) letter, dated August 27, 2012, the Public Authority established a quiet zone by designation under 49 CFR 222.39(a)(3) with an effective date of September 30, 2012. The quiet zone, which extends from NE 71st Street (U.S. DOT Crossing Inventory No. 272622C) to the Bayside pedestrian crossing (U.S. DOT Crossing Inventory No. 273139L), includes the following highway-rail and pedestrian grade crossings:

U.S. DOT crossing inventory No.	Street name	Crossing type	Crossing purpose	Railroad milepost (MP)
273139L	Bayside Pedestrian	Public	Pathway, Pedestrian	DL 1.26
272960A	Port Boulevard	Public	Highway	DL 1.19
273133V [1]	Pedestrian Arena	Public	Pathway, Pedestrian	DL 1.15
272654H	Biscayne Boulevard	Public	Highway	DL 1.10
272653B	NE 2nd Avenue	Public	Highway	DL 1.04
272652U	NE 1st Avenue	Public	Highway	DL 0.98
272651M	Miami Avenue	Public	Highway	DL 0.82
272648E	NW 1st Avenue	Public	Highway	DL 0.71
272647X	NW 8th Street	Public	Highway	DL 0.65
272646R	NW 10th Street	Public	Highway	DL 0.52
272644C	NW 11th Street	Public	Highway	DL 0.45
272640A	NW 14th Street	Public	Highway	PL 3.75
272637S	N Miami Avenue	Public	Highway	PL 3.32
272636K	NE 20th Street	Public	Highway	PL 3.23
272635D	NE 27th Street	Public	Highway	PL 2.74
272634W	NE 29th Street	Public	Highway	PL 2.64
272633P	NE 36th Street	Public	Highway	PL 2.18
272631B	NE 39th Street	Public	Highway	PL 2.02
272627L	NE 54th Street	Public	Highway	PL 1.13
272625X	NE 59th Street	Public	Highway	PL 0.91
272624R	NE 61st Street	Public	Highway	PL 0.65
273010J	NE 62nd Street	Public	Highway	PL 0.60
272622C	NE 71st Street	Public	Highway	PL 0.12

According to the NOE, this crossing corridor qualified for quiet zone status on the basis of having a Quiet Zone Risk Index (QZRI) that was below the Risk Index With Horns (RIWH).[2] Therefore, the NOE indicated that the Public Authority had taken sufficient measures to compensate for the excess risk that results from restricting routine train horn sounding at the grade crossings identified in the notice.

Substantial Increase in Risk

Between January 2020 and January 2025, there have been 23 accident/incidents within this quiet zone.[3] As reflected in the table below, 11 accident/incidents have resulted in either injury or fatality, with 9 persons injured and 2 fatalities.[4] Therefore, in accordance with 49 CFR 222.51(c), FRA has made a preliminary determination that there is significant risk with respect to loss of life or serious personal injury within this quiet zone necessitating FRA review.

Date	Injury/fatality	GX ID	RR
20–Mar–20	1—Injury	Trespass	FEC [5]
13–Jan–22	1—Injury	272636K	BLF [6]
24–Sep–22	1—Injury	272636K	BLF
27–Dec–22	1—Injury	Trespass	BLF
20–Oct–23	1—Injury	Trespass	BLF
02–Jan–24	1—Injury	272633P	FEC
16–Jan–24	1—Injury	272637S	SFRV [7]
25–Oct–24	1—Fatality	Trespass	BLF
19–Nov–24	1—Fatality	Trespass	BLF
05–Dec–24	1—Injury	Trespass	SFRV
14–Jan–25	1—Injury	272636K	SFRV

Inadequate Safety Measures

In 2012, initially to demonstrate to FRA that the QZRI was lower than the RIWH, the Public Authority relied upon pre-existing Supplemental Safety Measures (SSMs) [8] to reduce existing risk levels within the quiet zone. However, railroad operating circumstances have significantly changed since 2012. Most notably, beginning in May 2018, Brightline (BLF) now operates passenger trains to and from a newly built station, MiamiCentral. In early 2024, the South Florida Regional Transportation Authority (SFRV or Tri-Rail) began operating passenger trains to MiamiCentral as well. This has resulted in an increase in train traffic from approximately 4 trains per day to over 50 trains per day. The accidents/incidents described above, along with the increase in train traffic, has caused

[1] U.S. DOT Crossing Inventory No. 273133V was not included in the NOE dated August 27, 2012 from the Public Authority but falls within the boundaries of the quiet zone.

[2] *See* 49 CFR 222.39(a)(3).

[3] Since January 2025, additional incidents continue to be reported within the quiet zone.

[4] The table only lists incidents that resulted in an injury or a fatality. There were 17 incidents at grade crossings and 6 incidents involving trespassers not at grade crossings. Five grade crossing incidents resulted in injury and four trespasser incidents resulted in injury. In addition, two separate trespasser incidents resulted in fatalities.

[5] Florida East Coast Railway (FEC).

[6] Brightline Florida (BLF).

[7] South Florida Regional Transportation Authority (SFRV or Tri-Rail).

[8] A Supplementary Safety Measure (SSM) is a safety system or procedure established in accordance with 49 CFR part 222, which is provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the FRA Associate Administrator for Railroad Safety to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. *See* 49 CFR 222.9.

the QZRI for this quiet zone to rise to a level above the RIWH.

In addition, the maximum timetable speed [9] for all trains, including passenger, increased from 20 miles per hour (mph) to 40 mph for several miles of track, and a second main track was constructed. The crossings affected by the speed increase were on the Port Lead from MP PL 0.00 to PL 3.75. The Public Authority has not implemented any SSMs or Alternative Safety Measures (ASMs) [10] since the establishment of the quiet zone to compensate for the increased train traffic, new railroad infrastructure, and higher train speeds. All twelve quiet zone crossings on the Port Lead were affected by this maximum timetable speed increase.

Improper Documentation

FRA noted the following inaccuracies when comparing the documentation relied upon to establish the quiet zone with current conditions:

- The required list of crossings in the NOE does not include the pedestrian grade crossing at MP DL 1.15 (U.S. DOT Crossing Inventory No. 273133V).
- The Quiet Zone Calculator data in the NOE does not include the Port Boulevard crossing (U.S. DOT Crossing Inventory No. 272960A), which artificially reduced the QZRI.
- A diagnostic team review of the pedestrian grade crossings in the quiet zone was required by 49 CFR 222.27. No record or comments from a diagnostic team review of any pedestrian grade crossing were included in the NOE.

During FRA's review of the documentation submitted to establish the quiet zone, FRA noted additional discrepancies, including outdated annual average daily traffic counts and incomplete Quiet Zone Calculator documentation.[11]

Non-Compliance With the Manual on Uniform Traffic Control Devices (MUTCD)

FRA conducted a field inspection of each quiet zone crossing in October 2024 and provided a summary of its findings to the Public Authority in January 2025. The inspection uncovered numerous exceptions to the standards and guidance of the MUTCD.[12] Most notable was the absence or improper use of ''No Train Horn'' signs or plaques at several grade crossings. FRA conducted a follow-up inspection in April 2025 and observed that, except for the installation of several ''No Train Horn'' signs, most of the exceptions have not been corrected. The Federal Highway Administration (FHWA) has reviewed the documented MUTCD non-compliance and concurs with FRA's findings.

Scope of Review

From the inception of FRA's rulemaking on the use of locomotive horns at public highway-rail grade crossings (indeed, beginning with FRA's issuance of Emergency Order No. 15 [13] in 1991), FRA has adopted a corridor-wide approach to evaluating and mitigating risk within quiet zones, instead of requiring the implementation of risk mitigation measures at each public highway-rail grade crossing located within a quiet zone. A corridor-wide approach permits the most efficient deployment of risk reduction measures and encourages public authorities to focus their resources on addressing the most hazardous public highway-rail grade crossings.

This quiet zone is located on the BLF and SFRV passenger rail corridor. When first established in 2012, the Dodge Island Lead (DL) consisted of one continuous track into the Port of Miami. Since then, this rail line has been split into two different sections: the Port Lead (PL) and the DL.[14] This quiet zone contains PL and DL crossings. Accordingly, the scope of FRA's review may include an analysis of the current configuration of the quiet zone.

Interested parties are invited to submit written comments to the docket. FRA is interested in obtaining information from the public about any unsafe actions that have been observed at any of the above-listed grade crossings. This could include information about motorists or pedestrians who have been observed engaging in unsafe actions. FRA is also interested in obtaining information from the Public Authority about the effectiveness of existing quiet zone crossing safety improvements, as well any additional quiet zone safety improvements that may be under consideration and the anticipated timeline for implementing any such improvements.

After the comment period closes, the Associate Administrator may require that additional safety measures be taken or that the quiet zone be terminated. The Associate Administrator will provide a copy of his decision to the Public Authority as well as the railroads that operate through the quiet zone and the State agencies responsible for grade crossing, highway, and road safety.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2025–20738 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–06–P

[9] The maximum timetable speed references the highest maximum speed any train may travel through the crossing and is determined by the railroad in accordance with the relevant operating conditions and track class. This speed is denoted on the U.S. DOT Crossing Inventory Form in Part II, Box 3. The maximum timetable speed is factored into determining the RIWH and QZRI by the Quiet Zone Calculator.

[10] An Alternative Safety Measure (ASM) is a safety system or procedure, other than an SSM, established in accordance with 49 CFR part 222, which is provided by the appropriate traffic control authority or law enforcement authority and which, after individual review and analysis by the FRA Associate Administrator for Railroad Safety, is determined to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties at specific highway-rail grade crossings. *See* 49 CFR 222.9.

[11] The U.S. DOT Crossing Inventory forms contained in the NOE indicated that an Annual Average Daily Traffic (AADT) analysis had not been performed since 1988 on any highway-rail grade crossings in the quiet zone.

[12] FHWA publishes the MUTCD, which contains national design, application, and placement standards, guidance, options, and support provisions for traffic control devices.

[13] 56 FR 36190 (July 31, 1991).

[14] The PL connects the FEC mainline southbound to MiamiCentral (PL 0.00 to PL 4.51). The DL splits off at PL 3.53 and then runs parallel until it crosses under the elevated PL at the NW 8th Street crossing (U.S. DOT Crossing Inventory No. 272647X) and turns east to the Port of Miami. The DL terminates at the Port of Miami.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–0056]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Occupant Anthropometry and Seating

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This document describes a new collection of information for which NHTSA intends to seek OMB approval titled ''Occupant Anthropometry and Seating.'' A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection

was published on December 30, 2024. One comment was received during the comment period. This 30-day notice includes a summary of the comment and NHTSA's response to the comment (feedback has been incorporated into the data collection in response to the comment).

DATES: Comments must be submitted on or before December 24, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information collection, select ''Currently under Review—Open for Public Comment'' or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Elizabeth Lafferty, Office of Vehicle Safety Research, Human Injury Research Division NSR–220, West Building, W46–311, 1200 New Jersey Ave. SE, Washington DC 20590; Email: *Elizabeth.lafferty@dot.gov;* Phone: 202–366–6222.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public, and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted to OMB.

Title: Occupant Anthropometry and Seating.

OMB Control Number: New.

Form Number(s): NHTSA Form 1824, NHTSA Form 1825, NHTSA Form 1826, NHTSA Form 1827, NHTSA Form 1828, and NHTSA Form 1848.

Type of Request: New information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: NHTSA proposes to collect information from the public as part of a study to update obsolete information on body size and shape, posture, and motion of vehicle occupants. This research will support NHTSA in the development of tools used for occupant protection during crashes, add to the body of knowledge, and inform future agency activities; however, it is not associated with immediate regulatory activities.

The designs of anthropomorphic test devices (ATDs, commonly known as crash test dummies) are based on measurements of volunteers sitting in vehicle and laboratory seats. The current generation of ATDs is based on data gathered at University of Michigan Transportation Research Institute (UMTRI) in the 1980s. Since that time, the U.S. population has changed substantially, most notably due to the large increase in body mass. Measurement technologies have also improved dramatically with the development of fast three-dimensional surface measurement systems. Seating configurations have also expanded from the traditional seat posture collected in the 1980s with increased recline angles in modern vehicles. This combination of a population size shift and more variable seat configurations presents a clear need for updated seated anthropometry to be collected with new advanced anthropometry measurement capabilities.

The individual data collections, approved by the Institutional Review Board at the University of Michigan, will each be performed once. Study participants will be male and female licensed adult drivers from the general public, and participation will be voluntary with compensation. For an in-lab study, the following information collections include (1) an online screening questionnaire; (2) a phone call to confirm eligibility, interest, and to schedule a time in the lab; and (3) informed consent for the in-lab study and anthropometric measurement. A subset of the in-lab participants will be asked to participate in an in-vehicle study to include (4) a pre-drive questionnaire for the in-vehicle study; (5) informed consent and anthropometric measurements for the in-vehicle study; and (6) a post-drive questionnaire for the in-vehicle study.

This research study will gather a new database of information on adult body size, shape, posture, and motion to support advancement in these safety applications. This study will add to the body of the knowledge on motor vehicle anthropometry and will support crash safety and occupant protection through the development of human body models (HBMs) and anthropomorphic test devices (ATDs).

Description of the Need for the Information and Proposed Use of the Information: Early ATDs, including the Hybrid-III family that was initially designed in the 1970s, were constructed using manually gathered anthropometric data, such as segment lengths and circumferences. Minimal 3D information was available, and seated postures were approximated. In 1980, NHTSA funded a large-scale study at UMTRI to develop anthropometric specifications for a new generation of ATDs. The Anthropometry of Motor Vehicle Occupants (AMVO) study gathered data and developed detailed 3D body shapes for small female, midsize male, and large male occupants, using 5th percentile female, 50th percentile male, and 95th percentile male stature and body weight as the target reference values. Drawing packages were developed detailing landmark and joint locations, and physical 3D surface shells were constructed using landmark data and minimal 3D contour information. These data have formed the anthropometric basis for most adult ATDs developed since that time.

AMVO had some limitations, however. Due to the limits of the technology available at the time, a small number of participants were measured (25 per size bin were used to create the final specifications), and no 3D surface information was collected. Moreover, the analysis was based on simple averaging per size bins, so no information was provided for other occupant sizes. Additionally, the midsize female was dropped for cost reasons, so the only female data were gathered from very small individuals.

Over the past 20 years, HBMs have become an important addition to the biomechanics toolkit. Using the same logic that was applied to selecting body sizes for ATDs, the HBMs have typically been targeted to the same stature and body weight reference values as were used in AMVO. However, unlike the averaging process used in AMVO, most HBMs have been developed using data primarily or entirely from a single individual. A consequence of this approach is that HBM development has not provided meaningful additions to the anthropometric data available to characterize vehicle occupants.

In the decades since AMVO, UMTRI has conducted a large number of studies of occupant posture and body shape and has developed advancements in both measurement and analysis methodology. Of particular importance, rather than averaging data to create a representation of a single body size, UMTRI has developed continuous statistical models that can generate accurate specifications for a wide range of sizes and shapes (for examples, see *http://HumanShape.org*). Simultaneously analyzing both landmark locations and 3D body shapes has enabled the development of

parametric human body modeling, in which HBMs are morphed to represent people with widely varying size and shape.

Concurrent with the development of parametric HBMs, crash injury data analyses have highlighted the potential benefits of these new tools. In particular, the field data indicate that female occupants experience higher risks of some injuries in certain types of crashes. Notably, lower-extremity injury risks are markedly higher for female drivers than for male drivers in frontal impacts. Detailed anthropometric and posture data for female drivers could help to elucidate the causes of this difference. Crash injury data also show that individuals with high body mass are at higher risks of some injuries, possibly due to differences in the interaction with the restraint systems. Minimal data are available to describe the seated postures and body shapes of this cohort, which is increasingly important in the U.S.

60-Day Notice: A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on December 30, 2024 (89 FR 106741). During the public comment period for the 60-day notice, NHTSA received one comment from the Partnership for Dummy Technology and Biomechanics (PDB).

NHTSA appreciates PDB's thoughtful and constructive engagement. PDB ''highly appreciates the intension [sic] of NHTSA to update fundamental anthropometric data'' and provided detailed comments regarding (1) the study design, (2) the in-lab study, and (3) the in-vehicle study. NHTSA values the depth and thoroughness of PDB's input and has carefully considered their recommendations.

Regarding the study design, PDB emphasized that participant body sizes should represent the overall population and recommended ensuring a sufficient number of participants at characteristic percentiles (5th, 50th, and 95th) for males and females. They also recommended considering age alongside anthropometry because age influences seating position. NHTSA agrees with these points and the sample design will reflect selection criteria intended to ensure population representation and inclusion of specific characteristics. In a currently funded effort, UMTRI is reanalyzing data from over 400 seated subjects across varied anthropometries, sexes, and ages. Identified gaps and low sample sizes from these data were used to develop a participant recruitment matrix within a task implementation plan for this ICR. Participants will be 18 years of age and older, with ages distributed across three bins (20–39, 40–59, and 60–80 years). This collection aims to obtain about half the participants in the middle bin to address relatively small numbers of subjects in that age range in earlier studies. Stature will span from below the 5th percentile to above the 95th percentile for adult women and men in the U.S. population (1498 to 1875 mm). Recruitment will use three stature bins with approximately 2× oversampling in the tails to ensure robust statistical power for regression modeling. BMI will be sampled in three bins, with 50% of participants having BMI >30 kg/m2 (roughly 40% of U.S. adults) and about one-sixth with BMI >40. Age, stature, and BMI will be approximately independent, though exact equivalence of age distributions within bins may be constrained by sampling challenges.

PDB recommended including second-row seat position measurements alongside driver and front passenger positions. NHTSA concurs that second-row positioning data are important. Although second-row seats are not included among the six mockup seats selected for in-lab data collection in the task implementation plan, the test conditions will incorporate fixed seat back angles typical of second- and third-row seats, including highly reclined conditions. NHTSA believes these test conditions address PDB's intent and satisfies their suggestion.

PDB also suggested the in-vehicle study be conducted at a consistent time of day, preferably in the morning, to reduce spine relaxation effects from daily activities. NHTSA appreciates and understands the rationale behind this recommendation; however, due to time constraints and the large sample size required, the study cannot restrict data collection to a specific time of day. NHTSA does not expect this variation to have a significant impact on the data, but time of day can be considered as a covariate in analyses to clearly shed light on effects, if any.

In discussion of the laboratory study, PDB highlighted the importance of manual data collection in addition to 3D scans and recommended collecting the same locations measured in the first AMVO study. NHTSA thanks PDB for this practical and helpful guidance and agrees with both recommendations. The study will incorporate comprehensive manual data collection of all locations from the first AMVO study alongside 3D scans. A complete list of measurement requirements is outlined in the task implementation plan with UMTRI and provided in Tables 1 and 2. These tables specify measurements to be gathered from each participant using standard manual anthropometry. Many additional dimensions can be extracted from the 3D scans beyond those listed. NHTSA intends to compare all new measurements from this study to prior AMVO measurements and will use both manual measures and 3D scans to obtain comparable data.

Table 2 lists the surface landmarks used to define posture and estimate internal joint center locations. All landmarks are measured in the laboratory hardseat, which provides access to both anterior and posterior landmarks; these data are used to create a subject-specific skeletal linkage that informs interpretation of vehicle seating conditions, where posterior landmarks below C7 are generally not accessible. Landmark locations, including points used to quantify belt fit, will be measured in the mockup conditions using the FARO Arm in a comparable manner. NHTSA is confident that the study design and measurement plan will fulfill PDB's request for thorough manual data collection.

PDB provided a list of landmarks desired for Human Body Model (HBM) positioning. NHTSA appreciates these recommendations and will ensure the data collected under this ICR to provide sufficient landmark data for positioning and orienting both HBMs and ATDs. Body landmark data from the mockups will be analyzed using methods similar to those in prior UMTRI publications (*e.g.,* Park et al., 2016). First, hardseat data will be used to estimate internal joint center locations and construct a skeletal linkage for each subject. Next, the skeletal linkage and surface landmarks will be used to estimate joint center locations in each mockup condition. Regression analysis will predict landmark locations as functions of subject characteristics (stature, BMI, etc.) and test condition variables (seat height, seat back angle, etc.). The VITUS laser scanner 3D data will be processed following established methods (*e.g.,* Park et al., 2022): props (seats, handholds, etc.) are manually removed from the scan, an automatic surfacing process fills holes to obtain a watertight mesh, and texture data are used to manually digitize landmark locations in Meshlab. A standardized template is fitted to the mesh using UMTRI-developed methods. NHTSA is confident this collection will capture the landmark data discussed by PDB.

TABLE 1—MANUAL ANTHROPOMETRY MEASURES *

1	Weight	12	Maximum Hip Breadth
2	Stature (without shoes)	13	Buttock Knee Length
2.5	Stature (with shoes)	14	Buttock-Popliteal Length
3	Erect Sitting Height	15	Biacromial Breadth
4	Eye Height (Sitting)	16	Shoulder Breadth
5	Acromial Height (Sitting)	17	Chest Depth (on scapula)
6	Knee Height	18	Chest Depth (on spine)
7	Tragion to Top of Head	19	Bispinous (BiASIS) Breadth
8	Head Length	20	Chest Circumference at Axilla
9	Head Breadth	21	Waist Circumference
10	Shoulder Elbow Length	22	Hip Circumference at Buttocks
11	Elbow-Hand Length	23	Upper Thigh Circumference

* See Hotzman et al. (2012) for definitions and measurement methods.

TABLE 2—SURFACE LANDMARKS

Glabella	L4Surface
Ectocanthus (corner eye)	L5Surface
Center Eye (orbit under pupil)	Acromion
Tragion	HumeralEpiCon_Lat
Vertex	Wrist_Lat
Back of Head	FemoralEpiCon_Lat
Suprasternale	Suprapatella
Substernale	Infrapatella
C7Surface	Malleolus_Lat
T4Surface	ASIS_L
T8Surface	ASIS_R
T12Surface	PSIS_L
L1Surface	PSIS_R
L2Surface	Toe Tip
L3Surface	Heel

PDB recommended measuring belt routing in mockup configurations. NHTSA will incorporate belt routing into the study design and appreciates PDB's emphasis on this point. In the task implementation plan, drivers will be measured in a core set of conditions (middle steering wheel position at three seat heights). A subset of participants will be assigned to a belt matrix in which belt fit is measured across a variety of belt anchorage locations, and another subset will be measured in the remaining package conditions.

PDB also recommended collecting reclined postures with seat back angles up to around 45–50 degrees. NHTSA appreciates this recommendation and have included reclined postures up to 45 degrees in the task implementation plan. Posture will be measured using the FARO Arm at three seat back angles in each seat (20, 25, and 30 degrees) and at 35, 40, and 45 degrees for each participant in one randomly assigned seat (so highly reclined postures will be captured for approximately ⅙ of participants in each seat). For postures reclined >30 degrees, NHTSA will use methods from Reed et al. (2019) to identify each participant's preferred supported head location. While PDB suggested angles up to about 50 degrees, NHTSA believes capturing up to 45 degrees provides sufficient coverage for the intended analyses.

PDB suggested that landmarks measured during the in-vehicle portion match in-lab landmarks whenever possible. NHTSA agrees and incorporated landmark matching efforts into the implementation plan. Because the ICR will recruit subjects from the in-lab study for the in-vehicle study, UMTRI will have comprehensive anthropometry and an accurate three-dimensional, articulated avatar for each driver participant, enabling fitting to vehicle 3D data and accurate whole-body posture estimation. Seated posture, belt fit, and the position of selected vehicle components will be recorded using a FARO Arm coordinate measurement system and the vehicle DAS once participants are comfortably seated. PDB also recommended using the FMVSS 208 procedure to establish a consistent coordinate system. FMVSS 208 specifies the vehicle centerline at the rear bumper as the coordinate system origin; in this study, driver data will be defined in a package coordinate system anchored to the pedals and steering wheel so results are generalizable across vehicles. Seat back kinematics, including seat back angle change, will also be measured. These methods align with SAE and FMVSS practices. The collected seat H-point and vehicle interior dimensions will be sufficient to reproduce the package configuration in simulation or other physical mockups.

Finally, PDB asked NHTSA to consider pressure distribution on the seat pan during static in-vehicle measurements. NHTSA appreciates the technical rationale for this suggestion but has determined that adding pressure distribution data collection would increase data collection efforts substantially and would be difficult to generalize because pressure maps depend heavily on seat design. Therefore, NHTSA will not add pressure distribution to this ICR. NHTSA published a 60-day notice on December 30, 2024, that stated NHTSA's intention to submit this ICR to OMB for approval (89 FR 106741).

Affected Public: Respondents will be licensed drivers, ages 18+, in the Ann Arbor, MI region, and willing to travel to UMTRI. Study participants will be male and female licensed adult drivers from the general public, and participation will be voluntary with compensation. The screening questionnaire is provided as a Google Form through the University of Michigan's Health Research portal and is completed online by prospective participants. Eligible participants are those whose answers to the Google Form questions are consistent with the inclusion and exclusion criteria.

Eligibility requirements include the ability to read and speak English, to drive for two hours continuously, hold a current and unrestricted U.S. driver's license, have at least one year as a licensed driver, drive a car daily for an average of at least 15 minutes, and be comfortable driving on the highway and local roads. Exclusion criteria include individuals with musculoskeletal ailments, impeding the ability to walk or sit comfortably, or musculoskeletal deformities such as scoliosis or amputations.

Estimated Number of Respondents: 2,000. We estimate that 2,000 screening questionnaires will be filled out to obtain the needed number of subjects. The form has 23 questions, including name, address, and time slots available. We estimate that up to 600 individuals will need to be contacted to obtain the needed number of 300 subjects for the lab study. This considers that some people's schedules may not match up with lab openings or they may not show up for their scheduled appointment. A subset of the in-lab study participants will be asked to participate in the in-vehicle study with the targeted 100 participants.

Frequency: Once. This is a one-time collection of information with two studies: in-lab and in-vehicle. A subset

of the in-lab participants will be asked to participate in the in-vehicle study. The initial pre-screening time is roughly 5 minutes and can be done at the respondents' convenience using a device of their choosing. The only requirement is an internet connection to access the online pre-screening. Not all who begin this pre-screening will complete the form in its entirety, and not everyone will meet study criteria. Those who meet study criteria could be contacted for an eligibility phone call prior to study enrollment.

Number of Responses: 2,000.

Estimated Total Annual Burden Hours: The annual estimated time burden to complete the collection of information is 341 hours and an annual opportunity cost of $11,329 over the study period. Note that these figures are slightly less than those posted in the 60-day notice for this information collection. The 60-day notice overestimated the total time per response for the entirety of the in-vehicle study, which is corrected herein. Further, the 60-day notice included a private industry workers' wage adjustment, which has since been deemed unnecessary for this information collection's burden estimates, as participants are engaging on their own time as volunteers for all aspects of this study. Therefore, this monetary adjustment to the opportunity cost per hour has been omitted.

Using the University of Michigan's Health Research portal, the research team expects to have 2,000 participants respond to the screening questionnaire in total. Across the three years of the study collection, NHTSA estimates 667 respondents for the screening questionnaire. A complete questionnaire is estimated at 5 minutes. Of the screened individuals, we anticipate that up to 600 total (200 annually) will need to be contacted for an eligibility phone call to obtain the needed number of 300 total participants (100 annually) scheduled for the in-lab study. Scheduled participants who do not show up will be replaced from the remaining pool of screened participants to ensure a total of 300 total participants (100 annually) arrive for in-lab measurements. After completion of the 2-hour process for informed consented and in-lab data collection, some participants will be asked if they are interested in the in-vehicle study. From the 300 total in-lab participants, a total of 100 (34 annually) will be scheduled to return to the lab for the in-vehicle study. The in-vehicle pre-drive and post-drive questionnaires will each take 5 minutes, the informed consent and anthropometric measurements will take 10 minutes, and the vehicle drive itself will take 100 minutes, totaling 2 hours for the entirety of the in-vehicle study.

To calculate the opportunity cost associated with the forms and other relevant activities necessary for this collection of new information, NHTSA looked at average hourly earnings for employees across all occupations in the Ann Arbor, MI area. The Bureau of Labor Statistics (BLS) estimates that the average hourly wage for this group is $33.43, thus serving as the opportunity cost per hour. NHTSA therefore estimates the total opportunity cost associated with the 1,017 burden hours to be $33,989. Annual burden cost is estimated to be $11,329, and annual burden hours are estimated to be 341. There may be a slight variation in the comparison of total to annual burden over the three years due to rounding. The annual burden figures will be those represented in ROCIS.

TABLE 3—BURDEN ESTIMATES

NHSTA form No.	Information collection	Number of respondents total/annual	Time per response (min)	Cost per response	Frequency of response	Burden hours total/annual	Burden cost (dollars) total/annual
1824	Online Screening questionnaire	2,000/667	5	$2.79	1	167/56	$5,572/$1,857
1825	Eligibility Phone Call	600/200	5	2.79	1	50/17	1,672/557
1826	Informed Consent, In-Lab	300/100	10	5.57	1	50/17	1,672/557
2110	In-Lab Data Collection	300/100	110	61.29	1	550/183	18,387/6,129
1827	In-Vehicle Pre-Drive Questionnaire	100/34	5	2.79	1	8/3	279/93
1828	Informed Consent, In-Vehicle	100/34	10	5.57	1	17/6	557/186
2111	In-Vehicle Data Collection	100/34	100	55.72	1	167/56	5,572/1,857
1848	In-Vehicle Post-Drive Questionnaire	100/34	5	2.79	1	8/3	279/93
	Total Burden/Annual Burden					1,017/341	33,989/11,329

Estimated Total Annual Burden Cost: The total estimated cost to the Government for this one-time information collection is $49,119.15, and the annual estimated cost is $16,373.05.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (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 respondents, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator, Vehicle Safety Research.

[FR Doc. 2025–20653 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2023–0136]

Pipeline Safety: Request for Special Permit; Southern Natural Gas Company, LLC (SNG)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: PHMSA is publishing an updated notice to solicit public comments on a request for special permit received from Southern Natural Gas Company, LLC (SNG). The new notice contains updated documents,

described further in supplementary information below. The special permit request is seeking relief from compliance with certain requirements in the Federal pipeline safety regulations. PHMSA has proposed conditions to ensure that the special permit is consistent with pipeline safety. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by December 24, 2025.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: 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:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request that you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: There is a privacy statement published on *http://www.regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 United States Code 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you 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 Code of Federal Regulations (CFR) § 190.343, you may ask PHMSA to give 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, along with the original document, a second copy of the original document with the CBI deleted; 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 FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Jamie Huff, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Jamie Huff by phone at 812–677–8809 or by email at *jamie.huff@dot.gov.*

Technical: Mr. Joshua Johnson by phone at 816–329–3825 or by email at *joshua.johnson@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from SNG, a subsidiary of Kinder Morgan, on December 27, 2023, seeking a waiver from the Federal pipeline safety regulations in 49 CFR 192.611(a), (d), and 192.619(a), where a gas transmission pipeline segment has undergone changes from a Class 1 to Class 3 location.

The Cypress Line Pipeline segment is a 24-inch-diameter natural gas transmission pipeline, 0.176 miles in length, located in Chatham County, Georgia. The maximum allowable operating pressure for the Cypress Line Pipeline segment is 1,250 pounds per square inch gauge. This special permit is being requested to allow SNG to operate the Cypress Line Pipeline Segment 727 in a Class 3 location at its current operating pressure by implementing enhanced integrity management procedures in lieu of replacing pipe or lowering the operating pressure, as required by Part 192.

PHMSA previously published this request on April 24, 2024, with the public comment period closing on May 24, 2024. The special permit request letter, proposed special permit with conditions, environmental assessment (EA), and all other pertinent documents for the original special permit are available in Docket No. PHMSA–2023–0136 in the Federal Docket Management System located at *www.regulations.gov.*

Following the closure of the comment period, PHMSA began reviewing its special permit process to determine if special permit conditions could be streamlined in order to ease unnecessary burdens on applicants. As part of that process, PHMSA gave SNG the option of seeking reconsideration of its application and conducting another round of public notice and comment. SNG exercised that option. As a result, the proposed conditions in this new version of the special permit have been revised from the version previously noticed.

Since the issuance of the original EA, on July 1, 2025, DOT published DOT Order 5610.1D: Procedures for Considering Environmental Impacts, which outlines DOT's processes and requirements for complying with NEPA under 42 U.S.C. 4321 *et seq.* PHMSA has incorporated the following Categorical Exclusion (CE) from DOT 5610.1D into its implementing procedures: *1. Granting, renewing, or denying a special permit related to waiving class location or odorization requirements, following the procedures set forth in 49 CFR 190.341, including the identification of any enforceable conditions, imposed pursuant to 49 CFR 190.341(d)(2), that are required to prevent and address pipeline safety and environmental risk.* On August 13, 2025, Environmental Protection Specialists from PHMSA independently reviewed the special permit request for compliance with the National Environmental Policy Act (NEPA). Based on the scope of the action, PHMSA has further determined that no extraordinary circumstances apply. In order to ensure continued human and environmental safety, the operator must fulfill the mitigation conditions of the special permit; continue to employ good operating practices; and continue to follow any additional applicable permitting requirements, State laws, or other pre-existing Federal requirements related to environmental protection. Should conditions change, or should extraordinary circumstances materialize, the operator must contact PHMSA for reevaluation. The proposed action is hereby categorically excluded from further NEPA review. The finalized CE will be published at *https://www.phmsa.dot.gov/planning-and-analytics/environmental-analysis-and-compliance/implementing-procedures.* The website also includes information on DOT Order 5610.1D.

The special permit request and revised proposed special permit with conditions for the above-listed SNG pipeline segment are available for review and public comment in Docket No. PHMSA–2023–0136. PHMSA invites interested persons to review and submit comments on the special permit request and proposed special permit with conditions in the docket. Please submit comments on any potential safety, environmental, and other relevant considerations implicated by the special permit request. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comments closing date. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on November 18, 2025, under authority delegated in 49 CFR 1.97.

Linda Daugherty,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 2025–20655 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2025–2151]

United States Department of Transportation Advisory Board; Public Meeting

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: The Office of the Secretary of Transportation (OST) announces a public meeting of the United States Department of Transportation Advisory Board (U.S. DOT Advisory Board) on Wednesday, December 10, 2025. This notice announces the date, time, and location of the meeting, which will be open to the public virtually. The purpose of the U.S. DOT Advisory Board is to provide strategic vision and high-level guidance to modernize and enhance the United States transportation systems.

DATES: This meeting will be held on Wednesday, December 10, 2025, beginning at 10:30 a.m. Eastern Time (ET). The exact start time is subject to change; please monitor *www.transportation.gov/USDOTAdvisoryBoard* for the most up-to-date information and to access the link for live viewing of the meeting.

ADDRESSES: The U.S. DOT Advisory Board members will be meeting in-person at U.S. DOT Headquarters in Washington, DC. The public may attend the meeting virtually, with information available on the U.S. DOT Advisory Board website (*www.transportation.gov/USDOTAdvisoryBoard*) in advance of the meeting date.

FOR FURTHER INFORMATION CONTACT: U.S. DOT Advisory Board Designated Federal Officer, c/o Juli Huynh—Director, Office of Policy Coordination and Development, Office of the Secretary, *DOTAdvisoryBoard@dot.gov* or (202) 366–2278.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Secretary of Transportation (Secretary) established the U.S. DOT Advisory Board as a Federal Advisory Committee in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Ch. 10) to provide strategic vision and high-level guidance to modernize and enhance the United States transportation systems.

The U.S. DOT Advisory Board will be dedicated to: (1) developing strategic recommendations for infrastructure modernization and expansion; (2) identifying key investment opportunities in transportation technology and innovation; (3) providing insights into regulatory and policy improvements to enhance efficiency and reduce bureaucratic obstacles; and (4) advising on public-private partnerships to maximize funding and impact.

II. Agenda

At the meeting, the agenda will cover the following topics:

1. Call to Order, Official Statement of the Designated Federal Officer, Meeting Logistics
2. Opening Remarks
3. Committee Business
4. Recap of Meeting Progress and Review of Next Steps

III. Public Participation

The meeting will be open to the public via livestream. Members of the public who wish to observe the virtual meeting can access the livestream accessible on the following website: *www.transportation.gov/USDOTAdvisoryBoard.*

Members of the public may also submit written materials, questions, and comments to the Committee in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than Wednesday, December 3, 2025.

All advance submissions will be reviewed by the Designated Federal Officer. If approved, advance submissions shall be circulated to the U.S. DOT Advisory Board members for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

Authority: The Committee is a discretionary Committee under the authority of the U.S. Department of Transportation (U.S. DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. Ch. 10.

Loren A. Smith, Jr.,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 2025–20725 Filed 11–21–25; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Stress Testing Rules for National Banks and Federal Savings Associations

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, ''Stress Testing Rules for National Banks and Federal Savings Associations.''

DATES: Comments must be received by January 23, 2026.

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: 1557–0343, 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 ''1557–0343'' 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 the Treasury'' and then click ''submit.'' This information collection can be located by searching OMB control number ''1557–0343'' or ''Stress Testing Rules for National Banks and Federal Savings Associations.'' 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, imposed on ten or more persons, 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: Stress Testing Rules for National Banks and Federal Savings Associations.

OMB Control No.: 1557–0343.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The Annual Stress Test rule [1] implemented Section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [2] (''Dodd-Frank Act'') which requires certain companies to conduct stress tests. As enacted by the Dodd-Frank Act, national banks and Federal savings associations with total consolidated assets of more than $10 billion were required to conduct annual stress tests and comply with reporting and disclosure requirements under the rule. The reporting templates for institutions with total consolidated assets of over $50 billion were finalized in 2012.[3]

Section 165(i)(2) of the Dodd-Frank Act requires certain financial companies, including national banks and Federal savings associations, to conduct annual stress tests [4] and requires the primary financial regulatory agency [5] of those financial companies to issue regulations implementing the stress test requirements.[6]

Under section 165(i)(2), a covered institution was required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[7]

The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), enacted on May 24, 2018, amended certain aspects of the company-run stress testing requirement in section 165(i)(2) of the Dodd-Frank Act.[8] Specifically, section 401 of EGRRCPA raises the minimum asset threshold for financial companies covered by the company-run stress testing requirement from $10 billion to $250 billion in total consolidated assets; revises the requirement for banks to conduct stress tests ''annually'' and instead requires them to conduct stress tests ''periodically''; and no longer requires the OCC to provide an ''adverse'' stress-testing scenario, thus reducing the number of required stress test scenarios from three to two.

Estimated Burden

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 9 (biennial testing: 5; annual testing: 4).

Estimated Total Annual Responses: 27 responses.

Estimated Total Annual Burden: 6,760 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.

Carl Kaminski,

Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2025–20752 Filed 11–21–25; 8:45 am]

BILLING CODE 4810–33–P

[1] 77 FR 61238 (October 9, 2012) (codified at 12 CFR part 46).

[2] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[3] 77 FR 49485 (August 16, 2012); 77 FR 66663 (November 6, 2012).

[4] 12 U.S.C. 5365(i)(2)(A).

[5] 12 U.S.C. 5301 (12).

[6] 12 U.S.C. 5365(i)(2)(C).

[7] 12 U.S.C. 5365(i)(2)(B).

[8] Public Law 115–174, 132 Stat. 1296–1368 (2018).

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 November 19, 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 November 19, 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. DIANA, Cristian, Isernia, Italy; DOB 03 Oct 1974; POB Isernia, Italy; nationality Italy; Gender Male; Passport E619547 (Italy) (individual) [ILLICIT–DRUGS–EO14059] (Linked To: STILE ITALIANO S.R.L.; Linked To: WINDROSE TACTICAL SOLUTIONS S.R.L.S.).

Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of STILE ITALIANO S.R.L., a person whose property and interests in property are blocked pursuant to E.O. 14059.

Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of WINDROSE TACTICAL SOLUTIONS S.R.L.S., a person whose property and interests in property are blocked pursuant to E.O. 14059.

2. FALLON, John Anthony, Colchester, Essex, United Kingdom; DOB 13 Jun 1962; nationality United Kingdom; Gender Male; Passport 108792196 (United Kingdom) (individual) [ILLICIT–DRUGS–EO14059] (Linked To: TMR LTD).

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, TMR LTD, a person whose property and interests in property are blocked pursuant to E.O. 14059.

3. ACUNA MACIAS, Daniela Alejandra, Jesus del Monte, Mexico, Mexico; DOB 07 Mar 2002; POB Barranquilla, Colombia; nationality Colombia; Gender Female; Passport AU672689 (Colombia); alt. Passport AW849837 (Colombia); Tarjeta de Identidad 1193598517 (Colombia) (individual) [ILLICIT–DRUGS–EO14059] (Linked To: WEDDING, Ryan James).

Designated pursuant to section 1(a)(ii)(A) of E.O. 14059 for having knowingly received property or interest in property that they know constitutes or is derived from proceeds of 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.

4. CASTILLO MORENO, Miryam Andrea, Mexico; DOB 05 May 1991; POB Nuevo Leon, Mexico; nationality Mexico; Gender Female; C.U.R.P. CAMM910505MNLSRR09 (Mexico) (individual) [ILLICIT–DRUGS–EO14059] (Linked To: WEDDING, Ryan James).

Designated pursuant to section 1(b)(i)(B) of E.O. 14059 for having provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of, Ryan James Wedding, a person whose property and interests in property are blocked pursuant to E.O. 14059.

5. PARADKAR, Deepak Balwant, Brampton, Ontario, Canada; Pickering, Ontario, Canada; DOB 28 Mar 1963; nationality Canada; Gender Male; Passport HP683566 (Canada) (individual) [ILLICIT–DRUGS–EO14059] (Linked To: WEDDING, Ryan James).

Designated pursuant to section 1(b)(i)(B) of E.O. 14059 for having provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of, Ryan James Wedding, a person whose property and interests in property are blocked pursuant to E.O. 14059.

6. SOKOLOVSKI, Rolan, Maple, Ontario, Canada; DOB 01 Mar 1988; POB Lithuania; nationality Canada; Email Address *deem1313@live.ca;* Gender Male; Digital Currency Address—XBT 37fKFZQGMqdB kjSUub1jCDWGgSHwv9VxfZ; alt. Digital Currency Address—XBT 1JPqJ8sxLBvdHBqMqSFBmUk oh2vAuCUNvs; Digital Currency Address—ETH 0x5d5b5dafecbf31bdb0 8bfd3edad4f2694372d0ef; alt. Digital Currency Address—ETH 0xc103b7dc0 95c904b92081eef0c1640081ec01c10; alt. Digital Currency Address—ETH 0xe1e4c5e5ed8f03ae61b581e2de f126025f2b9401; Phone Number 14163184394; Digital Currency Address—BNB bnb136ns6lf w4zs5hg4n85vdthaad7hq5m4gtkgf23; Digital Currency Address—TRX TCu5onCzXuqxjvVzdB2tR4FLu F66d4yRqf; alt. Digital Currency Address—TRX TBcLqqqyZjNj1p tuXFgj5H768NhNU5nDyn; Digital Currency Address—SOL 42RLPACwZPx3vYYmxSueqsogfyn BDqXK298EDsNoyoHi; Passport P250404QS (Canada); Driver's License No. S6204–66508–80301 (Canada) (individual) [ILLICIT–DRUGS–EO14059] (Linked To: WEDDING, Ryan James).

Designated pursuant to section 1(b)(i)(B) of E.O. 14059 for having provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of, Ryan James Wedding, a person whose property and interests in property are blocked pursuant to E.O. 14059.

7. TIEPOLO, Gianluca, Aviano, Italy; DOB 22 May 1975; nationality Italy; Gender Male; Passport YA6011337 (Italy); Tax ID No. TPLGLC75E22G888F (Italy) (individual) [ILLICIT–DRUGS–EO14059] (Linked To: WEDDING, Ryan James).

Designated pursuant to section 1(b)(i)(B) of E.O. 14059 for having provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of, Ryan James Wedding, a person whose property and interests in

property are blocked pursuant to E.O. 14059.

8. VALOYES FLOREZ, Carmen Yelinet, Polanco, Mexico City, Mexico; DOB 21 Nov 1977; nationality Colombia; alt. nationality Mexico; Gender Female; Passport AQ781120 (Colombia); C.U.R.P. VAFC771121MNELLR09 (Mexico) (individual) [ILLICIT-DRUGS–EO14059] (Linked To: WEDDING, Ryan James).

Designated pursuant to section 1(b)(i)(B) of E.O. 14059 for having provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of, Ryan James Wedding, a person whose property and interests in property are blocked pursuant to E.O. 14059.

9. VAZQUEZ ALVARADO, Edgar Aaron, Mexico City, Mexico; DOB 14 Feb 1984; POB Mexico City, Mexico; nationality Mexico; Gender Male; Passport G22772181 (Mexico); C.U.R.P. VAAE840214HDFZLD02 (Mexico) (individual) [ILLICIT-DRUGS–EO14059] (Linked To: WEDDING, Ryan James).

Designated pursuant to section 1(b)(i)(B) of E.O. 14059 for having provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of, Ryan James Wedding, a person whose property and interests in property are blocked pursuant to E.O. 14059.

10. WEDDING, Ryan James (a.k.a. ''KING, James Conrad''), Mexico; DOB 14 Sep 1981; POB Thunder Bay, Ontario, Canada; nationality Canada; Gender Male; Digital Currency Address—TRX TAoLw5yD5XU oHWeBZRSZ1ExK9HMv2CiPvP; alt. Digital Currency Address—TRX TVNyvx2astt2AB1Us67ENj fMZeEXZeiuu6; alt. Digital Currency Address—TRX TPJ1JNX98MJp HueBJeF5SVSg85z8mYg1P1 (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.

Entities

1. 2351885 ONTARIO INC (a.k.a. DIAMOND TSAR), Thornhill, Ontario, Canada; Toronto, Ontario, Canada; Organization Established Date 29 Nov 2012; Organization Type: Manufacture of jewellery and related articles; Company Number 2351885 (Canada) [ILLICIT-DRUGS–EO14059] (Linked To: SOKOLOVSKI, Rolan).

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, Rolan Sokolovski, a person whose property and interests in property are blocked pursuant to E.O. 14059.

2. LMJ TRADING LTD, Colchester, Essex, United Kingdom; Organization Established Date 22 Aug 2019; Company Number 12170407 (United Kingdom) [ILLICIT-DRUGS–EO14059] (Linked To: FALLON, John Anthony).

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, John Anthony Fallon, a person whose property and interests in property are blocked pursuant to E.O. 14059.

3. MADE IN ITALY MOTORCYCLES LIMITED, Colchester, Essex, United Kingdom; website *www.madeinitalymotorcycles.com;* Organization Established Date 14 Aug 2009; Organization Type: Sale of motor vehicles; Company Number 06991327 (United Kingdom) [ILLICIT-DRUGS–EO14059] (Linked To: FALLON, John Anthony).

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, John Anthony Fallon, a person whose property and interests in property are blocked pursuant to E.O. 14059.

4. STILE ITALIANO S.R.L., Roveredo in Piano, Friuli-Venezia Giulia, Italy; website *www.stileitaliano.com;* Organization Established Date 09 Sep 1999; Italian Fiscal Code 01396460931 (Italy) [ILLICIT-DRUGS–EO14059] (Linked To: TIEPOLO, Gianluca).

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, Gianluca Tiepolo, a person whose property and interests in property are blocked pursuant to E.O. 14059.

5. TMR LTD, Colchester, Essex, United Kingdom; Organization Established Date 15 Jan 2014; Organization Type: Sale of motor vehicles; Company Number 08846757 (United Kingdom) [ILLICIT-DRUGS–EO14059] (Linked To: TIEPOLO, Gianluca).

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, Gianluca Tiepolo, a person whose property and interests in property are blocked pursuant to E.O. 14059.

6. WINDROSE TACTICAL SOLUTIONS S.R.L.S., Pordenone, Friuli-Venezia Giulia, Italy; Organization Established Date 04 Dec 2018; Italian Fiscal Code 01854740931 (Italy) [ILLICIT-DRUGS–EO14059] (Linked To: TIEPOLO, Gianluca).

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, Gianluca Tiepolo, a person whose property and interests in property are blocked pursuant to E.O. 14059.

7. GRUPO ARES IMPERIAL S. DE R.L. DE C.V., Mexico City, Mexico; Organization Established Date 04 Jun 2019; Organization Type: Private security activities; Folio Mercantil No. N–2019042918 (Mexico) [ILLICIT-DRUGS–EO14059] (Linked To: VAZQUEZ ALVARADO, Edgar Aaron).

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, Edgar Aaron Vazquez Alvarado, a person whose property and interests in property are blocked pursuant to E.O. 14059.

8. GRUPO RVG COMBUSTIBLES S.A. DE C.V., Atizapan de Zaragoza, Mexico, Mexico; Organization Established Date 15 Jul 2019; Organization Type: Wholesale of solid, liquid and gaseous fuels and related products; Folio Mercantil No. N–2019070177 (Mexico) [ILLICIT-DRUGS–EO14059] (Linked To: VAZQUEZ ALVARADO, Edgar Aaron).

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, Edgar Aaron Vazquez Alvarado, a person whose property and interests in property are blocked pursuant to E.O. 14059.

9. VRG ENERGETICOS S.A. DE C.V., Atizapan de Zaragoza, Mexico, Mexico; Organization Established Date 26 Jul 2019; Organization Type: Wholesale of solid, liquid and gaseous fuels and related products; Folio Mercantil No. N–2019067629 (Mexico) [ILLICIT-DRUGS–EO14059] (Linked To: VAZQUEZ ALVARADO, Edgar Aaron).

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, Edgar Aaron Vazquez Alvarado, 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. 2025–20708 Filed 11–21–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Timely Mailing Treated as Timely Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before January 23, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*. Include ''OMB Control No. 1545–1899'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801) 620–2128.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency'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 of information 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.

Title: Timely Mailing Treated as Timely Filing.

OMB Control Number: 1545–1899.

Regulation Project Number: TD 9543 and Revenue Procedure 97–19.

Abstract: This information collection contains regulations that provide guidance as to the only ways to establish prima facie evidence of delivery of documents that have a filing deadline prescribed by the internal revenue laws, absent direct proof of actual delivery. The regulations are necessary to provide greater certainty on this issue and to provide specific guidance. The regulations affect taxpayers who mail Federal tax documents to the Internal Revenue Service or the United States Tax Court. Revenue Procedure 97–19 provides the criteria that will be used by the IRS to determine whether a private delivery service qualifies as a designated Private Delivery Service under section 7502 of the Internal Revenue Code.

Current Actions: There is no change to the existing collection previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, federal government, and state, local, or tribal government.

The estimated burden related to Revenue Procedure 97–19:

Estimated Number of Responses: 14.

Estimated Time per Response: 60 hours, 54 minutes.

Estimated Total Annual Burden Hours: 853.

The estimated burden related to TD 9543:

Estimated Number of Responses: 10,847,647.

Estimated Time per Response: 6 minutes.

Estimated Total Annual Burden Hours: 1,084,765.

Total Estimated Number of Responses: 10,847,661.

Total Estimated Total Annual Burden Hours: 1,085,618.

Dated: November 19, 2025.

Jason M. Schoonmaker,

Tax Analyst.

[FR Doc. 2025–20720 Filed 11–21–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Primary Dealer Meeting Agenda

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before January 23, 2026.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Primary Dealer Meeting Agenda.

OMB Control Number: 1505–0261.

Type of Request: Extension without change of a currently approved collection.

Description: The Primary Dealer Meeting Agenda is a quarterly survey sent to all primary dealers, which currently comprise 25 financial institutions. Primary dealers are trading counterparties of the Federal Reserve Bank of New York in its implementation of monetary policy. Primary dealers are also expected to have a substantial presence as a market maker for Treasury securities and to bid on a pro-rata basis in all Treasury auctions.

The Treasury's mission to manage the U.S government's finances and resources effectively includes financing the government at the lowest cost over time. Treasury meets this objective by issuing debt in a regular and predictable

pattern, providing transparency in its decision-making process, and seeking continuous improvements in the Treasury auction process. Unexpected changes in Treasury's borrowing requirements, changes in the demand for Treasury securities, and other factors can create risks for Treasury. To mitigate these risks, Treasury closely monitors economic conditions, market activity, and, if necessary, responds with appropriate changes in debt issuance based on analysis and consultation with market participants, including the primary dealers through the quarterly survey and subsequent meetings.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 25.

Frequency of Response: Quarterly.

Estimated Total Number of Annual Responses: 100.

Estimated Time per Response: 2 Hours.

Estimated Total Annual Burden Hours: 200.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget 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 agency, including whether the information shall have practical utility; (b) the accuracy of the agency'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 of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Rachel Miller,

Executive Secretary.

[FR Doc. 2025–20778 Filed 11–21–25; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0590]

Agency Information Collection Activity under OMB Review: Department of Veterans Affairs Acquisition Regulation (VAAR) Clauses 852.237–70, Indemnification and Medical Liability Insurance; 852.228–71, Indemnification and Insurance

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Office of Acquisition and Logistics, Department of Veterans Affairs (VA), will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by December 24, 2025.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: *www.reginfo.gov/publicdo/PRA/Main,* select ''Currently under Review—Open for Public Comments, then search the list for the information collection by Title or ''OMB Control No. 2900–0590.''

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov*.

SUPPLEMENTARY INFORMATION:

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) Clauses 852.237–70, Indemnification and Medical Liability Insurance; 852.228–71, Indemnification and Insurance.

OMB Control Number: 2900–0590. *https://www.reginfo.gov/public/do/PRASearch*.

Type of Review: Reinstatement without change of a previously approved collection.

Abstract: VAAR clause 852.237–70, Indemnification and Medical Liability Insurance, is used in lieu of Federal Acquisition Regulation (FAR) clause 52.237–7, Indemnification and Medical Liability Insurance, in solicitations and contracts for the acquisition of nonpersonal health care services. It requires the apparent successful bidder/offeror, upon the request of the contracting officer, prior to contract award, to furnish evidence of insurability of the offeror and/or all health-care providers who will perform under the contract. In addition, the clause requires the contractor, prior to commencement of services under the contract, to provide Certificates of Insurance or insurance policies evidencing that the firm possesses the types and amounts of insurance required by the solicitation. The information is required in order to protect VA by ensuring that the firm to which award may be made and the individuals who may provide health care services under the contract are insurable and that, following award, the contractor and its employees will continue to possess the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor or its employees and ensures that VA and VA beneficiaries are protected by adequate insurance coverage.

VAAR clause 852.228–71, Indemnification and Insurance, is used in solicitations for vehicle or aircraft services. It requires the apparent successful bidder/offeror, prior to contract award, to furnish evidence that the firm possesses the types and amounts of insurance required by the solicitation. This evidence is in the form of a certificate from the firm's insurance company. The information is required to protect VA by ensuring that the firm to which award will be made possesses the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor and ensures that VA beneficiaries and the public are protected by adequate insurance coverage.

VA uses the information to determine whether additional contract terms and conditions are necessary. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published at 90 FR 39264, August 14, 2025.

Affected Public: Business or other for profit and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—750 hours.

b. VAAR clause 852.228–71, Indemnification and Insurance—250 hours.

Estimated Average Burden Per Respondent:

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—30 minutes.

b. VAAR clause 852.228–71, Indemnification and Insurance—30 minutes.

Frequency of Response:

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—1 per each contract awarded.

b. VAAR clause 852.228–71, Indemnification and Insurance—1 per each contract awarded.

Estimated Number of Respondents:

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—1500.

b. VAAR clause 852.228–71, Indemnification and Insurance—500.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dorothy Glasgow,

Acting, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2025–20743 Filed 11–21–25; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Priority Processing Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. DATES: Comments must be received on or before January 23, 2026.

ADDRESSES: Comments must be submitted through *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Kendra Mccleave, 202–461–9760, *kendra.mccleave@va.gov*.

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Priority Processing Request (VA Form 20–10207).

OMB Control Number: 2900–NEW. *https://www.reginfo.gov/public/do/PRASearch* (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: New collection.

Abstract: VA Form 20–10207 is used by VA to gather the necessary information to determine priority processing of a claim due to special circumstances or status. Without this information, VA would not be able to identify claims for priority processing for those claimants who are in urgent or immediate need due to changed circumstances. VA would also utilize this information collection for reporting purposes and for outreach efforts for those claimants. VA Form 20–10207 was previously under 2900–0877 and due to a program office change, a new control number is requested to be assigned.

Affected Public: Individuals or Households.

Estimated Annual Burden: 6,380 hours.

Estimated Average Burden per Respondent: 7 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 54,685 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Lanea Haynes,

Acting, VA PRA Clearance Officer, (Alt) Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2025–20718 Filed 11–21–25; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[Docket No. VA–2025–VACO–0002]

Corporate Senior Executive Management Office Notice of Performance Review Board Members

AGENCY: Corporate Senior Executive Management Office, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice announces the appointment of individuals to serve on the PRB of the Department of Veterans Affairs.

DATES: This appointment is effective November 24, 2025.

FOR FURTHER INFORMATION CONTACT: Shana Love Holmon, Executive Director, Corporate Senior Executive Management Office, Office of Human Resources and Administration, 202–632–5285.

SUPPLEMENTARY INFORMATION: The membership of the Department of Veterans Affairs Performance Review Board is as follows:

Lawrence, Paul R.—Chair
Engelbaum, Mark R.—Vice Chair
Arnold, Kenneth A.
Bergin, Donald J.
Bocchicchio, Alfred
Boyd, Teresa D.
Brown, Samuel B.
Burch, Jennifer A.
Cashour, Curtis E.
Catano, Maura
Cellura, Christina H.
De Leon, Joshua
Devlin, Margarita
Dietrich, Jill K.
Dinesen, Ian M.
Dossie, Susie L.
Ducker, Daniel L.
Flynn, Julianne
Hausman, Mark S.
Hawthorne, Cory
Hillian-Craig, Jacqueline A.
Jones, Wendell E.
Lauder, Jon M.
Lee, Aaron M.
Lieberman, Steven
Lilly, Ryan S.
Llorente, Maria D.
Manuel, Howard L.
McIlroy, Andrew R.
Navaratnasingam, Pritz
Newman, Michael T.
Powers, Glenn
Pozzebon, Lisa
Quill, Joshua J.
Roy, Faith D.
Runyan, Danielle A.

Smith, Tres C.
Stapleton, John O.
Stoddard, Michael T.
Terrell, Brandye
Toles, Krystal M.
Topping, Richard F.
Waddington, George

Authority: 5 U.S.C. 4314(c)(4).

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on November 18, 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. 2025–20756 Filed 11–21–25; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 202503–2900–014]

Agency Information Collection Activity: Establishing Property Suitability for VA Specially Adapted Housing

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 23, 2026.

ADDRESSES: Comments must be submitted through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Program-specific information: Kendra McCleave, 202–461–9760, *Kendra.McCleave@va.gov.*

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Establishing Property Suitability for VA Specially Adapted Housing.

OMB Control Number: 202503–2900–014 *https://www.reginfo.gov/public/do/PRASearch* (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: New Collection (Request for a new OMB Control Number).

Abstract: The Report of Loan Guaranty Existing Housing Unit Inspection of SAH Property Suitability (VA Form 26–1858a–ARE), Report of Loan Guaranty SHA Property Suitability (VA 26–1858b), Report of Loan Guaranty SAH Vacant Lot Inspection (VA Form 26–1858c–ARE), Report of Loan Guaranty Final SAH/SHA Field Review (VA Form 26–1858d) are used to assess the suitability and condition of properties under the VA's Specially Adapted Housing (SAH) program. The information collected in this process assists Veterans who are entitled to adapted housing grants itemized under 38 U.S.C. Chapter 21 § 2101 (a) who may use their benefit to ''acquire a suitable housing unit'' that will provide a barrier-free living space based on ''the nature of the Veteran's disability''. Per 38 U.S.C. Chapter 21 § 2101 (a)3, determinations must be made regarding the feasibility and suitability of a proposed property. Information must be gathered to make such determinations. 38 CFR 36.4404 (b) requires that the VA establish if it is medically feasible for the Veteran to reside outside an institutional setting, that the proposed housing unit is suitable for the Veteran's needs and that the cost of the proposed housing unit bears a proper relation to the Veteran's present and anticipated income and expenses. The information being sought is both required and necessary to make an accurate analysis that may support these conclusions.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,695 Hours.

Estimated Average Burden per Respondent: 15 minutes (to complete forms)/45 minutes (to take photos and measurements).

Frequency of Response: Annually.

Estimated Number of Respondents: 6,628.

Authority: 44 U.S.C. 3501 *et seq.*

Lanea Haynes,

Acting VA PRA Clearance Officer, (Alt) Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2025–20671 Filed 11–21–25; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 90 Monday,

No. 224 November 24, 2025

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 413 and 512

Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 413 and 512

[CMS–1830–F]

RIN 0938–AV52

Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule updates and revises the End-Stage Renal Disease (ESRD) Prospective Payment System for calendar year 2026. This rule also includes updates to the payment rate for renal dialysis services furnished by an ESRD facility to individuals with acute kidney injury. In addition, this rule updates the requirements for the ESRD Quality Incentive Program and terminates and modifies requirements for the ESRD Treatment Choices Model.

DATES: These regulations are effective on January 1, 2026.

FOR FURTHER INFORMATION CONTACT:

ESRDPayment@cms.hhs.gov or Abigail Ryan (410) 786–4343, for issues related to the ESRD Prospective Payment System (PPS) and coverage and payment for renal dialysis services furnished to individuals with acute kidney injury (AKI).

ESRDApplications@cms.hhs.gov, for issues related to applications for the Transitional Drug Add-on Payment Adjustment (TDAPA) or Transitional Add-On Payment Adjustment for New and Innovative Equipment and Supplies (TPNIES).

QNETSUPPORT-ESRD@cms.hhs.gov, for issues related to the ESRD Quality Incentive Program (QIP).

ETC-CMMI@cms.hhs.gov, for issues related to the ESRD Treatment Choices (ETC) Model.

SUPPLEMENTARY INFORMATION:

Current Procedural Terminology (CPT) Copyright Notice: Throughout this final rule, we use CPT® codes and descriptions to refer to a variety of services. We note that CPT® codes and descriptions are copyright 2020 American Medical Association (AMA). All Rights Reserved. CPT® is a registered trademark of the AMA. Applicable Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations (DFAR) apply.

Table of Contents

To assist readers in referencing sections contained in this preamble, we are providing a Table of Contents.

I. Executive Summary
- A. Purpose
- B. Summary of the Major Provisions
- C. Summary of Cost and Transfers

II. Calendar Year (CY) 2026 End-Stage Renal Disease (ESRD) Prospective Payment System (PPS)
- A. Background
- B. Provisions of the Proposed Rule, Public Comments, and Responses to the Comments on the CY 2026 ESRD PPS
- C. Transitional Add-On Payment Adjustment for New and Innovative Equipment and Supplies (TPNIES)
- D. Continuation of Approved Transitional Add-On Payment Adjustments for New and Innovative Equipment and Supplies for CY 2026
- E. Continuation of Approved Transitional Drug Add-On Payment Adjustments for CY 2026

III. Final CY 2026 Payment Rate for Renal Dialysis Services Furnished to Individuals With AKI
- A. Background
- B. Update of AKI Dialysis Payment Rate

IV. Updates to the End-Stage Renal Disease Quality Incentive Program (ESRD QIP)
- A. Background
- B. Updates to Requirements Beginning With the Payment Year (PY) 2027 ESRD QIP
- C. Updates to Requirements Beginning With the PY 2028 ESRD QIP
- D. Requests for Information (RFIs) on Topics Relevant to ESRD QIP

V. End-Stage Renal Disease Treatment Choices (ETC) Model
- A. Background
- B. Summary of the Proposed Provisions, Public Comments, and Responses to the Comments on the ETC Model

VI. Collection of Information Requirements
- A. ESRD QIP—Wage Estimates
- B. Estimated Burden Associated With the Data Validation Requirements for PY 2028
- C. Estimated EQRS Reporting Requirements for PY 2027 and PY 2028
- D. Estimated ICH CAHPS Reporting Requirements for PY 2028
- E. ESRD Treatment Choices Model

VII. Regulatory Impact Analysis
- A. Statement of Need
- B. Overall Impact Analysis
- C. Detailed Economic Analysis
- D. Accounting Statement
- E. Regulatory Flexibility Act (RFA)
- F. Unfunded Mandates Reform Act (UMRA)
- G. Federalism
- H. E.O. 14192, ''Unleashing Prosperity Through Deregulation''
- I. Congressional Review Act

VIII. Files Available to the Public via the Internet

IX. Waiver of Delayed Effective Date

I. Executive Summary

A. Purpose

This rule finalizes changes related to the End-Stage Renal Disease (ESRD) Prospective Payment System (PPS), payment for renal dialysis services furnished to individuals with acute kidney injury (AKI), the ESRD Quality Incentive Program (QIP), and the ESRD Treatment Choices (ETC) Model.

1. End-Stage Renal Disease (ESRD) Prospective Payment System (PPS)

On January 1, 2011, we implemented the ESRD PPS, a case-mix adjusted, bundled PPS for renal dialysis services furnished by ESRD facilities as required by section 1881(b)(14) of the Social Security Act (the Act), as added by section 153(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275). Section 1881(b)(14)(F) of the Act, as added by section 153(b) of MIPPA, and amended by section 3401(h) of the Patient Protection and Affordable Care Act (the Affordable Care Act) (Pub. L. 111–148), established that beginning calendar year (CY) 2012, and each subsequent year, the Secretary of the Department of Health and Human Services (the Secretary) shall annually increase payment amounts by an ESRD market basket percentage increase, reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. This rule includes updates to the ESRD PPS for CY 2026. This rule also modifies the eligibility timeframe for the transitional drug add-on payment adjustment (TDAPA) and establishes a new payment adjustment for ESRD facilities in certain non-contiguous states and territories to promote efficient allocation of payments.

2. Coverage and Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury (AKI)

On June 29, 2015, the President signed the Trade Preferences Extension Act of 2015 (TPEA) (Pub. L. 114–27). Section 808(a) of the TPEA amended section 1861(s)(2)(F) of the Act to provide coverage for renal dialysis services furnished on or after January 1, 2017, by a renal dialysis facility or a provider of services paid under section 1881(b)(14) of the Act to an individual with AKI. Section 808(b) of the TPEA amended section 1834 of the Act by adding a new subsection (r) that provides for payment for renal dialysis services furnished by renal dialysis facilities or providers of services paid

under section 1881(b)(14) of the Act to individuals with AKI at the ESRD PPS base rate beginning January 1, 2017. This rule updates the AKI dialysis payment rate for CY 2026.

3. End-Stage Renal Disease Quality Incentive Program (ESRD QIP)

The End-Stage Renal Disease Quality Incentive Program (ESRD QIP) is authorized by section 1881(h) of the Act. The Program establishes incentives for facilities to achieve high quality performance on measures with the goal of improving outcomes for ESRD beneficiaries. Beginning with PY 2027, this rule removes the Facility Commitment to Health Equity reporting measure, the Screening for Social Drivers of Health reporting measure, and the Screen Positive Rate for Social Drivers of Health reporting measure from the ESRD QIP measure set. In addition, this rule updates the In-Center Hemodialysis Consumer Assessment of Healthcare Providers and Systems (ICH CAHPS) clinical measure beginning with PY 2028. This rule also discusses feedback received in response to our requests for public comment on several topics relevant to the ESRD QIP.

4. End-Stage Renal Disease Treatment Choices (ETC) Model

The ETC Model is a mandatory Medicare payment model tested under section 1115A of the Act. The ETC Model is operated by the Center for Medicare and Medicaid Innovation (Innovation Center). The ETC Model tests the use of payment adjustments to encourage greater utilization of home dialysis and kidney transplants, to preserve or enhance the quality of care furnished to Medicare beneficiaries while reducing Medicare expenditures. The ETC Model was finalized as part of a final rule published in the **Federal Register** on September 29, 2020, titled ''Medicare Program: Specialty Care Models to Improve Quality of Care and Reduce Expenditures'' (85 FR 61114), referred to herein as the ''Specialty Care Models final rule.'' Subsequently, the ETC Model has been updated four times in the annual ESRD PPS final rules for CY 2022 (86 FR 61874), CY 2023 (87 FR 67136), CY 2024 (88 FR 76344), and CY 2025 (89 FR 89084).

Per model evaluation reports, ETC Model performance since 2021 has continued to show that the model is not having a statistically significant impact on the use of home dialysis modalities, transplant waitlisting, and living donor transplantation. In this rule, we are finalizing our proposals to terminate the ETC Model as of December 31, 2025, and to modify the duration during which CMS will apply payment adjustments described in 42 CFR part 512, subpart C for a specific time period.

B. Summary of the Major Provisions

1. ESRD PPS

- *Update to the ESRD PPS base rate for CY 2026:* The final CY 2026 ESRD PPS base rate is $281.71, an increase from the CY 2025 ESRD PPS base rate of $273.82. This final amount reflects the application of the wage index budget neutrality adjustment factor (1.00905), the budget neutrality factor for the final non-contiguous areas payment adjustment (NAPA) (0.99860) as discussed in section II.B.8. of this final rule, and a final ESRD Bundled (ESRDB) market basket update of 2.1 percent as required by section 1881(b)(14)(F)(i)(I) of the Act, equaling $281.71 (($273.82 × 1.00905 × 0.99860) × 1.021 = $281.71).
- *Annual update to the wage index:* We adjust the ESRD PPS wage index on an annual basis using the most current mean hourly wage data for occupations related to the furnishing of renal dialysis services from the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) program and occupational mix data from the most recent full CY of freestanding ESRD facility Medicare cost reports. This wage index uses the latest core-based statistical area (CBSA) delineations to account for differing wage levels in areas in which ESRD facilities are located. For CY 2026, we are updating the wage index based on this methodology and the latest available data.
- *Annual update to the outlier policy:* We are updating the outlier policy based on the most current data and established methodology. Accordingly, we are updating the Medicare allowable payment (MAP) amounts for adult and pediatric patients for CY 2026 using the latest available CY 2024 claims data. We are updating the ESRD outlier services fixed dollar loss (FDL) amount for pediatric patients using the latest available CY 2024 claims data and updating the FDL amount for adult patients using the latest available claims data from CY 2022, CY 2023, and CY 2024. For pediatric beneficiaries, the FDL amount will decrease from $234.26 to $162.43, and the MAP amount will decrease from $59.60 to $50.19, as compared to CY 2025 values. For adult beneficiaries, the FDL amount will decrease from $45.41 to $14.80, and the MAP amount will decrease from $31.02 to $23.68. The 1.0 percent target for outlier payments was not achieved in CY 2024, as outlier payments represented approximately 0.8 percent of total Medicare payments.
- *Update to the offset amount for the transitional add-on payment adjustment for new and innovative equipment and supplies (TPNIES) for CY 2026:* The final CY 2026 average per treatment offset amount for the TPNIES for capital-related assets that are home dialysis machines is $10.43. This final offset amount reflects the application of the final ESRDB market basket update of 2.1 percent ($10.22 × 1.021 = $10.43). There are no capital-related assets set to receive the TPNIES in CY 2026 for which this offset will apply.
- *Update to the post-TDAPA add-on payment adjustment amounts:* We calculate the post-TDAPA add-on payment adjustment in accordance with 42 CFR 413.234(g). The final post-TDAPA add-on payment adjustment amount for Korsuva® is $0.1131 per treatment, which will be included in the calculation of the total post-TDAPA add-on payment adjustment for each quarter in CY 2026. The final post-TDAPA add-on payment adjustment amount for DefenCath® is $2.3710 per treatment, which will be included in the calculation for the third and fourth quarters of CY 2026.
- *Update to the timeframe for TDAPA eligibility:* We are modifying the timeframe for TDAPA eligibility to provide that a new renal dialysis drug or biological product must have been approved by the Food and Drug Administration (FDA) within the past 3 years at the time of submission of the TDAPA application. This revised eligibility timeframe will apply for all new drugs and biological products for which a TDAPA application is submitted on or after January 1, 2028.
- *Non-contiguous areas payment adjustment (NAPA):* We are finalizing a new payment adjustment, the NAPA, for ESRD facilities in certain high-cost, non-contiguous states and territories to account for certain non-labor costs which are not captured in the ESRD PPS wage index. This payment adjustment will apply to ESRD PPS claims submitted by ESRD facilities in Alaska, Hawaii, and the U.S. Pacific Territories of Guam, American Samoa, and the Northern Mariana Islands. We are also finalizing our proposal that the NAPA will be budget neutral and will apply a corresponding budget neutrality factor of 0.99860 to the CY 2026 ESRD PPS base rate.

2. Payment for Renal Dialysis Services Furnished to Individuals With AKI

- *Update to the dialysis payment rate for individuals with AKI:* We are updating the AKI dialysis payment rate

for CY 2026. The final CY 2026 payment rate is $281.71, which is the same as the final CY 2026 ESRD PPS base rate.

3. ESRD QIP

We are finalizing our proposal to remove the Facility Commitment to Health Equity reporting measure beginning with PY 2027, the Screening for Social Drivers of Health reporting measure beginning with PY 2027, and the Screen Positive Rate for Social Drivers of Health reporting measure beginning with PY 2027. Beginning with PY 2028, we are finalizing our proposal to update the ICH CAHPS clinical measure. We are reducing the length of the ICH CAHPS Survey by removing 23 questions which we have identified as appropriate for removal. This final rule includes public comments received in response to requests for information that appeared in the CY 2026 ESRD PPS proposed rule. In those requests for information, we solicited public feedback on several topics relevant to the ESRD QIP. We requested information on the current state of health information technology (IT) use in dialysis facilities, including electronic health records (EHRs), to further ongoing CMS efforts to facilitate successful adoption and integration of Fast Healthcare Interoperability Resources® (FHIR®) and FHIR-based technologies and standardized data for patient assessment instruments. We also requested feedback on potential measurement concepts that could be developed into ESRD QIP measures in the future, such as measures of interoperability, well-being, nutrition, and physical activity.

4. ETC Model

We are finalizing our proposal to terminate the ETC Model and modify the duration during which CMS will apply the payment adjustments described in 42 CFR part 512, subpart C to claims with claim service dates beginning on or after January 1, 2021, and ending on or before December 31, 2025. We discussed our reasons for terminating the model and the changes to the regulation required to implement the termination.

C. Summary of Costs and Transfers

In section VII.C.5. of this final rule, we set forth a detailed analysis of the impacts that the final changes will have on affected entities and beneficiaries. Table 1 summarizes the impacts of each final change in the CY 2026 ESRD PPS final rule.

TABLE 1—UPDATED ESTIMATED TOTAL COSTS/TRANSFERS

Final changes	Estimated total costs/transfers
Final CY 2026 ESRD PPS updates	The overall economic impact of this final rule is an estimated increase of approximately $180 million in aggregate payments to ESRD facilities in CY 2026. This includes estimated expenditures of approximately $34 million associated with the post-TDAPA add-on payment adjustment.
Final CY 2026 AKI dialysis payment rate update	We estimate that the aggregate Medicare payments made to ESRD facilities for renal dialysis services furnished to individuals with AKI, at the final CY 2026 ESRD PPS base rate, will increase by $1 million.
Finalized PY 2027 and PY 2028 QIP updates	We estimate that, as a result of previously finalized policies and changes to the ESRD QIP that we are finalizing, the overall economic impact of the PY 2027 ESRD QIP will be approximately $146.6 million. We estimate that, as a result of previously finalized policies and changes to the ESRD QIP that we are finalizing, the overall economic impact of the PY 2028 ESRD QIP will be approximately $145.6 million.
Finalized ETC Model termination	We estimate that, as a result of the termination of the ETC Model, as finalized in this rule, the net Federal impact will be approximately $1 million in savings.

1. Impacts of the Updates to the ESRD PPS

The impact table in section VII.C.5.a. of this final rule displays the estimated change in Medicare payments to ESRD facilities in CY 2026 compared to estimated Medicare payments in CY 2025. The overall impact of the CY 2026 payment changes is projected to be a 2.2 percent increase in Medicare payments. Hospital-based ESRD facilities will have an estimated 1.5 percent increase in Medicare payments compared with freestanding ESRD facilities with an estimated 2.2 percent increase. We estimate that the aggregate Medicare payments under the ESRD PPS will increase by approximately $180 million in CY 2026 compared to CY 2025 as a result of the final payment policies in this rule. Because of the projected 2.2 percent overall payment increase, we estimate there will be an increase in beneficiary coinsurance payments of *2.2* percent in CY 2026, which translates to approximately $40 million. For CY 2026, we estimate total payments associated with the post-TDAPA add-on payment adjustment will be $34 million.

Section 1881(b)(14)(D)(iv) of the Act provides that the ESRD PPS may include such other payment adjustments as the Secretary determines appropriate. Under this authority, CMS implemented § 413.234 to establish the TDAPA, a transitional drug add-on payment adjustment for certain new renal dialysis drugs and biological products; § 413.236 to establish the TPNIES, a transitional add-on payment adjustment for certain new and innovative equipment and supplies; and § 413.234(g) to establish the post-TDAPA add-on payment adjustment. The TDAPA, the TPNIES, and the post-TDAPA add-on payment adjustment are not budget neutral.

As discussed in section II.D. of this final rule, because we did not receive any applications for the TPNIES in CY 2025, no new items were approved for the TPNIES for CY 2025 (89 FR 89162). Therefore, there are no continuing TPNIES payments for CY 2026. In addition, since we did not receive any applications for the TPNIES for CY 2026, there will be no new TPNIES payments for CY 2026. As discussed in section II.E. of this final rule, the TDAPA payment periods for DefenCath®, Vafseo®, and the oral-only phosphate binders sevelamer carbonate, sevelamer hydrochloride, sucroferric oxyhydroxide, lanthanum carbonate, ferric citrate, and calcium acetate will continue into CY 2026. As described in section VII.C.5.b. of this final rule, we estimate that the combined total TDAPA payment amounts for these drugs in CY 2026 will be approximately $500 million, of which, $100 million will be attributed to beneficiary coinsurance amounts.

2. Impacts of the Final Payment Rate for Renal Dialysis Services Furnished to Individuals With AKI

The impact table in section VII.C.5.c. of this final rule displays the estimated change in Medicare payments to ESRD facilities for renal dialysis services furnished to individuals with AKI compared to estimated Medicare payments for such services in CY 2025. The overall impact of the CY 2026 changes is projected to be a 2.0 percent increase in Medicare payments for individuals with AKI. Hospital-based ESRD facilities will have an estimated 1.8 percent increase in Medicare payments compared with freestanding ESRD facilities that will have an estimated 2.0 percent increase. The overall impact reflects the effects of the final Medicare ESRD PPS payment rate update and the final CY 2026 ESRD PPS wage index. We estimate that the aggregate Medicare payments made to ESRD facilities for renal dialysis services furnished to individuals with AKI, at the final CY 2026 ESRD PPS base rate, will increase by $1 million in CY 2026 compared to CY 2025.

3. Impacts of the PY 2027 and PY 2028 ESRD QIP

We estimate that, as a result of previously finalized policies and changes to the ESRD QIP that we are finalizing in this final rule, the overall economic impact of the PY 2027 ESRD QIP will be approximately $146.6 million. The $146.6 million estimate for PY 2027 includes $125 million in costs associated with the collection of information requirements and approximately $21.6 million in payment reductions across all facilities. We estimate that, as a result of previously finalized policies and changes to the ESRD QIP that we are finalizing in this final rule, the overall economic impact of the PY 2028 ESRD QIP will be approximately $145.6 million. The $145.6 million estimate for PY 2028 includes $125 million in costs associated with the collection of information requirements and approximately $20.6 million in payment reductions across all facilities.

4. Impacts of the Termination of the ETC Model

We estimate that, as a result of the termination of the ETC Model, as finalized in this rule, the net Federal impact will be approximately $1 million in savings during the final 18 months of the performance period (January 1, 2026 through June 30, 2027).

II. Calendar Year (CY) 2026 End-Stage Renal Disease (ESRD) Prospective Payment System (PPS)

A. Background

1. Statutory Background

On January 1, 2011, CMS implemented the ESRD PPS, a case-mix adjusted bundled PPS for renal dialysis services furnished by ESRD facilities, as required by section 1881(b)(14) of the Act, as added by section 153(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275). Section 1881(b)(14)(F) of the Act, as added by section 153(b) of MIPPA and amended by section 3401(h) of the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148), established that beginning with CY 2012, and each subsequent year, the Secretary shall annually increase payment amounts by an ESRD market basket percentage increase reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act.

Section 632 of the American Taxpayer Relief Act of 2012 (ATRA) (Pub. L. 112–240) included several provisions that apply to the ESRD PPS. Section 632(a) of ATRA added section 1881(b)(14)(I) to the Act, which required the Secretary, by comparing per patient utilization data from 2007 with such data from 2012, to reduce the single payment for renal dialysis services furnished on or after January 1, 2014, to reflect the Secretary's estimate of the change in the utilization of ESRD-related drugs and biologicals [1] (excluding oral-only ESRD-related drugs). Consistent with this requirement, in the CY 2014 ESRD PPS final rule, we finalized $29.93 as the total drug utilization reduction and finalized a policy to implement the amount over a 3- to 4-year transition period (78 FR 72161 through 72170).

Section 632(b) of ATRA prohibited the Secretary from paying for oral-only ESRD-related drugs and biologicals under the ESRD PPS prior to January 1, 2016. Section 632(c) of ATRA required the Secretary, by no later than January 1, 2016, to analyze the case-mix payment adjustments under section 1881(b)(14)(D)(i) of the Act and make appropriate revisions to those adjustments.

On April 1, 2014, the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93) was enacted. Section 217 of PAMA included several provisions that apply to the ESRD PPS. Specifically, sections 217(b)(1) and (2) of PAMA amended sections 1881(b)(14)(F) and (I) of the Act and replaced the drug utilization adjustment that was finalized in the CY 2014 ESRD PPS final rule (78 FR 72161 through 72170) with specific provisions that dictated the market basket update for CY 2015 (0.0 percent) and how the market basket percentage increase should be reduced in CY 2016 through CY 2018.

Section 217(a)(1) of PAMA amended section 632(b)(1) of ATRA to provide that the Secretary may not pay for oral-only ESRD-related drugs under the ESRD PPS prior to January 1, 2024. Section 217(a)(2) of PAMA further amended section 632(b)(1) of ATRA by requiring that in establishing payment for oral-only drugs under the ESRD PPS, the Secretary must use data from the most recent year available. Section 217(c) of PAMA provided that as part of the CY 2016 ESRD PPS rulemaking, the Secretary shall establish a process for (1) determining when a product is no longer an oral-only drug; and (2) including new injectable and intravenous products into the ESRD PPS bundled payment.

Section 204 of the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE) (Pub. L. 113–295) amended section 632(b)(1) of ATRA, as amended by section 217(a)(1) of PAMA, to provide that payment for oral-only renal dialysis drugs and biological products cannot be made under the ESRD PPS bundled payment prior to January 1, 2025. Effective January 1, 2025, all oral-only renal dialysis drugs and biological products are paid for under the ESRD PPS.

2. System for Payment of Renal Dialysis Services

Under the ESRD PPS, a single per-treatment payment is made to an ESRD facility for all the renal dialysis services defined in section 1881(b)(14)(B) of the Act and furnished to an individual for the treatment of ESRD in the ESRD facility or in a patient's home. We have codified our definition of renal dialysis services at § 413.171, which is in 42 CFR part 413, subpart H, along with other ESRD PPS payment policies.

The ESRD PPS base rate is adjusted for characteristics of both adult and pediatric patients and accounts for patient case-mix variability. The adult case-mix adjusters include five categories of age, body surface area, low body mass index, onset of dialysis, and four comorbidity categories (that is, pericarditis, gastrointestinal tract

[1] As discussed in the CY 2019 ESRD PPS final rule (83 FR 56922), we began using the term ''biological products'' instead of ''biologicals'' under the ESRD PPS to be consistent with FDA nomenclature. We use the term ''biological products'' in this final rule except when referencing specific language in the Act or regulations.

bleeding, hereditary hemolytic or sickle cell anemia, and myelodysplastic syndrome). A different set of case-mix adjusters are applied for the pediatric population. Pediatric patient-level adjusters include two age categories (under age 13, or age 13 to 17) and two dialysis modalities (that is, peritoneal or hemodialysis) (§ 413.235(a) and (b)(1)).

The ESRD PPS provides for three facility-level adjustments.[2] The first payment adjustment accounts for ESRD facilities furnishing a low volume of dialysis treatments, with two tiers such that smaller low volume facilities receive a higher payment adjustment (§ 413.232). The second payment adjustment reflects differences in area wage levels developed from core-based statistical areas (CBSAs) (§ 413.231). The third payment adjustment accounts for ESRD facilities furnishing renal dialysis services in a rural area (§ 413.233).

There are six additional payment adjustments under the ESRD PPS. The ESRD PPS provides adjustments, when applicable, for: (1) a training add-on for home and self-dialysis modalities (§ 413.235(c)); (2) an additional payment for high cost outliers due to unusual variations in the type or amount of medically necessary care (§ 413.237); (3) a TDAPA for certain new renal dialysis drugs and biological products (§ 413.234(c)); (4) a TPNIES for certain new and innovative renal dialysis equipment and supplies (§ 413.236(d)); (5) a transitional pediatric ESRD add-on payment adjustment (TPEAPA) of 30 percent of the per-treatment payment amount for renal dialysis services furnished to pediatric ESRD patients for CYs 2024 through 2026 (§ 413.235(b)(2)); and (6) a post-TDAPA add-on payment adjustment for certain new renal dialysis drugs and biological products after the end of the TDAPA period (§ 413.234(g)).

3. Updates to the ESRD PPS

Policy changes to the ESRD PPS are proposed and finalized annually in the **Federal Register**. The CY 2011 ESRD PPS final rule appeared in the August 12, 2010, issue of the **Federal Register** (75 FR 49030 through 49214). That rule implemented the ESRD PPS beginning on January 1, 2011, in accordance with section 1881(b)(14) of the Act, as added by section 153(b) of MIPPA, over a 4-year transition period. Since the implementation of the ESRD PPS, we have published annual rules to make routine updates, policy changes, and clarifications.

Most recently, we published a final rule, which appeared in the November 12, 2024, issue of the **Federal Register**, titled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, and End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model,'' referred to herein as the ''CY 2025 ESRD PPS final rule.'' In that rule (89 FR 89084 through 89213), we updated the ESRD PPS base rate, wage index, and outlier policy for CY 2025 and we updated the CBSA delineations used for the wage index according to Office of Management and Budget (OMB) Bulletin No. 23–01. We also finalized a new ESRD PPS wage index methodology, a phase out of the rural adjustment for ESRD facilities that were re-designated from a rural to an urban area as a result of the new CBSA delineations, an expansion of the ESRD PPS outlier list to include all drugs and biological products that were formerly part of the composite rate, an updated methodology for calculating certain inflation factors used when determining the adult fixed dollar loss (FDL) amount, and an update to the low-volume payment adjustment (LVPA) to include two tiers such that ESRD facilities with fewer than 3000 treatments in 2 of the 3 preceding years would receive a higher LVPA payment. Additionally, in the CY 2025 ESRD PPS final rule, we discussed the inclusion of oral-only drugs into the ESRD PPS bundled payment and finalized monthly TDAPA amounts for claims which utilize phosphate binders. For further detailed information regarding these updates and policy changes, see 89 FR 89084.

B. Provisions of the Proposed Rule, Public Comments, and Responses to the Comments on the CY 2026 ESRD PPS

The proposed rule, titled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model'' (90 FR 29342–29391), referred to as the ''CY 2026 ESRD PPS proposed rule,'' appeared in the July 2, 2025 issue of the **Federal Register**, with a comment period that ended on August 29, 2025. In that proposed rule, we proposed to make a number of annual updates for CY 2026, including routine updates to the ESRD PPS base rate, wage index, outlier policy, TPNIES offset amount, and post-TDAPA add-on payment adjustment amounts. Additionally, we proposed to modify the timeframe for TDAPA eligibility, beginning January 1, 2028, to require a TDAPA application within 3 years of FDA approval, and we proposed a new payment adjustment for ESRD PPS claims from ESRD facilities in certain non-contiguous states and territories. We received approximately 208 public comments on our proposals, including comments from kidney and dialysis organizations, such as large and small dialysis organizations, for-profit and non-profit ESRD facilities, ESRD networks, and dialysis coalitions. We also received comments from patients; healthcare providers for adult and pediatric ESRD beneficiaries; home dialysis services and advocacy organizations; provider advocacy organizations; administrators and insurance groups; a non-profit dialysis association; a professional association; alliances for kidney care and home dialysis interested parties; drug and device manufacturers; health care systems; and the Medicare Payment Advisory Commission (MedPAC). Of these approximately 208 public comments, approximately 108 were unique and approximately 98 were either duplicative submissions or were solely form letters.

We received many comments about ESRD PPS policies for which we did not propose any changes for CY 2026. These comments are briefly summarized in the following paragraphs; however, we are not addressing these comments in this final rule because they are out of scope for the CY 2026 ESRD PPS final rule.

We received approximately 87 timely pieces of correspondence from unique submitters which reflected a form letter advocating for the removal of oral drugs which lower serum phosphate from the ESRD PPS bundled payment. Additionally, we received 41 timely pieces of correspondence from a wide range of commenters that raised concerns about what commenters stated were the negative impacts of the inclusion of oral-only drugs and biological products into the ESRD PPS.

We also received comments that offered suggestions broadly related to improving quality of care for ESRD patients. These included comments proposing the development of a patient bill of rights and responsibilities; comments raising concerns about access to care, particularly in rural areas and in nursing homes; comments raising concerns about patients' current and future access to prescribed medications; and comments that advocated for better

[2] As discussed in section II.B.8 of this final rule, beginning for CY 2026, we are establishing a new facility-level payment adjustment for ESRD facilities in certain non-contiguous areas of the U.S.

patient education about modality choice and vascular access options.

Several comments requested clarification or consideration of changes to existing ESRD PPS policies such as the reporting requirement for ''time on machine''; the ESRD PPS case-mix adjusters; the eligibility criteria for the LVPA; and the scope of items and services that are recognized as renal dialysis services paid under the ESRD PPS. A number of commenters also requested clarification or consideration of changes related to Medicare payment policies outside the ESRD PPS, such as the Kidney Disease Education benefit; palliative care and the hospice benefit; caregiver services in the nursing home setting; payment for ultrafiltration for beneficiaries with congestive heart failure; and policies for telehealth and remote monitoring for home dialysis patients.

Some commenters urged CMS to address their concerns related to Medicare Advantage (MA) plans. These included concerns about network adequacy and payment, particularly in rural areas, as well as recommendations to consider supply chain concerns that affect emergency preparedness. Commenters also encouraged CMS to ensure that MA plans adopt policies similar to the TPNIES and TDAPA, limit MA exclusivity and narrow networks, ensure that MA benchmarks for ESRD reflect any adjustments in FFS ESRD payments, and facilitate home dialysis uptake in beneficiaries with a MA plan.

We received several comments not related to policies we proposed regarding the TDAPA, TPNIES, and the post-TDAPA add-on payment adjustment, which expressed concern that the ESRD PPS does not sufficiently incentivize innovation in dialysis care or pay for innovative technologies. Additionally, commenters requested that we revise cost reports and billing procedures to make TDAPA, TPNIES, and post-TDAPA costs easier to report and payment easier to identify. We also received comments about extending the TDAPA and TPNIES payment periods, expanding the TPNIES for capital related assets beyond home dialysis machines, further clarifying the TPNIES eligibility criteria, and creating a pathway for new clinical laboratory tests related to the treatment of ESRD by establishing a Transitional Laboratory Add-on Payment Adjustment, which the commenters called TLAPA.

We also received several comments regarding the inclusion of oral-only drugs and biological products in the ESRD PPS bundled payment, which was not the subject of a proposal in the CY 2026 ESRD PPS proposed rule. Commenters requested that CMS provide payment for drugs or biological products not consumed by beneficiaries, along with requesting clarification on, or extension of, the increase to the TDAPA amount for phosphate binders of $36.41 for operational costs. Additionally, commenters requested that ESRD facilities provide oral drugs and biological products in specific packaging for nursing homes and include the cost of pharmacist and pharmacist technician salaries in the ESRD PPS bundled payment. Some commenters requested additional monitoring for any adverse effects of including oral-only drugs and biological products in the ESRD PPS bundled payment. We are not providing detailed responses to these comments in this final rule because they are not related to the policy proposals of the CY 2026 ESRD PPS proposed rule. However, we note that we did not propose to change the additional $36.41 increase to the TDAPA amount for phosphate binders, and we are not finalizing any such changes in this rule. As such, the monthly TDAPA amount on any ESRD PPS claim that reports units of phosphate binders in CY 2026 would include the increased $36.41 that we finalized in the CY 2025 ESRD PPS final rule.

As we previously stated, we are not providing detailed responses to these out of scope comments in this CY 2026 ESRD PPS final rule. Nevertheless, we thank the commenters for their input and will consider their recommendations to potentially inform future rulemaking.

1. CY 2026 ESRD Bundled (ESRDB) Market Basket Percentage Increase; Productivity Adjustment; and Labor-Related Share (LRS)

a. Background

In accordance with section 1881(b)(14)(F)(i) of the Act, as added by section 153(b) of MIPPA and amended by section 3401(h) of the Affordable Care Act, beginning in 2012, the ESRD PPS payment amounts are required to be annually increased by an ESRD market basket percentage increase and reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. The application of the productivity adjustment may result in the increase factor being less than 0.0 for a year and may result in payment rates for a year being less than the payment rates for the preceding year. Section 1881(b)(14)(F)(i) of the Act also provides that the market basket increase factor should reflect the changes over time in the prices of an appropriate mix of goods and services included in renal dialysis services.

As required under section 1881(b)(14)(F)(i) of the Act, CMS developed an all-inclusive ESRD bundled (ESRDB) input price index using CY 2008 as the base year (75 FR 49151 through 49162). We subsequently revised and rebased the ESRDB input price index to a base year of CY 2012 in the CY 2015 ESRD PPS final rule (79 FR 66129 through 66136). In the CY 2019 ESRD PPS final rule (83 FR 56951 through 56964), we finalized a rebased ESRDB input price index to reflect a CY 2016 base year. In the CY 2023 ESRD PPS final rule (87 FR 67141 through 67154), we finalized a revised and rebased ESRDB input price index to reflect a CY 2020 base year.

Although ''market basket'' technically describes the mix of goods and services used for ESRD treatment, this term is also commonly used to denote the input price index (that is, cost categories, their respective weights, and price proxies combined) derived from a market basket. Accordingly, the term ''ESRDB market basket'', as used in this document, refers to the ESRDB input price index.

The ESRDB market basket is a fixed-weight, Laspeyres-type price index. A Laspeyres-type price index measures the change in price, over time, of the same mix of goods and services purchased in the base period. Any changes in the quantity or mix of goods and services (that is, intensity) purchased over time are not measured.

b. CY 2026 ESRD Market Basket Update

We proposed to use the 2020-based ESRDB market basket as finalized in the CY 2023 ESRD PPS final rule (87 FR 67141 through 67154) to compute the CY 2026 ESRDB market basket percentage increase based on the best available data. Consistent with historical practice, we proposed to estimate the ESRDB market basket percentage increase based on IHS Global Inc.'s (IGI) forecast using the most recently available data at the time of rulemaking. IGI is a nationally recognized economic and financial forecasting firm with which CMS contracts to forecast the components of the market baskets. As discussed in section II.B.1.b.(3). of this final rule, we calculated the proposed ESRDB market basket update for CY 2026 based on the proposed ESRDB market basket percentage increase and the proposed productivity adjustment, following our longstanding methodology.

(1) CY 2026 ESRDB Market Basket Percentage Increase

Based on IGI's first quarter 2025 forecast of the 2020-based ESRDB market basket, the proposed CY 2026 ESRDB market basket percentage increase was 2.7 percent. We proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the market basket percentage increase), we would use such data, if appropriate, to determine the CY 2026 ESRDB market basket percentage increase in the final rule. Accordingly, based on IGI's third quarter 2025 forecast of the 2020-based ESRDB market basket, the final CY 2026 ESRDB market basket percentage increase is 2.9 percent.

(2) CY 2026 Productivity Adjustment

Under section 1881(b)(14)(F)(i) of the Act, as amended by section 3401(h) of the Affordable Care Act, for CY 2012 and each subsequent year, the ESRDB market basket percentage increase shall be reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. The statute defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide, private nonfarm business multifactor productivity (MFP) (as projected by the Secretary for the 10-year period ending with the applicable fiscal year (FY), year, cost reporting period, or other annual period), hereafter referred to as the ''productivity adjustment''.

The Bureau of Labor Statistics (BLS) publishes the official measures of productivity for the United States economy. As we noted in the CY 2023 ESRD PPS final rule (87 FR 67155), the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act previously was published by BLS as private nonfarm business MFP. Beginning with the November 18, 2021, release of productivity data, BLS replaced the term ''multifactor productivity'' with ''total factor productivity'' (TFP). BLS noted that this is a change in terminology only and would not affect the data or methodology.[3] As a result of the BLS name change, the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act is now published by BLS as private nonfarm business TFP; however, as mentioned previously, the data and methods are unchanged. We refer readers to *https://www.bls.gov/productivity/* for the BLS historical published TFP data. A complete description of IGI's TFP projection methodology is available on CMS's website at *https://www.cms.gov/data-research/statistics-trends-and-reports/medicare-program-rates-statistics/market-basket-research-and-information.* In addition, in the CY 2022 ESRD PPS final rule (86 FR 61879), we noted that effective for CY 2022 and future years, we would be changing the name of this adjustment to refer to it as the productivity adjustment rather than the MFP adjustment.

Based on IGI's first quarter 2025 forecast, the proposed productivity adjustment for CY 2026 (the 10-year moving average growth of TFP for the period ending CY 2026) was 0.8 percentage point. Furthermore, we proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the productivity adjustment), we would use such data, if appropriate, to determine the CY 2026 productivity adjustment in the final rule. Accordingly, based on IGI's third quarter 2025 forecast, the CY 2026 final productivity adjustment is 0.8 percentage point.

(3) CY 2026 ESRDB Market Basket Update

In accordance with section 1881(b)(14)(F)(i) of the Act, we proposed to base the CY 2026 ESRDB market basket percentage increase on IGI's first quarter 2025 forecast of the 2020-based ESRDB market basket. We proposed to then reduce the ESRDB market basket percentage increase by the proposed productivity adjustment for CY 2026 based on IGI's first quarter 2025 forecast. Therefore, the proposed CY 2026 ESRDB market basket update was equal to 1.9 percent (proposed 2.7 percent ESRDB market basket percentage increase reduced by a proposed 0.8 percentage point productivity adjustment). Furthermore, as noted previously, we proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the market basket percentage increase or productivity adjustment), we would use such data, if appropriate, to determine the CY 2026 ESRD market basket percentage increase and productivity adjustment in the final rule. Accordingly, the final CY 2026 ESRDB market basket update is calculated using the final CY 2026 ESRDB market basket percentage increase, based on IGI's third quarter 2025 forecast of the 2020-based ESRDB market basket, and the final productivity adjustment, based on IGI's third quarter 2025 forecast. Therefore, the final CY 2026 ESRDB market basket update is equal to 2.1 percent (2.9 percent ESRDB market basket percentage increase reduced by a 0.8 percentage point productivity adjustment).

(4) ESRD Labor-Related Share (LRS)

We define the LRS as those expenses that are labor-intensive and vary with, or are influenced by, the local labor market. The LRS of a market basket is determined by identifying the national average proportion of operating costs that are related to, influenced by, or vary with the local labor market. For the CY 2026 ESRD PPS payment update, we proposed to continue using a LRS of 55.2 percent, which was finalized in the CY 2023 ESRD PPS final rule (87 FR 67153 through 67154).

(5) Public Comments on the ESRDB Market Basket Percentage Increase, Productivity Adjustment, Annual Update and Labor-Related Share (LRS)

We invited public comment on our proposals related to the ESRDB market basket update and LRS. Several unique commenters including large dialysis organizations (LDOs); small dialysis organizations (SDOs), patient advocacy organizations; nonprofit dialysis associations; two coalitions of dialysis organizations; professional organizations; and MedPAC commented on the proposed update. The following is a summary of the public comments received on these proposals and our responses.

Comment: Several commenters acknowledged the proposed ESRDB market basket update of 1.9 percent; however, most expressed that this update is insufficient to address the current inflationary environment and workforce shortages. A few commenters pointed to their own experience or broader trends in labor costs as an indication that the update is insufficient. Some commenters underscored the importance of accurate payments to providers, ensuring ESRD facilities can hire and retain essential clinical staff, thus mitigating high rates of staff turnover to higher-paying settings. They noted this has direct negative effects on patient experience. Additionally, commenters raised concerns about the impact of this proposal on independent and hospital-based dialysis providers. Several commenters noted that labor, supply, and capital expenses continue to rise, resulting in negative Medicare margins

[3] Total Factor Productivity in Major Industries—2020. Available at *https://www.bls.gov/news.release/prod5.nr0.htm.*

for 2022 and 2023, measured by MedPAC at −1.1 percent and −0.2 percent, respectively.

MedPAC, on the other hand, indicated in its March 2025 report to Congress that for 2026 ESRD PPS payments should be updated according to the amount determined under current law. This recommendation was based on MedPAC's analysis of payment adequacy indicators.

Response: We believe that the CY 2026 ESRDB market basket update accurately estimates the expected input price pressures that ESRD facilities will likely face in 2026.

We acknowledge that labor costs are a significant factor for ESRD facilities' finances (accounting for 46 percent of the 2020-based ESRDB market basket). At the time of the CY 2026 ESRD proposed rule, based on IGI's first quarter 2025 forecast with historical data through the fourth quarter of 2024, the 2020-based ESRDB market basket percentage increase was forecasted to be 2.7 percent for CY 2026. This reflected forecasted compensation price growth of 3.3 percent, which corroborates that labor prices are anticipated to grow at a relatively faster rate than other prices in the ESRDB market basket. As discussed in the CY 2023 ESRD PPS final rule (87 FR 67141), the compensation price measure in the ESRDB market basket reflects the worker skill mix specific to ESRD facilities.

In the CY 2026 ESRD PPS proposed rule, we proposed that if more recent data became available, we would use such data, if appropriate, to derive the final CY 2026 ESRDB market basket update for the final rule. For this final rule, we now have an updated forecast of the price proxies underlying the market basket that incorporates more recent historical data and reflects a revised outlook regarding the U.S. economy and expected price inflation for CY 2026. Based on IGI's third quarter 2025 forecast with historical data through the second quarter of 2025, we are projecting a CY 2026 ESRDB market basket percentage increase of 2.9 percent (reflecting forecasted compensation price growth of 3.4 percent). Therefore, for CY 2026 a final ESRDB market basket update of 2.1 percent (2.9 percent less 0.8 percentage point for the productivity adjustment) will be applicable, compared to the 1.9 percent ESRDB market basket update that was proposed.

Comment: Several commenters, representing numerous industry interests, stated similar comments to those from recent rulemaking cycles indicating concerns that the ESRDB market basket is ''systemically'' flawed because the market basket fails to accurately capture the changes over time in the prices in the goods and services included in renal dialysis services. Several commenters noted that the ESRDB market basket updates are comparatively lower than those for other Medicare providers and suppliers paid under a PPS. The commenters acknowledged that varying cost structures contribute to this outcome; however, they expressed it is important to highlight these differences because all providers draw from the same labor pools. They stated that lower ESRD PPS updates may impact ESRD facilities' ability to attract caregivers in the current competitive labor market. Additionally, a commenter requested CMS clarify past comments about why we believe different facility types face different cost-pressures as the commenter noted many of the costs, such as labor, were drawn from similar pools.

Commenters raised three main areas of concern with the ESRDB market basket methodology. First, they expressed the capital cost share weight is too high compared to other Medicare market baskets. They also mentioned that capital costs would include costs that are labor-related, yet the price proxy used does not consider labor-related costs. A commenter requested clarification on what capital costs would be considered labor-related.

Second, commenters suggested that the capital building price proxy should match that in the Inpatient Prospective Payment System (IPPS) and Skilled Nursing Facility (SNF) market baskets. The ESRD PPS uses the ''PPI—Industry—Lessors of nonresidential buildings'' price proxy, while the IPPS and SNF PPS use the ''BEA—Chained Price Index for Private Fixed Investment in Structures, Nonresidential, Hospitals and Special Care''. Commenters highlighted the faster growth rate of the latter price proxy and noted that this difference in price trend contributes to the lower overall ESRDB market basket updates generally.

Third, commenters noted that the weight for the proxy ''PPI—Final demand—Finished goods less foods and energy'' in the ESRD PPS is higher than in other Medicare market baskets, with a weight of 11.1 percent compared to 1.2 percent in the IPPS and 0.3 percent in the SNF PPS. They suggested redefining the category in the ESRD PPS to potentially reduce the weight and provide a more accurate update factor.

A commenter requested that CMS implement these changes to the ESRD PPS market basket for CY 2026 to better align it with other Medicare payment systems.

Response: We appreciate the commenters' recommendations regarding areas that could benefit from technical enhancements in the design and methodology of the ESRDB market basket cost weights and price proxies. We did not propose to rebase or revise the ESRDB market basket in the CY 2026 ESRD PPS proposed rule. Additionally, we finalized the 2020-based ESRDB market basket in the CY 2023 ESRD PPS final rule (87 FR 67141). During the CY 2023 rulemaking cycle, the 2020 Medicare cost report data was the most recent fully complete cost data available, reflecting the submitted cost data from ESRD facilities. The ESRDB market basket is created according to section 1881(b)(14)(F)(i) of the Act and must reflect the costs associated with providing ESRD care. The 2020-based ESRDB market basket percent change is calculated based on the weighted price change of individual price proxies and their respective cost weights. The cost weights are primarily derived from the freestanding ESRD Medicare cost reports and represent the relative shares of input costs needed to provide medical services to ESRD beneficiaries. Similarly, other Medicare market baskets, such as the 2022-based SNF market basket and the 2023-based IPPS market basket, reflect the relative share of input costs required to provide skilled nursing and hospital care to Medicare beneficiaries based on data reported in their respective provider Medicare cost reports. The price proxies used in the ESRDB market basket are designed to reflect the specific price pressures faced by ESRD facilities, which can vary from those facing other medical care providers. Although many of the individual costs faced by ESRD facilities are similar to certain individual costs faced by other facility types, the different cost-weights and price proxies result in the different market baskets representing the different cost pressures for each facility type. For instance, the rate of increase in the ESRDB market basket compensation category reflects the price increase for occupations employed by ESRD facilities, which may differ from those in nursing care facilities or hospitals. We recognize that ESRD facilities compete for labor against other facility types and we believe that the ESRDB market basket reflects the realities of the types of labor employed by ESRD facilities.

Regarding the first area of concern raised by the commenters about capital costs, the ESRDB market basket capital cost weight represents 13.8 percent of

total costs as calculated using the ESRD Medicare cost report data. We provided comprehensive details on how these weights were derived in the CY 2023 ESRD PPS final rule (87 FR 67145). Consistent with section 1881(b)(14)(F) of the Act, the ESRDB market basket weight reflects the reported costs of ESRD facilities in relation to total ESRD expenses, and thus it is not relevant how the weight in the ESRDB market basket compares to capital cost category weights in other Medicare market baskets. Additionally, the ESRDB market basket capital-related price proxy captures the anticipated price pressures encountered by freestanding ESRD facilities, often leasing business office space, that would include all factors influencing those costs, including labor costs. We note that rent is an example of a capital cost which we consider labor-related, as labor is a component in the price of rent.

In response to the second area of concern about the ESRD price proxy for fixed capital differing from those used in other Medicare market baskets, they are appropriately different because they reflect the unique capital cost acquisition and financing for each provider type. As described in the CY 2023 ESRD PPS final rule (87 FR 67141 through 67154), the ESRDB market basket uses the PPI Industry for Lessors of Nonresidential Buildings (BLS series code #PCU531120531120) to measure the price growth of the Capital-Related Building and Fixtures cost category. This PPI reflects the prices of leases for nonresidential buildings, including professional and office buildings, which we believe is the most technically appropriate price proxy for ESRD fixed capital costs and was finalized in the CY 2015 ESRD PPS proposed rule (79 FR 40223). We will consider alternative price proxies for this and other cost categories during the next rebasing and revising of the ESRDB market basket.

In addressing the third area of concern regarding the ESRDB market basket weight for All Other Goods and Services, as noted in the CY 2023 ESRD PPS final rule (87 FR 67145), the cost weight for All Other Goods and Services was derived by disaggregating the Administrative and General cost weight based on the 2012 Service Annual Survey data, the most recent year of detailed expense data available, which was adjusted to 2020 levels. This data is published by the Census Bureau under North American Industry Classification System (NAICS) Code 621492: Kidney Dialysis Centers. We believe this method is appropriate because it reflects data specific to ESRD facilities, and detailed BEA Benchmark Input-Output data is not available at the six-digit detail level corresponding to NAICS 621492, Kidney Dialysis Centers.

We reiterate, as we have in previous regulatory cycles, that CMS is interested in hearing from commenters and discussing any data or analysis the industry may wish to provide regarding ways to ensure Medicare payments are appropriate and that market basket price proxies and weights are accurate. We welcome any publicly available and representative input cost data that reflects total and category-specific costs for the ESRD industry, or suggestions for revisions to the ESRD cost report that would provide specific detail for any substantial category of expenses that are not separately reported, which commenters can provide through rulemaking or by sending an email to *dnhs@cms.hhs.gov.* We will consider these suggestions for the next rebasing and revising of the ESRDB market basket, noting that any proposal to rebase the ESRDB market basket would occur through notice and comment rulemaking.

Comment: Several commenters expressed their opinion that the LRS of 55.2 percent is insufficient. A commenter highlighted that staffing costs for one of their members constitute approximately 70 percent of operating expenses. The commenters also pointed out that the ESRD LRS is lower compared to other CMS PPS's, such as the LRS for the SNF and Inpatient hospital PPS. Another commenter expressed support for the ESRD LRS of 55.2 percent but noted that, since this figure is based on cost share weights from 2020, it is outdated and should be updated more frequently than merely coinciding with each rebasing to reflect changes in labor-related costs or price pressures between market basket rebasing years. Several commenters expressed a belief that increasing the labor related share would increase the annual market basket increase.

Response: The objective of the LRS is to represent the proportion of the national ESRD PPS base payment rate that is modified by the wage index. CMS adjusts this portion of the base rate to account for geographic variances in area wage levels, utilizing an appropriate wage index which mirrors the relative wage levels and wage-related costs in the geographic location of the ESRD facility.

We define the LRS as those expenses that are labor intensive and vary with, or are influenced by, the local labor market. In the CY 2023 ESRD PPS final rule (87 FR 67153 through 67154) we detailed the use of the 2020-based ESRDB market basket cost weights to determine the LRS for ESRD facilities. Specifically, effective for CY 2023, a LRS of 55.2 percent was based on the sum of the cost weights for: Wages and Salaries, Employee Benefits, Housekeeping, Operations & Maintenance, 87 percent of the weight for Professional Fees, and 46 percent of the weight for Capital-related Building and Fixtures expenses. Nearly all of the cost weights used to determine the LRS were derived from the ESRD Medicare cost reports (CMS Form 265–11, OMB NO. 0938–0236). The LRS used for the ESRD payment system is appropriately different than those estimated for SNF and IPPS PPS because it reflects the cost structure specific to ESRD facilities. Thus, we believe the ESRD LRS of 55.2 percent is appropriate and we are finalizing our proposal to continue to use this LRS for CY 2026 ESRD PPS payments. We note that increasing the LRS would not impact the annual ESRDB market basket increase because, the LRS of 55.2 percent is a percentage of labor-related costs for providing ESRD care which is derived based on the sum of cost weights in the ESRDB market basket. Since the LRS is determined based on the cost share weights, it would not change from year to year until the ESRDB market basket is rebased. Additionally, the LRS does not impact the percentage increase in the ESRDB market basket as that is determined solely based on the ESRDB cost share weights and the weighted growth in the price proxies used in the ESRDB market basket. The LRS is a separate concept that does not impact the ESRDB market basket percentage increase. We will consider the commenters' suggestions related to the LRS, when we next rebase and revise the ESRDB market basket, and any such proposed changes will be made through notice and comment rulemaking.

Comment: One LDO commented that the proposed productivity adjustment of 0.8 percent was significantly larger than in prior years and opined that it exceeded any actual productivity gains experienced by ESRD facilities.

Response: Section 1881(b)(14)(F)(i)(II) of the Act requires the Secretary to reduce the ESRDB market basket increase factor by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act, which specifies that the productivity adjustment is equal to the 10-year moving average of changes in annual economy-wide private nonfarm business multi-factor productivity (as projected by the Secretary). While we acknowledge that the CY 2026 proposed and final productivity adjustment are greater than recent years, they are

derived from the same methodology as required by the statute, as previously stated. We note that this statutory requirement does not specify that the productivity adjustment reflects the productivity gains experienced by ESRD facilities and is instead based on economy-wide private nonfarm data.

Comment: A commenter noted that across inflation adjusted FFS expenditures, ESRD PPS expenditures have consistently accounted for between 5 and 7.5 percent of total Medicare spending over the past decade and noted that this represented stability for the Medicare Trust Fund. The commenter highlighted that this stability has persisted even as CMS implemented new payment policies such as the TDAPA and TPNIES.

Response: We appreciate the commenters' perspective on the payment stability of the ESRD PPS and agree that the program has been generally stable while providing payment for high quality care for ESRD beneficiaries.

Comment: A few comments addressed the timing of the data upon which the ESRDB market basket and ESRDB market basket update were based. A commenter requested CMS reevaluate the ESRDB market basket methodology and use more recent data. Another commenter expressed a belief that the market basket increase was based on 2020 data and requested CMS use more recent data.

Response: We generally routinely rebase and revise the ESRDB market basket to a base year every 4 to 5 years. We believe that this is reasonable as the cost report data generally does not change much from year-to-year. We note that the 2020 cost report data is used to determine the cost-weights for the 2020-based ESRDB market basket; however the CY 2026 ESRDB market basket percentage increase is based on the expected growth in prices for 2026. The cost weights derived from 2020 ESRD Medicare cost report data are multiplied by the forecasted price growth of each price proxy in the ESRDB market basket to determine the overall ESRDB market basket percentage increase for CY 2026.

Comment: Many commenters report that the ESRDB market basket updates have been under-forecast for four consecutive years from 2021 through 2024. Commenters overwhelmingly requested that CMS utilize its authority to make adjustments to the ESRD PPS and implement a forecast error adjustment policy for the ESRD PPS. While recognizing that updates to the ESRDB market basket are set prospectively, making some degree of forecast error inevitable, commenters asserted that ESRD facilities should not be financially disadvantaged due to Medicare market basket forecasting errors. Many urged CMS to reconsider its decision not to adopt a forecast error policy, arguing that such an adjustment is essential to ensure the funding Congress intended for ESRD facilities.

Furthermore, commenters stated that the forecast errors in the ESRD PPS are disproportionately worse than those in other Medicare payment systems and continued to urge CMS to address what they view as the past underfunding of the payment system. They recommended CMS implement a one-time retrospective adjustment to the base rate in the amount of the current cumulative forecast error, with some suggesting this adjustment cover the entire period since the inception of the ESRD PPS, while others proposed a timeframe from 2019 or 2020 through 2024. Additionally, most commenters stated that they support the implementation of a future forecast error correction policy that would be triggered when the positive or negative error exceeds a 0.5 percentage point threshold, similar to the forecast error adjustment threshold for the SNF PPS.

Some commenters opined on the statutory authority CMS has to establish such an adjustment for the ESRD PPS, and others opined that CMS should implement such an adjustment in this final rule rather than wait for a future year. A few commenters noted that when establishing the forecast error adjustment under the SNF PPS, CMS stated that such an adjustment would not be considered a new source of funding for the payment system. Some commenters opined that such an adjustment would create more predictable payments, in contrast to past CMS statements about predictability under a forecast error adjustment. One LDO characterized forecast errors as being paramount to a rate cut as they impact all future years. One professional association stated that a forecast error adjustment was necessary given consolidation of providers of renal dialysis services.

Response: We acknowledge commenters' opinions about the accuracy of the ESRDB market basket forecasts and their requests for a policy to increase payments based on recent forecast errors.

The ESRDB market basket updates are set prospectively for a future calendar year, which requires that forecasted data be used for part of the period. For example, the CY 2026 market basket update in this final rule incorporates historical data through the second quarter of CY 2025 and forecasted data from the third quarter of CY 2025 through the fourth quarter of CY 2026. Although there is no precedent for adjusting the ESRD payment update to account for market basket forecast error, such an error can be determined by comparing the actual market basket increase for a given year with the forecasted market basket increase. Due to the unpredictability of future price trends, forecast errors can be either positive or negative, as has been observed since the implementation of the ESRD PPS in CY 2011. Historically, these forecast errors have generally been small, with the largest error (in absolute terms) before 2021 being an over-forecast of 0.8 percentage point in 2017. For 2021 through 2024, the ESRDB market basket percentage increase has been under-forecast, and the errors have been larger, mainly due to uncertainties in the overall economy, and specifically in the health sector, resulting from the Public Health Emergency (PHE) for COVID–19 and the unexpectedly rapid acceleration of inflation. The cumulative forecast error since the inception of the ESRD PPS (calendar year 2012 to 2024) is 5.3 percent. The cumulative forecast is calculated as the product of the annual forecast errors and excludes the year 2015, as section 217(b) of PAMA required the CY 2015 ESRD PPS payment update to be 0.0 percent.

Historically, there have been both over and under -forecasts for the ESRDB market basket. However, we acknowledge that recent forecast errors have been larger than prior errors and have been consecutively under-forecast. We did not propose a forecast error policy for CY 2026, and we are not finalizing such a policy in this final rule. We are monitoring the performance of the ESRDB market basket and may propose a policy to address forecast errors in potential future rulemaking, if appropriate. When considering whether such a policy is appropriate, we intend to evaluate all of the information the commenters provided, including the provider consolidation mentioned by the commenter insofar as consolidation could have impacts on access or quality of care.

Comment: A commenter questioned why CMS stated that the cumulative forecast error for the ESRD PPS was at 4.3 percent in the CY 2025 ESRD PPS final rule (89 FR 89096). The commenter provided data from 2019 through 2025 which indicated that the forecast error for the ESRD PPS was ''nearly 8 percent.'' The commented expressed confusion as to the discrepancy between the figure CMS stated in our rule and

the figure they generated from publicly available data.

Response: The CY 2025 ESRD PPS final rule (89 FR 89096) stated that the cumulative forecast error from 2012 through 2023 (the latest historical CY data at the time of rulemaking) was 4.3 percent. We note that the 7.7 percent figure that the commenter provided is generated from data from 2019 through 2025. Historical data is not available for CY 2025. The cumulative forecast error since the inception of the ESRD PPS (calendar year 2012 to 2024) is 5.3 percent which is appropriately calculated as the cumulative product of the forecasted market basket increase (1 plus the percentage increase) divided by the cumulative product of the actual market basket increase (1 plus the percentage increase) less 1.

Comment: Other commenters criticized the methodology of forecasting the ESRDB market basket and requested greater transparency regarding the IGI's methodology. A commenter stated that transparency would better help commenters engage in notice and comment rulemaking. A commenter expressed the belief that, given the accuracy of recent forecasts, it was likely that forecast errors would continue in future years. One LDO opined that the methodology was unable to accurately predict price inflation above 2 percent.

Response: We understand and appreciate calls for greater transparency with the ESRDB market basket forecasts, however, we note that the market basket forecast methodology utilized by IGI is proprietary and we cannot share detailed information. We do not agree with the prediction that forecast errors are likely in future years. In each given year, the ESRDB market basket increase is the most appropriate estimation of the change in prices of the ESRDB market basket based on the latest available data. As we have stated in past rules, the forecast errors during the COVID–19 PHE were nontypical and our preliminary analysis of CY 2025 data indicates the forecast was reasonably accurate for that year. We note that our methodology of forecasting has been able to capture inflation above 2 percent in the past, and was reasonably accurate for the CY 2012, 2013 and 2014 forecasts, the lowest of which was 2.9 percent. The forecast methodology was not able to capture some changes of price that resulted from nontypical inflation during the PHE, and we anticipate the forecast will continue to be accurate during times of more typical inflation.

Comment: Some commenters referenced past statements made by CMS which noted that historically forecast errors had been both positive and negative and have balanced out over time. Commenters opined that with continued errors in forecasts this statement is no longer technically accurate. One LDO stated the belief that it would be unlikely for future over-forecasts to offset past under-forecasts. Another LDO noted that in the majority of years, the ESRDB market basket forecast has been lower than the actual ESRDB market basket update. Additionally, this LDO stated that their preliminary data indicated that 2025 would be the 5th year in a row that the ESRDB market basket increase was under -forecasted.

Response: As of 2020 the cumulative ESRDB market basket forecast errors was negative, indicating forecasted ESRDB market basket increases were greater than actual ESRDB market basket increases. While the forecast errors during the PHE were notably positive, we do not have any reason to believe that this trend will continue. Although the commenter is accurate in noting that most of the ESRDB market basket forecast errors during the life course of the ESRD PPS have been positive, prior to CY 2021 the negative forecast errors did largely offset the positive forecast errors and were generally small (lower than 0.5 percentage point for any given year).

Comment: A professional association further expressed support for a forecast error adjustment by stating that, in contrast to past CMS statements on the matter, although the circumstances of the forecast error differ between the ESRD PPS today and SNF in 2003, the impact on providers is presenting the same.

Response: We recognize that the impact of lower payments on health care providers is generally the same, but we believe the source of the forecast error is important to consider. As we stated earlier in this CY 2026 ESRD PPS final rule and previously noted in the CY 2025 ESRD PPS final rule, the forecast errors in recent years were largely a function of uncertainty in the overall economy and the health sector specifically due to the nature of the COVID–19 PHE and the unforeseen inflationary environment (89 FR 89096). Since these factors tend to apply broadly across payment systems, and since the ESRD PPS has historically been reasonably accurate, we believe the circumstances are notably different from SNF PPS in 2003. While that forecast adjustment was appropriate as SNF was impacted differently from other PPSs, the same is not true for the ESRD PPS presently.

Comment: An LDO noted that the ESRD PPS has a greater cumulative ESRDB market basket forecast error than other Medicare PPSs, despite all Medicare PPSs experiencing similar forecast errors across the PHE.

Response: We recognize that is an accurate statement, however we note that, as discussed previously, we do not make policy determinations for the ESRD PPS based on other payment systems market baskets, performance or forecast accuracy. We intend to continue to monitor the ESRDB market basket forecast and payment rates and would propose changes, if appropriate, through notice and comment rulemaking.

Comment: One LDO opined that CMS has a statutory obligation to annually establish payment rates that reflect increases in dialysis providers' cost of care, and that this obligation has not been met in recent years.

Response: We disagree with the assertion that we have not met our statutory requirement in establishing the annual ESRDB market basket increases. We note that section 1881(b)(14)(F)(i)(I) of the Act requires the update reflect changes over time in the prices of an appropriate mix of goods and services included in renal dialysis services, not the change in costs for ESRD facilities. CMS adjusts the ESRD PPS payment amounts annually by applying the percentage increase in the ESRDB market basket reduced by the productivity adjustment as described in section 1886(b)(3)(B)(xi)(II) of the Act. Updating ESRD PPS payment rates based on changes in costs would involve estimating the change in quantity as well as price, which is not the statutory requirement of the ESRD market basket update. Setting rates prospectively is an intrinsic requirement of a prospective payment system and our established ESRDB market basket update methodology is consistent with the statutory requirement in section 1881(b)(14)(F)(i)(I) of the Act.

Final Rule Action: We did not propose and are not finalizing any changes to the ESRDB market basket methodology for CY 2026. Thus, the final ESRDB market basket update for CY 2026 is 2.1 percent, representing an ESRDB market basket percentage increase of 2.9 percent reduced by a 0.8 percentage point productivity adjustment. Additionally, we did not propose any changes to the LRS and are finalizing the continued use of a LRS of 55.2 percent for CY 2026.

2. CY 2026 ESRD PPS Wage Indices

a. Background

Section 1881(b)(14)(D)(iv)(II) of the Act provides that the ESRD PPS may include a geographic wage index payment adjustment, such as the index referred to in section 1881(b)(12)(D) of the Act, as the Secretary determines to be appropriate. In the CY 2011 ESRD PPS final rule (75 FR 49200), we finalized an adjustment for wages at § 413.231. Specifically, we established a policy to adjust the labor-related portion of the ESRD PPS base rate to account for geographic differences in the area wage levels using an appropriate wage index, which reflects the relative level of hospital wages and wage-related costs in the geographic area in which the ESRD facility is located. As discussed in detail later in this section, we later implemented an ESRD PPS specific wage index methodology in the CY 2025 ESRD PPS final rule (89 FR 89108 through 89117). Under current policy, we use OMB's CBSA-based geographic area designations to define urban and rural areas and their corresponding wage index values (75 FR 49117). OMB publishes bulletins regarding CBSA changes, including changes to CBSA numbers and titles. We most recently updated the CBSA delineations in the CY 2025 ESRD PPS final rule (89 FR 89117) to the OMB delineations as described in OMB Bulletin No. 23–01, beginning with the CY 2025 ESRD PPS wage index.[4]

Under § 413.231(d), a wage index floor value of 0.6000 is applied under the ESRD PPS as a substitute wage index for areas with very low wage index values, as finalized in the CY 2023 ESRD PPS final rule (87 FR 67161). Currently, all areas with wage index values that fall below the floor are located in Puerto Rico and the U.S. Virgin Islands. However, the wage index floor value is applicable for any area that may fall below the floor. A further description of the history of the wage index floor under the ESRD PPS can be found in the CY 2019 ESRD PPS final rule (83 FR 56964 through 56967) and the CY 2023 ESRD PPS final rule (87 FR 67161).

An ESRD facility's wage index is applied to the LRS of the ESRD PPS base rate. In the CY 2023 ESRD PPS final rule (87 FR 67153), we finalized the use of a LRS of 55.2 percent. In the CY 2021 ESRD PPS final rule (85 FR 71436), we finalized a temporary policy which applied a 5 percent cap on any decrease in an ESRD facility's wage index from the ESRD facility's wage index from the prior CY. We finalized that the transition would be phased in over 2 years, such that the reduction in an ESRD facility's wage index would be capped at 5 percent in CY 2021, and no cap would be applied to the reduction in the wage index for the second year, CY 2022. In the CY 2023 ESRD PPS final rule (87 FR 67161), we finalized a permanent policy under § 413.231(c) to apply a 5 percent cap on any decrease in an ESRD facility's wage index from the ESRD facility's wage index from the prior CY. For CY 2026, as discussed in section II.B.1.b.(4). of the proposed rule, we proposed that the LRS to which the wage index would be applied is 55.2 percent.

In the CY 2011 ESRD PPS final rule (75 FR 49116) and the CY 2011 final rule on Payment Policies Under the Physician Fee Schedule (PFS) and Other Revisions to Part B (75 FR 73486) we established an ESRD PPS wage index methodology to use the most recent pre-floor, pre-reclassified hospital wage data collected annually under the hospital inpatient prospective payment system (IPPS). The ESRD PPS wage index values have historically been calculated without regard to geographic reclassifications authorized for acute care hospitals under sections 1886(d)(8) and (d)(10) of the Act and utilized pre-floor hospital data that are unadjusted for occupational mix. In the CY 2025 ESRD PPS final rule (89 FR 89116) we finalized a new ESRD PPS wage index methodology which uses mean hourly wage data from the Bureau of Labor Statistics (BLS) Occupational Employment Wages & Statistics (OEWS). This wage data is then weighted by a national ESRD facility occupational mix (NEFOM) which is derived from full time equivalent (FTE) data from freestanding ESRD facility cost report data. Treatment data from ESRD facility cost reports is also used to weigh the mean hourly wage data when aggregating the wage data at a CBSA level. As set forth in § 413.196(d)(2), we update the ESRD PPS wage index using the most current wage data for occupations related to the furnishing of renal dialysis services from BLS and occupational mix data from the most recent full CY of Medicare cost reports submitted in accordance with § 413.198(b).

For a detailed explanation of the current ESRD PPS wage index methodology, see the discussion in the CY 2025 ESRD PPS final rule (89 FR 89108 through 89117), and for a detailed explanation of the steps we use to calculate the ESRD PPS wage index according to this methodology see Addendum C of the CY 2025 ESRD PPS proposed rule available at *https://www.cms.gov/medicare/payment/prospective-payment-systems/end-stage-renal-disease-esrd/esrd-payment-regulations-and-notices/cms-1805-p.*

b. National ESRD Facility Occupational Mix

Table 2 presents the national ESRD facility occupational mix (NEFOM) alongside the BLS occupation titles and codes for the occupations related to the furnishing of renal dialysis services. We noted in the CY 2026 ESRD PPS proposed rule that we were presenting the NEFOM to aid interested parties in their reconstruction of the proposed ESRD PPS wage index, but the actual ESRD PPS wage index uses the total FTEs for each occupation as described in the calculation in Addendum C of the CY 2025 ESRD PPS proposed rule rather than the rounded percentages presented in Table 2. The data in Table 2 is based on data from CY 2023 freestanding ESRD facility cost reports. We note that there are minor differences between the final CY 2026 NEFOM and the NEFOM presented in the CY 2025 ESRD PPS final rule (89 FR 89101).

TABLE 2—CROSSWALK OF BLS OCCUPATION CODES TO ESRD FACILITY COST REPORTS OCCUPATION CLASSIFICATIONS AND THE CY 2026 ESRD PPS FINAL RULE NEFOM

ESRD PPS colloquial name	BLS occupation title	Occupation code	ESRD freestanding facilities FTE percentage *
Registered Nurses (RN)	Registered Nurses	29–1141	29.5

[4] *https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf.*

TABLE 2—CROSSWALK OF BLS OCCUPATION CODES TO ESRD FACILITY COST REPORTS OCCUPATION CLASSIFICATIONS AND THE CY 2026 ESRD PPS FINAL RULE NEFOM—Continued

ESRD PPS colloquial name	BLS occupation title	Occupation code	ESRD freestanding facilities FTE percentage *
Licensed Practical Nurses (LPN)	Licensed Practical and Licensed Vocational Nurses	29–2061	3.6
Nurse Aides	Nursing Assistants	31–1131	3.2
Technicians	Health Technologists and Technicians, All Other	29–2099	37.7
Social Workers	Healthcare Social Workers	21–1022	4.8
Dietitians	Dietitians and Nutritionists	29–1031	4.6
Administrative Staff	Medical Secretaries and Administrative Assistants	43–6013	11.2
Management	Medical and Health Services Managers	11–9111	5.4

* Totals may not sum to 100.0 percent due to rounding.

c. Missing May 2024 BLS OEWS Data for Colorado

BLS reported data quality concerns for the May 2024 BLS OEWS estimates for Colorado and did not include any areas of Colorado in this release.[5] Per § 413.196(d)(2) we use the most current BLS wage data for the occupations related to the furnishing of renal dialysis services for our ESRD PPS wage index. In the CY 2025 ESRD PPS final rule, we discussed a methodology for imputing missing data using regression based on the most similar occupation to the occupation for which there was missing data (89 FR 89100). We stated that we believe that this methodology is generally most appropriate as it uses current OEWS data to impute the missing estimates; however, that methodology would not be as useful in this situation since the mean hourly wage estimates for all occupations are missing for all 7 CBSAs and one rural area in Colorado. In this instance we did not believe there was sufficient May 2024 OEWS data from which to impute the missing values. To address this missing data, we proposed to instead use the May 2023 BLS OEWS mean hourly wage estimates for the occupations in question and adjust them to be comparable with 2024 wage values by multiplying the wage estimates by an adjustment factor based on the average change in national BLS OEWS wages for each occupation in the NEFOM. The adjustment factors we proposed to apply in our proposed CY 2026 ESRD PPS wage index were the percent change of national average wage for the occupation in question for 2024 compared to the national average wage for that occupation for 2023 from the May 2024 and May 2023 OEWS, respectively. We explained that this adjustment is necessary since the wage index is relative and if wages are higher in 2024 relative to 2023, using the unadjusted 2023 values might result in an inappropriately low wage index value for Colorado. Alternatively, we noted that we could freeze the CY 2023 wage index values for Colorado, which would accomplish a similar purpose, but we believed that our proposed methodology is most consistent with the language at § 413.196(d)(2) as we were using the most current mean hourly wage data from the BLS OEWS for Colorado, which is from the May 2023 OEWS. We stated that should BLS release the May 2024 OEWS estimates for Colorado before the publication of the ESRD PPS final rule, we proposed to use those estimates instead of the adjusted May 2023 OEWS estimates for the final CY 2026 ESRD PPS wage index. We requested comments on this proposed methodology to address the missing Colorado OEWS data. On July 23, 2025, BLS published the OEWS mean hourly wage data for Colorado for the May 2024 release of the OEWS and, consistent with our proposal, we are using the published BLS data for Colorado for May 2024 for the CY 2026 ESRD PPS wage index.

d. CY 2026 ESRD PPS Wage Index

For CY 2026, we proposed to update the wage indices to account for updated wage levels in areas in which ESRD facilities are located using the ESRD PPS wage index methodology established in the CY 2025 ESRD PPS final rule (89 FR 89098 through 89107) and specified in § 413.196(d)(2). We proposed to use the most recent available BLS OEWS mean hourly wage data for various occupations related to the furnishing of renal dialysis services weighted by FTE data from CY 2023 freestanding ESRD facility cost reports. The ESRD PPS wage index values are calculated without regard to geographic reclassifications authorized under sections 1886(d)(8) and (d)(10) of the Act. For CY 2026, the updated wage data used in the analysis for this final rule are from the April 2025 release of the BLS OEWS, which represents data from six semiannual surveys spanning November 2021 through May 2024.

For CY 2026, we proposed updating the ESRD PPS wage index to use the most recent available BLS OEWS wage data. We proposed that if more recent data became available after the analysis performed for the publication of the proposed rule and before the publication of this final rule (for example, an update to the May 2024 BLS OEWS mean hourly wage data or more complete CY 2023 cost report data), we would use such data, if appropriate, to determine the CY 2026 ESRD PPS wage index in the final rule. For CY 2026, the updated wage data used in the analysis for this final rule are from the April 2025 release of the BLS OEWS, which represents data from six semiannual surveys spanning November 2021 through May 2024.[7]

We received approximately 14 public comments on these proposals including from LDOs, coalitions of kidney organizations, non-profit dialysis organizations, ESRD facilities, a non-profit healthcare organization, and a health insurance organization in Puerto Rico. Multiple commenters discussed the impact of the wage index on payment rates. We interpret these comments to be generally referring to the impact of the wage index on a facility or subset of facilities, as the wage index is implemented budget neutrally and does not have an impact on overall payments under the ESRD

[5] All wage data for Colorado is missing in the 2024 OEWS release due to concerns related to the quality of the data. According to BLS, this concern was not with the OEWS survey results, but rather with employment data from the Quarterly Census of Employment and Wages (QCEW). OEWS uses QCEW employment data to adjust estimates to represent all employment that is in scope for the OEWS survey. For more information, see *https://www.bls.gov/oes/notices/2024/colorado-data.htm.*

[7] *https://www.bls.gov/news.release/pdf/ocwage.pdf.*

PPS. The following is a summary of the comments we received and our responses.

Comment: A national kidney non-profit and an LDO expressed support for the current ESRD PPS wage index and stated the belief that it was more appropriate for ESRD facilities than the IPPS wage index which was in use prior to 2025. Several other ESRD facilities, including an LDO, expressed opposition to the methodology and stated that the legacy ESRD PPS wage index was more appropriate

Response: We thank the commenters for expressing their opinion on the current wage index methodology as we continue to evaluate its performance. We agree with the commenters that the current ESRD PPS wage index is the most appropriate wage index for ESRD facilities as it represents cost of labor specific to ESRD facilities, however we acknowledge that some commenters believe the legacy methodology was more appropriate.

Comment: Several commenters stated that 72 percent of wage index areas experienced a decrease in wage index values and asserted that this indicates there is significant variance in the new wage index methodology. Some commenters also noted that the proposed wage index budget neutrality factor for CY 2026 resulted in a nearly 0.9 percent increase to the ESRD PPS base rate and further interpreted that as evidence that the wage index methodology produced lower wage index values. The commenter requested that CMS work with interested parties outside of the rulemaking process to improve the methodology for future years.

Response: We do not believe that our methodology results in significant variance. We believe that the referenced figure of 72 percent of wage index areas is referring to counties presented in the wage index crosswalk in addendum A of the CY 2026 ESRD PPS proposed rule. We are unsure why the commenters chose to analyze the percentage of counties which receive a lower wage index value, even though the wage index is calculated and applied at the CBSA level, but we note that each CBSA contains multiple counties, which means that a decrease in any CBSA's wage index would be replicated across all of its constituent counties. ESRD facilities are not uniformly distributed across counties, and therefore analysis at the county level could overstate or understate the impact of changes in the wage index values for certain CBSAs. In section VII.C of this CY 2026 ESRD PPS final rule, we present a detailed impact analysis based on data from 7,608 ESRD facilities.[8] When analyzed at the facility level, we estimate that 12.6 percent of these ESRD facilities will experience a wage index value change (positive or negative) of less than 0.5 percentage point from CY 2025 to CY 2026, 20.2 percent of these ESRD facilities will experience a wage index increase of 0.5 percentage point or more, and 67.2 percent will experience a wage index decrease of between 0.5 percentage point and 5 percent, which is our threshold for applying the cap on wage index decreases. When evaluated at the facility level, we note that the number of ESRD facilities whose wage index is decreasing is slightly lower than the county-level figure the commenters cited.

Additionally, we note that some of the wage index decreases that we observe for CY 2026 can be attributed to wage index changes that were finalized in CY 2025, but whose impact was mitigated by the 5-percent cap on wage index decreases. As discussed in the CY 2026 ESRD PPS proposed rule (90 FR 29352), the higher-than-average wage index budget neutrality factor proposed for CY 2026 is, in large part, due to the way the ESRD PPS applies the 5 percent cap on wage index decreases and the transition from the legacy wage index methodology to the current ESRD PPS wage index methodology beginning for CY 2025. Specifically, when we implemented the current ESRD PPS wage index methodology, a large number of ESRD facilities experienced a significant change in wage index value, which was expected given that the current methodology is based on different data from the legacy methodology. As we cap the year-over-year reductions in wage index value at 5 percent, but we do not similarly cap the year-over-year increases in wage index values, any large shift in wage index values in a given year will result in a higher-than-typical average ESRD PPS wage index value as the ESRD facilities which would receive a significantly lower wage index value instead receive a higher capped value. Thus, the CY 2025 ESRD PPS wage index had a higher-than-typical average value, which resulted in a lower-than-typical budget neutrality factor for CY 2025. For CY 2026, many ESRD facilities which received a capped value in 2025 are now set to receive a lower value. Thus, the average wage index value for CY 2026 is lower than that of CY 2025, which results in a budget neutrality factor greater than 1, which increases the ESRD PPS base rate. It would not be appropriate to consider relative CY 2026 decreases resulting from the application of the cap in CY 2025, the transition year in which the current wage index methodology was first implemented, as evidence of variability for CY 2026 as the decreases were predominantly due to CY 2025 policies.

We welcome any additional information or suggestions on how best to improve our methodology and ensure ESRD PPS wage index values are appropriately stable and reflective of the labor costs in a given geographic area. We have analyzed the potential factors which have resulted in the changes presented in the CY 2026 wage index and intend to continue to monitor the performance of the methodology. We would propose changes, if warranted, in potential future rulemaking.

Comment: Several commenters requested additional information and transparency on the ESRD PPS wage index methodology.

Response: We are willing to provide additional information on our methodology but are uncertain what exactly commenters are requesting. We note that when we proposed and finalized the ESRD PPS wage index methodology we provided a substantial amount of methodological information in the CY 2025 ESRD PPS proposed rule (89 FR 55760), the CY 2025 ESRD PPS final rule (89 FR 89084), and in Addendum C of the CY 2025 ESRD PPS proposed rule.[9]

Comment: One coalition of dialysis organizations requested CMS publish imputed data points for mean hourly wage data for which BLS did not publish OEWS estimates.

Response: We thank the commenters for this suggestion. We have included a table in Addendum A of this CY 2026 ESRD PPS final rule that includes the mean hourly wage data for all counties and job codes, along with an indicator of whether the wage value is imputed or not.

Comment: Several commenters raised methodological concerns with the ESRD PPS wage index methodology. One professional association noted that BLS data was not stratified by facility type and therefore was not specific to ESRD facilities. One LDO and a coalition of dialysis organizations requested CMS explain why contract labor and overtime-and-benefits were not

[8] Information on the CY 2025 and CY 2026 ESRD facility wage indexes used in this analysis are found in Addendum B of this CY 2026 ESRD PPS final rule.

[9] *https://www.cms.gov/files/document/addendum-c-cms-1805-p-esrd-pps-proposed-wage-index-construction-methodology.pdf.*

included in the methodology. The LDO further noted that overtime and benefits may be impacted by state law and the labor-related share includes overtime and benefits. The LDO also raised concerns regarding the possibility that contract labor could be misattributed to another CBSA, the interaction between existing facility-level payment adjustments and the wage index, and CMS's decision to implement the new methodology budget neutrally for CY 2025.

Response: We recognize the limitations of the data source upon which the ESRD PPS wage index methodology is built. We discussed these limitations in the CY 2025 ESRD PPS proposed rule (89 FR 55769) and, in the CY 2025 ESRD PPS final rule (89 FR 89099, 89116), concluded that, even with these limitations, the methodology represents a significant improvement over the IPPS wage index for use in ESRD facilities. We wish to reiterate that the purpose of the wage index is to estimate the geographic variation in wages, and we believe that this wage index methodology does that appropriately. The issues that the commenters raised regarding contract labor, overtime and benefits would only have a real impact on the resulting wage index should the yearly change in the growth of those wage costs vary significantly from the yearly change in the growth of the mean hourly wage. The commenter raises a valid point about certain laws regarding overtime and benefits, as that could result in geographic variation differing from mean hourly wage, however we do not believe it would be appropriate to base ESRD PPS payment policy directly on state or local legislation. Furthermore, we still believe that the mean hourly wage for ESRD facility-specific occupations would be a better proxy for ESRD facility-specific occupation benefits and overtime, insofar as geographic variation, than the acute hospital wage index. We welcome commenters' suggestions on alternative proxies for mean hourly wage for this labor, and methodological changes that could account for variation in overtime and benefits to be considered in potential future rulemaking.

In the CY 2025 ESRD PPS rulemaking, we did not propose changes to the LVPA or rural adjustment factors as a result of the new ESRD PPS wage index, as we generally do not recalculate established factors when we implement a new policy. For example, when we propose a budget neutral payment adjustment, we do not update the adjustment factor annually according to changes in utilization, nor do we apply a budget neutrality factor to the ESRD PPS base rate in subsequent years.[10] Similarly, we do not believe we are required to reevaluate adjustment factors when we update the ESRD PPS wage index. However, we acknowledge the commenter's point and will continue to evaluate the interaction between the LVPA and the ESRD PPS wage index and propose any potential changes, if appropriate, in future rulemaking. Lastly, we note that we annually apply changes to the wage index in a budget neutral manner and do not believe it would have been appropriate to deviate from this long-established policy for the new ESRD PPS wage index methodology.

Comment: A national forum of ESRD networks commented that if hospital cost reports were not used to calculate the wage index budget neutrality factor, then it would not appropriately reconcile the increased expenses faced by those facilities.

Response: Hospital-based ESRD facilities were included in the impact calculation presented in section VII.C.5. and Appendix B of this final rule. The wage index budget neutrality factor was derived from this analysis, and therefore includes hospital-based ESRD facilities. We believe the commenter may be under the incorrect impression that hospital-based ESRD facilities were excluded from the wage-index budget neutrality analysis. Although hospital-based ESRD facilities are not included in the cost report data for the NEFOM, we note that they are included in the impact analysis for the wage-index budget neutrality factor. The NEFOM is essentially the weights for the mean hourly wage data used when calculating the wage index, and including only freestanding ESRD facilities in the calculation of the NEFOM does not meaningfully disadvantage hospital-based facilities as in any methodology all ESRD facilities' wage index values would be based on a single NEFOM.

Comment: Several commenters specifically discussed the impact of the ESRD PPS wage index methodology on ESRD facilities in certain urban areas, most notably New York. A commenter noted that New York CBSAs experienced a significant decrease in wage index value in the CY 2025 ESRD PPS rule when the current wage index methodology was first implemented and highlighted the fact that many CBSAs in New York were set to see a lower wage index value for CY 2026 based on the proposed wage index.

Response: We appreciate the commenters' concerns regarding the projected decreases in wage index values for certain geographic areas in New York. We acknowledge that several CBSAs in New York are projected to receive lower wage index values for CY 2026; however, the majority of these decreases are relatively modest, with only one CBSA projected to experience a decrease greater than 5 percent. While we recognize that even modest decreases in the wage index may result in meaningful changes in payment amounts, we emphasize that, with the application of the wage index budget neutrality adjustment factor, many geographic areas are expected to experience increases in labor-related payments relative to uncapped CY 2025 wage index values.

We also reiterate that changes to the wage index should not be evaluated in isolation. Because the wage index is a relative measure, decreases in a particular area generally reflect that wages in that area are increasing at a slower rate than the national average, rather than an absolute decline in wage levels.

Comment: A coalition of dialysis organizations opined that the 5 percent cap was not sufficient to mitigate swings in wage index value resulting from the ESRD PPS wage index methodology.

Response: As discussed previously, we do not believe that the ESRD PPS wage index methodology results in unreasonable variance, however some variance is unavoidable. We believe that the 5 percent cap on year over year decreases in wage index value, as codified at § 413.231(c), sufficiently protects ESRD facilities from large, unexpected decreases in wage index value. We are open to suggestions for consideration of alternative policies to ensure the wage index is reasonably predictable while continuing to appropriately reflect relative geographic variation in wages.

Comment: A commenter expressed support for the current 0.6000 wage index floor. The commenter requested CMS perform further analysis on the wage index floor and expressed a belief that such analysis would support an increase to the wage index floor. The commenter specifically suggested that a wage index floor of 0.7000 would be appropriate. This commenter specifically highlighted Puerto Rico and enumerated certain labor costs which they stated contributed to the cost of care in Puerto Rico.

[10] In CY 2011 CMS established the ESRD PPS case-mix adjusters, which were set through regression and budget-neutrality calibration (75 FR 49083). We have not annually updated these factors with each wage index or utilization change. CMS has only revisited them when making a discrete policy proposal such as we did in the CY 2016 ESRD PPS rule (80 FR 68973).

Response: We thank the commenter for the continued support of the wage index floor. We did not propose to change the wage index floor for CY 2026 and are not finalizing any changes in this final rule. We will continue to monitor the appropriateness of the current wage index floor, including the interaction with any labor costs specific to Puerto Rico, and will consider any further changes through notice-and-comment rulemaking in future years.

Comment: We received a few comments in response to our proposal to use adjusted BLS OEWS May 2023 estimates for Colorado should OEWS estimates for the state not be published by the time the final rule was developed. Commenters supported this methodology, however some raised concerns about the situation and what CMS would do if similar issues arose in the future.

Response: Colorado estimates for the May 2024 BLS OEWS were released on July 23, 2025.[11] We acknowledge the concerns of the commenters, but this was a state-specific issue and BLS corrected it expediently. In the future, should there be a regular occurrence of this issue, we would consider potentially addressing it through rulemaking, if necessary.

Comment: A commenter requested CMS publish the uncapped wage index values for CY 2026.

Response: The uncapped wage index values for the proposed and final CY 2026 ESRD PPS wage index are available in Addenda A of the proposed and final rules, respectively. We do not include the uncapped values for ESRD facilities in the facility level impact analysis of Addendum B as we believe that could cause confusion because the uncapped values do not apply for certain ESRD facilities. We note that one can identify the uncapped wage index value for an ESRD facility by looking up the value in Addendum A for the CBSA in which the ESRD facility is located.

Comment: A commenter stated that pediatric hospital-based ESRD facilities faced different wages than other ESRD facilities and indicated that the IPPS wage index would be more appropriate for these ESRD facilities. The commenter requested CMS either implement a blended wage index for pediatric hospital-based facilities or implement an exception process where an ESRD facility could apply to receive the IPPS wage index.

Response: We acknowledge that pediatric hospital-based ESRD facilities likely have different costs, as demonstrated by the analysis which resulted in the Transitional Pediatric ESRD Add-on Payment Adjustment (TPEAPA), a 30 percent increase in the per-treatment payment amount for Pediatric ESRD Patients codified at § 413.235(b)(2). However, higher labor costs do not necessarily mean that an alternative wage index methodology would be appropriate. We believe the TPEAPA appropriately accounts for the differences in wage values faced by pediatric hospital-based ESRD facilities and note that the purpose of the ESRD PPS wage index is to estimate geographic variation in wages faced by ESRD facilities. We continue to believe that the ESRD PPS specific wage index is more appropriate for this purpose for pediatric and hospital-based ESRD facilities as we believe the types of labor utilized by these facilities are likely more similar to other ESRD facilities than acute inpatient hospitals. However, we will take this suggestion into consideration and make any potential changes to the ESRD PPS wage index methodology, if appropriate, in future rulemaking.

Comments: A commenter stated the belief that the ESRD PPS wage index did not reflect true labor costs. The commenter discussed an ESRD facility that had increased labor costs and a decreasing wage index value. Another commenter noted the increase in the costs of nursing labor.

Response: The ESRD PPS wage index is intended to reflect the relative wage costs faced by ESRD facilities. It is not intended to capture overall trends in labor costs. We would expect some ESRD facilities to experience increasing labor costs and decreasing wage index values, as this would likely indicate the ESRD facility is in a geographical location where wages are increasing at a lower rate than the national average.

Final rule action: After consideration of public comments, we are finalizing the use of the CY 2026 ESRD PPS wage index according to our established methodology based on the May 2024 BLS OEWS mean wage data and CY 2023 cost report data. Additionally, we are finalizing the use of the May 2024 BLS OEWS estimates for Colorado, which were not available at the time of proposed rulemaking but were released in July 2025. The final CY 2026 ESRD PPS wage index is set forth in Addendum A and provides a crosswalk between the CY 2025 wage index and the CY 2026 wage index. Addendum B provides an ESRD facility level impact analysis. Both Addendum A and Addendum B are available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/End-Stage-Renal-Disease-ESRD-Payment-Regulations-and-Notices.*

3. CY 2026 Update to the Outlier Policy

a. Background

Section 1881(b)(14)(D)(ii) of the Act requires that the ESRD PPS include a payment adjustment for high-cost outliers due to unusual variations in the type or amount of medically necessary care, including variability in the amount of erythropoiesis stimulating agents (ESAs) necessary for anemia management. Some examples of the patient conditions that may be reflective of higher facility costs when furnishing dialysis care are frailty and obesity. A patient's specific medical condition, such as secondary hyperparathyroidism, may result in higher per treatment costs. The ESRD PPS recognizes that some patients require high-cost care, and we have codified the outlier policy and our methodology for calculating outlier payments at § 413.237.

Section 413.237(a)(1) enumerates the following items and services that are eligible for outlier payments as ESRD outlier services:

- Renal dialysis drugs and biological products that were or would have been, prior to January 1, 2011, separately billable under Medicare Part B.
- Renal dialysis laboratory tests that were or would have been, prior to January 1, 2011, separately billable under Medicare Part B.
- Renal dialysis medical/surgical supplies, including syringes, used to administer renal dialysis drugs and biological products that were or would have been, prior to January 1, 2011, separately billable under Medicare Part B.
- Renal dialysis drugs and biological products that were or would have been, prior to January 1, 2011, covered under Medicare Part D, including renal dialysis oral-only drugs effective January 1, 2025.
- Renal dialysis equipment and supplies, except for capital-related assets that are home dialysis machines (as defined in § 413.236(a)(2)), that receive the transitional add-on payment adjustment as specified in § 413.236 after the payment period has ended.[12]
- Renal dialysis drugs and biological products that are Composite Rate Services as defined in § 413.171.

In the CY 2011 ESRD PPS final rule (75 FR 49142), CMS stated that for purposes of determining whether an

[11] *https://www.bls.gov/oes/notices/2025/colorado-may-2024-oews-estimates.htm.*

[12] Under § 413.237(a)(1)(vi), as of January 1, 2012, the laboratory tests that comprise the Automated Multi-Channel Chemistry panel are excluded from the definition of outlier services.

ESRD facility would be eligible for an outlier payment, it would be necessary for the ESRD facility to identify the actual ESRD outlier services furnished to the patient by line item (that is, date of service) on the monthly claim. Renal dialysis drugs, laboratory tests, and medical/surgical supplies that are recognized as ESRD outlier services were specified in Transmittal 2134, dated January 14, 2011.[13] We use administrative issuances and guidance to continually update the renal dialysis service items available for outlier payment via our quarterly update CMS Change Requests (CRs), when applicable. For example, we use these issuances to identify renal dialysis oral drugs that were or would have been covered under Part D prior to 2011 to provide unit prices for determining the imputed MAP amounts. In addition, we use these issuances to update the list of ESRD outlier services by adding or removing items and services that we determined, based on our monitoring efforts, are either incorrectly included or missing from the list.

Under § 413.237, an ESRD facility is eligible for an outlier payment if its imputed (that is, calculated) MAP amount per treatment for ESRD outlier services exceeds a threshold. In past years, the MAP amount has reflected the average estimated expenditure per treatment for services that were or would have been considered separately billable services prior to January 1, 2011. The threshold is equal to the ESRD facility's predicted MAP per treatment plus the fixed dollar loss (FDL) amount. As described in the following paragraphs, the ESRD facility's predicted MAP amount is the national adjusted average ESRD outlier services MAP amount per treatment, further adjusted for case-mix and facility characteristics applicable to the claim. We use the term ''national adjusted average'' in this section of this final rule to more clearly distinguish the calculation of the average ESRD outlier services MAP amount per treatment from the calculation of the predicted MAP amount for a claim. The average ESRD outlier services MAP amount per treatment is based on utilization from all ESRD facilities, whereas the calculation of the predicted MAP amount for a claim is based on the individual ESRD facility and patient characteristics of the monthly claim. In accordance with § 413.237(c), ESRD facilities are paid 80 percent of the per treatment amount by which the imputed MAP amount for outlier services (that is, the actual incurred amount) exceeds this threshold. ESRD facilities are eligible to receive outlier payments for treating both adult and pediatric dialysis patients.

In the CY 2011 ESRD PPS final rule and codified in § 413.220(b)(4), using 2007 data, we established the outlier percentage—which is used to reduce the per treatment ESRD PPS base rate to account for the proportion of the estimated total Medicare payments under the ESRD PPS that are outlier payments—at 1.0 percent of total payments (75 FR 49142 through 49143). We also established the FDL amounts that are added to the predicted outlier services MAP amounts. The outlier services MAP amounts and FDL amounts are different for adult and pediatric patients due to differences in the utilization of separately billable services among adult and pediatric patients (75 FR 49140). As we explained in the CY 2011 ESRD PPS final rule (75 FR 49138 through 49139), the predicted outlier services MAP amounts for a patient are determined by multiplying the adjusted average outlier services MAP amount by the product of the patient-specific case-mix adjusters applicable using the outlier services payment multipliers developed from the regression analysis used to compute the payment adjustments.

In the CY 2023 ESRD PPS final rule, we finalized an update to the outlier methodology to better target 1.0 percent of total Medicare payments (87 FR 67170 through 67177). We explained that for several years, outlier payments had consistently landed below the target of 1.0 percent of total ESRD PPS payments (87 FR 67169). Commenters raised concerns that the methodology we used to calculate the outlier payment adjustment since CY 2011 results in underpayment to ESRD facilities, as the base rate has been reduced by 1.0 percent since the establishment of the ESRD PPS to balance the outlier payment (85 FR 71409, 71438 through 71439; 84 FR 60705 through 60706; 83 FR 56969). In response to these concerns, beginning with CY 2023, we began calculating the adult FDL amounts based on the historical trend in FDL amounts that would have achieved the 1.0 percent outlier target in the 3 most recent available data years. We stated in the CY 2023 ESRD PPS final rule that we would continue to calculate the adult and pediatric MAP amounts for CY 2023 and subsequent years following our established methodology. In that same CY 2023 ESRD PPS final rule, we provided a detailed discussion of the methodology we use to calculate the MAP amounts and FDL amounts (87 FR 67167 through 67169).

Lastly, in the CY 2025 ESRD PPS final rule we finalized several methodological and policy changes to the ESRD PPS outlier policy to address concerns that interested parties have raised in recent years. First, we finalized an expansion of the definition of ESRD outlier services in § 413.237(a)(1) to include drugs and biological products that are Composite Rate Services as defined in § 413.171 (89 FR 89126). Second, we finalized a policy to include the case-mix adjusted post-TDAPA add-on payment adjustment amount in the calculation of the predicted MAP amounts when applicable (89 FR 89127). Lastly, we finalized changes to the inflation factors for outlier eligible drugs and biological products, laboratory tests, and supplies. For ESRD outlier drugs and biological products, we use the projected inflation factor for ESRD outlier services that are drugs and biological products derived from the historical trend in average sales price (ASP) prices and utilization for ESRD outlier drugs (89 FR 89127 through 89130). For ESRD outlier laboratory tests and supplies, we use the growth in the producer price index (PPI) Industry for Medical and Diagnostic Laboratories and the PPI Commodity for Surgical and Medical Instruments, respectively (89 FR 89129 through 89130).

b. CY 2026 Update to the Outlier Services MAP Amounts and FDL Amounts

For CY 2026, we proposed to update the MAP amounts for adult and pediatric patients using the latest available CY 2024 claims data. We proposed to update the ESRD outlier services FDL amount for pediatric patients using the latest available CY 2024 claims data, and to update the ESRD outlier services FDL amount for adult patients using the latest available claims data from CY 2022, CY 2023, and CY 2024, in accordance with the methodology finalized in the CY 2023 ESRD PPS final rule (87 FR 67170 through 67174) and including the changes finalized in the CY 2025 ESRD PPS final rule (89 FR 89108 through 89130). In the proposed rule, we stated that the latest available CY 2024 claims data showed that outlier payments represented approximately 0.8 percent of total Medicare payments. We proposed to update these values with

[13] Transmittal 2033 issued August 20, 2010, was rescinded and replaced by Transmittal 2094, dated November 17, 2010. Transmittal 2094 identified additional drugs and laboratory tests that may also be eligible for ESRD PPS outlier payment. Transmittal 2094 was rescinded and replaced by Transmittal 2134, dated January 14, 2011, which included one technical correction. *https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R2134CP.pdf.*

the latest available data, if appropriate, in the final rule.

The following is a summary of the comments we received on this proposal and our responses.

Comment: Several commenters expressed support for the proposed reductions to the FDL and MAP amounts to better target outlier payments at 1.0 percent of total ESRD PPS payments. Some commenters expressed concern about the fact that CY 2024 outlier payments represented less than 1.0 percent of total ESRD PPS payments and urged CMS to continue to monitor this policy.

Response: We appreciate these comments, and we agree with the importance of continued monitoring of the outlier policy. We intend to continue to evaluate the performance of the outlier policy, including the policy and technical changes that were finalized for CY 2025, and may consider additional changes to the outlier policy through future notice and comment rulemaking.

Comment: Several commenters urged CMS to change certain aspects of the ESRD PPS outlier policy. Some commenters stated that a lower target percentage, for example 0.5 percent of total payments, would be more appropriate. These commenters stated that section 1881(b)(14)(D)(ii) of the Act does not require the ESRD PPS outlier percentage to be 1.0 percent. Several commenters also stated that CMS should not include TDAPA and TPNIES payments when calculating total ESRD PPS payments, of which outlier payments are targeted at 1.0 percent.

Response: We appreciate these comments, but we do not agree that either of the suggested revisions to the outlier methodology would be more appropriate than the current outlier policy. As we have previously stated, while we agree that section 1881(b)(14)(D)(ii) of the Act provides the Secretary with discretion to set an appropriate outlier percentage under the ESRD PPS, we continue to believe the 1.0 percent target is more appropriate than a lower outlier percentage. As discussed in the CY 2011 ESRD PPS final rule (75 FR 49134), we established the 1.0 percent outlier percentage because it struck an appropriate balance between our objective of paying an adequate amount for the costliest, most resource-intensive patients while providing an appropriate level of payment for those patients who do not qualify for outlier payments. We continue to believe the 1.0 percent target strikes the appropriate balance, and as we further noted in the CY 2023 ESRD PPS final rule (87 FR 67171), a reduced outlier percentage may not provide the appropriate level of payment for outlier cases and may not protect access for beneficiaries whose care is unusually costly. This is because if we were to decrease the target outlier percentage, we would need to significantly increase the FDL amounts, which would make it more difficult for ESRD facilities to receive outlier payment based on their claims. We did not propose to reduce the outlier percentage for CY 2026, and we are not finalizing any such reduction in this rule.

Likewise, we do not agree with the suggestion to exclude TDAPA and TPNIES payments from total ESRD PPS payments for the purposes of setting the FDL and MAP amounts for CY 2026. We believe that commenters incorrectly assume that excluding TDAPA and TPNIES payments from this calculation would result in an increase to non-outlier payments (that is, total ESRD PPS payments other than those made as part of the outlier adjustment under the ESRD PPS). To the contrary, this change to our calculations would only reduce the total amount of outlier payments, which would be 1.0 percent of a lower total ESRD PPS payment figure, without increasing other (non-outlier) payments under the ESRD PPS, since the base rate would continue to be reduced by 1.0 percent. This change would require us to increase the FDL amounts, which would make it more difficult for ESRD facilities to receive outlier payment based on their claims.

Comment: Several commenters expressed that the proposed updates to the FDL and MAP amounts would not address what commenters stated is an underlying lack of payment adequacy for new drugs that are renal dialysis services. Several commenters advocated for funding mechanisms that would appropriately safeguard patient access to new drugs and biological products after the 2-year TDAPA period expires.

Response: We appreciate the commenters' concerns regarding payment for new renal dialysis drugs and biological products under the ESRD PPS. As the commenters pointed out, and as we have previously stated, the purpose of the ESRD PPS outlier adjustment is not to pay for new drugs and biological products. Rather, the purpose of the ESRD PPS outlier adjustment is to protect access to care for beneficiaries whose care is exceptionally costly. In the CY 2025 ESRD PPS final rule (89 FR 89142), we stated that including new renal dialysis drugs that previously received payment using the TDAPA would help ensure appropriate payment when a patient's treatment is exceptionally expensive due to an ESRD facility furnishing such drugs or biological products to the patient whose treatment requires them.

We note that the post-TDAPA add-on payment adjustment, as discussed in section II.B.6 of this final rule, provides additional payment for certain new renal dialysis drugs and biological products after the end of the 2-year TDAPA period. In the CY 2024 ESRD PPS final rule we stated that one goal of the post-TDAPA add-on payment adjustment is to support continued access to new renal dialysis drugs and biological products and to support ESRD facilities' long-term planning and budgeting for such drugs after the TDAPA period (88 FR 76393). Therefore, we believe that for drugs that are in existing ESRD PPS functional categories, ESRD PPS policy provides appropriate and adequate payment in the short term during the 2-year TDAPA period, in the medium term during the 3 years of payment under the post-TDAPA add-on payment adjustment following the payment of TDAPA, and during the long term when such new renal dialysis drugs and biological products are paid for under the ESRD PPS base rate with no adjustment and are expected to compete with other drugs and biological products in the ESRD PPS. Lastly, we note that ESRD PPS payments are updated annually based on the ESRDB market basket update, to reflect the changes over time of the cost of renal dialysis services and to help ensure that ESRD PPS payments are adequate. The composition of the ESRDB market basket depends on ESRD facilities' spending for drugs and biological products, as well as all other inputs ESRD facilities use in providing renal dialysis services. As we noted in the CY 2024 ESRD PPS final rule (88 FR 76391), CMS generally uses Medicare cost report data that lags by approximately 3 to 4 years prior to the rulemaking year to consider changes to market basket cost categories, cost weights, and price proxies. CMS would be able to analyze Medicare cost report data for CY 2023 and CY 2024 to consider changes to the ESRDB market basket for CY 2027 rulemaking, if appropriate.

Comment: A few commenters stated that by paying only 0.8 percent of total ESRD PPS payments in CY 2024, the ESRD PPS underpaid ESRD facilities by approximately $0.63 per treatment, which the commenters pointed out is greater than the proposed budget neutrality reduction for the proposed NAPA. One of these commenters suggested that the underpayment of

outliers in CY 2026 should be used to pay for the proposed NAPA in CY 2026.

Response: We appreciate the concerns raised by commenters regarding the fact that outlier payments were only 0.8 percent of total ESRD PPS payments in CY 2024, below our 1.0 percent target. We do not agree with the commenter's assertion that that this perceived shortfall could be used to budget-neutralize the proposed NAPA. We do not apply any budget neutrality factor to the ESRD PPS to account for over- or under-payment of outliers each year, relative to the 1.0 percent target established in CY 2011. Rather, we re-calculate the FDL and MAP amounts annually, and we set these values prospectively at a level that we project will be 1.0 percent of total ESRD PPS payments.

As we discuss later in this CY 2026 ESRD PPS final rule, we are finalizing the NAPA as proposed. Although there is no mechanism to apply the methodology that the commenter suggested, we are clarifying in this final rule that the NAPA will be applied to the predicted MAP amounts for facilities located in Alaska, Hawaii, and the US Pacific Territories, in accordance with our longstanding policy of applying patient- and facility-level adjustment factors to the predicted MAP amounts. We note that in the CY 2011 ESRD PPS final rule (75 FR 49085) we established that the calculation of the predicted MAP included the existing facility-level adjustment factors, which were the LVPA and the rural adjustment factor. We note that this has the effect of slightly reducing the outlier thresholds for most ESRD facilities nationwide, which we project will result in slightly higher outlier payments for most facilities in CY 2026.

Comment: A commenter noted that the proposed outlier thresholds were estimated to pay out 1.87 percent of total ESRD PPS payments for CY 2026. The commenter attributed this to the outlier policy's assumptions on utilization being based on 2024 data and interpreted this projected payment as evidence that utilization of outlier eligible services is decreasing over time more than projected for 2024. Another commenter noted the estimated 1.87 percent payments in the proposed rule regulatory impact analysis and raised concerns that given the expansion of the ESRD outlier services list in the CY 2025 ESRD PPS final rule, trends in outlier utilization might be more difficult to predict. Both commenters urged CMS to carefully monitor the performance of the outlier methodology.

Response: We appreciate the comment and acknowledge that our proposed impact results showed that estimated outlier payments would be 1.87 percent of total ESRD PPS payments for CY 2026. The commenter accurately identified that this is an artifact of the payment simulation methodology which creates an apparent discrepancy. We want to further clarify that this apparent discrepancy is due to our methodology, which we finalized in the CY 2023 ESRD PPS final rule (87 FR 67170 through 67177), in which we calculate the adult FDL amount based on a straight-line projection of the FDL amounts which would have achieved the 1 percent target in the most recent 3 years for which we have data. We continue to believe that this methodology of utilizing the trend of retrospectively calculated FDL amounts will allow CMS to more accurately achieve the 1 percent target in future years. However, because our impact methodology relies on simulated CY 2025 and CY 2026 payments using the same set of claims from CY 2024, our estimate of outlier payments for CY 2025 and CY 2026 is based on CY 2024 utilization levels for ESRD outlier services. The commenter accurately notes that because our simulated CY 2026 payments assume that utilization will be the same for 2026 as it was for 2024, it does not capture other historical trends in utilization the same way that our retrospective methodology for projecting the FDL amount does. Accordingly, although our simulated CY 2026 ESRD PPS payments reflect outlier payments that are approximately 1.9 percent of total ESRD PPS payment, we anticipate that the actual utilization of ESRD outlier services in CY 2026 will be such that the final FDL and MAP amounts will result in outlier payments that equal approximately 1.0 percent of total ESRD PPS payments. We agree with the commenters that it is important to monitor the performance of the outlier methodology and will continue to do so and may propose changes to the methodology, if appropriate, in potential future rulemaking.

Final Rule Action: After consideration of public comments, we are finalizing our proposal to update the FDL and MAP amounts for CY 2026 based on the latest available data. The impact of this final update is shown in Table 3, which compares the outlier services MAP amounts and FDL amounts used for the outlier policy in CY 2025 with the updated estimates for this final rule for CY 2026. The estimates for the final CY 2026 MAP amounts, as shown in column II of Table 3, were inflation-adjusted to reflect projected 2026 prices for ESRD outlier services.

TABLE 3—OUTLIER POLICY: IMPACT OF UPDATED DATA FOR THE OUTLIER POLICY

	Column I Final outlier policy for CY 2025 (based on 2023 data, price inflated to 2025) *		Column II Final outlier policy for CY 2026 (based on 2024 data, price inflated to 2026) **	
	Age < 18	Age >= 18	Age < 18	Age >= 18
Average outlier services MAP amount per treatment	$58.30	$32.40	$50.64	$24.83
Adjustments:				
Standardization for outlier services	1.0432	0.9768	1.0113	0.9731
MIPPA reduction	0.98	0.98	0.98	0.98
Adjusted average outlier services MAP amount	59.60	31.02	50.19	23.68
Fixed-dollar loss amount that is added to the predicted MAP to determine the outlier threshold	234.26	45.41	162.43	14.80
Patient-month-facilities qualifying for outlier payment	6.09%	7.05%	7.58%	14.10%

* Column I was obtained from column II of Table 7 from the CY 2025 ESRD PPS final rule (89 FR 89130).
** The FDL amount for adults incorporates retrospective adult FDL amounts calculated using data from CYs 2022, 2023, and 2024.

As demonstrated in Table 3, the final FDL amount per treatment amount that determines the CY 2026 outlier threshold amount for adults (column II; $14.80) is lower than that used for the CY 2025 outlier policy (column I;

$45.41). The lower threshold amount is accompanied by a decrease in the adjusted average MAP amount for outlier services from $31.02 to $23.68. For pediatric patients, there is a decrease in the FDL amount from $234.26 to $162.43. There is a corresponding decrease in the adjusted average MAP amount for outlier services among pediatric patients, from $59.60 to $50.19. We note that the decrease in the projected MAP and FDL amounts for both adult and pediatric patients is due, in part, to the application of the ESRD PPS drug inflation factor following the methodology finalized in the CY 2025 ESRD PPS final rule (89 FR 89127 through 89130), which resulted in a lower inflation factor than would typically occur under the prior methodology. However, as discussed in that rule, we believe this methodology is more appropriate for the ESRD PPS as it more accurately captures trends in the prices and utilization of ESRD PPS outlier services drugs and biological products.

We estimate that the percentage of patient months qualifying for outlier payments in CY 2026 would be 14.10 percent for adult patients and 7.58 percent for pediatric patients, based on the 2024 claims data.

c. Outlier Percentage

In the CY 2011 ESRD PPS final rule (75 FR 49081) and under § 413.220(b)(4), we reduced the per treatment base rate by 1.0 percent to account for the proportion of the estimated total payments under the ESRD PPS that are outlier payments as described in § 413.237. In the 2023 ESRD PPS final rule, we finalized a change to the outlier methodology to better achieve this 1.0 percent target (87 FR 67170 through 67174). Based on the CY 2024 claims available for this final rule, outlier payments represented approximately 0.8 percent of total payments, which is slightly below the 1.0 percent target.

4. Impacts to the CY 2026 ESRD PPS Base Rate

a. ESRD PPS Base Rate

In the CY 2011 ESRD PPS final rule (75 FR 49071 through 49083), CMS established the methodology for calculating the ESRD PPS per-treatment base rate, that is, the ESRD PPS base rate, and calculating the per-treatment payment amount, which are codified at §§ 413.220 and 413.230. The CY 2011 ESRD PPS final rule also provides a detailed discussion of the methodology used to calculate the ESRD PPS base rate and the computation of factors used to adjust the ESRD PPS base rate for projected outlier payments and budget neutrality in accordance with sections 1881(b)(14)(D)(ii) and 1881(b)(14)(A)(ii) of the Act, respectively. Specifically, the ESRD PPS base rate was developed from CY 2007 claims (that is, the lowest per patient utilization year as required by section 1881(b)(14)(A)(ii) of the Act), updated to CY 2011, and represented the average per treatment MAP for composite rate and separately billable services. In accordance with section 1881(b)(14)(D) of the Act and our regulation at § 413.230, the per-treatment payment amount is the sum of the ESRD PPS base rate, adjusted for the patient specific case-mix adjustments, applicable facility adjustments, geographic differences in area wage levels using an area wage index, and any applicable outlier payment, training adjustment add-on, the TDAPA, the TPNIES, the post-TDAPA add-on payment adjustment, and the TPEAPA for CYs 2024, 2025 and 2026.

b. Annual Payment Rate Update for CY 2026

We proposed an ESRD PPS base rate for CY 2026 of $281.06, which we stated was approximately a 1.9 percent increase from the CY 2025 ESRD PPS base rate of $273.82. As outlined in section II.B.1.b. of the proposed rule, we proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the market basket percentage increase or productivity adjustment), we would use such data, if appropriate, to determine the CY 2026 ESRDB market basket update in the final rule.

We invited public comment on our proposed CY 2026 ESRD PPS base rate. The following is a summary of the comments we received and our responses.

Comment: We received numerous comments which discussed payment rates under the ESRD PPS. Commenters generally opined that the payment rate was lower than appropriate due to various reasons. The reasons specific to the annual ESRDB market basket increase are discussed in section II.B.1.b.(5) of this final rule. Commenters that focused on the overall payment rate often indicated a belief that it was inadequate based on MedPAC margins, as reported in MedPAC's March 2025 Report to Congress.[14] Commenters highlighted that this report found that projected CY 2025 Medicare margins for ESRD facilities were 0 and that margins were negative in 2023. A few LDOs stated the belief that MedPAC's margins were overstated because MedPAC did not consider the statutorily required $0.50 ESRD network reduction. One coalition of dialysis providers raised concerns with the use of Medicare marginal profit rather than overall Medicare margins, which CMS has referenced in the past. One LDO noted that many other facility types have positive Medicare margins. A commenter stated that the current payment rate was below the cost of providing renal dialysis services. MedPAC commented that payment rates were adequate based on the analysis in its March 2025 Report to Congress.

Response: We agree with MedPAC that payment rates under the ESRD PPS are adequate. While we view Medicare margins as an important tool in evaluating payment adequacy, we believe other metrics including overall facility margins and marginal profit are also useful tools. We note that the marginal profit analysis by MedPAC indicates that the payment rate is greater than the marginal cost of care, although we appreciate the commenter's concern with the use of marginal profit and will consider it when evaluating MedPAC reports in the future. We note that we do not set payment rates based on Medicare margins or marginal profit but rather based on the statutorily required methodology of basing CY 2011 payments on payments that would have been made in 2011, under the prior payment system, using the lowest per patient utilization from 2007, 2008 or 2009 and then annually increasing that rate by an ESRDB market basket percentage increase reduced by a productivity adjustment as set forth in section 1881(b)(14)(A) and 1881(b)(14)(F) of the Act.

Comment: Several commenters stated various impacts of what they view as lower-than-appropriate payment rates. Two impacts were noted most frequently. First, several ESRD facilities reported difficulty recruiting skilled labor and high turnover, resulting in subsequent quality concerns. Second, several interested parties raised access concerns related to ESRD facility closures. A professional association highlighted nurse burnout and noted several potential areas of improvement that ESRD facilities could implement to reduce turnover at ESRD facilities.

Response: We appreciate these insights into the impact of the ESRD PPS payment rate on ESRD facilities. As we have stated, we believe the payment rate as prescribed by statute is

[14] *https://www.medpac.gov/document/march-2025-report-to-the-congress-medicare-payment-policy/.*

sufficient, however we will continue to monitor these metrics. We appreciate the commenters' suggestions on how ESRD facilities could strengthen their nursing workforce in ESRD facilities. While CMS recognizes the importance of staff retention and maintaining beneficiaries' access to ESRD facilities, we believe the commenters' suggestions are generally outside the scope of the ESRD PPS or Medicare payment policy.

Comment: Some commenters noted that when ESRD patients are unable to access renal dialysis services in an ESRD facility they are likely to go to an emergency department and receive the care at a greater cost to Medicare. Other commenters noted that inpatient stays are often prolonged if a patient is unable to find an outpatient ESRD facility to go to after discharge.

Response: We appreciate commenters raising these concerns and will continue to monitor ESRD beneficiaries' treatments in other sites of service that are not ESRD facilities. We recommend sending any specific issues regarding access to renal dialysis services, such as instances where a beneficiary is unable to locate an outpatient ESRD facility after discharge, to the ESRD PPS payment mailbox: *ESRDPayment@cms.hhs.gov.*

Comment: Some commenters indicated a specific concern for small and independent ESRD facilities. A few commenters cited a MedPAC report that indicated the smallest ESRD facilities had a –19 percent Medicare margin.

Response: We appreciate the commenters' concern. We note that the LVPA provides additional payment to low -volume ESRD facilities, and we finalized changes to the LVPA policy effective CY 2025 which increased the adjustment factor for low-volume facilities furnishing fewer than 3,000 treatments per year, increasing payments for these ESRD facilities. We intend to continue to monitor costs and margins for ESRD facilities, including low volume ESRD facilities, and propose changes to address any discrepancy between the relative payment rate and resource use, if appropriate, through notice and comment rulemaking.

Comment: A commenter stated that supply shortages were increasing costs, resulting in the ESRD PPS payment rate being inadequate.

Response: We would appreciate receiving additional information on the supply shortages the commenter mentions. Such information can be sent to the ESRD PPS payment mailbox: *ESRDPayment@cms.hhs.gov.*

Comment: One LDO stated that insufficient payment rate hampers operational sustainability and highlighted the disproportionate impact on vulnerable populations. Another LDO stated the belief that payment adequacy was more important than predictability, in reference to a request for a forecast error adjustment.

Response: As discussed previously, we believe payment under the ESRD PPS is adequate and appropriate as required by statute. We recognize the commenters' concerns related to sustainability and predictability and acknowledge that lower-than-appropriate payments could cause issues in both respects. As discussed in past rules, we agree that predictability of ESRD PPS payments is important and setting rates prospectively is intrinsic to a prospective payment system. We will consider the commenters' concerns related to sustainability and predictability and would propose any changes, if appropriate, in potential future rulemaking.

Final Rule Action: After consideration of public comments, we are finalizing a CY 2026 ESRD PPS base rate of $281.71. This amount reflects several factors, described in more detail as follows:

Wage Index Budget Neutrality Adjustment Factor: We compute a wage index budget neutrality adjustment factor that is applied to the ESRD PPS base rate. For CY 2026, we are not finalizing any changes to the methodology used to calculate this factor, which is described in detail in the CY 2014 ESRD PPS final rule (78 FR 72174). We computed the final CY 2026 wage index budget neutrality adjustment factor using treatment counts from the 2024 claims and facility-specific CY 2025 payment rates to estimate the total dollar amount that each ESRD facility would have received in CY 2025. The total of these payments became the target amount of expenditures for all ESRD facilities for CY 2026. Next, we computed the estimated dollar amount that would have been paid for the same ESRD facilities using the final CY 2026 ESRD PPS wage index and final LRS for CY 2026. The total of these payments becomes the new CY 2026 amount of wage-adjusted expenditures for all ESRD facilities. The wage index budget neutrality factor is calculated as the target amount divided by the new CY 2026 amount. When we multiplied the wage index budget neutrality factor by the applicable CY 2026 estimated payments, aggregate Medicare payments to ESRD facilities would remain budget neutral when compared to the target amount of expenditures. That is, the wage index budget neutrality adjustment factor ensures that the wage index updates and revisions do not increase or decrease aggregate Medicare payments. The final CY 2026 wage index budget neutrality adjustment factor is 1.00905. As we are not finalizing any changes to our established ESRD PPS wage index policy, this final CY 2026 wage index budget neutrality adjustment factor reflects the impact of all established wage index policies, including the ESRD PPS wage index methodology based on BLS OEWS and freestanding ESRD facility cost report FTE data, the 5 percent cap on year-to-year decreases in wage index values, the 3-year rural phase-out for ESRD facilities in currently-rural CBSAs that became urban under the new delineations adopted in CY 2025, and the LRS. We discussed in the CY 2025 ESRD PPS final rule (89 FR 89131) that the impact of the application of the 5 percent cap on wage index decreases had a sizable impact on the budget neutrality factor for CY 2025 due to the new wage index methodology implemented in that year. That is, because a substantial number of ESRD facilities would have experienced a greater than 5 percent decrease in their wage index value as a result of the new wage index methodology, the budget neutrality adjustment factor needed to offset the effect of limiting those decreases to 5 percent had a larger magnitude impact on the ESRD PPS base rate than we expect it would be in a typical year. However, for CY 2026 the continued application of our established 5 percent cap policy results in a final wage-index budget neutrality factor above 1, meaning the final ESRD PPS base rate increases as a result of its application. This is because the average wage index value is decreasing as, generally, ESRD facilities that received the 5 percent cap in CY 2025 are set to receive a lower wage index for CY 2026. We note that the final CY 2026 wage index budget neutrality factor does not include any impacts associated with the TPEAPA, as was the case with the 2024's combined wage index-TPEAPA budget neutrality finalized factor for CY 2024. This is consistent with how we have historically applied budget neutrality for case-mix adjusters, including pediatric case-mix adjusters. We do not routinely apply a budget neutrality factor to account for changes in overall payment associated with changes in patient case-mix in years in which we do not propose any changes to the case-mix adjustment amount. Although the TPEAPA was established under the authority in section 1881(b)(14)(D)(iv) of the Act, which does not require budget neutrality, we

stated in the CY 2024 ESRD PPS final rule that we were implementing the TPEAPA in a budget neutral manner because it was similar to the pediatric case-mix adjusters, and it accounts for costs which would have been included in the cost reports used in the analysis conducted when we created the ESRD PPS bundled payment in the CY 2011 ESRD PPS final rule (88 FR 76378). Because the adjustment to maintain budget neutrality associated with the TPEAPA was accounted for in the CY 2024 combined wage index and TPEAPA budget neutrality factor, and we did not propose any changes to the TPEAPA amount, it would not be appropriate to apply a budget neutrality factor for the TPEAPA for CY 2026.

NAPA Budget Neutrality Factor: As outlined in section II.B.8. of this final rule, under the authority granted by section 1881(b)(14)(D)(iv) of the Act, we are finalizing a new facility-level payment adjustment for ESRD facilities in Alaska, Hawaii, and certain U.S. Pacific Territories,[15] which we refer to in this final rule as the non-contiguous areas payment adjustment (NAPA). This payment adjustment will apply to ESRD PPS claims for treatments at ESRD facilities in Alaska, Hawaii, Guam, American Samoa, and the Northern Mariana Islands. This payment adjustment is capped at 25 percent and will be applied to the non-LRS of the ESRD PPS base rate, which is 44.8 percent. We are finalizing that this payment adjustment will be budget neutral and will result in a final NAPA budget neutrality factor of 0.99860.

Market Basket Update: Section 1881(b)(14)(F)(i)(I) of the Act provides that, beginning in 2012, the ESRD PPS payment amounts are required to be annually increased by an ESRD market basket percentage increase. As outlined in section II.B.1.b.(1). of this final rule, the final CY 2026 ESRDB market basked increase based on the third quarter 2025 CY 2026 projection of the ESRDB market basket is 2.9 percent. In CY 2026, this amount must be reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act, as required by section 1881(b)(14)(F)(i)(II) of the Act. As previously discussed in section II.B.1.b.(2). of this final rule, the final CY 2026 productivity adjustment is 0.8 percentage point based on the third quarter 2025 forecast (the 10-year moving average of TFP for the period ending CY 2026), thus yielding a final CY 2026 ESRDB market basket update of 2.1 percent for CY 2026. Therefore, the final CY 2026 ESRD PPS base rate is $281.71 (($273.82 × 1.00905 × 0.99860) × 1.021 = $281.71).

5. Update to the Average per Treatment Offset Amount for Home Dialysis Machines

In the CY 2021 ESRD PPS final rule (85 FR 71427), we expanded eligibility for the TPNIES under § 413.236 to include certain capital-related assets that are home dialysis machines when used in the home for a single patient. To establish the TPNIES basis of payment for these items, we finalized the additional steps that the Medicare Administrative Contractors (MACs) must follow to calculate a pre-adjusted per treatment amount, using the prices they establish under § 413.236(e) for a capital-related asset that is a home dialysis machine, as well as the methodology that CMS uses to calculate the average per treatment offset amount for home dialysis machines that is used in the MACs' calculation, to account for the cost of the home dialysis machine that is already in the ESRD PPS base rate. For purposes of this final rule, we refer to this as the ''TPNIES offset amount.''

The methodology for calculating the TPNIES offset amount is set forth in § 413.236(f)(3). Section 413.236(f)(3)(v) states that effective January 1, 2022, CMS annually updates the amount determined in § 413.236(f)(3)(iv) by the ESRDB market basket update. The TPNIES for capital-related assets that are home dialysis machines is based on 65 percent of the MAC-determined pre-adjusted per treatment amount, reduced by the TPNIES offset amount, and is paid for 2 CYs.

There are currently no capital-related assets that are home dialysis machines set to receive the TPNIES for CY 2026, as the TPNIES payment period for the Tablo® System ended on December 31, 2023, and there are no TPNIES applications for CY 2026. However, as required by § 413.236(f)(3)(v), we proposed to update the TPNIES offset amount annually according to the methodology described previously.

We proposed a CY 2026 TPNIES offset amount for capital-related assets that are home dialysis machines of $10.41, based on the proposed CY 2026 ESRDB market basket update of 1.9 percent (proposed 2.7 percent ESRDB market basket percentage increase reduced by the proposed 0.8 percentage point productivity adjustment). We requested public comments on our proposal to update the TPNIES offset amount for capital-related assets for CY 2026.

The following is a summary of the comments we received on this proposal and our responses.

Comment: A commenter stated the belief that the proposed TPNIES offset amount was too low to compensate for TPNIES supplies.

Response: The TPNIES offset amount is not intended to account for the cost of the renal dialysis equipment or supplies. As we explained in the CY 2021 ESRD PPS final rule (85 FR 71423), we apply the TPNIES offset amount so that ESRD facilities using a new and innovative home dialysis machine would receive a per treatment payment to cover some of the cost of the new machine per treatment minus a per treatment payment amount that we estimate to be included in the ESRD PPS base rate for current home dialysis machines that the facilities already own. We note that the actual TPNIES payment for these machines would be based on invoice pricing and reduced by the TPNIES offset amount. For a full description of the methodology for TPNIES for capital related assets please see the CY 2021 ESRD PPS final rule (85 FR 71427).

Final rule action: After consideration of public comment, we are finalizing our proposal to update the CY 2026 TPNIES offset amount. For the CY 2026 final TPNIES offset amount we are using the final ESRDB market basket update factor in section II.B.1.b.(3). of this final rule. Applying the final ESRDB market basket update factor of 1.021 to the CY 2025 TPNIES offset amount results in the final CY 2026 TPNIES offset amount of $10.43 ($10.22 × 1.021 = $10.43).

6. Post-TDAPA Add-On Payment Adjustment Updates

In the CY 2024 ESRD PPS final rule we finalized an add-on payment adjustment for certain new renal dialysis drugs and biological products, which would be applied for 3 years after the end of the TDAPA period (88 FR 76388 through 76397). This adjustment, known as the post-TDAPA add-on payment adjustment, is adjusted by the patient-level case-mix adjusters and is applied to every ESRD PPS claim. In that final rule we also clarified that for each year of the post-TDAPA period we would update the post-TDAPA add-on payment adjustment amounts based on utilization and ASP of the drug or biological product. The post-TDAPA add-on payment adjustment amounts are calculated based on the methodology codified at § 413.234(g), which is the total drug expenditure divided by the total ESRD PPS treatments multiplied by the case mix standardization for the time period and

[15] See section II.B.8.b of this final rule for a discussion of which U.S. Pacific Territories we considered for this adjustment.

the 0.65 risk sharing factor, and the ESRDB pharmaceutical price proxy for the payment year (88 FR 76396). In the CY 2025 ESRD PPS final rule (89 FR 89136) we finalized our proposal to publish the post-TDAPA add-on payment adjustment amount after the final rule in certain circumstances to ensure that the post-TDAPA add-on payment adjustment amount can be calculated using 12 months of utilization data.

For CY 2025 there is one drug, Korsuva® (difelikefalin), included in the calculation of the post-TDAPA add-on payment adjustment for each of the four calendar quarters and one drug, Jesduvroq®, included in the calculation for only the fourth calendar quarter. In the CY 2025 ESRD PPS final rule (89 FR 89135), we finalized that the post-TDAPA add-on payment adjustment amount for Korsuva® would be $0.4601 for CY 2025; this figure was updated to $0.4684 in transmittal 13245,[16] which was a correction to CR 13865 after a review found a small error in the calculation of this figure. At the time of rulemaking, we did not have sufficient data to finalize a post-TDAPA add-on payment adjustment amount for Jesduvroq® for CY 2025, so, consistent with our policy finalized in the CY 2025 ESRD PPS final rule (89 FR 89136), we published the final post-TDAPA amount for Jesduvroq® in transmittal 13245.[17]

a. CY 2026 Post-TDAPA Add-On Payment Adjustment Amounts

For CY 2026, we will have three drugs which are in the 3-year period following the end of their TDAPA period and are potentially eligible to be included in the calculation of the post-TDAPA add-on payment adjustment. Section 413.234(c)(3) states that should CMS not receive the latest full calendar quarter of ASP data for a drug or biological product during the TDAPA or post-TDAPA period, we will not pay any post-TDAPA add-on payment adjustment for such product in any future year. The third quarter of 2025 reflecting quarter 1, 2025 sales would be the latest quarter of ASP data at the time of rulemaking for the proposed rule. As CMS had not received ASP data for quarter 3, 2025, which reflects sales for quarter 1, 2025 for Jesduvroq®, we did not propose to include Jesduvroq® in the calculation of the post-TDAPA add-on payment adjustment for CY 2026 or any future years. Therefore, due to the continued receipt of the latest full calendar quarter of ASP data for the renal dialysis drugs discussed later in this document, there are two drugs included in the calculation of the post-TDAPA add-on payment adjustment for CY 2026.

The post-TDAPA add-on payment adjustment period for one of these drugs, Korsuva®, began on April 1, 2024, so Korsuva® will be included in the calculation for the post-TDAPA add-on payment adjustment for the entirety of CY 2026. The other drug, DefenCath®, began its TDAPA period on July 1, 2024, so it will be included in the post-TDAPA add-on payment adjustment calculation for quarters 3 and 4 of CY 2026.

In the CY 2026 ESRD PPS proposed rule, we presented the proposed post-TDAPA add-on payment adjustment amounts for Korsuva® based on the most recently available full year of utilization data at this time. We were unable to present an estimate of the post-TDAPA add-on payment adjustment amount for DefenCath® at that time using a full year of utilization data, however we included a proposed post-TDAPA amount based on the first 6 months of DefenCath® utilization. The proposed post-TDAPA add-on payment adjustment amount for Korsuva® was $0.2633 and the proposed post-TDAPA add-on payment adjustment amount for DefenCath® was $1.4780. Consistent with the methodology finalized in the CY 2024 ESRD PPS final rule (88 FR 76388 through 76389), we proposed to update these calculations with the most recent available utilization and pricing data in the final rule. We invited public comments on our proposed CY 2026 post-TDAPA add-on payment adjustment amounts.

We received public comments on this proposal. The following is a summary of the comments we received and our responses.

Comment: Numerous commenters requested we modify our methodology for calculating the post-TDAPA add-on payment adjustment to be based on per-claim utilization and only apply to claims that include the drug or biological product in question and not be time limited. Commenters generally expressed the opinion that such a payment adjustment would better support innovation within the ESRD PPS. A commenter stated the belief that the current post-TDAPA methodology has harmed patients by failing to provide a sustainable pathway for payment for new drugs and biological products and their suggested methodology would better support innovation.

Response: As we discussed in the CY 2024 ESRD PPS final rule (88 FR 76388 through 76396) we do not agree that a methodology based on per-claim utilization would be appropriate for the post-TDAPA add-on payment adjustment, because it would directly incentivize utilization of a particular drug or biological product, which we noted can result in overutilization. While the TDAPA and post-TDAPA add-on payment adjustments share the goal of supporting access to new renal dialysis drugs or biological products used to treat or manage a condition in an ESRD PPS functional category, the TDAPA's short-term objectives are more consistent with a methodology that is based on per-claim utilization. As we discussed in the CY 2019 and CY 2020 ESRD PPS final rules (83 FR 56935; 84 FR 60654), for new renal dialysis drugs and biological products that fall into an existing ESRD PPS functional category, the TDAPA helps ESRD facilities to incorporate the new drugs and biological products and make appropriate changes in their businesses to adopt such products. We also explained that the TDAPA provides additional payments for such associated costs and promotes competition among the products within the ESRD PPS functional categories, while focusing Medicare resources on products that are innovative. The TDAPA for renal dialysis drugs and biological products in existing ESRD PPS functional categories is inherently transitional in nature and therefore not permanent. We later finalized a post-TDAPA add-on payment adjustment beginning in CY 2024 that that provides a glidepath for inclusion of such new renal dialysis drugs and biological products into the ESRD PPS. In the CY 2024 ESRD PPS proposed rule (88 FR 42460), we stated that a 3-year period for the post-TDAPA add-on payment adjustment would be consistent with the transition period that was finalized at the beginning of the ESRD PPS, when ESRD facilities were transitioned from receiving payments under the composite rate payment system to receiving payments under the ESRD PPS (79 FR 49162).

We believe that the current post-TDAPA add-on payment adjustment methodology provides the most appropriate incentives for ESRD facilities to be efficient with resources, while providing an appropriate level of payment that supports access to new renal dialysis drugs and biological products. We recognize that the policy would not permanently maintain increased payments for new renal dialysis drugs and biological products

[16] CMS Transmittal 13245, dated May 29, 2025, is available at *https://www.cms.gov/files/document/r13245bp.pdf.*

[17] CMS Transmittal 13245, dated May 29, 2025, is available at *https://www.cms.gov/files/document/r13245bp.pdf.*

that receive the TDAPA, and we do not believe that such a permanent increase in payments would be appropriate. We did not propose any changes to the methodology used to calculate the post-TDAPA add-on payment adjustment, the 3-year timeframe of the adjustment or the application of the post-TDAPA add-on payment adjustment to all ESRD PPS claims, for CY 2026, but we will consider the commenters' suggestions for potential future rulemaking.

Comment: We received some comments which specifically discussed the post-TDAPA add-on payment adjustment amount for Korsuva®. These commenters generally said that the per-treatment amount was too low when compared to the ASP of the drug. Some commenters stated that the post-TDAPA add-on payment adjustment actively disincentivizes ESRD facilities from stocking or providing it.

Response: We calculated the proposed post-TDAPA add-on payment adjustment amount for Korsuva® based on our established methodology under § 413.234(g) although, as discussed previously, we recognize that many commenters believe our established methodology does not provide enough payment for drugs and biological products. We strongly disagree with the statement that the post-TDAPA add-on payment adjustment amount for Korsuva® disincentivizes providers from utilizing the drug. As we stated in the CY 2025 ESRD PPS final rule (88 FR 89124), a new renal dialysis drug or biological product must demonstrate to patients and nephrologists that it presents value relative to existing treatment options, and the TDAPA further allows new products to become competitive by providing payment at 100 percent of ASP for the new drug or biological product. We expect that nephrologists and patients would consider all relevant factors and all available treatment options, and make the most appropriate decision for each patient. We do not believe we can infer that utilization of Korsuva® was depressed due to lack of adequate payment during the TDAPA period, because payment under the TDAPA for Korsuva® was based on 100 percent of ASP.

Furthermore, in the CY 2024 ESRD PPS final rule, we stated that one goal of the post-TDAPA add-on payment adjustment is to support continued access to new renal dialysis drugs and biological products and to support ESRD facilities' long-term planning and budgeting for such drugs after the TDAPA period (88 FR 76393). We believe that ESRD PPS policy provides appropriate and adequate payment in the short term during the 2-year TDAPA period, in the medium term during the 3 years of payment under the post-TDAPA add-on payment adjustment following the payment of TDAPA, and during the long term when such new renal dialysis drugs and biological products are paid for under the ESRD PPS base rate with no adjustment and are expected to compete with other drugs and biological products in the ESRD PPS bundled payment.

Comment: A drug manufacturer commented that, based on the preliminary calculation presented in the CY 2026 ESRD PPS proposed rule, they expected that the final post-TDAPA add-on payment adjustment amount for DefenCath® would be too low. They noted that at the time the post-TDAPA add-on payment adjustment would begin being applied for CY 2026 some of the data for the drug would be 2 years old. The manufacturer explained that utilization during that time did not reflect the current utilization of the drug as outside factors resulted in lower utilization of the drug. The manufacturer requested that we include data from quarters 3 and 4, 2025 in the calculation of the post-TDAPA add-on payment adjustment. The commenter stated that basing the post-TDAPA add-on payment amount on the higher 2025 data would provide more appropriate payment for this drug during the two quarters of the post-TDAPA add-on payment adjustment period. The commenter highlighted the policy finalized in the CY 2025 ESRD PPS final rule which allowed for CMS to publish a post-TDAPA add-on payment adjustment amount outside of rulemaking based on the established methodology when a full year of data would not be available at the time of final rulemaking. The commenter urged CMS to not finalize a post-TDAPA add-on payment amount at this time and instead calculate the post-TDAPA add-on payment adjustment for DefenCath® outside of rulemaking. The commenter stated the belief that the resulting add-on payment adjustment amount would be more appropriate.

Response: We appreciate the commenter's concerns regarding the post-TDAPA add-on payment adjustment amount for DefenCath®. As we explained in the CY 2025 ESRD PPS final rule, we determined that it is appropriate to calculate the post-TDAPA add-on payment adjustment amount based on a full year of utilization data. While we recognize that utilization can be influenced by external factors, the examples cited by the commenter primarily reflect health care provider choice in utilization. Although health care provider choice may be affected by a range of considerations, we continue to believe it is appropriate to account for these utilization patterns when calculating the post-TDAPA add-on payment adjustment amount.

We did not propose any changes to our established methodology for the post-TDAPA add-on payment adjustment in the CY 2026 ESRD PPS proposed rule, such as an alternative methodology to establish a post-TDAPA add-on payment adjustment amount outside of rulemaking in cases where there is a full year of utilization data but concerns are raised about that data. Accordingly, we are not finalizing any changes to our post-TDAPA add-on payment adjustment methodology at this time. We note that the period of higher utilization that the commenter discussed will be included when calculating the CY 2027 post-TDAPA add-on payment adjustment amount for DefenCath®, assuming continued receipt of ASP data as required under § 413.234(c)(3).

We will continue to evaluate whether additional flexibilities may be warranted in the post-TDAPA add-on payment adjustment calculation. If we determine that changes are appropriate, we would propose revisions to the methodology through future notice and comment rulemaking. However, we note that we would have significant concerns with adopting the rationale described by the commenter as a basis for excluding or adjusting data, given that many drugs could assert similar claims of lower utilization during the early months of market availability. This type of utilization pattern is expected, as the purpose of the TDAPA for new renal dialysis drugs and biological products in existing ESRD PPS functional categories is to provide additional payment to facilitate incorporation of these products into provider business models. If utilization were immediately at high levels, the TDAPA would not be needed to serve its intended purpose.

Final rule action: After consideration of public comments, we are finalizing the post-TDAPA add-on payment adjustment amounts for each quarter of CY 2026 presented in Table 4 according to our established methodology. The final post-TDAPA add-on payment adjustment amount for Korsuva® is $0.1131 which will be applied to ESRD PPS claims for each quarter of CY 2026. The final post-TDAPA add-on payment adjustment amount for DefenCath® is $2.3710 which will be applied to ESRD PPS claims for the third and fourth quarter of CY 2026. Table 4 shows the final post-TDAPA add-on payment adjustment amounts for each quarter of

CY 2026. We note that there are no drugs or biological products which will be included in the post-TDAPA add-on payment adjustment calculation for any quarter of CY 2026 which lack 12 months of utilization data.

TABLE 4—FINAL POST-TDAPA ADD-ON PAYMENT ADJUSTMENT AMOUNTS FOR CY 2026 BY QUARTER

Quarter	Add-on amount for Korsuva®	Add-on amount for DefenCath®	Total post-TDAPA add-on payment adjustment amount
Q1 (January–March)	$0.1131	$0	$0.1131
Q2 (April–June)	0.1131	0	0.1131
Q3 (July–September)	0.1131	2.3710	2.4841
Q4 (October–December)	0.1131	2.3710	2.4841

b. Technical Correction to § 413.234(g)(5)

We proposed to modify the language at § 413.234(g)(5) to fix a typographical error in the spelling of the word ''adjusted''. We welcomed public comments on this proposed change or any other areas where the regulatory language should be corrected.

We did not receive public comments on this provision, and therefore, we are finalizing the correction as proposed.

7. Changes to the TDAPA Eligibility Criteria

a. Background on the TDAPA

Section 217(c) of PAMA provided that as part of the CY 2016 ESRD PPS rulemaking, the Secretary shall establish a process for (1) determining when a product is no longer an oral-only drug; and (2) including new injectable and intravenous (IV) products into the ESRD PPS bundled payment. Therefore, in the CY2016 ESRD PPS final rule (80 FR 69013 through 69027), we finalized a process that allowed us to recognize when an oral-only renal dialysis service drug or biological product is no longer oral-only, and a process to include new injectable and IV products into the ESRD PPS bundled payment, and when appropriate, modify the ESRD PPS payment amount.

The processes we finalized in the CY 2016 ESRD PPS final rule are based on whether a drug or biological product fits within one of eleven ESRD PPS functional categories. These ESRD PPS functional categories, which were first established in the CY 2011 ESRD PPS final rule, represent all the drugs and biological products included in the ESRD PPS bundled payment, as well as those receiving the TDAPA (80 FR 69013 through 69027). As we established in the CY 2011 ESRD PPS final rule, categorizing drugs and biological products based on drug action allows us to determine which categories (and therefore, the drugs and biological products within the categories) would be considered used for the treatment of ESRD (75 FR 49047). We grouped the injectable and IV drugs and biological products into functional categories based on their action (80 FR 69014). This was done for the purpose of adding new drugs or biological products with the same functions to the ESRD PPS bundled payment as expeditiously as possible after the drugs become commercially available so that beneficiaries have access to them. We finalized the definition of an ESRD PPS functional category in our regulations at § 413.234(a) as a distinct grouping of drugs or biologicals, as determined by CMS, whose end action effect is the treatment or management of a condition or conditions associated with ESRD.

In the CY 2016 ESRD PPS final rule, we established a requirement at § 413.234(b)(2) that, if a new injectable or IV product is used to treat or manage a condition for which there is not an ESRD PPS functional category, the new injectable or IV product is not considered included in the ESRD PPS bundled payment and the following steps occur. First, an existing ESRD PPS functional category is revised or a new ESRD PPS functional category is added for the condition that the new injectable or IV product is used to treat or manage. Next, the new injectable or IV product is paid for using the transitional drug add-on payment adjustment (TDAPA) described in § 413.234(c). Then, the new injectable or IV product is added to the ESRD PPS bundled payment following payment of the TDAPA.

We finalized in the CY 2016 ESRD PPS final rule that the TDAPA provides additional payment for certain new drugs and biological products. Under § 413.234(c), the TDAPA is based on pricing methodologies under section 1847A of the Act and is paid until sufficient claims data for rate setting analysis for the new injectable or IV product are available, but not for less than 2 years. During the time a new injectable or IV product is eligible for the TDAPA, it is not eligible as an outlier service. Following payment of the TDAPA, the ESRD PPS base rate would be modified, if appropriate, to account for the new injectable or intravenous product in the ESRD PPS bundled payment.

In the CY 2019 ESRD PPS final rule (83 FR 56927 through 56949), CMS expanded the TDAPA to all new renal dialysis drugs and biological products, not just those in new ESRD PPS functional categories. For new renal dialysis drugs or biological products that fall within an ESRD PPS functional category, we specified that the ESRD PPS base rate would not be modified after the 2-year TDAPA period (83 FR 56943), but, as consistent with the outlier policy at that time, we stated that the drug or biological product would be eligible for outlier payment unless it is a composite rate drug. In this same CY 2019 ESRD PPS final rule, we modified the definition of ''new renal dialysis drug or biological product'' at 413.234(a) to specify that the drug or biological product must be approved by the FDA on or after January 1, 2020. We also changed the basis of payment for the TDAPA from pricing methodologies under section 1847A of the Act (which includes 106 percent of ASP) to 100 percent of ASP and updated the definitions of ''new renal dialysis drug or biological product'' and ''oral-only drugs'' under § 413.234(a).

In the CY 2020 ESRD PPS final rule (84 FR 60653 through 60681), we finalized the exclusion of generic drugs and certain NDA types from TDAPA eligibility to distinguish innovative from non-innovative renal dialysis drugs and biological products. As codified at § 413.234(e)(1) through § 413.234(e)(7), NDA Type 3, 5, 7 or 8, Type 3 in combination with Type 2 or Type 4, or Type 5 in combination with Type 2, or Type 9 when the ''parent NDA'' is a Type 3, 5, 7 or 8, are excluded from TDAPA eligibility. Additionally, we

finalized a policy to use Wholesale Acquisition Cost (WAC) if ASP data is not available, and if WAC is not available, to then use invoice pricing. We also finalized a policy to no longer apply the TDAPA for a new renal dialysis drug or biological product if CMS does not receive a full calendar quarter of ASP data within 30 days of the last day of the 3rd calendar quarter after we begin applying the TDAPA for that product or if CMS does not receive the latest full calendar quarter of ASP data for the product beginning no later than 2-calendar quarters after CMS determines that the latest full calendar quarter of ASP data is not available.

The CY 2020 ESRD PPS final rule also established the transitional payment for new and innovative equipment and supplies (TPNIES), a non-budget neutral add-on payment adjustment for certain new and innovative equipment and supplies (84 FR 60681 through 60699). TPNIES is codified at § 413.236. When the TPNIES was established, the eligibility criteria at § 413.236(b)(2) defined ''new'' as receiving FDA marketing authorization on or after January 1, 2020. In the CY 2021 ESRD PPS final rule we modified the TPNIES eligibility criteria to reflect the definition of ''new'' to mean within 3 years beginning on the date of FDA marketing authorization (85 FR 71410 through 71414). In the CY 2024 ESRD PPS final rule, we revised § 413.236(b)(2) to further clarify that an equipment or supply for which a complete application has been submitted to CMS under § 413.236(c) within 3 years of the date of the FDA marketing authorization would be considered new (88 FR 71414 through 76415).

In both the CY 2019 and CY 2020 ESRD PPS final rules (83 FR 56927 through 56949; 84 FR 60653 through 60681), we explained that the aim of the TDAPA is to help ESRD facilities incorporate into their business model new drugs and biological products that fall within existing ESRD PPS functional categories by providing additional payments. We further explained that the TDAPA aims to promote competition among the products within the ESRD PPS functional categories and focuses Medicare resources on products that are innovative. For new renal dialysis drugs and biological products that do not fall within an existing ESRD PPS functional category, we clarified that the TDAPA could be a pathway toward a potential base rate modification, if appropriate.

b. Modification to the Eligibility Timeframe for the TDAPA

In the CY 2019 ESRD PPS final rule, we explained that the main goals of the TDAPA are to promote the incorporation of new renal dialysis service drugs and biological products into the ESRD PPS bundled payment and to focus Medicare resources on new and innovative products (84 FR 60653). Under the current regulations, any renal dialysis drug or biological product that receives FDA approval on or after January 1, 2020, would be considered ''new'' under § 413.234(a) and would be eligible for the TDAPA if it meets the other criteria and is not excluded from TDAPA payment under § 413.234(e). When we finalized § 413.234(a) in the CY 2019 ESRD PPS final rule (83 FR 56932), we stated that we believed it was appropriate at that time to consider renal dialysis drugs and biological products to be considered new if they were approved after January 1, 2020. However, because the regulatory definition for ''new renal dialysis drug or biological product'' includes a specific date on which a drug or biological product may start to be considered new but does not specify a date when it is no longer considered new, the current regulatory definition of a new renal dialysis drug or biological product could apply to drugs with FDA approval dates that are increasingly old. For example, for CY 2026 and future years, a renal dialysis drug or biological product approved by FDA in 2020 would be over 5 years old. As the TDAPA currently has no other time-dependent eligibility requirements, that would mean there is the potential for increasingly older drugs to be eligible for and receive the TDAPA. As discussed in the CY 2019 ESRD PPS final rule, CMS grouped drugs and biological products into functional categories based on their action for the purpose of adding new drugs or biological products with the same functions to the ESRD PPS bundled payment as expeditiously as possible after the drugs become commercially available so that beneficiaries have access to them (83 FR 56928). When CMS finalized the expansion of the TDAPA to all new renal dialysis drugs and biological products later in that same rule, one of the main goals was improving beneficiary access to new and innovative products. At the time of the TDAPA expansion, the January 1, 2020, timeframe for the regulatory definition of ''new renal dialysis drug or biological product'' aligned with this goal of TDAPA. However, we do not believe the original intention of this requirement was to ensure that renal dialysis drugs and biological products approved on or after January 1, 2020, would continue to be eligible for the TDAPA in perpetuity after their FDA approval. As noted previously, for the TPNIES, § 413.236(b)(2) provides that an equipment or supply for which a complete application has been submitted to CMS under § 413.236(c) within 3 years of the date of the FDA marketing authorization is considered new. In the CY 2021 ESRD PPS final rule, when CMS changed the TPNIES eligibility criteria set forth at § 413.236(b)(2), we stated that we did not believe newness should be tied to the effective date of the TPNIES, and that a 3-year eligibility window would be consistent with the timeframe for the new-technology add-on payment (NTAP) under the IPPS (85 FR 71411 through 71412). Regarding the NTAP, § 412.87(b)(2) notes that a medical service or technology may be considered new within 2 to 3 years after it is released onto the open market. Consistent with the views that CMS expressed regarding the TPNIES eligibility timeframe in the CY 2021 ESRD PPS final rule, we believe that the continued use of the January 1, 2020, date for the TDAPA would allow for some renal dialysis drugs and biological products to potentially qualify for the TDAPA well after they are already established, which would conflict with CMS' original intention for the TDAPA: to provide additional support to ESRD facilities during the uptake period for innovative drugs and biological products and help incorporate them into their business model (84 FR 60663).

We proposed to modify the language of § 413.234 to reflect that a TDAPA application must be submitted within 3 years of FDA approval for a new renal dialysis drug or biological product to be eligible for the TDAPA. We also proposed to restructure the section to consolidate the TDAPA eligibility requirements in a new paragraph (c)(5) in § 413.234, since currently some TDAPA eligibility requirements are included in the definition of ''new renal dialysis drug or biological product'' and the requirement to submit a TDAPA application is not explicitly stated in the regulations. We noted that we use the definition of ''new renal dialysis drug or biological product'' for the general drug designation process at § 413.234(b), so we believe it would be more appropriate to move the specific TDAPA eligibility requirements to § 413.234(c). When considering a potential timeframe for TDAPA eligibility, we believe it is important to consider the time and

expense it takes for a drug to come to market to ensure that drug manufacturers have enough time to establish infrastructure to adequately produce and distribute the drug. Giving manufacturers sufficient time to plan the rollout of a new renal dialysis drug or biological product would help ensure that it is made available to ESRD facilities, and therefore ESRD patients, during the TDAPA period. We proposed a 3-year timeframe for TDAPA eligibility as we believe 3 years strikes a balance between allowing a drug manufacturer's flexibility in the timing of the rollout for their new renal dialysis drug or biological product and ensuring the TDAPA is only available for drugs and biological products that are new to the renal dialysis market. We noted that 3 years is generally consistent with how ''new'' is defined at § 412.87(b)(2) for the NTAP and at § 413.236(b)(2) for the TPNIES, as mentioned previously. Because 3 years is the timeframe we currently use for assessing whether renal dialysis equipment and supplies are ''new'' for purposes of the TPNIES; this proposed change would also standardize the eligibility timeframe across both the TDAPA and the TPNIES under the ESRD PPS. We stated that we believe this proposed change aligns with the TDAPA goals to support innovation by providing additional payment to help ESRD facilities make appropriate changes in their businesses to adopt new drugs and biological products, incorporate these new drugs and biological products into their beneficiaries' care plans, potentially promote competition among drugs and biological products within the ESRD PPS functional categories, and focus Medicare resources on products that are innovative (83 FR 56935; 84 FR 60654 through 60665). To implement this change, we proposed the following changes: (1) to add a new paragraph § 413.234(c)(5) which would include the eligibility requirements specific to TDAPA; (2) to revise the definition of ''new renal dialysis drug or biological product'' to remove the eligibility requirements for TDAPA related to having a HCPCS level II application; and (3) to revise the language at § 413.234(b)(1)(ii) and § 413.234(b)(2)(ii) to reference this new paragraph (c)(5). We did not propose to remove the commercial eligibility requirement from the definition of ''new renal dialysis drug or biological product'' as that would have implications on the ESRD PPS drug designation process and the post-TDAPA add-on payment adjustment, which is not our intention. We noted that a drug or biological product must meet the definition of ''new renal dialysis drug or biological product'' to be eligible for the TDAPA, and that the intention of proposing to move the eligibility requirements specific to TDAPA to the new paragraph is to make it clearer which requirements relate to the TDAPA, and which requirements relate to the definition of ''new renal dialysis drug or biological product.''

We proposed that this new paragraph, § 413.234(c)(5), would specify the current eligibility criteria and the proposed TDAPA eligibility timeframe for new renal dialysis drugs or biological products that have submitted TDAPA applications either within 3 years of FDA approval or prior to January 1, 2028. This paragraph would include the requirement that an application be submitted for the TDAPA, which reflects current policy but is not currently specified in the regulation.

We proposed the 3-year timeframe for TDAPA eligibility would apply for renal dialysis drugs and biological products for which a TDAPA application is submitted on or after January 1, 2028. We proposed this later implementation date as we recognized that there may be renal dialysis drugs or biological products which were approved by the FDA on or after January 1, 2020, and before January 1, 2023, but for which a TDAPA application has not yet been submitted due to the established eligibility criteria in § 413.234(a), although we noted that we had not identified any such drugs or biological products. We stated that, if we were to finalize this policy effective January 1, 2026, any such renal dialysis drugs and biological products would no longer be eligible for the TDAPA because they would no longer be within the 3-year window of FDA approval. We noted that our experience has been that manufacturers generally apply for the TDAPA within the first few months after receiving FDA approval for their products; therefore, we believe that any renal dialysis drugs or biological products approved by the FDA between January 1, 2020, and January 1, 2023, for which a TDAPA application has not yet been submitted would be limited. However, it was not our intention with the proposed policy to prevent existing renal dialysis drugs or biological products which would be eligible for the TDAPA under the current eligibility requirements from receiving the TDAPA. Our proposed changes to § 413.234, specifically our proposed addition of § 413.234(c)(5)(ii), as discussed previously, provided that the 3-year window would begin to apply for applications received on or after January 1, 2028. This would provide ample time for any manufacturer of a renal dialysis drug or biological product that received FDA approval between January 1, 2020, and January 1, 2025, to apply for the TDAPA. We noted that any drug or biological product which was approved by the FDA more than 3 years prior to January 1, 2028, should submit their application for the TDAPA prior to January 1, 2028. If this condition and the other requirements are met, such drugs or biological products would still receive a full 2-year TDAPA period as specified at § 413.234(c)(1) or a full period of at least 2 years as specified at § 413.234(c)(2). Renal dialysis drugs and biological products that CMS previously approved for the TDAPA and were paid for using the TDAPA period prior to January 1, 2028, would not be affected by this proposed change. We also noted that our proposed change to the TDAPA eligibility timeframe would apply to all new renal dialysis drugs and biological products that are potentially eligible for the TDAPA in the future, including those that fall into existing ESRD PPS functional categories, and those that would fall into new functional categories.

Table 5 presents hypothetical situations in which renal dialysis drugs and biological products that received FDA approval either before or after January 1, 2025, would or would not be eligible for the TDAPA under the proposed changes to the TDAPA eligibility criteria. We reiterated in the proposed rule that renal dialysis drugs and biological products that CMS previously approved for the TDAPA and that were paid for using the TDAPA period prior to January 1, 2028, would not be affected by this proposed change. As noted previously, if a renal dialysis drug or biological product that received FDA approval more than 3 years prior to January 1, 2028, submits a TDAPA application prior to January 1, 2028, the TDAPA would still be paid for a full 2-year period as specified at § 413.234(c)(1) or a full period of at least 2 years as specified at § 413.234(c)(2), provided all other applicable requirements in § 413.234 are met.

TABLE 5—HYPOTHETICAL TDAPA-ELIGIBILITY SCENARIOS UNDER THE PROPOSED CHANGES TO THE TDAPA ELIGIBILITY CRITERIA

Hypothetical new renal dialysis drug or biological product FDA approval date	Hypothetical TDAPA application submission date	TDAPA eligibility under the proposed changes
January 10, 2020	December 10, 2027	Eligible.
January 10, 2020	January 2, 2028	Not Eligible.
January 20, 2025	January 19, 2028	Eligible.
January 20, 2025	January 21, 2028	Not Eligible.

We solicited comments on all aspects of the proposal, including the proposed 3-year eligibility window, our proposal to apply this change to new renal dialysis drugs and biological products in both existing and new ESRD PPS functional categories, and the proposed CY 2028 implementation date of the policy. Additionally, we solicited comments on the TDAPA eligibility requirements more broadly and welcome any suggestions on how our TDAPA policies could be improved in future rulemaking.

Approximately 13 unique commenters including a provider advocacy organization, a national organization of patients and kidney health care professionals, a network of dialysis organizations and regional offices, drug manufacturers, an advocacy organization, non-profit dialysis organizations, a non-profit kidney organization, a coalition of dialysis organizations, a non-profit kidney care alliance, and LDOs commented on these proposals. The following is a summary of the comments we received and our responses.

Comment: Nearly all commenters supported the proposals pertaining to TDAPA eligibility. Many commenters requested clarification on how the proposed changes would impact drugs or biological products that receive an ESRD or dialysis-related indication after a previous non-ESRD or dialysis-related FDA approval, and if the date of the original FDA approval could disqualify such drugs from receiving the TDAPA under the proposed 3-year eligibility window. Some commenters cited SGLT2 inhibitors as an example that may fall into such category.

Response: We thank commenters for their support of our proposals pertaining to the eligibility criteria for the TDAPA. CMS would like to clarify that our longstanding eligibility criteria for the TDAPA does not exclude NDA Type 10 drugs that receive a new indication (84 FR 60664), and we did not propose any changes to this element of the TDAPA eligibility criteria in the CY 2026 ESRD PPS proposed rule. Specifically, manufacturers of drugs or biological products that receive an ESRD or dialysis-related indication after a previous non-ESRD or dialysis-related FDA marketing approval will, under the proposed eligibility criteria, have 3 years from when the ESRD or dialysis-related indication was granted by FDA to apply for the TDAPA.

We are also clarifying that under our longstanding policy at § 413.234, the TDAPA is paid for 2 years for a new renal dialysis drug or biological product in an existing ESRD PPS functional category. This means that if such a drug or biological product has been paid for using the TDAPA under the ESRD PPS for 2 years, it would not be eligible for any additional TDAPA payment. We note that this policy for TDAPA payment applies to a renal dialysis drug or biological product, not for an indication or a brand name. CMS is also clarifying that if a drug or biological is being paid for or has previously been paid for under the TDAPA under one FDA indication, CMS does not provide for TDAPA eligibility to restart or reapply if the drug or biological product were to obtain a new indication. In other words, a new renal dialysis drug or biological product, whether originally approved for a ESRD or dialysis-related indication or having received an ESRD or dialysis-related indication after a previous non-ESRD or dialysis-related FDA approval, can only qualify for one TDAPA period. Under the final eligibility criteria, effective January 1, 2028, a manufacturer of a drug or biological product that receives FDA marketing approval for treating or managing a condition(s) associated with ESRD would have 3 years from the date of such FDA marketing approval to apply for the TDAPA.

Comment: One interested party commented in support of the proposed changes to the TDAPA eligibility criteria and highlighted some of the potential benefits of the proposed changes regarding increased uptake of home dialysis, particularly in rural areas.

Response: We thank the commenter for their support of the proposed changes to the TDAPA eligibility criteria and for their input on the home dialysis landscape.

Final Rule Action: After consideration of public comments, we are finalizing the 3-year eligibility window for the TDAPA for new renal dialysis drugs and biological products in both existing and new ESRD PPS functional categories, effective January 1, 2028, as proposed. To implement this change, we are finalizing the following changes: (1) to add a new paragraph § 413.234(c)(5) which would include the eligibility requirements specific to TDAPA; (2) to revise the definition of ''new renal dialysis drug or biological product'' to remove the eligibility requirements for TDAPA related to having a HCPCS level II application; and (3) to revise the language at § 413.234(b)(1)(ii) and § 413.234(b)(2)(ii) to reference this new paragraph (c)(5) as proposed. We reiterate that we did not propose, nor are we finalizing, to remove the commercial eligibility requirement from the definition of ''new renal dialysis drug or biological product'', as that would have implications for the ESRD PPS drug designation process and the post-TDAPA add-on payment adjustment, which is not our intention. We note that a drug or biological product must meet the definition of ''new renal dialysis drug or biological product'' to be eligible for the TDAPA, and that the intention of moving the eligibility requirements specific to the TDAPA to new paragraph (c)(5) is to clarify which requirements relate to the TDAPA, and which requirements relate to the definition of ''new renal dialysis drug or biological product.''

8. Payment Adjustment for ESRD Facilities in Certain Non-Contiguous States and Territories

a. Background

As set forth in § 413.230, the ESRD PPS per treatment payment amount is calculated as the sum of the ESRD PPS base rate, the wage index for the ESRD facility and various patient-level and facility-level payment adjustments, and any applicable outlier payments and add-on payment adjustments which are described previously in this final rule. The ESRD PPS wage index is intended to reflect the relative cost of the labor

utilized for renal dialysis services in the geographic area in which an ESRD facility is located and is applied to the LRS of the ESRD PPS base rate, as defined at § 413.231. In the CY 2025 ESRD PPS final rule, we finalized a new methodology for determining the wage index value for an ESRD facility (89 FR 89116). This methodology uses data from the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS), weighted according to an occupational mix derived from freestanding ESRD facility cost reports, to better estimate the actual labor costs ESRD facilities incur when furnishing renal dialysis services. A summary of this methodology is available in section II.B.2. of this final rule. The ESRD PPS wage index and the other payment adjustments, which include case-mix adjusters, facility level adjustments and add-on payment adjustments, serve to better align relative ESRD PPS payments with relative resource use. These payment adjustments are generally established under section 1881(b)(14)(D) of the Act, which lists several payment adjustments that the Secretary is required or authorized to include in the ESRD PPS.

In the CY 2025 ESRD PPS proposed rule, we discussed the impacts of the proposed new ESRD PPS wage index methodology in more detail (89 FR 55778 through 55780). Specifically, we discussed the regional impact of the then proposed methodology. We stated that as this methodology better estimates the wage costs for ESRD facilities, and we believed the regional impacts of the new methodology are generally appropriate as they align wage-adjusted payments with relative labor costs. We requested public comment on the regional implications of the proposed policy. As a part of the request for public comment, we highlighted the potential impacts for the U.S. Pacific Territories, which were larger in magnitude compared to most other regions. In response, we received a few comments that expressed concerns specifically with the impact of the wage index proposal on the U.S. Pacific Territories, one of which was a letter from interested parties representing Guam, American Samoa, and the Northern Mariana Islands (89 FR 89114). These comments expressed specific concern with the projected payment decrease for these territories associated with the proposed policy and noted that these isolated island territories had higher costs than other regions for certain goods and services.

The letter from the interested parties representing Guam, American Samoa, and the Northern Mariana Islands also built upon concerns raised by multiple commenters, including MedPAC in its June 2020 Report to Congress,[18] reiterating that the current ESRD PPS payment adjustments, including the LVPA, do not accurately target remote or isolated facilities. We note that past commenters have used differing definitions of these terms. The interested parties requested CMS to consider factors that are unique to small island economies such as air freight shipping, greater utility costs, difficulty recruiting and retaining qualified healthcare professionals, and lack of economies of scale when compared to larger ESRD facilities located in the contiguous U.S. Those parties requested that the Secretary establish a new payment adjustment for the U.S. Pacific Territories, outside of the LVPA, to account for the higher cost of providing renal dialysis services in some of the most remote areas of our country. In the CY 2025 ESRD PPS final rule, we responded to these comments by acknowledging that these remote territories may have some higher costs, but noted that most of the goods and services these comments cited were generally not labor-related and therefore, it would be inappropriate to consider them in constructing a wage index value for the region (89 FR 89114 through 89115). While we did make changes to the LVPA in the CY 2025 ESRD PPS final rule, we did not discuss or finalize any change which would address higher costs in remote areas during the CY 2025 rulemaking cycle. As we explained in the CY 2024 ESRD PPS proposed rule (88 FR 42441), our analysis has not found higher costs associated with low-volume facilities in remote areas (including areas in the contiguous U.S.), although we note that the analysis referenced in that rule used a metric for isolation based on distance to the nearest ESRD facility and did not consider remote states or territories separately.

b. Estimating the Extent to Which ESRD Facilities in Non-Contiguous Areas Face Higher Non-Labor Costs Than ESRD Facilities Located in the Contiguous U.S.

As noted in the CY 2025 ESRD PPS final rule, we believe that the new ESRD PPS wage index methodology better estimates the relative labor costs faced by ESRD facilities, and any changes in payment associated with the new wage index methodology were generally appropriate (89 FR 89108 through 89117). However, as discussed in the CY 2026 ESRD PPS proposed rule, we recognize the possibility that an ESRD facility could have certain unrecognized costs which are not accounted for by any of the existing payment adjustments under the ESRD PPS. As a result of the comments on the CY 2025 ESRD PPS proposed rule, we conducted an analysis of non-labor costs in certain remote areas of the United States. We included Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands in this analysis in addition to Guam, American Samoa, and the Northern Mariana Islands so that we could evaluate any potential higher non-labor costs in other non-contiguous areas relative to the contiguous U.S. We evaluated all of the non-contiguous areas as the higher non-labor costs mentioned by commenters could have been experienced in other non-contiguous areas outside of just the U.S. Pacific Territories. We noted that when we refer to ''U.S. Pacific Territories'' in the context of this final rule, we are specifically discussing the three permanently inhabited U.S. Territories in the Pacific region surveyed by the Census Bureau's Island Areas Census [19] and served by the Office of the Insular Affairs,[20] which are Guam, American Samoa and the Northern Mariana Islands. None of the other U.S. Territories located in the Pacific region have Medicare-certified ESRD facilities and, as such, were not considered for the purposes of this analysis. We stated that, should an ESRD facility open in another U.S. Pacific Territory we would consider whether it would be appropriate to extend any existing geographic payment adjustments that apply to other U.S. Pacific Territories, such as the payment adjustment finalized in section II.B.8.c of this final rule, to such territory in future rulemaking.

To estimate the extent to which ESRD facilities in certain remote areas face higher costs after accounting for the ESRD PPS wage index, we focused the analysis on the portion of the costs faced by ESRD facilities that are non-labor related. This analysis used data from freestanding and hospital-based ESRD facility cost reports from cost reporting years beginning between January 1, 2020, and December 31, 2022. For this analysis, the non-labor costs associated with furnishing renal dialysis services included the costs associated with capital, administration, drugs,

[18] *https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/reports/jun20_reporttocongress_sec.pdf.*

[19] *https://www.census.gov/programs-surveys/decennial-census/decade/2020/planning-management/release/2020-island-areas-data-products.html.*

[20] *https://www.doi.gov/oia/islands.*

supplies and laboratory tests from Medicare cost reports.[21] We stated that we recognize that some parts of these cost categories could have overlapped with cost categories included in the LRS; for example, capital costs included both the materials and labor involved in constructing buildings. However, given the limitation of cost report data available for this analysis, we believed including these non-direct labor costs provided a more accurate result.

The analysis conducted was a logarithmic regression which used facility-level average non-labor cost per treatment as the dependent variable. As cost report data includes both Medicare and non-Medicare dialysis treatments and costs, this analysis also encompassed all treatments furnished by ESRD facilities. We controlled for various facility-level characteristics including log quadratic facility treatment volume, rurality, wage index value, ownership-type, percent of treatments which are Medicare treatments, percent of treatments which are home dialysis treatments, average case-mix adjustment multiplier for Medicare treatments, an indicator for whether the facility furnished more than 20 percent of its treatments to pediatric patients, and indicators for cost report year. The treatment variables were a variety of indicators for non-contiguous geographic areas including Alaska, Hawaii, Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. To avoid issues with small sample size, we combined the U.S. Pacific Territories of Guam, American Samoa, and the Northern Mariana Islands in one group and the U.S. Caribbean Territories of Puerto Rico and the U.S. Virgin Islands into another group. We stated that we believe that these groupings are reasonable due to the similar nature of the territories within each group in terms of their geographic isolation. To avoid undue influence of very large and small ESRD facilities, we removed data from ESRD facilities in the top and bottom 2.5 percent of cost per treatment and facility size. The regression yielded the relative cost for each state or group of territories when compared to the contiguous United States. The results of the regression are presented in Table 6.

TABLE 6—NON-LABOR COSTS FOR CERTAIN NON-CONTIGUOUS AREAS RELATIVE TO THE CONTIGUOUS U.S.

State or group of territories	Number of ESRD facilities	Regression result	Standard deviation	Relative non-labor cost to contiguous US
Alaska	9	0.490	0.071	56
Hawaii	41	0.205	0.032	21
Guam, Northern Mariana Islands, American Samoa	11	0.294	0.054	31
Puerto Rico, U.S. Virgin Islands	54	* −0.052	0.035	* −5

* **Note:** this relative cost factor was found to be statistically non-significant for this group.

The first column in Table 6 lists the States or groups of territories which we analyzed in reference to the contiguous U.S. The second column lists the number of freestanding and hospital-based ESRD facilities in each of those non-contiguous areas. The third and fourth columns show the coefficients of the logarithmic regression and the standard deviations of the coefficients, respectively. The final column shows the relative non-labor costs for each non-contiguous area derived from this regression. As this was a logarithmic regression, the natural logarithm used in the regression model is a tool to make the data more amenable to linear analysis. After obtaining the regression coefficients, the exponential function with base *e* (mathematical constant) is used to interpret and predict values on the original scale. This analysis showed that ESRD facilities in Alaska, Hawaii, and the U.S. Pacific Territories each have higher non-labor costs than ESRD facilities in the contiguous U.S. after controlling for the ESRD facility characteristics described previously. ESRD facilities in Puerto Rico and the U.S. Virgin Islands did not demonstrate higher non-labor costs compared to ESRD facilities in the contiguous U.S. Alaska had the highest non-labor costs at 56 percent higher relative to the contiguous U.S., followed by the U.S. Pacific Territories at 31 percent higher, and Hawaii at 21 percent higher. This logarithmic regression analysis had an adjusted R-squared value of 0.473, which indicates that the analyzed variables (including the constants) account for 47.3 percent of the variation in the mean non-labor costs per treatment. The p-values for the regression result for Alaska, Hawaii and the U.S. Pacific Territories were each significant at the one percent level, which means there is a less than one percent chance that the results of the regression were due to random variation. Based on these results, we discussed in the CY 2026 ESRD PPS proposed rule that we believe there is reasonable evidence that ESRD facilities in these non-contiguous areas face higher non-labor costs compared to ESRD facilities in the contiguous U.S. after controlling for the ESRD facility characteristics described previously. As noted in the footnote on Table 6, the regression result for the U.S. Caribbean Territories of Puerto Rico and the U.S. Virgin Islands is relatively close to zero and was not significant; so, although it is negative (indicating lower non-labor costs compared to ESRD facilities in the contiguous U.S. after controlling for the ESRD facility characteristics described previously) we cannot be confident that these ESRD facilities have lower average non-labor costs based on this analysis alone.

c. Non-Contiguous Area Payment Adjustment (NAPA)

As discussed in the CY 2026 ESRD PPS proposed rule (90 FR 29358), we have found that ESRD facilities in certain remote non-contiguous geographic areas have some higher non-labor costs when compared to the contiguous United States. Currently, these higher non-labor costs are generally not accounted for by the ESRD PPS, with some exceptions. The LVPA likely covers some of the non-labor costs associated with being in a non-contiguous area, as some of the additional costs in these areas are likely due to higher costs for certain goods, which, as defined in section 1881(b)(14)(D)(iii) of the Act, the LVPA is intended to help mitigate through additional payment. However, our review did not find substantial overlap between non-contiguous areas and low-

[21] Cost data from freestanding ESRD facility cost reports (form CMS 265–11) are from Worksheet B, lines 8 through 17.02, columns 3, 4, 7, 8, 9, 11, 12, 13. Cost data from hospital-based ESRD facility cost reports (form CMS 2552–10) are from Worksheet I–2, lines 2 through 11.01, columns 1, 2, 6, 7, 8, & 10, and lines 14 through 16, column 6.

volume facilities as defined at § 413.232(b). Additionally, the rural facility adjustment likely accounts for some of the higher costs for these remote areas, although the magnitude of the rural facility adjustment is much smaller than the LVPA, so it cannot account for all the aforementioned higher non-labor costs.

Under the authority of section 1881(b)(14)(D)(iv) of the Act, we proposed a new facility-level payment adjustment for ESRD facilities in Alaska, Hawaii, and the U.S. Pacific Territories, which, as described previously, were found to have higher non-labor costs when compared to ESRD facilities in the contiguous U.S. We refer to this proposed payment adjustment as the non-contiguous areas payment adjustment (NAPA) in this CY 2026 ESRD PPS final rule. As proposed, the NAPA would apply only to the non-labor portion of the ESRD PPS base rate, which is 44.8 percent. The magnitude of the proposed NAPA would be dependent on which of the non-contiguous remote areas a given ESRD facility is located in. We also proposed for the NAPA to be applied budget-neutrally, consistent with the longstanding framework within the ESRD PPS to apply any payment adjustment that accounts for costs which were originally included in the analysis used for the CY 2011 ESRD PPS final rule in a budget-neutral manner (88 FR 42451). We proposed that the NAPA would apply to all ESRD PPS claims for renal dialysis services furnished by ESRD facilities in these non-contiguous areas, including treatments furnished at home and to pediatric ESRD beneficiaries, as we have no evidence to indicate these higher non-labor costs would be unique to adult or in-center ESRD treatments.

When developing the methodology for calculating the proposed NAPA, we considered the results of our analysis as outlined in Table 6. We also considered the potential impact to the proposed ESRD PPS base rate, since we proposed for the NAPA to be applied budget-neutrally, as noted in the prior paragraph. In the CY 2026 ESRD PPS proposed rule, we discussed that we considered applying the adjustment factors (calculated as 1 + percentages in Table 6) to the non-labor-related portion of the base rate for treatments provided in Alaska, Hawaii, and the U.S. Pacific Territories, which we estimated to require a reduction to the ESRD PPS base rate of approximately 0.2 percent, or $0.47. Given the potential impact to ESRD facilities across the country, we stated that we believed it would be appropriate to consider policies that would lessen the potential base rate reduction associated with the proposed NAPA.

We considered policies that have historically been applied in other Medicare payment systems which apply a geographical adjustment for non-labor costs. The IPPS has a Cost-of-Living Adjustment (COLA) for Alaska and Hawaii which is an upwards adjustment factor that applies to the non-labor-related portion of the standardized amount for hospitals and is capped at 25 percent (89 FR 69964, 77 FR 53700 through 53701). We stated that we believe that a functionally similar cap would be appropriate for the proposed NAPA for several reasons. First, given the small number of ESRD facilities included in this regression analysis, there is inherent uncertainty in the result of the regression analysis. Additionally, applying a cap to the proposed NAPA would minimize the financial impact to ESRD facilities located in the contiguous U.S. while providing a substantial upward adjustment for ESRD facilities located in Alaska, Hawaii, and the U.S. Pacific Territories, which our analysis demonstrates having significantly higher non-labor costs compared to facilities in the contiguous U.S. We examined multiple different data points when determining what level of cap would be the most appropriate for the proposed NAPA, and while there is no one superior methodology from which to derive a cap for the NAPA, as it is intended to account for non-labor costs, we stated that we believe it would be appropriate to consider such a payment adjustment in reference to the impact of the ESRD PPS wage index. Specifically, we stated that we believed that the impact of the NAPA on non-labor costs should not exceed the impact of the wage index on labor-related costs. Although the wage index and the NAPA account for different types of costs, they both intend to account for the variation in costs based on geographic factors. Additionally, interested parties' concerns about the finalized wage index changes in the CY 2025 ESRD PPS final rule prompted our analysis of non-labor costs in non-contiguous areas. We stated that we believe the former ESRD PPS wage index methodology for the U.S. Pacific Territories was providing additional payment for ESRD facilities in these areas above the amount that is attributable to labor costs in these areas, while the ESRD PPS in general did not account for those areas' relatively higher non-labor costs. Therefore, this higher labor-related payment was potentially compensating for the higher non-labor costs that ESRD facilities in these areas faced. A reasonable upward bound for NAPA would be to align the maximum payment increase under NAPA to be approximately equal to that of the higher wage index values. To avoid undue influence of outliers, we considered a potential NAPA cap based on the 95th percentile of wage index values, which is based on the CY 2026 proposed ESRD PPS wage index is 1.209945. Because the non-LRS is slightly smaller than the LRS to which the wage index applies, a NAPA value that equals the payment impact of this wage index value is 1.258682.[22] For simplicity, we rounded this value to 25 percent which is also consistent with the IPPS COLA cap previously discussed.

In comparison to the uncapped NAPA, if we were to apply a 25 percent cap to the NAPA, we estimated the required reduction to the base rate would be notably less at approximately 0.1 percent, or $0.35. In the proposed rule, we stated that we believed this more moderate reduction to the ESRD PPS base rate would better allow ESRD facilities in contiguous areas to continue to provide high-quality care while better aligning payments to ESRD facilities in non-contiguous areas with their relatively higher non-labor costs.

Therefore, under the proposed NAPA, ESRD facilities in these selected geographies would receive up to a 25 percent increase to the non-labor portion of the ESRD PPS bundled payment as determined by the latest available analysis. In the proposed rule, we stated that we believed implementing such a payment adjustment with a 25 percent cap would strike an appropriate balance between increasing payments to areas for which we have evidence of relatively higher non-labor costs and mitigating the impact of this payment adjustment on ESRD facilities located in the contiguous U.S. and the Caribbean territories of Puerto Rico and the U.S. Virgin Islands. In addition, we noted that the proposed capped NAPA would be more appropriate due to the potential for overlap with the other payment adjustments, such as the LVPA, that could account for other costs faced by ESRD facilities in high-cost non-contiguous states and territories. Table 7

[22] This is calculated by comparing payment using a wage index value of 1.209945 and a NAPA factor of 1 to payments using a wage index value of 1 and a NAPA factor of x: Base rate*0.552*1.209945 + Base rate*0.448*1 = Base rate*0.552*1 + Base rate*0.448*x. We note that in this formula the base rate is equally applied to every term and cancels out, so the derived x = 1.258682 is not dependent on the ESRD PPS base rate value.

summarizes the proposed NAPA factors effective for CY 2026. The budget neutrality factor for this proposed NAPA was 0.99859. We indicated that in future years, we intend to review these adjustment factors and consider whether the proposed NAPA (if finalized) remains appropriate when we propose to update the LRS of the ESRDB market basket. If applicable, CMS would propose any changes to the NAPA methodology or adjustment factors in future notice-and-comment rulemaking.

TABLE 7—PROPOSED NAPA FACTORS FOR CY 2026

State or group of territories	Proposed NAPA factor
Alaska	1.25
Hawaii	1.21
Guam, Northern Mariana Islands, American Samoa	1.25

To implement this proposed new payment adjustment, we proposed to rename § 413.233 from ''Rural facility adjustment'' to ''Additional facility-level adjustments.'' We also proposed to designate a new paragraph (a) to include the current language of § 413.233. We further proposed to add paragraph (b) to read ''CMS adjusts the non-labor-related portion of the base rate for facilities in Alaska, Hawaii, Guam, American Samoa, and the Northern Mariana Islands''. Lastly, we proposed to modify § 413.230(a) to include § 413.233 in the list of facility-level adjustments.

We stated that we believe that the proposed new payment adjustment would better align payment with resource use in these non-contiguous remote geographic areas. We requested comment on this proposal, including the magnitude of the proposed adjustment, implementing the proposed NAPA with a 25 percent cap on the adjustment factors, the budget neutrality of the proposal, the proposed application of NAPA to payments for Pediatric ESRD Patients as defined in § 413.171, the proposed application of NAPA to payment for home dialysis treatments, and the proposed changes to §§ 413.230(a) and 413.233.

Approximately 23 unique commenters including a coalition of dialysis organizations, a non-profit dialysis association, large dialysis organizations (LDOs), a small dialysis organization within a large non-profit health system, a professional association, a non-profit kidney care alliance, a national organization of patients and kidney health care professionals, a non-profit kidney organization, a network of dialysis organizations and regional offices, a provider advocacy organization, a non-profit organization of ESRD networks, a non-profit health insurance organization in Puerto Rico, a non-profit treatment and research center, and MedPAC. The following is a summary of the comments we received and our responses.

Comment: Commenters generally supported the proposed NAPA. Many commenters requested that the NAPA be implemented non-budget-neutrally so that establishing the proposed payment adjustment would not require a base rate reduction. Some of these commenters stated that a base rate reduction would penalize patients and providers in areas that were not found to have significantly higher non-labor costs. Other commenters noted that if the proposed NAPA were to be implemented budget-neutrally, the payment adjustment should include the proposed 25 percent cap.

Response: We thank commenters for their support and their input on the budget neutrality of this proposed payment adjustment. In the proposed rule, we stated that we believed the more moderate reduction to the ESRD PPS base rate associated with a capped NAPA would better allow ESRD facilities in contiguous areas to continue to provide high-quality care while better aligning payments to ESRD facilities in certain non-contiguous areas with their relatively higher non-labor costs. We also discussed our belief that implementing the NAPA with a 25 percent cap would strike an appropriate balance between increasing payments to areas for which we have evidence of relatively higher non-labor costs and mitigating the impact of this payment adjustment on ESRD facilities located in the contiguous U.S. and the Caribbean territories of Puerto Rico and the U.S. Virgin Islands. CMS continues to believe that a NAPA with a 25 percent cap would strike an appropriate balance between increasing payments to areas for which we have evidence of relatively higher non-labor costs and mitigating the impact of this payment adjustment on ESRD facilities in areas that were not found to have higher non-labor costs. We also note that implementing the NAPA in a non-budget-neutral manner would not be consistent with the longstanding framework within the ESRD PPS to apply case-mix and facility-level payment adjustments that account for renal dialysis goods and services which were originally included in the analysis used for the CY 2011 ESRD PPS final rule in a budget-neutral manner (88 FR 42451). Finally, CMS does not believe that implementing the NAPA will result in harms to patients and ESRD facilities in areas not included under the NAPA because of the $0.40 payment reduction in the base rate, as ESRD facilities located in the contiguous U.S. and the Caribbean territories have relatively lower non-labor costs than ESRD facilities in areas included in the NAPA. CMS's approach is narrowly targeted to reflect observed, cost differentials specific to the non-contiguous states and territories and is informed by our cost analysis that did not identify statistically or operationally meaningful higher non-labor costs in ESRD facilities located in the Caribbean territories of Puerto Rico and the U.S. Virgin Islands. The overall net impact of the base-rate change is small relative to the total allowed payment per dialysis treatment. In addition, the ESRD PPS has existing payment adjustments and program protections, including a wage index floor and the low-volume payment adjustment, which can increase payment to ESRD facilities in Puerto Rico and the U.S. Virgin Islands. Taken together these factors provide financial stability for the ESRD facilities and access to care for the vulnerable Medicare beneficiaries. CMS will continue to monitor patient access indicators and unintended adverse consequences, along with utilization and financial analysis for future use in determining whether we should consider additional policy refinements through rulemaking.

Comment: Some commenters expressed concerns with the potential overlap between ESRD facilities receiving the LVPA and rural facility adjustment and ESRD facilities that would receive the proposed NAPA.

Response: In the CY 2026 ESRD PPS proposed rule (90 FR 29359), we stated that our analysis did not find substantial overlap between non-contiguous areas and low-volume facilities as defined at § 413.232(b). Specifically, there were

only 2 LVPA-eligible ESRD facilities found in non-contiguous areas, which furnish less than 1 percent of renal dialysis treatments in NAPA-eligible areas. Additionally, in the proposed rule CMS discussed that although the rural facility adjustment is likely to account for some of the higher costs for these remote areas, the magnitude of the rural facility adjustment is much smaller than the LVPA and cannot account for all of the higher non-labor costs which the NAPA was proposed to address. Based on our continued evaluation of non-labor costs, CMS continues to believe that the existing facility-level payment adjustments under the ESRD PPS do not currently account for the higher non-labor costs in Alaska, Hawaii, and the U.S. Pacific Territories.

Comment: Some interested parties commented in support of the proposed NAPA, but requested that the payment adjustment be extended to other non-contiguous areas such as Puerto Rico and the U.S. Virgin Islands. Other commenters requested for the proposed NAPA to apply to contiguous areas, including metropolitan regions like New York City, and other high-cost urban regions along the East and West coasts of the contiguous United States. These commenters cited shipping expenses, utility expenses, high costs of living, high costs of administering healthcare services, increasing wage competition, and high occupancy costs such as rental costs and real estate taxes.

Response: As a result of the comments on the CY 2025 ESRD PPS proposed rule, CMS conducted an analysis of non-labor costs in certain remote areas of the United States. We evaluated all of the non-contiguous areas as the higher non-labor costs mentioned by commenters could have been experienced in other non-contiguous areas beyond the U.S. Pacific Territories. The analysis was prompted by the comments in response to the CY 2025 ESRD PPS proposed rule and was then used to inform the proposal for the NAPA were focused solely on non-labor costs in non-contiguous areas, which is what the payment adjustment is intended to address. We do not believe it is appropriate to apply the NAPA to contiguous metropolitan regions, such as New York City, or other high cost urban areas. The NAPA was developed to address cost differentials specific to non-contiguous states and territories utilizing the data in those state and territory-specific areas. The non-labor cost structures of these non-contiguous areas are not meaningfully reflected in existing contiguous-United States geographic payment mechanisms. Besides departing from the design and scope of the NAPA policy, extension to these contiguous metropolitan regions would risk double-counting costs that are already included by other geographic adjustments. This could lead to duplicative adjustments of costs included in the ESRD PPS bundled payment along with less alignment of resource use with payment. The results of our continual and extensive analysis of non-labor costs do not support expanding the NAPA to non-contiguous areas outside of Alaska, Hawaii, and the U.S. Pacific Territories at this time. As stated in the CY 2026 ESRD PPS proposed rule (90 FR 29360), we intend to review the NAPA adjustment factors and consider whether the proposed NAPA (if finalized) remains appropriate when we propose to update the LRS of the ESRDB market basket. We also stated that, if applicable, CMS would propose any changes to the NAPA methodology or adjustment factors in future notice-and-comment rulemaking.

Comment: Many commenters expressed concerns regarding the methodology that CMS employed in our analysis of non-labor costs in non-contiguous areas. These commenters requested sufficient technical and methodological transparency such that interested parties would have the ability to fully replicate the analytical work conducted by CMS. Specifically, commenters requested that CMS provide a regression output table, standard errors, significance tests, diagnostics such as residual plot or multicollinearity, p-values, t-statistics, confidence intervals, and additional details on how CMS addressed the small sample size when identifying outliers and applying trimming rules for the data provided in Table 6 of the proposed rule. Some commenters also highlighted potential limitations on the cost report data used in our analysis.

Response: We appreciate these detailed evaluations of the potential limitations of our analysis and of the data sources used to inform the proposed methodology for the NAPA. We note that the proposed rule provided a detailed explanation of the methodology and the Medicare Cost Report data used for our analysis. We believe the information provided in the proposed rule was sufficient for most commenters to reproduce and understand our methodology; however, we are providing additional details about the regression analysis for greater clarity in this final rule, as the commenter requested.

The analysis conducted to inform the proposed NAPA was a logarithmic regression which used facility-level average non-labor cost per treatment as the dependent variable. This variable is the sum of the average costs per treatment associated with capital, administration, drugs, supplies and laboratory tests from Medicare cost reports.[23] In the proposed rule, CMS acknowledged that some parts of these cost categories could have overlapped with cost categories included in the LRS; for example, capital costs included both the materials and labor involved in constructing buildings. However, given the limitation of cost report data available for this analysis, we believed including these non-direct labor costs provided a more accurate result.

CMS controlled for various facility-level characteristics in this regression, including log quadratic facility treatment volume, rurality, wage index value, ownership-type, percent of treatments which are Medicare treatments, percent of treatments which are home dialysis treatments, average case-mix adjustment multiplier for Medicare treatments, an indicator for whether the facility furnished more than 20 percent of its treatments to pediatric patients, and indicators for cost report year. CMS applied cluster-robust standard errors to account for a provider appearing across multiple years, which appear in parenthesis in Table 8. The treatment variables were a variety of indicators for non-contiguous geographic areas including Alaska, Hawaii, Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. Our regression included 23,339 observations and resulted in an R-squared value of 0.485. Additional results of our regression can be found in Table 8.

[23] Cost data from freestanding ESRD facility cost reports (form CMS 265–11) are from Worksheet B, lines 8 through 17.02, columns 3, 4, 7, 8, 9, 11, 12, 13. Cost data from hospital-based ESRD facility cost reports (form CMS 2552–10) are from Worksheet I–2, lines 2 through 11.01, columns 1, 2, 6, 7, 8, & 10, and lines 14 through 16, column 6.

TABLE 8—TECHNICAL RESULTS OF THE REGRESSION USED TO INFORM THE PROPOSED NAPA

Variables	Results [1]	Cluster-robust standard error
Intercept	*** 13.874	(0.367)
Rural (0/1)	*** −0.133	(0.007)
Alaska (Ref-Lower 48 States)	*** 0.444	(0.074)
Hawaii (Ref-Lower 48 States)	*** 0.187	(0.033)
Guam (Ref-Lower 48 States)	*** 0.270	(0.053)
Northern Mariana Islands (Ref-Lower 48 States).		
American Samoa (Ref-Lower 48 States).		
United States Virgin Islands (Ref-Lower 48 States)	−0.048	(0.031)
Commonwealth of Puerto Rico (Ref-Lower 48 States).		
Ownership—Hospital Based	*** 0.187	(0.023)
Ownership—Independent	*** −0.154	(0.015)
Ownership—Regional Chain	* 0.015	(0.008)
Ownership—Unknown	0.070	(0.081)
Pct Medicare Treatment	*** 0.068	(0.021)
Pct Home Dialysis	*** 0.150	(0.011)
Pediatric Tx >20pct (0/1)	0.063	(0.063)
Avg Case-Mix Multiplier	−0.024	(0.063)
Log(fac Size)	*** −1.667	(0.080)
Log(fac Size)-sq	*** 0.079	(0.004)
Year 2022	*** 0.043	(0.002)
Year 2023	*** 0.055	(0.003)

[1] Presented results are the result of a logarithmic regression and are, therefore, not easily interpretable on their own. To achieve a result with an easily interpretable meaning raise the natural constant ''e'' by the result of a logarithmic regression. This resulting number will be the multiplicative multiplier that represents the amount the predicted nonlabor cost per treatment changes when the corresponding variable is present.

* Significant at the 10 percent level.
** Significant at the 5 percent level.
*** Significant at the 1 percent level.

As we discussed in the CY 2026 ESRD PPS proposed rule (90 FR 29358), CMS combined the U.S. Pacific Territories of Guam, American Samoa, and the Northern Mariana Islands in one group and the U.S. Caribbean Territories of Puerto Rico and the U.S. Virgin Islands into another group to avoid issues with small sample size. We believe that these groupings are reasonable due to the similar nature of the territories within each group in terms of their geographic isolation. To avoid undue influence of very large and small ESRD facilities, we removed data from ESRD facilities in the top and bottom 2.5 percent of both cost per treatment and facility size. These outlier values of non-labor cost per treatment and facility size were 'winsorized' (removed and replaced with a placeholder to maintain error and standard deviations at a comparable rate as if the outliers had not been removed) as opposed to trimmed to preserve the already-limited sample size. We note that despite the small sample size, the results of our analysis were still statistically significant.

This analysis used data from freestanding and hospital-based ESRD facility cost reports from cost reporting years beginning between January 1, 2020, and December 31, 2022. We note that AKI treatments and their associated costs were excluded from the analysis. CMS has historically emphasized the importance of accurate cost report data for current and potential policies under the ESRD PPS, such as facility-level or case-mix adjustment refinement. In the CY 2025 ESRD PPS proposed rule (89 FR 89101), we strongly urged ESRD facilities to carefully review cost report data to ensure continued accuracy so that future refinements to the ESRD PPS are based on the best data possible.

Comment: MedPAC highlighted some concerns regarding the implementation of a new payment adjustment exclusively for ESRD facilities in non-contiguous areas. The commission cited analyses that have shown a relationship between service volume and per-treatment cost, arguing that such findings demonstrate a need for contiguous, low-volume ESRD facilities to receive additional payment to maintain access to care. MedPAC also raised concerns regarding the sample size used in the regression analysis that informed the proposed NAPA. The commission stated that grouping all of the ESRD facilities in the contiguous U.S. into a single reference group would not account for variation in costs between contiguous ESRD facilities. MedPAC expressed its view that the proposed NAPA would not only wrongfully overlook low-volume, contiguous ESRD facilities, but also negatively impact such facilities through a base rate reduction. The commission reiterated its support for replacing the low-volume payment adjustment (LVPA) and rural facility adjustment with a single payment adjustment for low-volume and isolated (LVI) ESRD facilities, a methodology that MedPAC has strongly advocated for since 2020.

MedPAC also requested that, if CMS were to finalize the proposed NAPA, that the adjustment be based on costs at the facility level rather than the level of a geographical area, noting that the commission's analysis of Addendum B found above-average service volumes in the non-contiguous areas which would be receiving the proposed NAPA, and that the aforementioned relationship between service volume and per-treatment cost is based on the facility level, not the area level. MedPAC also requested that if the NAPA were to be finalized, that the adjustment specifically target low-volume and isolated facilities across the entire United States, not just the non-contiguous areas mentioned in the proposed rule.

Response: CMS thanks MedPAC for its thorough review of the proposed NAPA. As discussed in the CY 2026 ESRD PPS proposed rule, the analysis prompted by the comments in response to the CY 2025 ESRD PPS proposed rule and used to inform the proposal for the NAPA were focused solely on non-labor costs in non-contiguous areas, which is what this payment adjustment is intended to address. The results of our

continual and extensive analysis of non-labor costs do not support expanding the proposed NAPA to non-contiguous areas outside of Alaska, Hawaii, and the U.S. Pacific Territories at this time. We reiterate that the proposed NAPA is not intended to account for general per-treatment cost variations outside of non-labor costs and is not intended to have substantial overlap with or serve the same purpose as the LVPA or rural facility adjustments. In addition, our analysis of non-labor costs across ESRD facilities across the contiguous U.S. did not find relative non-labor costs that were comparable to those incurred by ESRD facilities in the proposed NAPA areas.

Regarding per-treatment costs and geographical isolation, in the CY 2025 ESRD PPS proposed rule (89 FR 89155), CMS explained that the statutory requirements for the LVPA under section 1881(b)(14)(D)(iii) of the Act generally would not allow for CMS to account for geographic isolation outside of the extent to which low-volume facilities face higher costs in furnishing renal dialysis services than other facilities. We also discussed the results of our analysis, and that in general, low-volume ESRD facilities that are rural, isolated, or located in low-demand areas were not found to have higher costs than low-volume ESRD facilities overall.

We acknowledge that variations in per-treatment costs often occur at the facility level, however, we reiterate that the NAPA is not intended to mitigate general per-treatment cost variations, but rather to address the higher non-labor costs in certain non-contiguous areas. We do not believe that implementing the NAPA based on individual facility-level costs would be appropriate given that such an adjustment could provide perverse incentives to report higher non-labor costs, similar to concerns commenters have raised regarding manipulating treatment volume for LVPA eligibility in the past.

Final Rule Action: After considering the comments received on this proposal, we are finalizing the proposed Non-Contiguous Areas Payment Adjustment (NAPA) with a 25 percent cap as proposed. We continue to believe that the capped NAPA strikes an appropriate balance between increasing payments to ESRD facilities in non-contiguous areas for which we have evidence of relatively higher non-labor costs and mitigating the impact of this payment adjustment on ESRD facilities located in the contiguous U.S. and the Caribbean territories of Puerto Rico and the U.S. Virgin Islands. We reiterate that we intend to review the NAPA adjustment factors and consider whether the NAPA remains appropriate when we propose to update the LRS of the ESRDB market basket in future notice-and-comment rulemaking. The final NAPA adjustment factors can be found in Table 9:

TABLE 9—FINAL NAPA FACTORS

State or group of territories	Final NAPA factor
Alaska	1.25
Hawaii	1.21
Guam, Northern Mariana Islands, American Samoa	1.25

To implement this new payment adjustment, we are also finalizing our proposals to rename § 413.233 from ''Rural facility adjustment'' to ''Additional facility-level adjustments'', to designate a new paragraph (a) to include the current language of § 413.233, and to add paragraph (b) to read ''CMS adjusts the non-labor-related portion of the base rate for facilities in Alaska, Hawaii, Guam, American Samoa, and the Northern Mariana Islands''. Lastly, we are finalizing our proposal to modify § 413.230(a) to include § 413.233 in the list of facility-level adjustments as proposed.

C. Transitional Add-On Payment Adjustment for New and Innovative Equipment and Supplies (TPNIES)

In the CY 2020 ESRD PPS final rule (84 FR 60681 through 60698), we established the transitional add-on payment adjustment for new and innovative equipment and supplies (TPNIES) under the ESRD PPS, under the authority of section 1881(b)(14)(D)(iv) of the Act, to support ESRD facility use and beneficiary access to these new items.

We added § 413.236 to establish the eligibility criteria and payment policies for the TPNIES. Under current § 413.236(b), CMS provides for a TPNIES to an ESRD facility for furnishing a covered equipment or supply only if the item: (1) has been designated by CMS as a renal dialysis service under § 413.171; (2) is new, meaning a complete application has been submitted to CMS under § 413.236(c) within 3 years of the date of the FDA marketing authorization; (3) is commercially available by January 1 of the particular CY, meaning the year in which the payment adjustment would take effect; (4) has a complete HCPCS Level II code application submitted, in accordance with the HCPCS Level II coding procedures on the CMS website, by the HCPCS Level II code application deadline for biannual Coding Cycle 2 for non-drug and non-biological items, supplies, and services as specified in the HCPCS Level II coding guidance on the CMS website prior to the particular CY; (5) is innovative, meaning it meets the criteria specified in § 412.87(b)(1); and (6) is not a capital-related asset, except for capital-related assets that are home dialysis machines. For additional background on the TPNIES, we refer readers to the CY 2024 ESRD PPS final rule (88 FR 76410 through 76412).

As indicated in § 413.236(c) CMS includes the summary of each TPNIES application and our analysis of the eligibility criteria for each application in the annual ESRD PPS proposed rule and announces the results in the annual ESRD PPS final rule. Because we did not receive any applications for the TPNIES for CY 2026, we did not include any TPNIES application summaries, CMS analyses, or results in the proposed rule.

D. Continuation of Approved Transitional Add-On Payment Adjustments for New and Innovative Equipment and Supplies for CY 2026

In this section of the final rule, we identify any items previously approved for the TPNIES and for which payment is continuing for CY 2026. As described in the CY 2025 ESRD PPS final rule, no new items were approved for the TPNIES for CY 2025 (89 FR 89162 through 89163). As such there are no items previously approved for the TPNIES for which payment is continuing in CY 2026.

E. Continuation of Approved Transitional Drug Add-On Payment Adjustments for CY 2026

Under § 413.234(c)(1), a new renal dialysis drug or biological product that is considered included in the ESRD PPS base rate is paid the TDAPA for 2 years. In April 2024, CMS approved

DefenCath® (taurolidine and heparin sodium) for the TDAPA under the ESRD PPS, effective July 1, 2024. Implementation instructions are specified in CMS Transmittal 12628, dated May 9, 2024, and available at *https://www.cms.gov/files/document/r12628CP.pdf.*

In October 2024, CMS approved Vafseo® (vadadustat) for the TDAPA under the ESRD PPS, effective January 1, 2025. In addition, the following oral-only phosphate binders were also approved for the TDAPA under the ESRD PPS effective January 1, 2025: sevelamer carbonate, sevelamer hydrochloride, sucroferric oxyhydroxide, lanthanum carbonate, ferric citrate, and calcium acetate. These drugs were not considered included in the ESRD PPS bundled payment and were paid separately beginning in CY 2011 (75 FR 49037 through 49053). In the CY 2023 ESRD PPS final rule, we stated that if no other injectable equivalent (or other form of administration) of phosphate binders is approved by the FDA prior to January 1, 2025, we would pay for these drugs using the TDAPA under the ESRD PPS for at least 2 years beginning January 1, 2025 (87 FR 67180).

The implementation instructions for drugs with a TDAPA effective date of January 1, 2025, were specified in CMS Transmittal 12962 dated November 14, 2024, and available at *https://www.cms.gov/files/document/r12962bp.pdf* . This Change Request was subsequently rescinded and replaced by Transmittal 12999, dated December 12, 2024, and available at *https://www.cms.gov/files/document/r12999bp.pdf.* This Change Request was subsequently rescinded and replaced by Transmittal 13121, dated March 28, 2025, and available at *https://www.cms.gov/files/document/r13121bp.pdf.* This Change Request was subsequently rescinded and replaced by Transmittal 13245, dated May 29, 2025, and available at *https://www.cms.gov/files/document/r13245bp.pdf.*

Table 10 identifies the two new renal dialysis drugs for which the TDAPA payment period as specified in § 413.234(c)(1) would continue in CY 2026: DefenCath® (taurolidine and heparin sodium) and Vafseo® (vadadustat). In addition, while the phosphate binders are not new renal dialysis drugs or biological products as specified in § 413.234(c)(1), the TDAPA payment period for sevelamer carbonate, sevelamer hydrochloride, sucroferric oxyhydroxide, lanthanum carbonate, ferric citrate, and calcium acetate would also continue in CY 2026. As noted previously, we would pay for the oral only phosphate binders using the TDAPA under the ESRD PPS for at least 2 years. Table 10 also identifies the products' HCPCS coding information as well as the payment adjustment effective dates and available end dates.

TABLE 10—CONTINUATION OF APPROVED TRANSITIONAL DRUG ADD-ON PAYMENT ADJUSTMENTS

HCPCS code	Long descriptor	Payment adjustment effective date	Payment adjustment end date
J0911	Instillation, taurolidine 1.35 mg and heparin sodium 100 units (central venous catheter lock for adult patients receiving chronic hemodialysis).	7/1/2024	6/30/2026.
J0901	Vadadustat, oral, 1 mg (for ESRD on dialysis)	1/1/2025	12/31/2026.
J0601	Sevelamer carbonate (Renvela or therapeutically equivalent), oral, 20 mg (for ESRD on dialysis).	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.
J0602	Sevelamer carbonate (Renvela or therapeutically equivalent), oral, powder, 20 mg (for ESRD on dialysis).	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.
J0603	Sevelamer hydrochloride (Renagel or therapeutically equivalent), oral, 20 mg (for ESRD on dialysis).	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.
J0605	Sucroferric oxyhydroxide, oral, 5 mg (for ESRD on dialysis).	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.
J0607	Lanthanum carbonate, oral, 5 mg (for ESRD on dialysis)	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.
J0608	Lanthanum carbonate, oral, powder, 5 mg, not therapeutically equivalent to J0607 (for ESRD on dialysis).	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.
J0609	Ferric citrate, oral, 3 mg ferric iron, (for ESRD on dialysis).	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.
J0615	Calcium acetate, oral, 23 mg (for ESRD on dialysis)	1/1/2025	1/1/27 or until sufficient claims data for rate setting analysis is available.

We did not receive public comments on the continuing approved TDAPAs for CY 2026.

III. Final CY 2026 Payment for Renal Dialysis Services Furnished to Individuals With AKI

A. Background

The Trade Preferences Extension Act of 2015 (TPEA) (Pub. L. 114–27) was enacted on June 29, 2015, and amended the Act to provide coverage and payment for dialysis furnished by an ESRD facility to an individual with AKI. Specifically, section 808(a) of the TPEA amended section 1861(s)(2)(F) of the Act to provide coverage for renal dialysis services furnished on or after January 1, 2017, by a renal dialysis facility or a provider of services paid under section 1881(b)(14) of the Act to an individual with AKI. Section 808(b) of the TPEA amended section 1834 of the Act by adding a subsection (r) to provide payment, beginning January 1, 2017, for renal dialysis services furnished by renal dialysis facilities or providers of services paid under section 1881(b)(14) of the Act to individuals with AKI at the ESRD PPS base rate, as adjusted by any applicable geographic adjustment applied under section 1881(b)(14)(D)(iv)(II) of the Act and adjusted (on a budget neutral basis for payments under section 1834(r) of the Act) by any other adjustment factor under section 1881(b)(14)(D) of the Act that the Secretary elects.

In the CY 2017 ESRD PPS final rule, we finalized several coverage and payment policies to implement subsection (r) of section 1834 of the Act and the amendments to section 1861(s)(2)(F) of the Act, including the payment rate for AKI dialysis furnished by ESRD facilities (81 FR 77866 through 77872 and 77965). We interpret section 1834(r)(1) of the Act as requiring the amount of payment for AKI dialysis

services to be the base rate for renal dialysis services determined for a year under the ESRD PPS base rate as set forth in § 413.220, updated by the ESRDB market basket percentage increase factor reduced by a productivity adjustment as set forth in § 413.196(d)(1), adjusted for wages as set forth in § 413.231, and adjusted by any other amounts deemed appropriate by the Secretary under § 413.373. We codified this policy in § 413.372 (81 FR 77965). In the CY 2025 ESRD PPS final rule we finalized a policy to allow for payment for home dialysis for beneficiaries with AKI. Additionally, we extended the payment adjustment for home and self-dialysis training to AKI dialysis payments in a budget neutral manner and calculated a reduction to the AKI dialysis payment rate which rounded to $0.00 (89 FR 89170).

B. Update of AKI Dialysis Payment

1. CY 2026 AKI Dialysis Payment Rate

The payment rate for AKI dialysis is the ESRD PPS base rate determined for a year under section 1881(b)(14) of the Act, which is the finalized ESRD PPS base rate, including the applicable annual market basket update, geographic wage adjustments, and any other amounts deemed appropriate by the Secretary, for such year. We note that ESRD facilities could bill Medicare for non-renal dialysis items and services and receive separate payment in addition to the payment rate for AKI dialysis. Accordingly, we proposed that the CY 2026 AKI dialysis payment rate would be equal to the proposed CY 2026 ESRD PPS base rate of $281.06 ($273.82 × 1.00872 × 0.99859) × 1.019 = $281.06) (90 FR 29352). Additionally, we proposed that if more recent data became available after the publishing of the proposed rule and before the publishing of this final rule, we would use such data, if appropriate, to determine the CY 2026 ESRD PPS base rate.

We received public comments on these proposals. The following is a summary of the comments we received and our responses.

Comment: Several commenters encouraged CMS to review the methodology used to calculate the AKI dialysis payment rate and the inclusion of beneficiaries with AKI in the TDAPA.

Response: We appreciate the concerns expressed by the commenters. However, section 1834(r)(1) of the Act provides that the AKI dialysis payment rate amount must be the ESRD PPS base rate for a particular year, as adjusted by any applicable geographic adjustment factor applied under subparagraph (D)(iv)(II) of section 1881(b)(14) of the Act, and may only be adjusted by other adjustment factors under subparagraph (D) on a budget neutral basis.

Additionally, we discussed in the CY 2024 ESRD PPS final rule (89 FR 89172) the rational for not applying the TDAPA to the AKI dialysis payments. The TDAPA policy applies to new renal dialysis drugs and biological products furnished to beneficiaries with ESRD, as provided under § 413.234, and does not extend to beneficiaries with AKI. Recently, in the CY 2025 ESRD PPS final rule (89 FR 89084), we finalized a policy to allow Medicare payment for beneficiaries with AKI to dialyze at home and to permit ESRD facilities to bill Medicare for the home and self-dialysis training add-on payment adjustment for beneficiaries with AKI. We are monitoring and evaluating this policy change. We do not believe it is appropriate to make further AKI payment adjustments without further analysis, but we note we could potentially do so in future years. Additionally, there is a policy to pay separately for all items and services that are not part of the ESRD PPS base rate. We believe it is imperative to wait for substantial data related to the AKI population and its associated utilization, prior to determining the appropriate steps toward further developing the AKI payment rate through rulemaking.

After consideration of public comments, we are finalizing the payment rate for AKI treatment at the ESRD PPS base rate. As discussed in section II.B.4. of this final rule, the final ESRD PPS base rate is $281.71, which reflects the application of the final CY 2026 wage index budget neutrality adjustment factor of 1.00905, the application of the final budget neutrality factor for the non-contiguous areas payment adjustment (NAPA) of 0.99860 discussed in section II.B.8. of this final rule, and the final CY 2026 ESRDB market basket percentage increase of 2.9 percent reduced by the final productivity adjustment of 0.8 percentage point, that is, 2.1 percent. Accordingly, we are finalizing a CY 2026 per treatment payment rate of $281.71 (($273.82 × 1.00905 × 0.99860) × 1.021 = $281.71) for renal dialysis services furnished by ESRD facilities to individuals with AKI.

2. Geographic Adjustment Factor

Under section 1834(r)(1) of the Act and regulations at § 413.372, the amount of payment for AKI dialysis services is the base rate for renal dialysis services determined for a year under section 1881(b)(14) of the Act (updated by the ESRDB market basket percentage increase and reduced by the productivity adjustment), as adjusted by any applicable geographic adjustment factor applied under section 1881(b)(14)(D)(iv)(II) of the Act. Accordingly, we apply the same wage index under § 413.231 that is used under the ESRD PPS. As discussed in section II.B.2.a. of this final rule, the ESRD PPS wage index is based on mean hourly wage data from the BLS OEWS weighted by FTE data from freestanding ESRD facility cost reports. We finalized the new methodology for determining the wage index value for an ESRD facility in the CY 2025 ESRD PPS final rule, (89 FR 89116). Accordingly, we applied the same wage index under § 413.231 that is used under the ESRD PPS to the AKI dialysis payment (89 FR 89167). We proposed to continue using this same methodology when adjusting AKI dialysis payments to ESRD facilities, consistent with our historical practice of using the ESRD PPS wage index for AKI dialysis payments. The AKI dialysis payment rate is adjusted by the wage index for a particular ESRD facility in the same way that the ESRD PPS base rate is adjusted by the wage index for that ESRD facility (81 FR 77868). Specifically, we apply the wage index to the LRS of the ESRD PPS base rate that we utilize for AKI dialysis to compute the wage adjusted per-treatment AKI dialysis payment rate. We also apply the wage index policies regarding the 0.600 wage index floor (87 FR 67161 through 67166) and the 5 percent cap on wage index decreases (87 FR 67159 through 67161) to AKI dialysis payments to ESRD facilities. ESRD facilities would utilize the same staff to provide renal dialysis services to and educate beneficiaries with AKI as those beneficiaries with ESRD. Therefore, utilizing the same wage index methodology would be appropriate in accordance with § 413.372, which addresses the payment rate for AKI dialysis and refers to § 413.231 for the wage adjustment. As stated previously, we are finalizing a CY 2026 AKI dialysis payment rate of $281.71, adjusted by the ESRD facility's wage index. As discussed in section II.B.2.c. of this final rule, we proposed that if more recent data became available after the publishing of the proposed rule and before the publishing of this final rule, we would use such data, if appropriate, to determine the CY 2026 update the ESRD PPS wage index.

We did not receive public comments on this provision. Accordingly, we are finalizing the AKI geographic adjustment factor using the final CY

2026 ESRD PPS wage index as discussed in section II.B.2. of this final rule.

3. Other Adjustments to the AKI Dialysis Payment Rate

Section 1834(r)(1) of the Act also provides that the payment rate for AKI dialysis may be adjusted by the Secretary (on a budget neutral basis for payments under section 1834(r)) by any other adjustment factor under subparagraph (D) of section 1881(b)(14) of the Act. As discussed in the CY 2025 ESRD PPS final rule, we have extended the home and self-dialysis training add-on payment adjustment under the ESRD PPS to AKI beneficiaries in a budget neutral way (89 FR 89170). We continue to collect data on the uptake of home dialysis treatments for beneficiaries with AKI. We did not propose to reevaluate the budget neutrality factor for CY 2026.

As discussed in the CY 2026 ESRD PPS proposed rule, we considered implementing the proposed new ESRD PPS facility-level payment adjustment for ESRD facilities in Alaska, Hawaii, and the U.S. Pacific Territories, which we referred to in the proposed rule as the non-contiguous areas payment adjustment (NAPA), for renal dialysis services furnished to beneficiaries with AKI. However, section 1834(r)(1) of the Act indicates that adjustments to AKI dialysis payments, other than the ESRD PPS wage index, must be made budget neutrally across AKI dialysis payments. As discussed in the proposed rule, we made a budget neutral adjustment to the AKI dialysis payment rate to account for the home and self-dialysis training payment adjustment in the CY 2025 ESRD PPS final rule (89 FR 89170). We are in the process of evaluating the effect of that training adjustment on AKI dialysis payments. We stated that we did not believe it would be appropriate to propose any additional updates to the AKI dialysis payment rate at that time. However, we welcomed comments from interested parties on the potential for other geographic payment adjustments to the AKI dialysis payment rate.

We received public comments on these proposals. The following is a summary of the comments we received and our responses.

Comment: CMS did not receive any comments regarding either applying the proposed NAPA to Medicare payments for renal dialysis services furnished to beneficiaries with AKI, or the delaying application of the proposed NAPA as we evaluate the effect of the budget neutral application of the training add-on for beneficiaries with AKI.

Several commenters discussed the application of budget neutrality for the training add-on payment adjustment for beneficiaries with AKI. A commenter agreed with the AKI payment amount and the ability of beneficiaries with AKI to dialyze at home. Another commenter while in agreement with the AKI payment amount urged CMS to engage with the Congress to discuss budget neutrality.

Response: We appreciate the comments regarding the application of budget neutrality to the training add-on payment adjustment for beneficiaries with AKI. As we noted in the proposed rule, the add-on payment adjustment for training for home dialysis for beneficiaries with AKI is subject to section 1834(r)(1) of the Act to apply budget neutrality to the add-on adjustment to maintain budget neutrality in total payments under section 1834(r) of the Act. We appreciate the recommendation to notify the Congress of budget neutrality concerns for AKI dialysis payments.

Comment: Several commenters noted that CMS should collect data regarding the care of beneficiaries with AKI and develop methodology for budget neutrality based on actual utilization of the home modality for beneficiaries with AKI.

Response: We appreciate these comments recommending that we collect data pertaining to AKI beneficiary care and the suggestion that we develop a methodology for budget neutrality based on actual utilization of home dialysis for AKI beneficiaries, we agree that additional data would be valuable in assessing the impact of the training add-on payments for AKI. We are evaluating the utilization of home modalities in beneficiaries with AKI and will continue to monitor claims and utilization patterns to evaluate the effect of the training add-on in the AKI population. At this time, we do not have substantial data to support a methodology that would exclude or separately budget for AKI-related training add-on utilization outside of the broader statutory requirement for budget neutrality. We appreciate the input of the commenters, and we may consider refinements as we continue our monitoring and data evaluation. If changes are warranted, any change in methodology that would include additional policy refinements would be made through notice and comment rulemaking.

Comment: A commenter requested that CMS codify the same safety protections for beneficiaries with AKI receiving dialysis at home as those beneficiaries with ESRD.

Response: We appreciate the commenter's concern regarding the safety of beneficiaries with AKI dialyzing in a home setting. We addressed this in the CY 2025 ESRD PPS final rule by noting that the ESRD Facility Conditions for Coverage are sufficiently broad to provide guidance on training, education, and safety standards for AKI patients (89 FR 89171).

Comment: A commenter urged CMS to discuss budget neutrality with the Congress due to the complexity of AKI care including additional laboratory testing.

Response: We appreciate the concerns from commenters regarding the complexity of AKI care; however, any add-on payment adjustment for enhanced monitoring or individual care for beneficiaries with AKI would be subject to the requirement of section 1834(r)(1) of the Act for the add-on adjustment to maintain budget neutrality in total payments under section 1834(r) of the Act. Additionally, we appreciate the recommendation to notify the Congress of budget neutrality concerns for AKI payments.

After consideration of public comments, we are finalizing our proposal to not apply the NAPA to Medicare payments for renal dialysis services furnished to beneficiaries with AKI. Additionally, we did not propose, and are not finalizing, any changes to the current methodology for applying budget neutrality for the training add-on payment adjustment for beneficiaries with AKI using a home dialysis modality.

IV. Updates to the End-Stage Renal Disease Quality Incentive Program (ESRD QIP)

A. Background

For a detailed discussion of the ESRD QIP's background and history, including a description of the Program's authorizing statute and the policies that we have adopted in previous final rules, we refer readers to the citations provided at IV.A. of the CY 2024 ESRD PPS final rule (88 FR 76433). We have also codified many of our policies for the ESRD QIP at 42 CFR 413.177 and 413.178.

B. Updates to Requirements Beginning With the PY 2027 ESRD QIP

1. Removal of the Facility Commitment to Health Equity Reporting Measure Beginning With the PY 2027 ESRD QIP

We refer readers in the CY 2024 ESRD PPS final rule where we adopted the Facility Commitment to Health Equity reporting measure into the ESRD QIP

(88 FR 76437 through 76446). In the CY 2026 ESRD PPS proposed rule, we proposed to remove the Facility Commitment to Health Equity measure beginning with the PY 2027 ESRD QIP (90 FR 29363). We stated that the perceived costs associated with achieving a high score on the measure outweigh the benefit of its continued use in the program. When adopted, we intended the collection of data described in the five domains of this measure to provide individual dialysis facility leadership with meaningful and actionable health data to drive quality improvements to eliminate health disparities. We noted that, based on feedback received from dialysis facilities as well as a continued focus on clinical outcome measures, the burden of collecting data for this measure may outweigh the benefits.

One of the goals of the ESRD QIP is to move forward in the least burdensome manner possible, while maintaining a parsimonious set of the most meaningful quality measures and continuing to incentivize improvement in the quality of care provided to patients. In the proposed rule, we stated that removing this measure from the ESRD QIP is one way to accomplish this goal. Our priority is a continued focus on measurable clinical outcomes as well as identifying quality measures on the topics of prevention, nutrition, and well-being. As such, we referred readers to our request for comment on ''Request for Information on Measure Concepts under Consideration for Future Years'' in section IV.D.2. of the proposed rule. We describe feedback received in response to that request for comment in section IV.D.2. of this final rule. In the proposed rule, we stated that with the entire set of measures, the ESRD QIP continues to incentivize the improvement of dialysis care quality and health outcomes for all patients through measurement and transparency (90 FR 29363). We noted that it may be costly for dialysis facilities to continue reporting on the Facility Commitment to Health Equity reporting measure and achieve high performance scores and stated that removal of this measure would make room both in the program's measure set to enhance the program's focus on other clinical outcomes and for dialysis facility leadership to focus on other priority quality and safety areas. We also noted that facilities that have already invested resources to meet this measure's requirements will still find value in the proposal through the reduction in reporting obligations if the measure is eliminated. We stated that facilities would continue to benefit from this reduced administrative burden each year beginning with PY 2027, and the cumulative effect of this benefit over time is likely to outweigh resources expended in response to this measure.

We noted that, since facilities have already submitted Facility Commitment to Health Equity reporting measure data for PY 2026, such measure data and scoring information will be available on the CMS Provider Data Catalog (PDC) and will be used for PY 2026 payment determinations (90 FR 29363). However, we also noted that if the measure removal is finalized as proposed, any Facility Commitment to Health Equity reporting measure data received by CMS for PY 2027 would not be used for public reporting or payment purposes. We stated in the proposed rule that, if finalized, facilities that do not report to CMS their PY 2027 reporting period data for the Facility Commitment to Health Equity reporting measure would not be penalized for PY 2027 scoring or payment purposes due to this measure.

We invited public comment on our proposal to remove the Facility Commitment to Health Equity reporting measure from the ESRD QIP beginning with the PY 2027 ESRD QIP.

We received public comments on these proposals. The following is a summary of the comments we received and our responses.

Comment: Many commenters supported the removal of the Facility Commitment to Health Equity reporting measure, emphasizing concerns about its administrative burden and limited impact on improving patient outcomes. Commenters stated that the burden outweighs the benefits, noting that the measure is more indicative of the socioeconomic vulnerability of the patients than the quality of care a facility provides.

Many commenters supported the removal as part of broader efforts to streamline programs and reduce regulatory burden. A few commenters cited a lack of CBE endorsement, measure testing, and validity in support of removing the measure.

Response: We thank the commenters for their support. We agree that the removal of this measure will reduce the administrative burden on facilities. We note that the Facility Commitment to Health Equity reporting measure went through the rigorous measure development lifecycle outlined at the CMS Measures Management System website,[24] which includes measure testing and reliability analysis. Further, section 1881(h)(2)(B)(ii) of the Act permits the Secretary to specify a measure without endorsement if a feasible and practical measure has not been endorsed by the CBE, provided due consideration is given to measures that have been endorsed or adopted by a consensus organization.

Comment: Several commenters opposed the removal of the Facility Commitment to Health Equity measure, emphasizing its critical role in advancing health equity and addressing disparities in care delivery. Commenters highlighted that the measure provides incentives to prioritize equity work, collect data on social determinants of health, and implement quality improvement initiatives.

A few commenters raised concern that removing the measure would signal a retreat from CMS' stated goals of reducing disparities and improving care for vulnerable populations.

Response: We acknowledge commenters' concerns and agree that holding facilities accountable for high-quality healthcare delivery to all beneficiaries is important and remains a priority for the ESRD QIP. We are continuously evaluating approaches to align ESRD QIP measures with changing national priorities. We remain focused on identifying measures that balance feasibility, provider reporting burden, and impact while continuing to hold facilities accountable for measurable clinical health outcomes and patient safety.

Comment: A few commenters recommended refining the Facility Commitment to Health Equity reporting measure rather than removing it entirely. These commenters suggested modifications to reduce the administrative burden while preserving the measure's intent and improving value. Several commenters proposed adjustments such as stratified sampling or voluntary submission to make the measure more feasible for facilities to implement. Other commenters recommended that, instead of removing the measure, CMS should modify the measure to implement better standardization, technical support in facilities, and equity metrics in performance-based reimbursement.

Response: We thank the commenters for their recommendations and will consider them as we evaluate any potential future measures in this subject. While holding facilities accountable for measurable clinical outcomes and patient safety, we are prioritizing the reduction of provider reporting burden. Facilities are encouraged to continue to engage in activities to close gaps in care and

[24] CMS. Blueprint Measure Lifecycle Overview. Available at *https://mmshub.cms.gov/blueprint-measure-lifecycle-overview.*

collect data that is important to their patient care initiatives and reflect the needs of their patient population.

Final Rule Action: After considering public comments, we are finalizing our proposal to remove the Facility Commitment to Health Equity reporting measure from the ESRD QIP beginning with the PY 2027 ESRD QIP.

2. Removal of the Two Social Drivers of Health Reporting Measures Beginning With the PY 2027 ESRD QIP

In the CY 2026 ESRD PPS proposed rule, we proposed to remove the two social drivers of health reporting measures from the ESRD QIP beginning with the PY 2027 ESRD QIP: Screening for Social Drivers of Health reporting measure (adopted at 88 FR 76466 through 76476); and Screen Positive Rate for Social Drivers of Health reporting measure (adopted at 88 FR 76476 through 76480) (90 FR 29363). For further discussion of our previously established policies regarding measure adoption, retention, and removal, we referred readers to the CY 2024 ESRD PPS final rule (88 FR 76434).

We proposed to remove the Screening for Social Drivers of Health reporting measure and the Screen Positive Rate for Social Drivers of Health reporting measure beginning with the PY 2027 ESRD QIP, under § 413.178(c)(5)(i)(H), Measure Removal Factor 8, the costs associated with the measure outweigh the benefit of its continued use in the program (90 FR 29363). In the proposed rule, we stated that although understanding the needs of patients receiving dialysis therapy is important, we have heard from some facilities concerned with the resources associated with screening patients via manual processes, manually storing such data, training facility staff, and altering workflows. Further, we noted that these measures document an administrative process and report aggregate level results, and do not shed light on the extent to which providers are ultimately connecting patients with resources or services and whether patients are benefiting from these screenings. We concluded that the costs of the continued use of these measures in the ESRD QIP may outweigh the benefits to providers and patients. We noted that removal of these measures would alleviate the burden on dialysis facilities to manually screen each patient and submit data each reporting cycle, allowing dialysis facilities to focus resources on other clinical outcomes. We stated that this will also remove the patient burden associated with repeated Social Drivers of Health screenings across multiple healthcare facilities. We referred readers to our request for comment, ''Request for Information on Measure Concepts under Consideration for Future Years'' in section IV.D.2. of the proposed rule for more information regarding our areas of focus for new measures. We also describe feedback received in response to that request for comment in section IV.D.2. of this final rule. In the proposed rule, we noted that facilities that have already invested resources to meet these measures' requirements will still find value in this proposal through the reduction in reporting obligations if the measures are eliminated. We stated that facilities would continue to benefit from this reduced administrative burden each year beginning with PY 2027, and the cumulative effect of this benefit over time is likely to outweigh resources expended in response to these measures. With the entire set of measures, we noted that the ESRD QIP continues to incentivize the improvement of dialysis care quality and health outcomes for all patients through measurement and transparency.

In the proposed rule, we stated that if finalized, facilities that do not report their PY 2027 measure data for the Screening for Social Drivers of Health reporting measure or the Screen Positive Rate for Social Drivers of Health reporting measure would not be penalized for PY 2027 scoring or payment purposes (90 FR 29363). In addition, we noted that any measure data received by CMS would not be used for public reporting or payment purposes.

We invited public comment on our proposal to remove the Screening for Social Drivers of Health reporting measure and the Screen Positive Rate for Social Drivers of Health reporting measure from the ESRD QIP beginning with the PY 2027 ESRD QIP.

We received public comments on these proposals. The following is a summary of the comments we received and our responses.

Comment: Many commenters supported our proposals to remove the Screening for Social Drivers of Health reporting measure and the Screen Positive Rate for Social Drivers of Health reporting measure from the ESRD QIP beginning with the PY 2027 ESRD QIP, noting that these measures are more indicative of the socioeconomic vulnerability of the patients than the quality of care a facility provides.

A few commenters agreed that the costs associated with the measures outweigh the benefit of their continued use in the program, noting that dialysis facilities do not have resources to address health-related social needs due to resource constraints. A commenter stated that dialysis facilities may already provide referrals to community resources for further support.

Response: We appreciate and thank commenters for their support.

Comment: Several commenters expressed concern about the proposed measure removals. A few commenters raised concerns that patient outcomes are strongly influenced by systemic inequalities related to poverty, race, and access to preventive care. Commenters described how social determinants of health significantly impact health outcomes and the types of care and services patients may require as part of their dialysis treatment plan. These commenters stated that screening for social determinants of health is fundamental to patient-centered care, including clinical outcomes, treatment adherence, and reducing preventable healthcare utilization (for example, hospitalization). Other commenters stated that removing these reporting measures would limit the ability to track such data and address disparities.

Response: We note that removal of these measures from the ESRD QIP does not prevent facilities from measuring and addressing patients' social needs, as clinically appropriate. In addition, these measures are only reported in the aggregate and do not measure the extent to which providers are ultimately connecting patients with resources or services and whether patients are benefiting from these screenings. Therefore, we have determined that these measures are appropriate for removal based on our determination that the cost of including these measures as part of the ESRD QIP measure set outweigh the benefit to providers and patients.

Comment: A few commenters recommended refining the Screening for Social Drivers of Health reporting measure and the Screen Positive Rate for Social Drivers of Health reporting measure rather than removing them entirely. These commenters suggested modifications to reduce the administrative burden while preserving the measures' intent and improving value. Other commenters proposed adjustments such as stratified sampling or voluntary submission to make the measures more feasible for facilities to implement. Some commenters recommended that, instead of removing the measures, CMS should modify the measures to implement better standardization, technical support in facilities, and equity metrics in performance-based reimbursement.

Response: We thank the commenters for their recommendations and will consider them as we evaluate any potential future measures on this subject. While holding facilities accountable for measurable clinical outcomes and patient safety, we are prioritizing the reduction of provider reporting burden. Facilities are encouraged to continue to engage in activities to close gaps in care and collect data that is important to their patient care initiatives and reflect the needs of their patient population.

Comment: A few commenters expressed concern that proposing to remove these measures in the middle of a performance year will create unpredictability for dialysis facilities by setting a precedent for future rulemaking.

Response: We acknowledge commenters' concern regarding the timing around removal of these measures. However, because we have determined that the cost of reporting on these measures outweighs the benefits of retaining them in the program, we are removing these measures at the earliest feasible reporting period so that dialysis facilities will not need to expend additional resources on reporting measures for which we have determined that the costs outweigh the benefits of retaining them in the program. Dialysis facilities that do not report their CY 2025 reporting period data for the Screening for Social Drivers of Health reporting measure, the Screen Positive Rate for Social Drivers of Health reporting measure, and the Facility Commitment to Health Equity measure to CMS will not be considered noncompliant with the measures for purposes of their PY 2027 determination (that is, facilities that do not report CY 2025 reporting period data will not be penalized for CY 2027 payments due to these measures). Any PY 2027 reporting measure data received for the Screening for Social Drivers of Health reporting measure, the Screen Positive Rate for Social Drivers of Health reporting measure, and the Facility Commitment to Health Equity measure by CMS will not be used for PY 2027 public reporting or payment purposes.

Final Rule Action: After considering public comments, we are finalizing our proposal to remove the Screening for Social Drivers of Health reporting measure and the Screen Positive Rate for Social Drivers of Health reporting measure from the ESRD QIP beginning with the PY 2027 ESRD QIP.

We are also updating the individual measure weights in the Reporting Measure Domain to reflect the finalized removals of the Facility Commitment to Health Equity reporting measure, the Screening for Social Drivers of Health reporting measure, and the Screen Positive Rate for Social Drivers of Health reporting measure from the ESRD QIP measure set beginning with PY 2027, consistent with our policy of weighting each measure in the Reporting Measure Domain equally as reflected in the CY 2023 ESRD PPS final rule (87 FR 67251 through 67253). We are therefore assigning individual measure weights to reflect the updated number of measures in the Reporting Measure Domain so that each measure continues to be weighed equally. We will weigh each measure equally at 3.33 percent to maintain our previously finalized approach of assigning equal weight to each measure in the Reporting Measure Domain. The measures that will be included in each domain, along with the new individual measure weights within the Reporting Measure Domain, beginning with PY 2027, are depicted in Table 11. We will maintain the current weight of the overall Reporting Measure Domain at 10 percent of TPS.

TABLE 11—UPDATED ESRD QIP MEASURE DOMAINS AND WEIGHTS BEGINNING WITH PY 2027

Measures by domain	Measure weight as percent of TPS
Patient and Family Engagement Measure Domain	15.00
ICH CAHPS measure	15.00
Care Coordination Measure Domain	30.00
SHR clinical measure	7.50
SRR clinical measure	7.50
PPPW measure	7.50
Clinical Depression Screening and Follow-Up measure	7.50
Clinical Care Measure Domain	35.00
Kt/V Dialysis Adequacy Measure Topic	11.00
Long-Term Catheter Rate clinical measure	12.00
STrR clinical measure	12.00
Safety Measure Domain	10.00
NHSN BSI clinical measure	10.00
Reporting Measure Domain	10.00
Hypercalcemia reporting measure	3.33
MedRec reporting measure	3.33
COVID–19 HCP Vaccination reporting measure	3.33

Finally, we are also updating the mTPS and payment reduction scale for PY 2027 to reflect the finalized removals of the Facility Commitment to Health Equity reporting measure, the Screening for Social Drivers of Health reporting measure, and the Screen Positive Rate for Social Drivers of Health reporting measure from the ESRD QIP measure set beginning with PY 2027. In the CY 2025 final rule, we stated that for PY 2027, based on the measure set at that time, a facility must meet or exceed an mTPS of 51 to avoid a payment reduction (89 FR 89084). With the removal of the Facility Commitment to Health Equity reporting measure, the Screening for Social Drivers of Health reporting measure, and the Screen Positive Rate for Social Drivers of Health, which together comprise half of the measures in the Reporting Domain, we are revising the mTPS and associated payment reduction ranges for PY 2027 to reflect only those measures that will be included in the finalized measure set for PY 2027, consistent with the mTPS calculation requirements codified at § 413.178(a)(8) and the payment reduction requirements codified at § 413.177(a). The finalized mTPS and associated payment reduction ranges for PY 2027, using CY 2023 data, will be 56,

and the finalized payment reduction scale is shown in Table 12.

TABLE 12—UPDATED PAYMENT REDUCTION SCALE FOR PY 2027 BASED ON THE MOST RECENTLY AVAILABLE DATA AND FINALIZED MEASURE SET

Total performance score	Reduction (%)
100–56	0
55–46	0.5
45–36	1.0
35–26	1.5
25–0	2.0

C. Updates to Requirements Beginning With the PY 2028 ESRD QIP

1. PY 2028 ESRD QIP Measure Set

In the proposed rule, we proposed to update the ICH CAHPS clinical measure beginning with the PY 2028 measure set. Table 9 of the proposed rule summarized the previously finalized and proposed updated measures that we would include in the PY 2028 ESRD QIP measure set (90 FR 29364). As discussed in IV.C.2. of this final rule, we are finalizing our updates to the PY 2028 ESRD QIP measure set as proposed. We describe the finalized PY 2028 ESRD QIP measure set in Table 13, which includes the previously finalized measures and the measures we are finalizing in this final rule. In the proposed rule, we stated that the technical specifications for current measures that would remain in the measure set for PY 2028 can be found in the CMS ESRD Measures Manual for the 2025 Performance Period (90 FR 29364).[25]

TABLE 13—FINALIZED MEASURES FOR THE PY 2028 ESRD QIP MEASURE SET

Consensus-based entity[26] (CBE) #	Measure title and description
0258*	In-Center Hemodialysis Consumer Assessment of Healthcare Providers and Systems (ICH CAHPS) Survey Administration, a clinical measure. Measure assesses patients' self-reported experience of care through percentage of patient responses to multiple survey questions.
2496	Standardized Readmission Ratio (SRR), a clinical measure. Ratio of the number of observed unplanned 30-day hospital readmissions to the number of expected unplanned 30-day readmissions.
Based on CBE #2979	Standardized Transfusion Ratio (STrR), a clinical measure. Ratio of the number of observed eligible red blood cell transfusion events occurring in patients dialyzing at a facility to the number of eligible transfusions that would be expected.
Based on CBE #0323, #0321, 2706, and #1423.	(Kt/V) Dialysis Adequacy Measure Topic, a clinical measure topic. Four measures of dialysis adequacy where K is dialyzer clearance, t is dialysis time, and V is total body water volume. The individual Kt/V measures would be adult hemodialysis (HD) Kt/V, adult peritoneal dialysis (PD) Kt/V, pediatric HD Kt/V, and pediatric PD Kt/V.
2978	Hemodialysis Vascular Access: Long-Term Catheter Rate clinical measure. Measures the use of a catheter continuously for 3 months or longer as of the last hemodialysis treatment session of the month.
1454	Hypercalcemia, a reporting measure. Percentage of patient-months with total uncorrected serum or plasma calcium lab value reported in EQRS.
1463	Standardized Hospitalization Ratio (SHR), a clinical measure. Risk-adjusted SHR of the number of observed hospitalizations to the number of expected hospitalizations.
Based on CBE #0418	Clinical Depression Screening and Follow-Up, a clinical measure. Facility reports in ESRD Quality Reporting System (EQRS) one of four conditions for each qualifying patient treated during performance period.
Based on CBE #1460	National Healthcare Safety Network (NHSN) Bloodstream Infection (BSI) in Hemodialysis Patients, a clinical measure. The Standardized Infection Ratio (SIR) of BSIs will be calculated among patients receiving hemodialysis at outpatient hemodialysis centers.
N/A	Percentage of Prevalent Patients Waitlisted (PPPW), a clinical measure. Percentage of patients at each facility who were on the kidney or kidney-pancreas transplant waitlist averaged across patients prevalent on the last day of each month during the performance period.
2988	Medication Reconciliation for Patients Receiving Care at Dialysis Facilities (MedRec), a reporting measure. Percentage of patient-months for which medication reconciliation was performed and documented by an eligible professional.
3636	COVID–19 Vaccination Coverage Among Healthcare Personnel (HCP), a reporting measure. Percentage of HCP who are up to date on their COVID–19 vaccination.

*We are finalizing our proposal to update the ICH CAHPS clinical measure beginning with PY 2028, as discussed in section IV.C.2. of this final rule.

[25] *https://www.cms.gov/medicare/quality/end-stage-renal-disease-esrd-quality-incentive-program/measuring-quality.*

Measure Beginning With the PY 2028 ESRD QIP

a. Background

Section 1881(h)(2)(A)(ii) of the Act states that the Secretary shall specify, to the extent feasible, measures of patient satisfaction. In the CY 2026 ESRD PPS proposed rule, we stated that patients with ESRD are a vulnerable population (90 FR 29364). We noted that they are reliant on ESRD facilities for life-saving therapy, and they are often reluctant to express concerns about the care they receive from a variety of staff, both professional and non-professional. We also stated that patient-centered experience is an important measure of the quality of patient care, and it is a component of the CMS National Quality Strategy, which emphasizes patient-centered care by rating patient experience as a means for empowering patients and improving the quality of their care.

In the proposed rule, we noted that the ICH CAHPS Survey was developed to capture the experience of in-center hemodialysis patients (90 FR 29364). The ICH CAHPS measure was one of the foundational measures of the ESRD QIP measure set, initially as a reporting measure (76 FR 70269 through 70270) and then as a clinical measure beginning with PY 2018 (79 FR 66198 through 66200).

b. Survey and Measure Changes

In the CY 2026 ESRD PPS proposed rule, we noted that ICH CAHPS Surveys are administered semiannually, and an eligible facility's score on the ICH CAHPS clinical measure is currently based on the three composite or multi-item measures (QDCCO, NCC, and Providing Information to Patients [PIP]) and three global ratings (ratings of nephrologists, dialysis center staff, and dialysis center), all of which are equally weighted (90 FR 29364). We noted that in recent years, commenters have expressed concerns that patients may experience survey fatigue related to both the length of the survey and the frequency of being requested to participate in the survey twice a year. In addition, survey response rates continue to slowly decline, and it is believed that the length of the survey could be a contributing factor.

To address these concerns, we noted that we conducted a number of activities related to reducing the length of the current ICH CAHPS Survey. Based on psychometric analyses, discussions with a Technical Expert Panel of ESRD entities, survey experts, and large dialysis organizations, focus groups with dialysis patients, and discussions with the CAHPS Consortium, in the proposed rule we stated that proposed revisions to the ICH CAHPS Survey used to calculate performance on the ICH CAHPS clinical measure include:

- Removal of four questions, which are unnecessary for the psychometric function of the Quality of Dialysis Center Care and Operations (QDCCO) multi-item measure:
  - ++ How often the dialysis center staff inserted needles with as little pain as possible,
  - ++ How often dialysis center staff talked to patients about what they should eat and drink,
  - ++ How often the dialysis center staff keep health information as private as possible, and
  - ++ How often the patient felt the staff cared about them ''as a person.''
- Removal of all six questions that make up the Nephrologists' Communication and Caring (NCC) multi-item measure.
- Removal of the nephrologist rating question.

Additionally, to reduce the length of the ICH CAHPS Survey, we proposed to update the ICH CAHPS Survey to include the following non-measure changes:

- Removal of two core questions not currently used in public reporting measures:
  - ++ How often the dialysis center staff asked about how kidney disease affects other parts of patient's lives, and
  - ++ How often patients made a complaint to Medicare or their State agencies.
- Removal of nine questions from the About You section and one question from the mail survey proxy series.
- Consolidation of the race and ethnicity questions into one question, as per OMB Statistical Policy Directive No. 15 requirements.[27]

c. Pre-Rulemaking Review Process and Measure Endorsement

In the CY 2026 ESRD PPS proposed rule, we stated that as required under section 1890A of the Act, the Secretary must establish and follow a pre-rulemaking review process for selection of quality and efficiency measures, including for the ESRD QIP (90 FR 29365). We noted that the pre-rulemaking review process, which we refer to as Pre-Rulemaking Measure Review (PRMR), includes a review of measures published on the publicly available list of Measures Under Consideration by one of several committees convened by the consensus-based entity (CBE), with whom we contract in accordance with section 1890 of the Act, for the purpose of providing interested parties' input to the Secretary on the selection of quality and efficiency measures under consideration for use in certain Medicare quality programs, including the ESRD QIP.

In the proposed rule, we stated that the revised ICH CAHPS Survey, including the revised QDCCO multi-item measure, was submitted to the 2024 Measures Under Consideration list (MUC2024–060) and underwent evaluation by the PRMR Hospital Committee (90 FR 29365). We noted that the PRMR Hospital Committee recommended the ICH CAHPS survey changes be implemented.[28] The revised ICH CAHPS Survey was submitted to the CBE for endorsement through the Spring 2025 Partnership for Quality Measurement (PQM) Endorsement and Maintenance (E&M) process.[29] We stated that the E&M process ensures measures submitted for endorsement are evidence-based, scientifically sound, safe and effective. We noted that the current ICH CAHPS Survey measure was endorsed by the CBE in Spring 2019. In the proposed rule, we stated that although section 1881(h)(2)(B)(i) of the Act generally requires that measures specified by the Secretary for the ESRD QIP be endorsed by the entity with a contract under section 1890(a) of the Act, section 1881(h)(2)(B)(ii) of the Act states that in the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a) of the Act, the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary. We further stated that we have determined that the updates to the ICH CAHPS clinical measure are

[26] In previous years, we referred to the consensus-based entity by corporate name. We have updated this language to refer to the consensus-based entity more generally.

[27] OMB, The 2024 Statistical Policy Directive No. 15, March 2024. Available at *https://spd15revision.gov/content/spd15revision/en/2024-spd15.html.*

[28] Partnership for Quality Measurement, PRMR 2024 MUC Final Recommendations Spreadsheet. Available at *https://p4qm.org/media/3891.*

[29] Information about the Partnership for Quality Measurement E&M process is available at *https://p4qm.org/EM.* As of August 7, 2025, the ICH CAHPS measures were endorsed with a condition that a robust logic model illustrating the actions accountable entities can take to improve patient experience is included in the next measure evaluation in 2030.

appropriately specified, and therefore the exception in section 1881(h)(2)(B)(ii) of the Act applies. We noted that the ICH CAHPS measure remains an endorsed measure, and the updated ICH CAHPS measure, which only reduces the number of questions in the ICH CAHPS Survey, had been submitted to the CBE for endorsement. Following the publication of the CY 2026 ESRD PPS proposed rule, the CBE endorsed the revised ICH CAHPS measure, with a condition that a robust logic model illustrating the actions accountable entities can take to improve patient experience is included in the next measure evaluation in 2030. To ensure that the revised ICH CAHPS Survey is reflected in the updated ICH CAHPS clinical measure beginning with PY 2028, we proposed to implement the revised ICH CAHPS Survey beginning with the CY 2026 Spring survey.

d. Impact to Measure Calculation and Public Reporting

In the proposed rule, we noted that ICH CAHPS Survey measure scores are calculated based on two rolling semiannual surveys and are published semiannually for all ICH facilities that meet reporting criteria (90 FR 29365). With the proposed implementation of the revised survey, we proposed to calculate the ICH CAHPS clinical measure based on the remaining multi-item measures—the revised QDCCO and PIP—and the remaining global ratings of the dialysis center staff and the dialysis center. In the calculation of the ICH CAHPS clinical measure, we proposed that all of the measures, including the multi-item and global rating measures, would be weighed equally. We stated that the ICH CAHPS clinical measure would continue to be calculated using two rolling semiannual surveys and would be publicly reported for all eligible facilities with 30 or more completed surveys over the reporting period.

In the proposed rule, we stated that to determine what impact the changes to the survey measures would have on public reporting, we considered the nature of the changes (90 FR 29365). We noted that psychometric and other analyses were performed on field test data, and no major impact was found. We anticipated that the first Care Compare refresh in which publicly reported scores would be updated to include two semiannual periods using the revised survey would be October 2027 (2026 Spring and 2026 Fall Surveys). Because the April 2027 refresh would include a survey period that used the current survey (2025 Fall) and a survey period that used the revised survey (2026 Spring), we proposed to reanalyze the 2025 Fall data without the NCC measure and rating and without the 4 dropped QDCCO measure questions, then combine the reanalyzed data with the 2026 Spring data for public reporting in April 2027. Therefore, we stated that we would not miss a refresh for ICH CAHPS data.

e. Survey Administration Changes

We did not propose any survey administration changes with the new survey (90 FR 29365).

f. Case-Mix and Mode Adjustments

In the proposed rule, we noted that prior to public reporting, ICH CAHPS Survey scores are adjusted for the effects of case-mix (patient-mix) (90 FR 29365). Case-mix refers to characteristics of the patient that are not under control of the facility that may affect reports of in-center dialysis experiences. We stated that case-mix adjustment is performed within each semiannual survey period after data cleaning. We also noted that the current case-mix adjustment model includes the following variables: overall health, overall mental health, heart disease, deaf or serious difficulty hearing, blind or serious difficulty seeing, difficulty dressing or bathing, age, sex, education, does the patient speak a language other than English at home, whether someone helped complete the survey, and total years on dialysis. We stated that the model used and adjustments are updated semiannually and are available on the ICH CAHPS website at *https://ichcahps.org/Portals/0/PublicReporting/ICHCAHPS_PublicRptCoeffOct2024.pdf.* In the proposed rule, we noted that based on testing the revised survey in a field test, we reviewed the variables included in the case-mix adjustment models currently in use for the ICH CAHPS Survey to determine if any changes needed to be introduced along with the revised survey (90 FR 29366). Several questions that were included as original case-mix adjusters showed little impact on survey responses, so the questions were removed to shorten the survey instrument. Based on this and the case-mix analysis of the field test data, we proposed that the new case-mix adjusters for the revised survey include overall health, overall mental health, age, sex, education, language survey was conducted in, whether someone helped complete the survey, total years on dialysis, and whether diabetes was primary cause of ESRD.

We noted that, in addition to the proposed updates to the ICH CAHPS clinical measure in the proposed rule, we are also exploring additional ways to improve the ICH CAHPS measure. We stated that we are currently working on developing and testing a web with mail follow-up mode to provide facilities with alternate methods of survey administration, and we are also working on a modified survey to include questions that address the experience of care for patients on home dialysis modalities.

We welcomed public comment on our proposal to update the ICH CAHPS clinical measure for the PY 2028 ESRD QIP and subsequent years.

We received public comments on this proposal. The following is a summary of the comments we received and our responses. While we also received a comment regarding CAHPS surveys other than the ICH CAHPS Survey, that comment is outside the scope of this rule and is not addressed below.

Comment: Several commenters supported the proposed update to remove questions from the ICH CAHPS Survey, noting that it will help to reduce burden and survey fatigue.

Response: We thank the commenters for their support.

Comment: Some commenters supported CMS' work toward modifying the survey to include questions that address the experience of care for patients on home dialysis modalities.

Response: We thank the commenters for their support as we explore the possibility of modifying the survey to include home dialysis questions.

Comment: Some commenters recommended reducing the frequency of survey administration to once annually, while a commenter suggested questions be administered after each dialysis treatment. Another commenter suggested CMS provide survey results in a timely and actionable format with providers and facilities.

Response: We thank the commenters for their suggestions. ICH CAHPS survey results are refreshed every six months on the Care Compare tool on *Medicare.gov*. Less frequent survey administration would delay the delivery of timely and actionable information for dialysis facilities, providers, and patients. Because facilities need 30 completed surveys to have their data reported on Care Compare, administering the survey only once per year would impact the number of facilities publicly reported. We have chosen to focus on reducing the survey length rather than changing the frequency to help increase response rates. The suggestion to administer the survey after each dialysis treatment would significantly increase patient burden since each patient receives dialysis multiple times a week.

Comment: Several commenters supported testing a web with mail follow-up of non-respondents as an alternative mode for survey administration.

Response: We thank the commenters for their support.

Comment: A commenter requested that CMS clarify that research confirms the revised QDCCO measure captures the intended domain of patient experience and that results remain comparable over time.

Response: The revised ICH CAHPS QDCCO measure continues to capture whether patients feel that their dialysis center staff communicated well, kept patients as comfortable and pain-free as possible, behaved in a professional manner, and kept the center clean. The removal of four items did not affect the psychometric functioning, including reliability and validity, of the QDCCO measure. The revised QDCCO measure will establish a new baseline, and results will not be directly comparable to previous QDCCO scores. However, facilities can have their vendors use survey data from prior years to calculate the revised QDCCO score for comparison purposes since CMS is just removing four survey items from the measure.

Comment: A commenter requested that CMS continue to include questions related to nephrology nurses.

Response: The revised ICH CAHPS survey continues to ask questions about dialysis center staff which includes nurses.

Comment: A commenter requested that CMS retain questions related to how often nephrologists provided timely and accurate information to the patient.

Response: Although the questions that comprise the Nephrologist Communication and Caring (NCC) measure as well as the nephrologist rating question were removed from the survey, nephrologists are included in the questions in the Treatment section of the revised survey. Providers and interested parties provided feedback to us that the nephrologist questions should be removed because (1) patients are not always able to differentiate a kidney doctor from other dialysis center staff when answering questions, (2) nephrologists are often separate from the facility and may have patients in multiple facilities, and (3) there is nothing actionable that a facility can do based on the NCC scores or nephrologists' ratings. Based on this feedback, we chose to remove these questions in an effort to shorten the survey.

Comment: A commenter suggested retaining the question which asks how often the dialysis center staff really cared about you as a person.

Response: A Technical Expert Panel that convened in 2023 recommended the removal of this question from the QDCCO multi-item measure. This question shows a strong relationship with two other questions in the QDCCO multi-item measure: how often dialysis center staff show respect for what the patient says and how often the dialysis center staff make the patient as comfortable as possible. Removing the question about how often staff cared about the patient as a person did not negatively affect the psychometric functioning of the overall QDCCO multi-item measure as determined through testing. Given the need to reduce the length of the survey, we chose to remove this item.

Comment: A commenter suggested that facilities be able to use alternative survey vendors and processes for collecting data.

Response: We require standardized data collection to ensure there is comparable data across all facilities.

Comment: A commenter requested that CMS provide technical documentation on the revised case-mix adjustment models and to provide the full revised survey instrument. The commenter also questioned how the revised case-mix adjusters will affect facility-level comparisons.

Response: We have posted the updated ICH CAHPS survey on *https://ICHCAHPS.org.* The case-mix adjustment coefficients are recalculated each time the data are updated on *www.medicare.gov.* Overall, the removal of a few case-mix adjustment factors will have an insignificant impact on the current adjustments since the factors that were removed had little impact on responses.

Comment: A commenter requested the reason behind the different recall periods between the treatment and other sections of the ICH CAHPS survey.

Response: A longer recall period (12 months) is used for the Treatment section because of the nature of the questions. One question, for example, asks how much the patient was involved in choosing the treatment for kidney disease that is right for them. A 3-month recall period would be too short to capture those sorts of decision points and discussions between patients and providers about treatment options.

Final Rule Action: After considering public comments, we are finalizing our proposal to update the ICH CAHPS clinical measure beginning with the PY 2028 ESRD QIP.

3. Performance Standards for the PY 2028 ESRD QIP

Section 1881(h)(4)(A) of the Act requires the Secretary to establish performance standards with respect to the measures selected for the ESRD QIP for a performance period with respect to a year. The performance standards must include levels of achievement and improvement, as determined appropriate by the Secretary, and must be established prior to the beginning of the performance period for the year involved, as required by sections 1881(h)(4)(B) and (C) of the Act. We refer readers to the CY 2013 ESRD PPS final rule (76 FR 70277), as well as § 413.178(a)(1), (3), (7), and (12), for further information related to performance standards.

In the CY 2026 ESRD PPS proposed rule, we stated that we continue to believe that our current policy of 12-month performance and baseline periods provide us sufficiently reliable quality measure data for the ESRD QIP (90 FR 29366). Under this policy, we would adopt CY 2026 as the performance period and CY 2024 as the baseline period for the PY 2028 ESRD QIP. In the proposed rule, we estimated the performance standards for the PY 2028 clinical measures in Table 10 using data from CY 2023, which were the most recent data available (90 FR 29366). We are updating these performance standards for all measures, using CY 2024 data, in this final rule, in Table 14.

TABLE 14—UPDATED PERFORMANCE STANDARDS FOR THE ESRD QIP CLINICAL MEASURES FOR PY 2028

Measure	Achievement threshold (15th percentile of national performance)	Median (50th percentile of national performance)	Benchmark (90th percentile of national performance)
Vascular Access Type (VAT):			
Long-Term Catheter Rate	*18.35%	*11.04%	*4.69%
Kt/V Dialysis Adequacy Measure Topic:			
Adult Hemodialysis (HD) Kt/V	96.08%	98.52%	99.73%
Pediatric Hemodialysis (HD) Kt/V	*81.25%	98.29%	*100.00%
Adult Peritoneal Dialysis (PD) Kt/V	87.37%	95.20%	*99.04%
Pediatric Peritoneal Dialysis (PD) Kt/V	*66.49%	83.04%	98.91%
Standardized Readmission Ratio [a]	*34.27	*26.50	*16.18
NHSN BSI	*0.642	*0.215	*0.000
Standardized Hospitalization Ratio [b]	*166.60	*129.14	*87.98
Standardized Transfusion Ratio [b]	*48.29	*26.19	8.07
PPPW	*8.12%	*16.73%	*33.90%
Clinical Depression	89.11%	95.12%	*100.00%
ICH CAHPS: Quality of Dialysis Center Care and Operations**	55.82%	64.90%	76.18%
ICH CAHPS: Providing Information to Patients	71.09%	77.84%	85.11%
ICH CAHPS: Overall Rating of Dialysis Center Staff	52.57%	65.70%	80.74%
ICH CAHPS: Overall Rating of the Dialysis Facility	56.24%	69.41%	83.83%

*Values are the same final performance standards for those measures for PY 2027. In accordance with our longstanding policy, we are using those numerical values for those measures for PY 2028 because they are higher standards than the PY 2028 numerical values for those measures.

**We are finalizing our proposal to update the ICH CAHPS clinical measure beginning with PY 2028, as discussed in section IV.C.2. of this final rule.

[a] Rate calculated as a percentage of hospital discharges

[b] Rate per 100 patient-years

Data sources: VAT measure: 2024 EQRS; SRR, SHR, STrR: 2024 Medicare claims; Kt/V: 2024 EQRS and 2024 Medicare claims; NHSN: 2024 CDC; ICH CAHPS: CMS 2024; PPPW: 2024 EQRS and 2024 Organ Procurement and Transplantation Network (OPTN); Clinical Depression: 2024 EQRS.

In addition, we summarize in Table 15 our requirements for successful reporting on our finalized reporting measures for the PY 2027 and PY 2028 ESRD QIP.

TABLE 15—REQUIREMENTS FOR SUCCESSFUL REPORTING OF ESRD QIP REPORTING MEASURES FOR PY 2027 AND PY 2028

Measure	Reporting frequency	Data elements
MedRec	Monthly	• Date of the medication reconciliation. • Type of eligible professional who completed the medication reconciliation: ○ physician, ○ nurse, ○ advanced registered nurse practitioner (ARNP), ○ physician assistant (PA), ○ pharmacist, or ○ pharmacy technician personnel • Name of eligible professional.
Hypercalcemia	Monthly	Total uncorrected serum or plasma calcium lab values.
COVID–19 Vaccination Coverage Among HCP.	At least one week of data each month, submitted quarterly.	Cumulative number of HCP eligible to work in the facility for at least one day during the reporting period and who are up to date on their COVID–19 vaccination.

*We are finalizing our proposal to remove the Facility Commitment to Health Equity reporting measure beginning with PY 2027, as discussed in section IV.B.1. of this final rule. We are also finalizing our proposal to remove the Screening for Social Drivers of Health reporting measure and the Screen Positive Rate for Social Drivers of Health reporting measure beginning with PY 2027, as discussed in section IV.B.2. of this final rule.

4. Eligibility Requirements for the PY 2028 ESRD QIP

In the proposed rule, we did not propose to update eligibility requirements as part of our proposal to update the ICH CAHPS clinical measure. Our previously finalized minimum eligibility requirements are described in Table 12 of the CY 2026 ESRD PPS proposed rule (90 FR 29367), and provided in Table 16 of this final rule.

TABLE 16—PREVIOUSLY FINALIZED ELIGIBILITY REQUIREMENTS FOR SCORING ON ESRD QIP MEASURES BEGINNING WITH PY 2028

Measure	Minimum data requirements	CCN open date	Small facility adjuster
Kt/V Dialysis Adequacy Measure Topic: Adult HD Kt/V (Clinical).	11 qualifying patients	N/A	11–25 qualifying patients.
Kt/V Dialysis Adequacy Measure Topic: Pediatric HD Kt/V (Clinical).	11 qualifying patients	N/A	11–25 qualifying patients.
Kt/V Dialysis Adequacy Measure Topic: Adult PD Kt/V (Clinical).	11 qualifying patients	N/A	11–25 qualifying patients.
Kt/V Dialysis Adequacy Measure Topic: Pediatric PD Kt/V (Clinical).	11 qualifying patients	N/A	11–25 qualifying patients.
VAT: Long-term Catheter Rate (Clinical).	11 qualifying patients	N/A	11–25 qualifying patients.
Hypercalcemia (Reporting)	11 qualifying patients	Before September 1 of the performance period that applies to the program year.	N/A.
NHSN BSI (Clinical)	11 qualifying patients	Before October 1 prior to the performance period that applies to the program year.	11–25 qualifying patients.
SRR (Clinical)	11 index discharges	N/A	11–41 index discharges.
STrR (Clinical)	10 patient-years at risk	N/A	10–21 patient-years at risk.
SHR (Clinical)	5 patient-years at risk	N/A	5–14 patient-years at risk.
ICH CAHPS (Clinical)	Facilities with 30 or more survey-eligible patients during the calendar year preceding the performance period must submit survey results. Facilities would not receive a score if they do not obtain a total of at least 30 completed surveys during the performance period.	Before October 1 prior to the performance period that applies to the program year.	N/A.
Depression Screening and Follow-Up (Clinical).	11 qualifying patients	Before September 1 of the performance period that applies to the program year.	11–25 qualifying patients.
MedRec (Reporting)	11 qualifying patients	Before September 1 of the performance period that applies to the program year.	N/A.
PPPW (Clinical)	11 qualifying patients	N/A	11–25 qualifying patients.
COVID–19 Vaccination Coverage Among HCP (Reporting).	N/A	Before September 1 of the performance period that applies to the program year.	N/A.

5. Payment Reduction Scale for the PY 2028 ESRD QIP

Under our current policy, a facility does not receive a payment reduction for a payment year in connection with its performance under the ESRD QIP if it achieves a TPS that is at or above the minimum TPS (mTPS) that we establish for the payment year. We have defined the mTPS in our regulations at § 413.178(a)(8).

Under § 413.177(a), we implement the payment reductions on a sliding scale using ranges that reflect payment reduction differentials of 0.5 percent for each 10 points that the facility's TPS falls below the mTPS, up to a maximum reduction of 2 percent. In the proposed rule, we stated that for PY 2028, we estimated using available data that a facility must meet or exceed an mTPS of 56 to avoid a payment reduction (90 FR 29368). We noted that the mTPS estimated in the proposed rule was based on data from CY 2023 instead of the PY 2028 baseline period (CY 2024) because CY 2024 data were not yet available. We presented the estimated payment reduction scale in Table 13 of the CY 2026 ESRD PPS proposed rule (90 FR 29368). We are updating and finalizing the mTPS and associated payment reduction ranges for PY 2028, using CY 2024 data, in this CY 2026 ESRD PPS final rule. The mTPS for PY 2028 will be 57, and the finalized payment reduction scale is shown in Table 17.

TABLE 17—UPDATED PAYMENT REDUCTION SCALE FOR PY 2028 BASED ON THE MOST RECENTLY AVAILABLE DATA

Total performance score	Reduction (%)
100–57	0
56–47	0.5
46–37	1.0
36–27	1.5
26–0	2.0

D. Requests for Information (RFIs) on Topics Relevant to ESRD QIP

As discussed in the following sections, in the CY 2026 ESRD PPS proposed rule, we requested information on topics to inform future revisions to the ESRD QIP (90 FR 29368 through 29370). First, we requested information on the current state of health information technology (IT) use in dialysis facilities, including electronic health records, to further ongoing efforts to facilitate successful

adoption and integration of Fast Healthcare Interoperability Resources® (FHIR®), FHIR-based technologies and standardized data for patient assessment instruments. We also requested information regarding potential measurement concepts that could be developed into ESRD QIP measures in the future.

In the CY 2026 ESRD PPS proposed rule, we noted that each of these sections is an RFI only (90 FR 29368). In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), these general solicitations are exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

We stated that respondents are encouraged to provide complete but concise responses (90 FR 29368). These RFIs are issued solely for information and planning purposes; they do not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. These RFIs do not commit the United States Government to contract for any supplies or services or make a grant award. Further, we noted we were not seeking proposals through these RFIs and will not accept unsolicited proposals. Responders were advised that the United States Government will not pay for any information or administrative costs incurred in response to these RFIs; all costs associated with responding to these RFIs will be solely at the interested party's expense. Not responding to these RFIs does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor these RFI announcements for additional information pertaining to this request. We noted that we will not respond to questions about the policy issues raised in these RFIs. CMS may or may not choose to contact individual responders. Such communications would only serve to further clarify written responses. Contractor support personnel may be used to review RFI responses. Responses to this notice are not offers and cannot be accepted by the United States Government to form a binding contract or issue a grant. We stated that information obtained as a result of these RFIs may be used by the United States Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential. These RFIs should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become United States Government property and will not be returned. Finally, we noted that CMS may publicly post the comments received, or a summary thereof.

1. Request for Public Comment on Advancing Digital Quality Measurement in the ESRD QIP

a. Background

We are committed to improving healthcare quality through measurement, transparency, and public reporting of quality data, and to enhancing healthcare data exchange by promoting the adoption of interoperable health information technology (IT) that enables information exchange through the use of FHIR® standards. Proposing to require the use of such technology within the ESRD QIP in the future could potentially enable greater care coordination and information sharing, which is essential for delivering high-quality, efficient care and better outcomes at a lower cost. In the CY 2022 ESRD PPS final rule, we outlined several HHS initiatives aimed at promoting the adoption of interoperable health information technology (IT) and facilitating nationwide health information exchange (86 FR 61941 through 61945). Further, to inform our digital strategy, we sought and received feedback, described in the CY 2022 ESRD PPS final rule, on our intent to explore the use of FHIR-based standards to exchange clinical information through application programming interfaces (APIs), enabling quality data submission to CMS through EQRS, and to work with healthcare standards organizations to ensure their standards support our assessment tools (86 FR 61941 through 61948).

In the CY 2026 ESRD PPS proposed rule, we stated that we are considering opportunities to advance FHIR-based reporting of patient assessment data for the submission of ESRD QIP data (90 FR 29368). Our objective is to explore how dialysis facilities typically integrate health IT with varying complexity into existing systems and how this affects facility workflows. We also noted that we seek to identify the challenges and/or opportunities that may arise during this integration, and determine the support needed to complete and submit the data in ways that protect and enhance care delivery.

In the proposed rule, we stated that any updates to specific program requirements related to quality measurement and reporting provisions would be addressed through separate and future notice-and-comment rulemaking, as necessary (90 FR 29368).

b. Solicitation for Comment

In the CY 2026 ESRD PPS proposed rule, we sought feedback on the current state of health IT use, including EHRs, in ESRD facilities:

- What health IT does your facility use to maintain patient records, and are these health IT certified by the Assistant Secretary for Technology Policy (ASTP)/Office of the National Coordinator for Health Information Technology (ONC) (collectively, ASTP/ONC [30])? If your facility uses EHRs that are not certified by ONC, please specify. Does your facility maintain any patient records outside of these electronic systems? If so, is the data organized in a structured format, using codes and recognized standards, that can be exchanged with other systems?
- Does your facility submit patient assessment data to CMS through your current health IT system? If a third-party intermediary is used to report data, what type of intermediary service is used? How does your facility currently exchange health information with other healthcare providers or systems, specifically between facilities and other provider types? What are the challenges?
- Are there any challenges with your current electronic devices that hinder your ability to achieve interoperability, such as collecting, storing, sharing, or submitting data? Please describe any specific issues you encounter. Does limited internet or lack of internet connectivity impact your ability to exchange data with other healthcare providers, including community-based care services, or your ability to submit assessment data to CMS? Please specify.
- What challenges or barriers does your facility encounter when submitting quality data to CMS as part of the ESRD QIP? What opportunities or factors could improve your facility's successful data submission to CMS?
- What types of technical support, guidance, workforce trainings, and/or other resources would be most

[30] On July 29, 2024, notice was posted in the **Federal Register** that ONC would be dually titled to the Assistant Secretary for Technology Policy and Office of the National Coordinator for Health Information Technology (89 FR 60903).

beneficial for the implementation of FHIR-based technology in your facility for the submission of the data to CMS? How could these resources be designed to minimize complexity and burden on healthcare providers while ensuring the protection of patient care and maintaining staffing capacities during implementation? How could Quality Improvement Organizations (QIOs) or other entities enhance this support?

- How do you anticipate the adoption of FHIR-based standards for reporting patient assessment data could impact provider workflows? What impact, if any, do you anticipate it will have on quality of care?
- Does your facility have any experience using technology that conforms to a version or versions of the United States Core Data for Interoperability (USCDI) standard for data? Is your facility using technology that utilizes APIs based on the FHIR® standard for electronic data exchange? If so, with whom are you exchanging data using the FHIR® standard and for what purpose(s)? Has your facility used a SMART on FHIR® [31] application? If so, was the SMART on FHIR® application integrated with your EHR? Additionally, what benefits or challenges have you experienced with the implementation of FHIR® using APIs or USCDI?
- What might encourage your facility and/or vendors to participate in testing to explore options for transmission of assessments, for example testing the transmission of a FHIR-based assessment to CMS?
- How could the Trusted Exchange Framework and Common Agreement™ (TEFCA™) support CMS quality programs' adoption of FHIR-based assessment submissions consistent with the FHIR® Roadmap (available at *https://rce.sequoiaproject.org/three-year-fhir-roadmap-for-tefca//*)? How might patient assessment data hold secondary uses for treatment or other TEFCA exchange purposes?
- What other information should we consider, that could facilitate successful adoption and integration of FHIR-based technologies and standardized data for patient assessment instruments? We invited any feedback, suggestions, best practices, or success stories related to the implementation of these technologies.

We received comments in response to this request for information and have summarized them here.

Comment: Many commenters provided feedback in response to our request for public comment on the current state of health IT use in dialysis facilities.

Several commenters noted that many dialysis facilities, especially small or rural facilities, lack the resources and infrastructure to meet future interoperability mandates. Other commenters recommended that CMS work to provide technical and financial support for EHR modernization, incentivize vendor accountability for delivering certified, interoperable systems, and ensure that any future ESRD QIP interoperability requirements include realistic timelines for adopting updated health IT requirements.

A few commenters emphasized the importance of TEFCA as an on-ramp to help facilitate interoperability, noting the importance of sharing relevant clinical information when dialysis patients are admitted into the emergency department or elsewhere.

Several commenters provided feedback on challenges associated with submitting data to CMS through EQRS, including the burden associated with manually submitting data into the EQRS portal. Commenters stated that the use of FHIR-based standards presents an opportunity to move away from the current monthly batch submission process, allowing facilities to submit their data more promptly and with less manual effort. Commenters also stated that it has the potential to streamline ongoing maintenance in the future, as CMS and data submitters will no longer need to maintain non-industry standard XML specifications for EQRS data. A commenter also highlighted the difficulties associated with acquiring the services of an approved third-party Health Information Exchange (HIE) to submit data. A commenter stated that the use of FHIR-based standards will allow dialysis facilities to submit data directly without acquiring the services of a third-party HIE. Commenters also stated that dialysis facilities may not have sufficient resources to develop and integrate API for data submission and recommended that CMS allow at least 18 to 24 months from the finalization of specifications before APIs are required for compliance.

Another commenter also recommended that CMS engage developers and healthcare providers early in the process of testing initiatives to yield better alignment and more successful implementation. A commenter recommended that CMS: define clear goals and success metrics based upon participants' consensus; provide early access to sandbox environments, sample data, and feedback files; publish draft FHIR implementation guides with sufficient time for input; allow 18 to 24 months for organizations to implement finalized API specifications; and maintain regular feedback loops throughout testing.

Response: We appreciate all of the comments and interest in this topic. While we will not be responding to specific comments submitted in response to this RFI in this final rule, we believe that this input is very valuable to inform the continuing development of our efforts to advance digital quality measurement in the ESRD QIP. We will continue to take all concerns, comments, and suggestions into account for future development and integration of FHIR-based technologies and standardized data for patient assessment instruments.

2. Request for Information on Measure Concepts Under Consideration for Future Years

In the CY 2026 ESRD PPS proposed rule, we requested public comment on several measure concepts under consideration for future years (90 FR 29369). First, we sought feedback for a measure of interoperability with a focus on systems readiness and capabilities in the dialysis facility setting. The Public Health Service Act defines ''interoperability'' in part, and with respect to health information technology, as health information technology that enables the secure exchange of electronic health information with, and use of electronic health information from, other health information technology without requiring special efforts by the user.[32] The definition further notes that interoperability of health information technology allows providers and patients to access, exchange, and use electronically accessible health information for authorized use under applicable State or Federal law. To achieve interoperability, a system should adopt and optimize electronic health records (EHRs) and health information exchange services.[33] In the proposed rule, we requested input and comment on approaches to assessing interoperability in the dialysis facility setting, for instance, measures that address or evaluate the level of readiness for interoperable data exchange, or measures that evaluate the ability of data systems to securely share information across the entire spectrum of care with special consideration of exchange of information between

[31] *https://smarthealthit.org/.*

[32] 42 U.S.C. 300jj(9).

[33] The Office of the National Coordinator for Health Information Technology. ''The Path to Interoperability''. September 2013. Available at *https://www.healthit.gov/sites/default/files/factsheets/onc_interoperabilityfactsheet.pdf.*

dialysis facilities and both inpatient (including transplant centers) and outpatient facilities and providers.

A second concept about which we sought feedback is for a measure of well-being (90 FR 29369). Well-being is a comprehensive approach to disease prevention and health promotion, as it integrates mental, social, and physical health while emphasizing preventative care to proactively address potential health issues.[34] In the proposed rule, we noted that this comprehensive approach emphasizes person-centered care by promoting the well-being of patients and their care partners. We sought comment on tools and measures that assess for overall health, happiness, and satisfaction in life that could include aspects of emotional well-being, social connections, purpose, and fulfillment. We noted that we would like to receive input and comment on the applicability of tools and constructs that assess for the integration of complementary and integrative health, skill building, and self-care. In the proposed rule, we welcomed feedback on the relevant aspects of well-being for the ESRD QIP.

A third concept about which we sought feedback is for measures of nutrition (90 FR 29369 through 29370). In the proposed rule, we noted that assessment for nutritional status may include various strategies, guidelines, and practices designed to promote healthy eating habits and ensure individuals receive the necessary nutrients for maintaining health, growth, and overall well-being. Nutrition is a complex concept for patients with ESRD who may also have dietary restrictions, fluid restrictions, and/or frailty; however, adequate nutrition and nutritional support are important for overall health in this population. Maximizing nutrition can assist with dialysis treatment tolerance, improvement in comorbid conditions, and readiness for kidney transplant, if desired. We sought feedback on tools and frameworks that promote healthy eating habits and nutrition for patients requiring dialysis. In the proposed rule, we welcomed feedback on the relevant aspects of nutrition for the ESRD QIP.

A fourth concept about which we sought feedback is for measures of physical activity (90 FR 29370). In the proposed rule, we noted that although dialysis therapy presents barriers to physical activity for many patients including physical, structural, psychological, and practical barriers, physical activity and purposeful movement are critical for patients on dialysis. Physical activity can improve physical functioning, sleep, and well-being for patients on dialysis as well as potentially impact comorbid conditions. In the proposed rule, we requested feedback on all relevant aspects of physical activity for the ESRD QIP.

Finally, we sought feedback on measures related to chronic kidney disease (CKD) that would encourage early detection, early and appropriate treatment, and delay of progression to ESRD. The prevention or significant delay in the need for dialysis would profoundly impact patients. In the proposed rule, we welcomed feedback on all relevant aspects of CKD prevention and treatment in all settings.

We welcomed public comment on the future measure concepts under consideration for the ESRD QIP described in Table 18.

TABLE 18—FUTURE MEASURE CONCEPTS UNDER CONSIDERATION FOR THE ESRD QIP

ESRD QIP quality measure concepts
Interoperability
Well-being
Nutrition
Physical Activity

We received comments in response to this RFI and have summarized them here. While we are not responding to specific comments in this final rule, we intend to use this input to inform our future measure development efforts.

Comment: Several commenters provided feedback in response to our request for public comment on future measure concepts for the ESRD QIP.

Several commenters stated that, while they supported the concept of interoperability, additional resources would be required to meet interoperability standards in dialysis facilities. Another commenter recommended that, to ensure the successful adoption of future measures, future measures should provide technical assistance and funding for facilities with limited resources, align new measures with existing ESRD QIP and interoperability frameworks, and avoid punitive scoring during early implementation. A few commenters stated that the costs and technical burden of FHIR implementation could disproportionately impact independent facilities and smaller/hospital-based organizations, further widening the gap between large dialysis organizations and smaller systems. Other commenters also stated that by enhancing interoperability across healthcare systems, facility can significantly improve the patient experience—especially for individuals with end-stage renal disease (ESRD) who often face a complex and fragmented care journey due to multiple comorbidities.

Several commenters supported the Administration's emphasis on nutrition and environmental influences on healthcare. Commenters agreed that such factors are critically important in the care of people with kidney diseases in the United States, with a commenter noting that nutrition and physical activity are foundational to managing comorbidities and improving dialysis outcomes. A commenter recommended that, in developing future measures aimed at addressing these factors, CMS explore dietary adherence metrics tied to renal nutrition guidelines, access to registered dietitians and nutrition counseling as structural measures, physical activity readiness assessments or engagement tracking via wearable integration or patient self-report. A few commenters agreed that nutrition is a critical aspect of caring for individuals with kidney disease and recommended that CMS consider opportunities to develop an appropriate measure for earlier stages of chronic kidney disease (CKD) where it could be more impactful and support the delayed onset of kidney failure.

Several commenters supported the inclusion of measures that assess well-being, noting that such factors are relevant to health outcomes and quality of life for patients managing chronic conditions like ESRD. A commenter recommended that CMS consider adapting validated tools such as the PROMIS Global Health Scale or WHO–5 Well-Being Index for dialysis populations. This commenter also recommended that measures should be patient-reported, culturally sensitive, and stratified by social risk to ensure they are applied equitably. Another commenter recommended that the ESRD QIP adopt a quality measure of access to palliative care for all beneficiaries over age 75 receiving dialysis, noting the prevalence of many debilitating symptoms among ESRD patients and that palliative care has been proven to significantly increase patient well-being by expertly managing many debilitating symptoms prevalent among ESRD patients, which the commenter further asserts would reduce Medicare spending as a result. A few commenters stated that while well-being is important for all people, including Medicare beneficiaries living with ESRD, attempting to assess their overall health, happiness, and satisfaction in life through a measure in the ESRD QIP

[34] Well-Being Concepts. CDC Archives. *https://archive.cdc.gov/#/details?url=https://www.cdc.gov/hrqol/wellbeing.htm.*

would be outside the scope of the program. A commenter recommended expanding the concept of wellness to be more holistic and include not only mental and physical but social, emotional, spiritual, financial, and other quality of life domains.

Response: We appreciate all of the comments and interest in this topic. While we are not responding to specific comments in response to the RFI in this final rule, we believe that this input is very valuable and will continue to take all concerns, comments, and suggestions into account for future development and consideration of future measure concepts for the ESRD QIP.

V. End-Stage Renal Disease Treatment Choices (ETC) Model

A. Background

Section 1115A of the Act authorizes the Innovation Center to test innovative payment and service delivery models expected to reduce Medicare, Medicaid, and Children's Health Insurance Program (CHIP) expenditures while preserving or enhancing the quality of care furnished to the beneficiaries of these programs. The purpose of the ETC Model is to test the effectiveness of adjusting certain Medicare payments to ESRD facilities and Managing Clinicians to encourage greater utilization of home dialysis and kidney transplantation, support ESRD Beneficiary modality choice, reduce Medicare expenditures, and preserve or enhance the quality of care. As described in the Specialty Care Models final rule (85 FR 61114), beneficiaries with ESRD are among the most medically fragile and high-cost populations served by the Medicare program. ESRD Beneficiaries require dialysis or kidney transplantation to survive, and the majority of ESRD Beneficiaries receiving dialysis receive hemodialysis in an ESRD facility. However, as described in the Specialty Care Models final rule, alternative renal replacement modalities to in-center hemodialysis, including home dialysis and kidney transplantation, are associated with improved clinical outcomes, better quality of life, and lower costs than in-center hemodialysis (85 FR 61264).

The ETC Model is a mandatory payment model. ESRD facilities and Managing Clinicians are selected as ETC Participants based on their location in Selected Geographic Areas—a set of 30 percent of Hospital Referral Regions (HRRs) that have been randomly selected to be included in the ETC Model, as well as HRRs with at least 20 percent of ZIP codes™ located in Maryland.[35] CMS excludes all United States Territories from the Selected Geographic Areas.

Under the ETC Model, ETC Participants are subject to two payment adjustments. The first is the Home Dialysis Payment Adjustment (HDPA), which is an upward adjustment on certain payments made to participating ESRD facilities under the ESRD PPS on home dialysis claims, and an upward adjustment to the Monthly Capitation Payment (MCP) paid to participating Managing Clinicians on home dialysis-related claims. The HDPA applies to claims with claim service dates beginning January 1, 2021, and ending December 31, 2023.

The second payment adjustment under the ETC Model is the Performance Payment Adjustment (PPA). For the PPA, we assess ETC Participants' home dialysis rates and transplant rates during a Measurement Year (MY), which includes 12 months of performance data. Each MY has a corresponding PPA Period—a 6-month period that begins 6 months after the conclusion of the MY. We adjust certain payments for ETC Participants during the PPA Period based on the ETC Participant's home dialysis rate and transplant rate, calculated as the sum of the transplant waitlist rate and the living donor transplant rate, during the corresponding MY.

Based on an ETC Participant's achievement in relation to benchmarks based on the home dialysis rate and transplant rate observed in Comparison Geographic Areas during the Benchmark Year, and the ETC Participant's improvement in relation to their own home dialysis rate and transplant rate during the Benchmark Year, we would make an upward or downward adjustment to certain payments to the ETC Participant. The magnitude of the positive and negative PPAs for ETC Participants increases over the course of the Model. These PPAs apply to claims with claim service dates beginning July 1, 2022, and ending June 30, 2027.

CMS has modified the ETC Model several times. In the CY 2022 ESRD PPS final rule, we finalized a number of changes to the ETC Model. We adjusted the calculation of the home dialysis rate (86 FR 61951 through 61955) and the transplant rate (86 FR 61955 through 61959) and updated the methodology for attributing Pre-emptive LDT Beneficiaries (86 FR 61950 through 61951). We changed the achievement benchmarking and scoring methodology (86 FR 61959 through 61968), as well as the improvement benchmarking and scoring methodology (86 FR 61968 through 61971). We specified the method and requirements for sharing performance data with ETC Participants (86 FR 61971 through 61984). We also made a number of updates and clarifications to the kidney disease patient education services waivers and made certain related flexibilities available to ETC Participants (86 FR 61984 through 61994). In the CY 2023 ESRD PPS final rule (87 FR 67136) we finalized further changes to the ETC Model. We updated the PPA achievement scoring methodology beginning in the fifth MY of the ETC Model, which began on January 1, 2023 (87 FR 67277 through 67278). We also clarified requirements for qualified staff to furnish and bill kidney disease patient education services under the ETC Model's Medicare program waivers (87 FR 67278 through 67280) and finalized our intent to publish participant-level model performance information to the public (87 FR 67280). In the CY 2024 ESRD PPS final rule (88 FR 76344) we finalized a policy whereby an ETC Participant may seek administrative review of a targeted review determination provided by CMS. In the CY 2025 ESRD PPS final rule (89 FR 89084) we finalized a modification to the definition of ESRD Beneficiary at 42 CFR 512.310 as that definition is used for the purposes of attributing beneficiaries to the ETC Model.

B. Summary of the Proposed Provisions, Public Comments, and Responses to the Comments on the ETC Model

1. Termination of the ETC Model

In the proposed rule, we proposed to terminate the ETC Model as of December 31, 2025. Section 1115A of the Act gives the Secretary the authority to terminate Innovation Center models. Specifically, section 1115A(b)(3)(B) of the Act states that ''The Secretary shall terminate or modify the design and implementation of a model unless the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services, with respect to program spending under the applicable title, certifies), after testing has begun, that the model is expected to—improve the quality of care (as determined by the Administrator of the Centers for Medicare & Medicaid Services) without increasing spending under the applicable title; reduce spending under the applicable title without reducing the quality of care; or improve the quality of care and reduce spending. Such termination may occur at any time after

[35] ZIP code™ is a trademark of the United States Postal Service.

such testing has begun and before completion of the testing.'' [36]

ETC Model performance since 2021 has not been shown to enhance the quality-of-care ETC regions on the key model measures of home dialysis modalities, transplant waitlisting, and living donor transplantation. The third Annual Evaluation Report (AR3) examined impacts of the ETC Model during calendar years CYs 2021 to 2023, which correspond to the first three model years (MYs) of the model. While AR3 showed home dialysis use continued to grow nationally, there was no evidence of faster growth within selected geographic areas relative to the comparison group of geographic areas not selected for the ETC Model. Further, for transplant-related measures, AR3 showed no evidence of a change in waitlisting rates in ETC areas relative to comparison areas. Increased rates of home dialysis training were evident in CY 2021 to CY 2023.[37]

Also of note is that the ETC Model has not reduced Medicare expenditures throughout the duration of the ETC model and in fact has increased expenditures. The AR3 evaluation preliminarily showed that net Medicare payments increased by $99 million over the course of the model. The model was initially projected to show savings by decreasing payments for participants such that they would likely not be able to hit the required thresholds for performance in the ETC Model. However, due to stronger than expected increases in rates of home dialysis caused by factors other than the model and the effects of the improvement scoring methodology, managing clinicians and ESRD facilities performed better than expected and have received a net increase in payments.[38]

CMS issued an RFI in the CY 2025 ESRD PPS final rule (89 FR 89084) seeking comments about potential future policies that CMS could undertake to increase home dialysis rates and better support beneficiaries. Many of these suggestions that we received from the RFI are actively being tested in the Kidney Care Choices (KCC) Model, such as the Kidney Disease Education (KDE) benefit waiver, home dialysis quality measures focused on retention and optimal starts, efforts to increase transplantation, and a focus on home dialysis primarily through peritoneal dialysis (PD) as the dominant home dialysis modality.

Results of the PY 2022 evaluation for the KCC Model demonstrate promising strides towards the aforementioned shared goals with the ETC model, and more specifically, a statistically significant increase in home dialysis rates for aligned beneficiaries in aggregate. Specifically, KCC participants increased the proportion of patients receiving PD in a given month by 2.3 percentage points. This statistically significant relative increase represents about 26 percent of the pre-KCC mean. Additionally, Comprehensive Kidney Care Contracting (CKCC) model participants increased the proportion of patients receiving PD in a given month by 0.74 percentage points. This statistically significant relative increase represents about 8 percent of the pre-KCC mean.[39]

Given these factors, we proposed to terminate the ETC model as of December 31, 2025. Specifically, we proposed to revise the duration of the ETC Model at § 512.320 from claims with claim service dates beginning on or after January 1, 2021, and ending on or before June 30, 2027, to claims with claim service dates beginning on or after January 1, 2021, and ending on or before December 31, 2025. We sought public comment on our proposal to modify the duration of the ETC Model § 512.320.

Additionally, we proposed to modify our regulation at §§ 512.355(a) through (b) to specify that the final Measurement Year (MY) ends on December 31, 2024, and the final Performance Payment Adjustment (PPA) ends December 31, 2025. This proposal would make MY7 and PPA7 the last MY and PPA of the ETC Model. Therefore, we also proposed to modify Table 1 to paragraph (c)—ETC Model Schedule of Measurement Years and PPA Periods at § 512.355 to eliminate the entries for MY8 through MY10. We sought public comment on our proposal to modify our regulation at §§ 512.355(a) through (c) to make MY7 and PPA7 the final MY and PPA of the ETC Model.

In order to align the remaining regulation text with our proposal to terminate the model after MY7, we proposed to modify §§ 512.360(c)(2)(iii), 512.365(b)(1)(ii), 512.365(c)(1)(i)(A), 512.365(c)(1)(ii), 512.365 (c)(2)(i)(A), 512.365 (c)(2)(ii)(A)(*1*) and 512.365 (c)(2)(ii)(A)(2) to remove references to MYs 8 through 10, and change any references to the last MY of the ETC model to reference MY7. We sought public comment on these proposals.

Also, for the reasons listed previously, we proposed to modify §§ 512.370(b) introductory text, Table 1 to paragraph (b)(1) of 512.370, 512.370(b)(2), 512.370 (b)(3), 512.370 (c), 512.370(c)(1)(v), and 512.370(d)(2) to remove references to MYs 8 through 10, and change any references to the last MY of the ETC model to reference MY7. Finally, we proposed to modify Table 1 to § 512.380—Facility PPA Amounts and Schedule, and Table 2 to § 512.380 to remove references to MYs 8 through 10, and § 512.390(b) to clarify when we proposed to stop data sharing and the sharing of reports. We sought public comment on this proposal.

Given this proposed termination, we also plan to stop any data sharing and reports as of November 30, 2025, which would include any information about model performance in MYs 7 through 10. This action accommodates the abbreviated project schedule of our implementation contractor in alignment with the early termination of the model on December 31, 2025. Three evaluation reports have been completed and made public. The First Annual Evaluation Report was published in July 2023 and pertained to the first year of the model (CY 2021), Measurement Years (MYs) 1 and 2. The Second Annual Evaluation Report was published on January 2024 and pertained to CY 2021 and CY 2022, which corresponds to MYs 1–3. The Third Annual Evaluation Report was completed and made public in August 2025. This evaluation report covers CYs 2021–2023 and pertains to MYs 1–6. We anticipate that there will be a Fourth Annual Evaluation Report expected to be made public after the end of the ETC model. This evaluation report will cover CYs 2021–2025 and pertain to MYs 1–7. We sought public comment on this proposal.

We received public comments on these proposals. The following is a summary of the comments we received and our responses.

Comment: Several comments supported the early termination of the ETC Model. Commenters agreed that the lack of substantive evaluation results gave CMS the authority to terminate the model under section 1115A of the Act. A few commenters who supported termination requested that CMS continue its support of the goals of the

[36] 42 U.S.C. 1315a

[37] Negrusa, B., Wiens, J., Ullman, D., Turenne, M., Mukhopadhyay, P., Young, E., Mandell, R., Stanik, C., Pozniak, A., Goyat, R., Ji, N., Martin, A., Wang, D., Wiseman, J., Tian, S., Milkovich, K., Dahlerus, C., & Hirth, R. (2025). *End-stage renal disease treatment choices (ETC) model: Third annual evaluation report* (Contract No. 75FCMC19D0096). The Lewin Group. *https://www.cms.gov/priorities/innovation/data-and-reports/2025/etc-3rd-eval-tech-rpt.*

[38] Ibid.

[39] Negrusa, B., Wiens, J., Ullman, D., Dahlerus, C., Hirth, R., Maillet, A., Strubler, D., Pinson, R., Mindock, M., Bacon, K., Kappes, A., Johann, A., Vomacka, B., Schaefer, M. B., Segal, J., Shahinian, V., Li, Y., Shearon, T., Ashby, V., Nahra, T., Gunden, J., Wang, M., Garcia, A., & Yaldo, A. (2024). *Kidney care choices (KCC) model: First annual evaluation report, performance year 2022* (Contract No. 75FCMC19D0096). The Lewin Group. *https://www.cms.gov/kcc-model-eval-ann-rpt-1.*

Advancing American Kidney Health initiative, including increasing home dialysis and transplant rates for new ESRD patients. A few commenters included suggestions on future models for CMS consideration to further these goals.

Response: We thank commenters for their support for the termination of the ETC Model. As stated in this final rule, CMS may terminate a model that does not improve quality of care while increasing Medicare spending. As shown in AR1, AR2, and A3, the ETC Model has not increased home dialysis, transplant waitlisting, or living donor transplantation. Further, the AR3 evaluation preliminarily showed that net Medicare payments increased by $99 million over the course of the model. While CMS is encouraged by the national increase in rates of home dialysis, this change could not be attributed to the ETC Model. As such, we agree with commenters and we will finalize the termination of the ETC Model as of December 31, 2025.

Despite the limitations of the ETC Model, CMS remains committed to improving the quality of care delivered to beneficiaries with ESRD. Announced in 2019, Advancing American Kidney Health (AAKH) was signed by President Trump to transform how kidney disease is prevented, diagnosed, and treated within the next decade. One of the goals of AAKH is to ''have 80 percent of new American ESRD patients in 2025 receiving dialysis in the home or receiving a transplant.'' [40] While we have not met this goal, CMS is encouraged by the overall rise in home dialysis rates that has occurred since 2019. CMS remains open to exploring alternative policy options including future models to further utilization of home dialysis where deemed medically appropriate.

After consideration of the public comments, we are finalizing our proposal to terminate the ETC model as of December 31, 2025. Specifically, we are finalizing our proposals to revise the duration of the ETC Model at § 512.320 from claims with claim service dates beginning on or after January 1, 2021, and ending on or before June 30, 2027, to claims with claim service dates beginning on or after January 1, 2021, and ending on or before December 31, 2025. We are also finalizing as proposed our modifications at § 512.355(a) through (b) to specify that the final Measurement Year (MY) ends on December 31, 2024, and the final Performance Payment Adjustment (PPA) ends December 31, 2025. To align with finalizing our proposal to terminate the ETC Model, we are also finalizing the following to align the regulation text with the new model end date: We are finalizing our proposals to:

- Modify Table 1 to paragraph (c)—ETC Model Schedule of Measurement Years and PPA Periods at § 512.355 to eliminate the entries for MY8 through MY10, Modify §§ 512.360(c)(2)(iii), 512.365(b)(1)(ii), 512.365(c)(1)(i)(A), 512.365(c)(1)(ii), 512.365 (c)(2)(i)(A), 512.365 (c)(2)(ii)(A)(*1*) and 512.365 (c)(2)(ii)(A)(2) to remove references to MYs 8 through 10, and change any references to the last MY of the ETC model to reference MY7,
- Modify §§ 512.370(b) introductory text, Table 1 to paragraph (b)(1) of 512.370, 512.370(b)(2), 512.370 (b)(3), 512.370 (c), 512.370(c)(1)(v), and 512.370(d)(2) to remove references to MYs 8 through 10, and change any references to the last MY of the ETC model to reference MY7; and,
- Modify Table 1 to § 512.380—Facility PPA Amounts and Schedule, and Table 2 to § 512.380 to remove references to MYs 8 through 10, and § 512.390(b) to clarify when we will stop data sharing and the sharing of reports.

2. Discussion of Hurricane Helene and the ETC Model

Hurricane Helene hit western North Carolina on October 1 and 2, 2024. The hurricane affected a factory operated by Baxter International in Marion, NC that produces approximately 60 percent of the nation's supply of IV fluids and peritoneal dialysis solutions. Baxter stopped providing PD supplies for new starts after October 1, 2024, and it took until February 17, 2025, before all of their manufacturing lines returned to pre-hurricane production levels. Even with that announcement, they stated that ''allocations remain necessary, and we will continue to provide related updates for our customers directly'', suggesting continued disruptions.[41] The final statement released from Baxter on this issue dated May 13, 2025, focused on the complete restoration of inventory levels for IV Solutions only. Interested parties with additional inquiries regarding the production of PD solutions were directed to Vantive.[42]

Given the potential impact of Hurricane Helene on home dialysis, we considered adjusting the schedule and methodologies for the PPA. The impacts of Hurricane Helene could disrupt performance metrics for participants for MY7, 8, and 9 (CY 2024 Q3 and Q4 through CY 2025 Q1 and Q2) and Benchmark Years (BY) 7, 8, and 9. A decrease in home dialysis for the PD modality in these time periods would begin to affect model performance payment adjustments to claims in July 2025. For the PPA, CMS assesses ETC Participants' home dialysis rate and transplant rate during an MY which includes 12 months of performance data. Some MYs overlap with the previous MY and the subsequent MY for a period of 6 months. Each MY has a corresponding PPA Period—a 6-month period which begins 6 months after the conclusion of the MY. CMS adjusts certain payments for ETC Participants during the PPA Period based on the ETC Participant's home dialysis rate and transplant rate. Based on an ETC Participant's achievement in relation to benchmarks based on the home dialysis rate and transplant rate observed in Comparison Geographic Areas during the Benchmark Year, and the ETC Participant's improvement in relation to its own home dialysis rate and transplant rate during the Benchmark Year, we make an upward or downward adjustment to certain payments to the ETC Participant.

As an alternative, we considered proposing that no upward or downward adjustments would be made for MY7 and PPA7 prior to the proposed termination of the model. Due to the timing of the publication of this final rule, changing the payment adjustments would be retroactive. However, initial research by CMS did not show a statistically significant change in home dialysis rates among participants and non -participants for ETC Participant performance during October to December of 2024 when compared to January to September 2024. As such, we determined that proposing to eliminate the performance adjustments in the ETC Model for PPA7 was unnecessary.

As part of this alternative that we considered to our proposal, we also recognized that section 1871(e) of the Act lays out the principle that substantive changes in regulations shall not be applied retroactively unless the Secretary determines that either such retroactive application is necessary to comply with statutory requirements or failure to apply the change retroactively

[40] U.S. Department of Health and Human Services, Assistant Secretary for Planning and Evaluation. (2019, July 9). Advancing American Kidney Health. *https://aspe.hhs.gov/sites/default/files/private/pdf/262046/AdvancingAmericanKidneyHealth.pdf.*

[41] Baxter International Inc. (2025, February 17). *Hurricane Helene updates.* Baxter. *https://www.baxter.com/baxter-newsroom/hurricane-helene-updates.*

[42] Baxter International Inc. (2025, May 13). *Hurricane Helene updates.* Baxter. *https://www.baxter.com/baxter-newsroom/hurricane-helene-updates.*

would be contrary to the public interest. We stated in the proposed rule that if we received comments providing significant empirical evidence of overwhelming negative effects of the supply shortage on the administration of home dialysis, implementing PPA7 adjustments as currently written may not serve the public interest. We have heard anecdotal evidence that the Baxter supply shortages starting October 1, 2024, could have reduced home dialysis participation rates, making it difficult for participants to meet their performance benchmarks. This was not reflected in our data analysis, but we were open to seeing data from participants that could adjust our proposal. We stated that without CMS intervention, this could result in negative payment adjustments starting July 1, 2025, which could hurt the ability of managing clinicians and ESRD facilities to continue to serve patients. If payments were cut due to circumstances out of ESRD facilities and Managing Clinician's control, it could hurt beneficiary access or affect the quality of care received by beneficiaries.

We sought public comment on our proposal to make no changes to the schedule and methodologies for the PPA due to Hurricane Helene. We also sought comment on the alternative we considered of making no upward or downward adjustments for MY7 and PPA7 and applying that policy retroactively.

We received public comments on these proposals. The following is a summary of the comments we received and our responses.

Comment: A few commenters support CMS' decision to make no changes to the schedule and methodologies for the PPA due to Hurricane Helene.

Response: We thank commenters for their support of not proposing a change to the performance adjustments for the ETC Model in PPA 7.

Comment: A couple commenters expressed concern with the effects of Hurricane Helene and suggested that while data analyses may not show an effect on national rates of PD, there may be regional affects that are unnoticed. Therefore, the commenter suggested that CMS eliminate the performance adjustments in the ETC Model for PPA 7. Another commenter suggested that CMS eliminate performance adjustments on an individual basis. CMS also received comments about the PD supply chain that were out of scope.

Response: While we have considered the potential for regional effects on the rates of PD due to Hurricane Helene, we have seen no data to substantiate this claim. As such, we did not propose adjusting PPA 7.

After consideration of public comments, we will not make any modifications to the proposal to terminate the ETC Model without adjustments to PPA 7.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management & Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We solicited public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

A. ESRD QIP—Wage Estimates

We refer readers to the CY 2025 ESRD PPS final rule for information regarding previously used wage estimates and resulting information collection burden calculations (89 FR 89194 through 89195). To derive wage estimates in the CY 2026 ESRD PPS proposed rule and in this final rule, we used data from the United States Bureau of Labor Statistics' May 2024 National Occupational Employment and Wage Estimates for Medical Records Specialists, who are responsible for organizing and managing health information data, are the individuals tasked with submitting measure data to the ESRD Quality Reporting System (EQRS) (formerly, CROWNWeb) and the Centers for Disease Control and Prevention's (CDC's) NHSN, as well as compiling and submitting patient records for the purpose of data validation (90 FR 29372 through 29373). When this analysis was conducted, the most recently available median hourly wage of a Medical Records Specialist was $24.16 per hour.[43] We also calculate fringe benefit and overhead at 100 percent. We adjusted these employee hourly wage estimates by a factor of 100 percent to reflect current HHS department-wide guidance on estimating the cost of fringe benefits and overhead. Using these assumptions, we estimated an hourly labor cost of $48.32 as the basis of the wage estimates for all collections of information calculations in the ESRD QIP.

We used this wage estimate, along with updated facility and patient counts, to update our estimates for the total information collection burden in the ESRD QIP for PY 2027 and to estimate the total information collection burden in the ESRD QIP for PY 2028 in the CY 2026 ESRD PPS proposed rule. We provide the updated information collection burden to reflect current facility and patient counts, in this final rule.

B. Estimated Burden Associated With the Data Validation Requirements for PY 2028

We refer readers to the CY 2025 ESRD PPS final rule for information regarding the estimated burden associated with data validation requirements for PY 2027 (89 FR 89195).

1. Estimated Burden Associated With EQRS Data Validation Requirements for PY 2028

In this final rule, using the most recently available data, we estimate that the aggregate cost of the EQRS data validation for PY 2028 will be approximately $36,240 (750 hours × $48.32), or an annual total of approximately $120.80 ($36,240/300 facilities) per facility in the sample. The burden cost increase associated with these requirements will be submitted to OMB in the revised information collection request (OMB control number 0938–1289).

2. Estimated Burden Associated With NHSN Data Validation Requirements for PY 2028

In this final rule, we estimate that the aggregate cost of the NHSN data validation for PY 2028 will be approximately $72,480 (1,500 hours × $48.32), or a total of approximately $241.60 ($72,480/300 facilities) per facility in the sample. While the burden hours estimate will not change, the burden cost updates associated with these requirements will be submitted to OMB as a revision of the information collection request currently approved under OMB control number 0938–1340.

[43] *https://data.bls.gov/oesprofile/.*

C. Estimated EQRS Reporting Requirements for PY 2027 and PY 2028

To estimate the burden associated with the EQRS reporting requirements (previously known as the CROWNWeb reporting requirements), we look at the total number of patients nationally, the number of data elements per patient-year that the facility will be required to submit to EQRS for each measure, the amount of time required for data entry, the estimated wage plus benefits applicable to the individuals within facilities who are most likely to be entering data into EQRS, and the number of facilities submitting data to EQRS. In the CY 2025 ESRD PPS final rule, we estimated that the burden associated with EQRS reporting requirements for the PY 2027 ESRD QIP was approximately $136.1 million for approximately 2,901,090 total burden hours (89 FR 89195). In that final rule, we stated that for PY 2027 there are 136 data elements for 511,957 patients across 7,695 facilities, for a total of 69,626,152 elements across all patients (136 data elements × 511,957 patients). At 2.5 minutes per element, we estimated that this will yield approximately 377 hours per facility. Therefore, we stated that the PY 2027 burden associated with EQRS reporting requirements as finalized in the CY 2025 ESRD PPS final rule will be 2,901,090 hours (approximately 377 hours × 7,695 facilities). Using the May 2023 wage estimate for a Medical Records Specialist, we estimated that the PY 2027 total burden cost will be approximately $136.1 million (2,901,090 hours × $46.90).

We are finalizing three measure removals in this final rule that will affect the burden associated with EQRS reporting requirements beginning with PY 2027. We provided the updated burden estimate for PY 2027 to reflect the impact of these proposals if finalized, as well as to reflect the updated May 2024 wage estimate for a Medical Records Specialist, in the CY 2026 ESRD PPS proposed rule (90 FR 29373). We are further updating the information collection burden to reflect updated facility and patient counts in this final rule. In the CY 2026 ESRD PPS proposed rule, we estimated that the amount of time required to submit measure data to EQRS would be 2.5 minutes per element and did not use a rounded estimate of the time needed to complete data entry for EQRS reporting. We are further updating these estimates in this final rule using current estimates of the total number of ESRD facilities, the total number of patients nationally, as well as a refined estimate of the number of hours needed to complete data entry for EQRS reporting. There are 121 data elements for 513,475 patients across 7,582 facilities, for a total of 62,130,475 elements across all patients (121 data elements × 513,475 patients). Because we are finalizing the three measure removals as proposed, the total number of data elements will decrease by 7,495,677 data elements based on current patient and facility counts. At 2.5 minutes per element, this will yield approximately 341 hours per facility. Therefore, the updated PY 2027 burden will be 2,588,770 hours (approximately 341 hours × 7,582 facilities), reflecting a burden decrease of 312,320 hours from our previously finalized estimate for PY 2027. Using the Medical Records Specialist wage estimates available at this time, we estimated that the updated PY 2027 total burden cost will be approximately $125 million (2,588,770 hours × $48.32). The updated estimation reduction in burden associated with the removal of the three measures is described in Table 19.

TABLE 19—UPDATED ESTIMATED REDUCTION IN BURDEN ASSOCIATED WITH REMOVAL OF THREE REPORTING MEASURES BEGINNING WITH THE PY 2027 ESRD QIP

Requirement	Per facility		All facilities	
	Change in annual burden hours	Change in annual cost	Change in annual burden hours	Change in annual cost
Removal of the Facility Commitment to Health Equity Reporting Measure	−14.10	−$681.51	−$106,937	−$5,167,234.09
Removal of the Social Drivers of Health Reporting Measure	−14.10	−681.51	−106,937	−5,167,234.09
Removal of the Screen Positive for Social Drivers of Health Reporting Measure	−14.10	−681.51	−106,937	−5,167,234.09
	Total Change in Information Collection Burden Hours: –320,813 Total Cost Estimate: Updated Hourly Wage (Varies) × Change in Burden Hours (−320,813) = −$15,501,702			

We provided the burden estimate for PY 2028 in the CY 2026 ESRD PPS proposed rule (90 FR 29374) and are updating the information collection burden to reflect updated facility and patient counts, in this final rule. In the proposed rule, we estimated that the amount of time required to submit measure data to EQRS would be 2.5 minutes per element and did not use a rounded estimate of the time needed to complete data entry for EQRS reporting. We are further updating these estimates in this final rule, using updated estimates of the total number of ESRD facilities, the total number of patients nationally, as well as a refined estimate of the number of hours needed to complete data entry for EQRS reporting. There are 121 data elements for 513,475 patients across 7,582 facilities, for a total of 62,130,475 elements (121 data elements × 513,475 patients). At 2.5 minutes per element, this will yield approximately 341 hours per facility. Therefore, the PY 2028 burden will be 2,588,770 hours (approximately 341 hours × 7,582 facilities). Using the Medical Records Specialist wage estimates available at this time, we estimate that the PY 2028 total burden cost will be approximately $125 million (2,588,770 hours × $48.32).

The information collection request currently approved under the OMB control number 0938–1289 will be revised and submitted to OMB for approval.

D. Estimated ICH CAHPS Reporting Requirements for PY 2028

The information collection request currently approved under OMB control number 0938–0926 for the ICH CAHPS Survey is being revised and submitted to OMB for approval. As we are finalizing a reduction of the ICH CAHPS survey from 62 to 39 questions, the survey length is decreasing from 16 to 12 minutes as the time for patients to

complete each question ranges from 15 to 18 seconds on average. Although the average number sampled has increased in the information collection request currently approved under OMB control number 0938–0926 being submitted as part of this rule, the hour burden has decreased from 51,300 in the previous projection to 41,500 due to a reduction in the survey length, as described in Table 20. The costs will decrease from $3,628,962 to $2,973,890 which is a savings of $655,072 annually.

TABLE 20—ESTIMATED REDUCTION IN BURDEN ASSOCIATED WITH UPDATES TO ICH CAHPS SURVEY BEGINNING WITH THE PY 2028 ESRD QIP

Requirement	Per dialysis facility		All dialysis facilities	
	Estimated change in annual burden hours	Estimated change in annual cost	Estimated change in annual burden hours	Estimated change in annual cost
Finalized updates to ICH CAHPS Survey	−1.4	−$93.58	−9,800	−$655,072

Although we are also finalizing changes to the ICH CAHPS clinical measure in this final rule that will reduce the burden associated with completing the ICH CAHPS survey, we do not anticipate that any of these finalized updates to the ICH CAHPS clinical measure will affect the facility reporting burden we have estimated for EQRS reporting requirements for PY 2028.

E. ESRD Treatment Choices Model

Section 1115A(d)(3) of the Act exempts Innovation Center model tests and expansions, which include the ETC Model, from the provisions of the PRA. Specifically, this section provides that the provisions of the PRA do not apply to the testing and evaluation of Innovation Center models or to the expansion of such models.

VII. Regulatory Impact Analysis

A. Statement of Need

1. ESRD PPS

On January 1, 2011, we implemented the ESRD PPS, a case-mix adjusted, bundled PPS for renal dialysis services furnished by ESRD facilities as required by section 1881(b)(14) of the Act, as added by section 153(b) of MIPPA (Pub. L. 110–275). Section 1881(b)(14)(F) of the Act, as added by section 153(b) of MIPPA, and amended by section 3401(h) of the Affordable Care Act (Pub. L. 111–148), established that beginning CY 2012, and each subsequent year, the Secretary shall annually increase payment amounts by an ESRDB market basket percentage increase, reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. This rule finalizes routine updates to the payment rate for renal dialysis services furnished by ESRD facilities and finalizes policy changes to the ESRD PPS for CY 2026, including updates to our ESRD PPS wage index, outlier threshold, TPNIES offset amount, and post-TDAPA add-on payment adjustment amounts to reflect the latest available data for Korsuva® and DefenCath®. We are also finalizing a new payment adjustment to account for higher non-labor costs in certain non-contiguous States and territories and a change to the timeframe for TDAPA eligibility. Failure to publish this final rule would result in ESRD facilities not receiving appropriate payments in CY 2026 for renal dialysis services furnished to ESRD beneficiaries.

2. AKI

This rule finalizes updates to the payment rate for renal dialysis services furnished by ESRD facilities to individuals with AKI. Failure to publish this final rule would result in ESRD facilities not receiving appropriate payments in CY 2026 for renal dialysis services furnished to patients with AKI in accordance with section 1834(r) of the Act.

3. ESRD QIP

Section 1881(h)(1) of the Act requires CMS to reduce the payments otherwise made to a facility under the ESRD PPS for a year by up to 2 percent if the facility does not satisfy the requirements of the ESRD QIP for that year. This rule finalizes updates for the ESRD QIP, which will remove the Facility Commitment to Health Equity reporting measure beginning with PY 2027, remove the Screening for Social Drivers of Health reporting measure and the Screen Positive Rate for Social Drivers of Health reporting measure beginning with PY 2027, as well as update the ICH CAHPS clinical measure by reducing the number of questions on the ICH CAHPS Survey beginning with PY 2028.

4. ETC Model

The ETC Model is a mandatory Medicare payment model tested under the authority of section 1115A of the Act, which authorizes the Innovation Center to test innovative payment and service delivery models expected to reduce Medicare, Medicaid, and CHIP expenditures while preserving or enhancing the quality of care furnished to the beneficiaries of such programs.

This rule finalizes our proposal to terminate the ETC Model as of December 31, 2025, due to a lack of statistically significant results. As described in detail in section V.B. of this final rule, we believe it is necessary, for the purposes of accuracy, to adopt this change to the ETC Model.

B. Overall Impact Analysis

We have examined the impacts of this rule as required by Executive Order 12866, ''Regulatory Planning and Review''; Executive Order 13132, ''Federalism'' ; Executive Order 13563, ''Improving Regulation and Regulatory Review''; Executive Order 14192, ''Unleashing Prosperity Through Deregulation'' ; the Regulatory Flexibility Act (RFA) (Pub. L. 96–354); section 1102(b) of the Social Security Act; section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4); and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local,

or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

A regulatory impact analysis (RIA) must be prepared for a regulatory action that is significant under section 3(f)(1) of Executive Order 12866. Based on our analysis, OMB's Office of Information and Regulatory Affairs (OIRA) has determined this rulemaking is significant pursuant to section 3(f)(1) of Executive Order 12866. Furthermore, in accordance with subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), OIRA has also determined that this notice meets the criteria set forth in 5 U.S.C. 804(2). Accordingly, we have prepared a Regulatory Impact Analysis that presents, to the best of our ability, the estimated costs and benefits associated with this rulemaking.

1. ESRD PPS

We estimate that the final revisions to the ESRD PPS will result in an increase of approximately $180 million in Medicare payments to ESRD facilities in CY 2026. This includes $10 million associated with the final payment rate updates, the updated post-TDAPA add-on payment adjustment amounts, and the continuation of the approved TDAPA as identified in Table 21. In addition, this amount includes, but is not impacted by, any budget neutral proposals for CY 2026 such as the routine updates to the ESRD PPS wage index and the new non-contiguous areas payment adjustment (NAPA). In addition, for public awareness, we estimate that the updated CY 2026 post-TDAPA add-on payment adjustments will total approximately $34 million, an increase from around $13 million in CY 2025. For CY 2026 we estimate TDAPA payments for drugs and biological products other than phosphate binders will total approximately $90 million, an increase from around $30 million in CY 2025.

2. AKI

We estimate that the final updates to the AKI dialysis payment rate will result in an increase of approximately $1 million in Medicare payments to ESRD facilities in CY 2026.

3. ESRD QIP

We estimate that, as a result of our previously finalized policies and the policies we are finalizing in this final rule, the updated ESRD QIP will result in $21.6 million in estimated payment reductions across all facilities for PY 2027. Additionally, we estimate that, as a result of our previously finalized policies and the policies we are finalizing in this final rule, the updated ESRD QIP will result in $20.6 million in estimated payment reductions across all facilities for PY 2028.

4. ETC Model

We estimate that terminating the ETC Model on December 31, 2025, will have a net impact of $1 million in savings to Medicare due to not making performance payment adjustments (PPAs) during PPA8 through PPA10, which correspond with the remaining 18 months of the performance period (January 1, 2026 through June 30, 2027).

5. Summary of Impacts

We estimate that the combined impact of the policies finalized in this rule on payments for CY 2026 is $180 million based on the estimates of the updated ESRD PPS and the AKI dialysis payment rates. We estimate the impacts of the ESRD QIP for PY 2027 to be $125 million in information collection burden and $21.6 million in estimated payment reductions across all facilities. Additionally, we estimate the impacts of the ESRD QIP for PY 2028 to be $125 million in information collection burden and $20.6 million in estimated payment reductions across all facilities.

C. Detailed Economic Analysis

In this section, we discuss the anticipated benefits, costs, and transfers associated with the changes in this final rule. Additionally, we estimate the total regulatory review costs associated with reading and interpreting this final rule.

1. Benefits

Under the CY 2026 ESRD PPS and AKI dialysis payment, ESRD facilities will continue to receive payment for renal dialysis services furnished to Medicare beneficiaries under a case-mix adjusted PPS. We continue to expect that making prospective Medicare payments to ESRD facilities will enhance the efficiency of the Medicare program. Additionally, we expect that updating the Medicare ESRD PPS base rate and rate for AKI dialysis treatments furnished by ESRD facilities by 2.1 percent based on the final CY 2026 ESRDB market basket percentage increase of 2.9 percent reduced by the final CY 2026 productivity adjustment of 0.8 percentage point will improve or maintain beneficiary access to high quality care by ensuring that payment rates reflect the best available data on the resources involved in delivering renal dialysis services. We estimate that overall payments under the ESRD PPS will increase by 2.2 percent as a result of the final policies in this rule.

2. Costs

a. ESRD PPS and AKI

We do not anticipate the provisions of this final rule regarding ESRD PPS and AKI rates-setting will create additional cost or burden to ESRD facilities.

b. ESRD QIP

We have made no changes to our methodology for calculating the annual burden associated with the information collection requirements for EQRS data validation (previously known as the CROWNWeb validation study) or NHSN data validation. Although we do not anticipate that the policies in this final rule regarding ESRD QIP will create additional cost or burden to ESRD facilities for PY 2027 or PY 2028, we are updating the estimated costs associated with the information collection requirements under the ESRD QIP in this final rule, with updated estimates of the total number of ESRD facilities, the total number of patients nationally, and a refined estimate of the number of hours needed to complete data entry for EQRS reporting.

3. Transfers

We estimate that the updates to the ESRD PPS and AKI dialysis payment rates will result in a total increase of approximately $180 million in Medicare payments to ESRD facilities in CY 2026, which includes the amount associated with final updates to the outlier threshold amounts, the NAPA, and final updates to the ESRD wage index. This estimate includes an increase of approximately $1 million in Medicare payments to ESRD facilities in CY 2026 due to the updates to the AKI dialysis payment rate, of which approximately 20 percent is increased beneficiary coinsurance payments. We estimate approximately $140 million in transfers from the Federal Government to ESRD facilities due to increased Medicare program payments and approximately $40 million in transfers from beneficiaries to ESRD facilities due to increased beneficiary coinsurance payments because of this final rule.

4. Regulatory Review Cost Estimation

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this

ESRD PPS final rule, we should estimate the cost associated with regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will review the ESRD PPS final rule, we assume that the total number of unique commenters on this year's ESRD PPS proposed rule, which was 211 for the CY 2026 ESRD PPS proposed rule, is equal to the number of individual reviewers of this final rule. We acknowledge that this assumption may understate or overstate the costs of reviewing this final rule. It is possible that not all commenters reviewed this year's proposed rule in detail, and it is also possible that some reviewers chose not to comment on the CY 2026 ESRD PPS proposed rule. For these reasons we determined that the number of past commenters would be a fair estimate of the number of reviewers of this final rule. We used a similar methodology for calculating the regulatory review costs in the CY 2025 ESRD PPS proposed and final rules. We solicited comments on this approach and did not receive any direct responses.

We also recognized that different types of entities are in many cases affected by mutually exclusive sections of this final rule, and therefore for the purposes of our estimate we assumed that each reviewer reads approximately 50 percent of this final rule. We sought comments on this assumption, and did not receive any comments.

Using the BLS OEWS May 2024 National, cross-industry mean hourly wage information for medical and health service managers (SOC 11–9111), we estimate that the cost of reviewing this rule is $132.44 ($66.22 × 2) per hour, including overhead and fringe benefits [44] (*https://www.bls.gov/oes/current/oes_nat.htm*). Assuming an average reading speed of 250 words per minute, we estimate that it will take approximately 160 minutes (2.67 hours) for the staff to review half of this final rule, which has a total of approximately 80,000 words. For each entity that reviews the rule, the estimated cost is $353.61 (2.67 hours × $132.44). Therefore, we estimate that the total cost of reviewing this regulation is $7,4611.71 ($353.61 × 211 commenters).

5. Impact Statement and Table

a. CY 2026 End-Stage Renal Disease Prospective Payment System

(1) Effects on ESRD Facilities

To understand the impact of the changes affecting Medicare payments to different categories of ESRD facilities, it is necessary to compare estimated payments in CY 2025 to estimated payments in CY 2026. To estimate the impact among various types of ESRD facilities, it is imperative that the estimates of Medicare payments in CY 2025 and CY 2026 contain similar inputs. Therefore, we simulated Medicare payments only for those ESRD facilities for which we can calculate both current Medicare payments and new Medicare payments.

For this final rule, we use CY 2024 data from the Medicare Part A and Part B Common Working Files as of August 1, 2025, as a basis for Medicare dialysis treatments and payments under the ESRD PPS. We updated the 2024 claims to 2025 and 2026 using various updates. The final updates to the ESRD PPS base rate are described in section II.B.4. of this final rule. Table 21 shows the impact of the estimated CY 2026 ESRD PPS payments compared to estimated ESRD PPS payments to ESRD facilities in CY 2025.

TABLE 21—IMPACTS OF THE FINAL CHANGES IN MEDICARE PAYMENTS TO ESRD FACILITIES FOR CY 2026

Facility type	Number of facilities	Number of treatments (in millions)	Routine outlier updates (%)	Routine TDAPA and post-TDAPA updates (%)	Routine wage index updates (%)	Budget-neutral non-labor adjustment (%)	Total percent change (%)
	(A)	(B)	(C)	(D)	(E)	(F)	(G)
All Facilities	7,608	25.2	0.0	0.1	0.0	0.0	2.2
Type:							
Freestanding	7,257	24.3	0.0	0.1	0.0	0.0	2.2
Hospital based	351	0.9	−0.6	0.2	−0.2	0.2	1.5
Ownership Type:							
Large dialysis organization	5,854	19.6	0.1	0.3	0.1	0.0	2.4
Regional chain	900	3.1	−0.4	−0.6	−0.2	0.2	1.0
Independent	491	1.5	0.2	0.2	−0.3	−0.1	2.0
Hospital based	351	0.9	−0.6	0.2	−0.2	0.2	1.5
Unknown	12	0.0	0.1	0.2	−1.1	−0.1	1.2
Geographic Location:							
Rural	1,233	3.5	0.0	0.2	−0.1	0.3	2.5
Urban	6,375	21.8	0.0	0.1	0.0	0.0	2.1
Census Region:							
East North Central	1,175	3.3	0.0	0.2	0.7	−0.1	2.9
East South Central	592	1.5	0.2	0.2	1.1	−0.1	3.5
Middle Atlantic	862	3.2	−0.1	0.1	−0.9	−0.1	1.0
Mountain	430	1.5	0.0	0.2	1.2	−0.1	3.3
New England	200	0.9	0.0	0.1	−0.4	−0.1	1.7
Pacific [1]	986	4.7	−0.1	0.0	−0.7	0.5	1.7
Puerto Rico and Virgin Islands	54	0.1	0.0	0.3	0.2	−0.1	2.5
South Atlantic	1,769	5.4	0.0	0.2	0.4	−0.1	2.5
West North Central	474	1.4	0.0	0.2	0.4	−0.1	2.6
West South Central	1,066	3.2	0.0	0.2	−0.3	−0.1	1.8
Facility Size:							

[44] Calculated by multiplying the mean hourly wage for medical and health service managers (SOC 11–9111) by 2 to account for overhead and fringe benefits.

TABLE 21—IMPACTS OF THE FINAL CHANGES IN MEDICARE PAYMENTS TO ESRD FACILITIES FOR CY 2026—Continued

Facility type	Number of facilities	Number of treatments (in millions)	Routine outlier updates (%)	Routine TDAPA and post-TDAPA updates (%)	Routine wage index updates (%)	Budget-neutral non-labor adjustment (%)	Total percent change (%)
	(A)	(B)	(C)	(D)	(E)	(F)	(G)
Less than 3,000 treatments	602	0.5	−0.1	0.2	0.2	0.0	2.3
3,000 to 3,999 treatments	414	0.6	0.0	0.2	0.2	−0.1	2.4
4,000 to 4,999 treatments	491	0.8	0.0	0.2	0.2	0.0	2.5
5,000 to 9,999 treatments	2,995	7.7	0.0	0.1	0.2	−0.1	2.3
10,000 or more treatments	3,106	15.7	0.0	0.1	−0.1	0.1	2.1
Percentage of Pediatric Patients:							
Less than 2%	7,510	25.0	0.0	0.1	0.0	0.0	2.2
Between 2% and 19%	38	0.1	−0.1	0.3	0.6	0.5	3.3
Between 20% and 49%	8	0.0	−1.5	−0.3	0.4	−0.1	0.3
More than 50%	52	0.0	−1.0	0.2	0.7	−0.1	1.8

[1] Includes ESRD facilities located in Guam, American Samoa, and the Northern Mariana Islands.

Column A of the impact table indicates the number of ESRD facilities for each impact category.

Column B indicates the number of dialysis treatments (in millions).

Column C represents the change in payment to each ESRD facility type based on the changes to the outlier FDL and MAP amounts finalized in section II.B.3. of this final rule. We note that this column does not include changes associated with DefenCath® becoming outlier eligible July 1, 2026, at the end of its TDAPA period. These changes are included in column D and in column G, which shows the distributional impacts of all changes for CY 2026 ESRD PPS payments and are discussed later in this final rule.

Column D represent the changes in simulated payments due to routine changes in TDAPA eligibility for DefenCath®, which will both become outlier eligible and also be included in the post-TDAPA add-on payment adjustment calculation beginning July 1, 2026, at the end of its TDAPA period.

Column E represents the effect of the final updates to the ESRD PPS wage index for CY 2026, including the continued application of the 5 percent cap on wage index decreases and the continuation of the rural transition policy finalized in the CY 2025 ESRD PPS final rule. This update will be budget neutral, so the total impact of this final policy change is 0.0 percent. However, we estimate there will be distributional impacts because of this final update. The largest increase will be to ESRD facilities in the Mountain region, which will receive 1.2 percent higher payments because of the updated ESRD PPS wage index. The largest decrease will be for ESRD facilities in the Middle Atlantic region, which will receive 0.9 percent lower payments because of the updated ESRD PPS wage index.

Column F reflects the impact of the NAPA. This final adjustment will be applied budget-neutrally, so the total impact is 0.0 percent. However, we estimate there will be distributional impacts because of this policy. Since all the ESRD facilities in non-contiguous areas which will receive this payment adjustment are located in the Pacific region, ESRD facilities in the Pacific will receive, on average, 0.5 percent higher payments, and the decrease for ESRD facilities in other regions due to budget neutrality will be 0.1 percent.

Column G reflects the overall impact of the policies discussed in this final rule, including the routine updates to the wage index, outlier thresholds, and post-TDAPA add-on payment adjustment amounts and the newly finalized NAPA described in section II.B.8. of this final rule. This column also reflects the final ESRD PPS payment rate update for CY 2026 of 2.1 percent, which reflects the final ESRDB market basket percentage increase for CY 2026 of 2.9 percent reduced by the final productivity adjustment of 0.8 percentage point. We expect that overall ESRD facilities will experience a 2.2 percent increase in estimated Medicare payments in CY 2026. The categories of types of ESRD facilities in the impact table show impacts ranging from a 0.3 percent increase to a 3.5 percent increase in their CY 2026 estimated Medicare payments. We note that for facility types that have a disproportionately high utilization of DefenCath®, such as regional chains, the overall spending change in column G reflects a notable decrease in CY 2026 payments. This decrease is driven by the change from DefenCath® receiving payment under the TDAPA to inclusion in the post-TDAPA add-on payment adjustment calculation and becoming included in the outlier adjustment in CY 2026.

(2) Effects on Other Providers

Under the ESRD PPS, Medicare pays ESRD facilities a single bundled payment for renal dialysis services, which may have been separately paid to other providers or suppliers (for example, laboratories, and durable medical equipment suppliers.) by Medicare prior to the implementation of the ESRD PPS. Therefore, in CY 2026, we estimate that the ESRD PPS will have zero impact on these other providers.

(3) Effects on the Medicare Program

We estimate that Medicare spending (total Medicare program payments) for ESRD facilities in CY 2026 will be approximately $8.2 billion. This estimate considers a projected decrease in fee-for-service Medicare ESRD

beneficiary enrollment of 0.1 percent in CY 2026.

(4) Effects on Medicare Beneficiaries

Under the ESRD PPS, beneficiaries are responsible for paying 20 percent of the ESRD PPS payment amount. As a result of the projected 2.2 percent overall increase in the CY 2026 ESRD PPS payment amounts, we estimate that there will be an increase in beneficiary coinsurance payments of 2.2 percent in CY 2026, which translates to approximately $40 million.

(5) Alternatives Considered

(a) Non-Contiguous Areas Payment Adjustment

We considered, but did not propose, implementing the NAPA without the 25 percent cap. As discussed in the CY 2026 ESRD PPS proposed rule (90 FR 29357 through 29360), we proposed this new payment adjustment with a cap of 25 percent on the adjustment factor to mitigate the impact on the ESRD PPS base rate and, therefore, mitigate the impact on payments to ESRD facilities in the contiguous U.S. and in the Caribbean territories of Puerto Rico and the U.S. Virgin Islands. We considered alternative ways to reduce the impact of this final payment adjustment on the ESRD PPS base rate, including the exclusion of certain areas from the scope of the adjustment. However, we believe that a cap is the most effective way to provide additional payment to ESRD facilities in these relatively higher non-labor costs, non-contiguous areas without decreasing the ESRD PPS base rate by too large a magnitude. As discussed in section II.B.8. of this final rule, we are finalizing the NAPA as proposed with the 25 percent cap for the reasons discussed in that section.

(b) Change to TDAPA Eligibility Timeframe

We considered alternative timelines for implementing the final regulatory change to the TDAPA eligibility criteria which we proposed in a new paragraph § 413.234(c)(5). One considered alternative was to have the 3-year timeframe for eligibility apply to TDAPA applications received on or after January 1, 2026. We believe this would be a reasonable approach, as we did not identify any renal dialysis drugs or biological products that are otherwise eligible for TDAPA but were approved by the FDA between January 1, 2020, and January 1, 2023 (3 years before the effective date of the CY 2026 ESRD PPS final rule). However, as stated in section II.B.7. of this final rule, we believe that by making this change effective for TDAPA applications received on or after January 1, 2028, we will allow any drug manufacturers which were operating based on the established TDAPA eligibility requirements sufficient time to prepare for their rollout. Giving manufacturers sufficient time to plan the rollout of a new renal dialysis drug or biological product will help ensure that it is made available to ESRD facilities, and therefore ESRD patients, during the TDAPA period. Since we have not at this time identified any renal dialysis drugs or biological products which were approved by the FDA prior to January 1, 2023, and have not yet applied for TDAPA, we do not believe this later implementation date will lead to any significantly older drug or biological product applying and receiving the TDAPA.

b. Continuation of Approved Transitional Drug Add-On Payment Adjustments (TDAPA) for New Renal Dialysis Drugs or Biological Products for CY 2026

Eight renal dialysis drugs for which the TDAPA was paid in CY 2025 will continue to be eligible for the TDAPA in CY 2026: DefenCath® (taurolidine and heparin sodium), Vafseo® (vadadustat), and the oral-only phosphate binders sevelamer carbonate, sevelamer hydrochloride, sucroferric oxyhydroxide, lanthanum carbonate, ferric citrate, and calcium acetate. We present our latest estimates in the following paragraphs of TDAPA spending in CY 2026, for public awareness. We are also revising our current estimates of spending for phosphate binders in CY 2025 based on preliminary data from CY 2025 ESRD PPS claims.

(1) DefenCath® (Taurolidine and Heparin Sodium)

On May 9, 2024, CMS Transmittal 12628 [45] implemented the 2-year TDAPA period specified in § 413.234(c)(1) for DefenCath® (taurolidine and heparin sodium). The TDAPA payment period began on July 1, 2024, and will continue through June 30, 2026. As stated previously, TDAPA payment generally is based on 100 percent of ASP. If ASP is not available, then the TDAPA is based on 100 percent of WAC and, when WAC is not available, the payment is based on the drug manufacturer's invoice.

In the CY 2026 ESRD PPS proposed rule (90 FR 29379), we based our impact analysis on the average monthly TDAPA payment amount for DefenCath® from the most current 72x claims data from July 2024, when utilization first appeared on the claims, through March 2025. In applying that average to each of the 6 remaining months of the TDAPA payment period in CY 2026, we estimated approximately $40 million in spending of which, 20 percent or approximately $10 million, would have been attributed to beneficiary coinsurance amounts.

We have updated our impact analysis based on the most current 72x claims data from July 2024, when utilization first appeared on the claims, through July 2025. In applying that average to each of the 6 remaining months of the TDAPA payment period in CY 2026, we estimate approximately $50 million in spending of which, 20 percent or approximately $10 million, will be attributed to beneficiary coinsurance amounts in CY 2026.

(2) Vafseo® (Vadadustat)

On November 14, 2024, CMS Transmittal 12962 [46] implemented the 2-year TDAPA period specified in § 413.234(c)(1) for Vafseo® (vadadustat). On December 12, 2024, that transmittal was rescinded and replaced by Transmittal 12999.[47] On May 29, 2025, Transmittal 13245 [48] rescinded and replaced Transmittal 13121 [49] which rescinded and replaced Transmittal 12999. The TDAPA payment period began on January 1, 2025, and will continue through December 31, 2026. As stated previously, TDAPA payment generally is based on 100 percent of ASP. If ASP is not available, then the TDAPA is based on 100 percent of WAC and, when WAC is not available, the payment is based on the drug manufacturer's invoice.

In the CY 2026 ESRD PPS proposed rule (90 FR 29379), we based our impact analysis on the average monthly TDAPA payment amount for Vafseo® from the most current 72x claims data from January 2025, when utilization first appeared on the claims, through March 2025. In applying that average to each month in 2026, we estimated approximately $30 million in spending of which, 20 percent or approximately

[45] CMS Transmittal 12628, dated May 9, 2024, is available at *https://www.cms.gov/files/document/r12628CP.pdf.*

[46] CMS Transmittal 12962, dated November 14, 2024, was available at *https://www.cms.gov/files/document/r12962bp.pdf https://www.cms.gov/files/document/r12628CP.pdf.*

[47] CMS Transmittal 12999 dated December 12, 2024, available at *https://www.cms.gov/files/document/r12999bp.pdf.*

[48] CMS Transmittal 13245 dated May 29, 2025, available at *https://www.cms.gov/files/document/r13245bp.pdf.*

[49] CMS Transmittal 13241 dated March 28, 2025, available at *https://www.cms.gov/files/document/r13121bp.pdf.*

$10 million, would have been attributed to beneficiary coinsurance amounts.

We have updated our impact analysis based on the most current 72x claims data from January 2025, when utilization first appeared on the claims, through July 2025. In applying that average to each month in 2026, we estimate approximately $40 million in spending of which, 20 percent or approximately $10 million, will be attributed to beneficiary coinsurance amounts in CY 2026.

(3) Phosphate Binders

On November 14, 2024, CMS Transmittal 12962 [50] implemented the 2-year TDAPA period specified in § 413.234(c)(1) for the following oral-only phosphate binders: sevelamer carbonate, sevelamer hydrochloride, sucroferric oxyhydroxide, lanthanum carbonate, ferric citrate, and calcium acetate. On December 12, 2024, that transmittal was rescinded and replaced by Transmittal 12999.[51] On May 29, 2025, Transmittal 13245 [52] rescinded and replaced Transmittal 13121 [53] which rescinded and replaced Transmittal 12999. The TDAPA payment period began on January 1, 2025, and will continue through December 31, 2026. Under 42 CFR 413.234(c)(4), for CYs 2025 and 2026, the TDAPA amount for a phosphate binder is based on 100 percent of ASP plus an additional amount derived from 6 percent of per-patient phosphate binder spending based on utilization and cost data.

In the CY 2025 ESRD PPS final rule (89 FR 89197), we estimated that total ESRD PPS spending for phosphate binders would be approximately $870 million in CY 2025. We revised this estimate for the CY 2026 ESRD PPS proposed rule based on our analysis of the most current 72x claims data from January 2025, when utilization first appeared on the claims, through March 2025. We explained that in January, we observed that total spending was approximately $14 million, whereas in February and March we observed that total spending was approximately $30 million and $34 million, respectively. Projecting forward using the level of utilization and pricing that we observed in March 2025, we estimated approximately $380 million in spending for phosphate binders in CY 2025, of which 20 percent, or approximately $80 million would be attributed to beneficiary coinsurance amounts. We solicited comments on this estimate. We received public comments on these estimates, which are discussed in the following paragraphs.

Comment: We received a few comments regarding the budgetary estimates of phosphate binder spending under TDAPA. These commenters expressed concern regarding the decrease in the estimated ESRD PPS spending for phosphate binders in the ESRD PPS bundled payment. Two of these commenters stated that the lower spending estimates for phosphate binders are indicative of depressed utilization of these drugs in the ESRD PPS.

Response: We appreciate these comments regarding the latest phosphate binder utilization estimates. We do not agree with the commenters' suggestion that these lower budgetary estimates reflect depressed utilization of phosphate binders under the ESRD PPS. Rather, we observe that the percentage of patients currently utilizing phosphate binders is comparable to the percentage of ESRD patients utilizing phosphate binders under Part D. In December 2024, approximately 63,000 beneficiaries, or 46.5 percent of ESRD PPS beneficiaries with Part D, were using at least one phosphate binder. By comparison, in June 2025, approximately 72,000 beneficiaries, or 46.6 percent of all ESRD PPS beneficiaries, were using at least one phosphate binder. As we acknowledged in the proposed rule, utilization of phosphate binders was lower in the first quarter of 2025, which could be attributable to ESRD facilities continuing to set up infrastructure to obtain and provide phosphate binders, as well as ESRD patients finishing their phosphate binder prescriptions that were filled in the final quarter of 2024. Additionally, we note we did not apply any methodology to account for confidential rebates and any other discounts provided by pharmaceutical companies to Medicare Part D plans in our calculation of Medicare Part D expenditures for phosphate binders. One study estimates discounts on brand-name drugs increased in Medicare Part D from 25.4% of spending in 2014 to 37.3% in 2018.[54] Accordingly, we based our projections of spending for the remainder of 2025 and 2026 on monthly phosphate binder spending in March, 2025. We believe this assumption was reasonable, since we have continued to observe monthly phosphate binder spending that is more similar to March, 2025 than to spending in earlier months of the year.

Final Rule Action: After considering the comments, we are further revising our estimate of the total CY 2025 ESRD PPS spending for phosphate binders for this CY 2026 ESRD PPS final rule. We are further revising this estimate based on our analysis of the most current 72x claims data from January 2025, when utilization first appeared on the claims, through June 2025. In January, we observed that total spending was approximately $14 million, whereas we observed that total spending was approximately $32 million in February, $36 million in March, $35 million in April, $35 million in May, and $36 million in June. On average, we observed that monthly spending was approximately $35 million between February and June. Projecting forward using the level of utilization and pricing that we observed during this 5-month period in 2025, we estimate approximately $400 million in spending for phosphate binders in CY 2025, of which 20 percent, or approximately $80 million would be attributed to beneficiary coinsurance amounts.

Similarly, using the most current 72x claims data from June 2025 we have estimated CY 2026 spending using the level of utilization and pricing that we observed between February and June 2025. In applying that average to each month in 2026, we estimate approximately $420 million in spending of which 20 percent, or approximately $80 million, will be attributed to beneficiary coinsurance amounts.

c. Payment for Renal Dialysis Services Furnished to Individuals With AKI

(1) Effects on ESRD Facilities

To understand the impact of the final changes affecting Medicare payments to different categories of ESRD facilities for renal dialysis services furnished to individuals with AKI, it is necessary to compare estimated Medicare payments in CY 2025 to estimated Medicare payments in CY 2026. To estimate the impact among various types of ESRD facilities for renal dialysis services furnished to individuals with AKI, it is imperative that the Medicare payment estimates in CY 2025 and CY 2026 contain similar inputs. Therefore, we simulated Medicare payments only for those ESRD facilities for which we can calculate both current Medicare payments and new Medicare payments.

[50] CMS Transmittal 12962, dated November 14, 2024, was available at *https://www.cms.gov/files/document/r12962bp.pdf https://www.cms.gov/files/document/r12628CP.pdf.*

[51] CMS Transmittal 12999 dated December 12, 2024, available at *https://www.cms.gov/files/document/r12999bp.pdf.*

[52] CMS Transmittal 13245 dated May 29, 2025, available at *https://www.cms.gov/files/document/r13245bp.pdf.*

[53] CMS Transmittal 13241 dated March 28, 2025, available at *https://www.cms.gov/files/document/r13121bp.pdf.*

[54] *JAMA Health Forum.* 2021;2(6):e210626. doi:10.1001/jamahealthforum.2021.0626.

For this final rule, we used CY 2024 data from the Medicare Part A and Part B Common Working Files as of August 1, 2025, as a basis for Medicare for renal dialysis services furnished to individuals with AKI. We updated the 2024 claims to 2025 and 2026 using various updates. The updates to the AKI dialysis payment amount are described in section III.C. of this final rule. Table 22 shows the impact of the estimated CY 2026 Medicare payments for renal dialysis services furnished to individuals with AKI compared to estimated Medicare payments for renal dialysis services furnished to individuals with AKI in CY 2025. We note that the version of this table which appeared in the CY 2026 ESRD PPS proposed rule as Table 18 (90 FR 29379 and 29380) incorrectly stated that the AKI treatments in column B were in the millions rather than the thousands. This was a typographical error, and we note that the correct labeling of thousands was present in the description of the table and the figures in Addendum B of the proposed rule were accurate.

TABLE 22—IMPACTS OF THE FINAL CHANGES IN MEDICARE PAYMENTS FOR RENAL DIALYSIS SERVICES FURNISHED TO INDIVIDUALS WITH AKI FOR CY 2026

Facility type	Number of facilities (A)	Number of treatments (in thousands) (B)	Routine wage index updates (%) (C)	Budget-neutral non-labor adjustment (%) (D)	Total percent change (%) (E)
All Facilities	5,074	286.2	0.1	−0.1	2.0
Type:					
Freestanding	4,966	281.6	0.1	−0.1	2.0
Hospital based	108	4.6	−0.2	−0.1	1.8
Ownership Type:					
Large dialysis organization	4,195	234.9	0.1	−0.1	2.1
Regional chain	576	30.7	−0.1	−0.1	1.9
Independent	192	15.9	−0.7	−0.1	1.2
Hospital based [1]	108	4.6	−0.2	−0.1	1.8
Unknown	3	0.2	−0.3	−0.1	1.6
Geographic Location:					
Rural	831	45.7	0.0	−0.1	1.9
Urban	4,243	240.5	0.1	−0.1	2.0
Census Region:					
East North Central	831	45.6	0.7	−0.1	2.6
East South Central	378	17.1	0.9	−0.1	2.9
Middle Atlantic	548	33.2	−0.8	−0.1	1.1
Mountain	315	22.4	1.4	−0.1	3.4
New England	148	6.9	−0.4	−0.1	1.5
Pacific [2]	672	51.4	−0.7	−0.1	1.2
Puerto Rico and Virgin Islands	2	0.0	0.9	−0.1	2.9
South Atlantic	1,194	66.3	0.4	−0.1	2.3
West North Central	310	12.7	0.5	−0.1	2.4
West South Central	676	30.6	−0.3	−0.1	1.6
Facility Size:					
Less than 3,000 treatments	183	5.2	0.4	−0.1	2.4
3,000 to 3,999 treatments	229	8.9	0.1	−0.1	2.1
4,000 to 4,999 treatments	293	13.0	0.3	−0.1	2.2
5,000 to 9,999 treatments	2,061	104.7	0.2	−0.1	2.1
10,000 or more treatments	2,308	154.4	0.0	−0.1	1.9
Percentage of Pediatric Patients:					
Less than 2%	5,058	285.5	0.1	−0.1	2.0
Between 2% and 19%	15	0.7	−0.2	−0.1	1.7
Between 20% and 49%	1	0.0	0.3	−0.1	2.3
More than 50%	0	0.0	0.0	0.0	0.0

[1] Includes hospital-based ESRD facilities not reported to have large dialysis organization or regional chain ownership.
[2] Includes ESRD facilities located in Guam, American Samoa, and the Northern Mariana Islands.
[3] Routine updates include updating the base rate (by the market basket, productivity adjustment, and budget neutrality factors).

Column A of the impact table indicates the number of ESRD facilities for each impact category, and column B indicates the number of AKI dialysis treatments (in thousands). Column C shows the effect of the final CY 2026 wage index described in section II.B.2. of this final rule. Column D shows the impact of the NAPA budget neutrality factor, which we are applying to the final ESRD PPS base rate. To be clear, we did not propose the NAPA apply to AKI dialysis payments to ESRD facilities for beneficiaries with AKI, so this column only reflects the impact of the budget neutrality factor associated with that policy.

Column E shows the overall impact of all policies discussed in this final rule, including the 2.1 percent increase to the ESRD PPS base rate, which reflects the final ESRDB market basket percentage increase for CY 2026 of 2.9 percent reduced by the final productivity adjustment of 0.8 percentage point. We expect that overall ESRD facilities will experience a 2.0 percent increase in estimated Medicare payments in CY 2026 for treatment of AKI beneficiaries. The categories of types of ESRD facilities in the impact table show impacts ranging from an increase of 1.1 percent for the Mid-Atlantic region to an increase of 3.4 percent for the Mountain region in CY 2026 estimated Medicare payments for renal dialysis services

provided by ESRD facilities to individuals with AKI.

(2) Effects on Other Providers

Under section 1834(r) of the Act, as added by section 808(b) of TPEA, we are finalizing updates to the payment rate for renal dialysis services furnished by ESRD facilities to beneficiaries with AKI. The only two Medicare providers and suppliers authorized to provide these outpatient renal dialysis services are hospital outpatient departments and ESRD facilities. The patient and his or her physician make the decision about where the renal dialysis services are furnished. Therefore, this change will have zero impact on other Medicare providers.

(3) Effects on the Medicare Program

We estimate approximately $80 million will be paid to ESRD facilities in CY 2026 because of patients with AKI receiving renal dialysis services in an ESRD facility at the lower ESRD PPS base rate versus receiving those services only in the hospital outpatient setting and paid under the outpatient prospective payment system, where services were required to be administered prior to the TPEA.

(4) Effects on Medicare Beneficiaries

Currently, beneficiaries have a 20 percent coinsurance obligation when they receive AKI dialysis in the hospital outpatient setting. When these services are furnished in an ESRD facility, the patients will continue to be responsible for 20 percent coinsurance. Because the AKI dialysis payment rate paid to ESRD facilities is lower than the outpatient hospital PPS's payment amount, we expect beneficiaries to pay less coinsurance when AKI dialysis is furnished by ESRD facilities.

(5) Alternatives Considered

As we discussed in the CY 2017 ESRD PPS proposed rule (81 FR 42870), we considered adjusting the AKI dialysis payment rate by including the ESRD PPS case-mix adjustments, and other adjustments at section 1881(b)(14)(D) of the Act, as well as not paying separately for AKI specific drugs and laboratory tests. Similarly, we considered proposing to apply the NAPA to AKI dialysis payments as discussed in the CY 2026 ESRD PPS proposed rule (90 FR 29362). We ultimately determined that treatment for AKI is substantially different from treatment for ESRD, and the case-mix and facility-level adjustments applied to ESRD patients may not be applicable to AKI patients, and as such, including those policies and adjustments is inappropriate. We continue to monitor utilization and trends of items and services furnished to individuals with AKI for purposes of refining the payment rate in the future. This monitoring will assist us in developing knowledgeable, data-driven proposals.

d. ESRD QIP

(1) Effects of the PY 2027 ESRD QIP on ESRD Facilities

The ESRD QIP is intended to promote improvements in the quality of ESRD dialysis facility services provided to beneficiaries. The general methodology that we use to calculate a facility's Total Performance Score (TPS) is described in our regulations at § 413.178(e).

Any reductions in the ESRD PPS payments as a result of a facility's performance under the PY 2027 ESRD QIP will apply to the ESRD PPS payments made to the facility for services furnished in CY 2027, consistent with our regulations at § 413.177.

We are updating the estimated impact of the PY 2027 ESRD QIP that we provided in the CY 2026 ESRD PPS proposed rule (90 FR 29381 through 29382) based on the most recently available data. For the PY 2027 ESRD QIP, we estimate that, of the 7,582 facilities (including those not receiving a TPS) enrolled in Medicare, approximately 42.9 percent or 3,256 of the facilities that have sufficient data to calculate a TPS will receive a payment reduction for PY 2027. Among an estimated 3,256 facilities that will receive a payment reduction, approximately 58 percent or 1,883 facilities will receive the smallest payment reduction of 0.5 percent. Based on the policies finalized in this final rule, the total estimated payment reductions for all the 3,256 facilities expected to receive a payment reduction in PY 2027 will be approximately $21,652,956. Facilities that do not receive a TPS do not receive a payment reduction.

Table 23 shows the updated overall estimated distribution of payment reductions resulting from the PY 2027 ESRD QIP.

TABLE 23—UPDATED ESTIMATED DISTRIBUTION OF PY 2027 ESRD QIP PAYMENT REDUCTIONS

Payment reduction	Number of facilities	Percent of facilities *
0.0%	4170	56.2
0.5%	1883	25.4
1.0%	945	12.7
1.5%	312	4.2
2.0%	116	1.6

* 156 facilities not scored due to insufficient data.

To estimate whether a facility will receive a payment reduction for PY 2027, we scored each facility on achievement and improvement on several clinical measures for which there were available data from EQRS and Medicare claims. Payment reduction estimates were calculated using the most recent data available (specified in Table 24) in accordance with the policies finalized in this final rule. Measures used for the simulation are shown in Table 24.

TABLE 24—DATA USED TO UPDATE THE ESTIMATED PY 2027 ESRD QIP PAYMENT REDUCTIONS

Measure	Period of time used to calculate achievement thresholds, 50th percentiles of the national performance, benchmarks, and improvement thresholds	Performance period
ICH CAHPS Survey	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
SRR	Jan 2023–Dec 2023	Jan 2024–Dec 2024.

TABLE 24—DATA USED TO UPDATE THE ESTIMATED PY 2027 ESRD QIP PAYMENT REDUCTIONS—Continued

Measure	Period of time used to calculate achievement thresholds, 50th percentiles of the national performance, benchmarks, and improvement thresholds	Performance period
SHR	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
PPPW	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Kt/V Dialysis Adequacy Measure Topic:		
Adult HD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Pediatric HD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Adult PD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Pediatric PD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
VAT:		
% Catheter	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
STrR	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
NHSN BSI	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Clinical Depression	Jan 2023–Dec 2023	Jan 2024–Dec 2024.

For all measures except the SHR clinical measure, the SRR clinical measure, the STrR measure, and the ICH CAHPS measure, measures with less than 11 eligible patients for a facility were not included in that facility's TPS. For the SHR clinical measure and the SRR clinical measure, facilities were required to have at least 5 patient-years at risk and 11 index discharges, respectively, to be included in the facility's TPS. For the STrR clinical measure, facilities were required to have at least 10 patient-years at risk to be included in the facility's TPS. For the ICH CAHPS measure, facilities were required to have at least 30 survey-eligible patients to be included in the facility's TPS. Each facility's TPS was compared to an estimated mTPS and an estimated payment reduction table consistent with the final policies outlined in section IV.B. of this final rule. Facility reporting measure scores were estimated using available data from CY 2024. Facilities were required to have at least one measure in at least two domains to receive a TPS.

To estimate the total payment reductions in PY 2027 for each facility resulting from this final rule, we multiplied the total Medicare payments to the facility during the 1-year period between January 2024 and December 2024 by the facility's estimated payment reduction percentage expected under the ESRD QIP, yielding a total payment reduction amount for each facility.

Table 25 shows the updated estimated impact of the ESRD QIP payment reductions to all ESRD facilities for PY 2027. The table also details the distribution of ESRD facilities by size (both among facilities considered to be small entities and by number of treatments per facility), geography (both rural and urban and by region), and facility type (hospital based and freestanding facilities). Given that the performance period used for these calculations differs from the performance period we are using for the PY 2027 ESRD QIP, the actual impact of the PY 2027 ESRD QIP may vary significantly from the values provided here.

TABLE 25—UPDATED ESTIMATED IMPACT OF ESRD QIP PAYMENT REDUCTIONS TO ESRD FACILITIES FOR PY 2027

	Number of facilities	Number of treatments 2024 (in millions)	Number of facilities with QIP score	Number of facilities expected to receive a payment reduction	Payment reduction (percent change in total ESRD payments)
All Facilities	7582	24.8	7426	3256	−0.35
Facility Type:					
Freestanding	7237	23.9	7120	3094	−0.34
Hospital-based	345	0.9	306	162	−0.51
Ownership Type:					
Large Dialysis	5839	19.3	5781	2401	−0.30
Regional Chain	894	3.1	870	340	−0.31
Independent	477	1.5	456	346	−0.93
Hospital-based (non-chain)	345	0.9	306	162	−0.51
Unknown	27	0	13	7	−0.50
Facility Size:					
Large Entities	6733	22.4	6651	2741	−0.30
Small Entities [1]	822	2.4	762	508	−0.76
Unknown	27	0	13	7	−0.50
Rural Status:					
Yes	1227	3.4	1196	465	−0.31
No	6355	21.4	6230	2791	−0.36
Census Region:					
Northeast	1060	4	1015	425	−0.35
Midwest	1642	4.7	1601	721	−0.36
South	3419	10	3380	1534	−0.36
West	1397	6	1367	532	−0.30
US Territories [2]	64	0.2	63	44	−0.50
Census Division:					
East North Central	1172	3.3	1145	547	−0.39

TABLE 25—UPDATED ESTIMATED IMPACT OF ESRD QIP PAYMENT REDUCTIONS TO ESRD FACILITIES FOR PY 2027—Continued

	Number of facilities	Number of treatments 2024 (in millions)	Number of facilities with QIP score	Number of facilities expected to receive a payment reduction	Payment reduction (percent change in total ESRD payments)
East South Central	591	1.5	586	245	−0.32
Middle Atlantic	860	3.1	822	356	−0.38
Mountain	429	1.4	422	158	−0.29
New England	200	0.9	193	69	−0.25
Pacific	968	4.5	945	374	−0.30
South Atlantic	1765	5.3	1740	805	−0.37
West North Central	470	1.4	456	174	−0.31
West South Central	1063	3.2	1054	484	−0.36
US Territories[2]	54	0.1	53	36	−0.43
Unknown	10	0.1	10	8	−0.85
Facility Size (# of total treatments):					
Less than 4,000 treatments	1190	1.5	1079	403	−0.35
4,000–9,999 treatments	3389	8.4	3355	1313	−0.30
Over 10,000 treatments	3003	14.8	2992	1540	−0.40

[1] Small Entities include hospital-based and satellite facilities, and non-chain facilities based on EQRS.
[2] Includes American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands.

(2) Effects of the PY 2028 ESRD QIP on ESRD Facilities

We are updating the estimated impact of the PY 2028 ESRD QIP that we provided in the CY 2026 ESRD PPS proposed rule (90 FR 29382 through 29384). For the PY 2028 ESRD QIP, we estimate that, of the 7,582 facilities (including those not receiving a TPS) enrolled in Medicare, approximately 41.7 percent or 3,160 of the facilities that have sufficient data to calculate a TPS will receive a payment reduction for PY 2028. Among an estimated 3,160 facilities that will receive a payment reduction, approximately 59 percent or 1,865 facilities will receive the smallest payment reduction of 0.5 percent. Based on the policies finalized in this final rule, the total estimated payment reductions for all the 3,160 facilities expected to receive a payment reduction in PY 2028 will be approximately $20,624,345. Facilities that do not receive a TPS do not receive a payment reduction.

Table 26 shows the updated overall estimated distribution of payment reductions resulting from the PY 2028 ESRD QIP.

TABLE 26—UPDATED ESTIMATED DISTRIBUTION OF PY 2028 ESRD QIP PAYMENT REDUCTIONS

Payment reduction	Number of facilities	Percent of facilities *
0.0%	4265	57.4
0.5%	1865	25.1
1.0%	902	12.2
1.5%	294	4.0
2.0%	99	1.3

* 157 facilities not scored due to insufficient data.

To estimate whether a facility will receive a payment reduction for PY 2028, we scored each facility on achievement and improvement on several clinical measures for which there were available data from EQRS and Medicare claims. Payment reduction estimates were calculated using the most recent data available (specified in Table 27) in accordance with the policies finalized in this final rule. Measures used for the simulation are shown in Table 27.

TABLE 27—DATA USED TO UPDATE THE ESTIMATED PY 2028 ESRD QIP PAYMENT REDUCTIONS

Measure	Period of time used to calculate achievement thresholds, 50th percentiles of the national performance, benchmarks, and improvement thresholds	Performance period
ICH CAHPS Survey	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
SRR	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
SHR	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
PPPW	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Kt/V Dialysis Adequacy Measure Topic:		
Adult HD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Pediatric HD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Adult PD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Pediatric PD Kt/V	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
VAT:		

TABLE 27—DATA USED TO UPDATE THE ESTIMATED PY 2028 ESRD QIP PAYMENT REDUCTIONS—Continued

Measure	Period of time used to calculate achievement thresholds, 50th percentiles of the national performance, benchmarks, and improvement thresholds	Performance period
% Catheter	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
STrR	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
NHSN BSI	Jan 2023–Dec 2023	Jan 2024–Dec 2024.
Clinical Depression	Jan 2023–Dec 2023	Jan 2024–Dec 2024.

For all measures except the SHR clinical measure, the SRR clinical measure, the STrR measure, and the ICH CAHPS measure, measures with less than 11 eligible patients for a facility were not included in that facility's TPS. For the SHR clinical measure and the SRR clinical measure, facilities were required to have at least 5 patient-years at risk and 11 index discharges, respectively, to be included in the facility's TPS. For the STrR clinical measure, facilities were required to have at least 10 patient-years at risk to be included in the facility's TPS. For the ICH CAHPS measure, facilities were required to have at least 30 survey-eligible patients to be included in the facility's TPS. Each facility's TPS was compared to an estimated mTPS and an estimated payment reduction table consistent with the finalized policies outlined in section IV.C. of this final rule. Facility reporting measure scores were estimated using available data from CY 2024. Facilities were required to have at least one measure in at least two domains to receive a TPS.

To estimate the total payment reductions in PY 2028 for each facility resulting from this final rule, we multiplied the total Medicare payments to the facility during the 1-year period between January 2024 and December 2024 by the facility's estimated payment reduction percentage expected under the ESRD QIP, yielding a total payment reduction amount for each facility.

Table 28 shows the updated estimated impact of the ESRD QIP payment reductions to all ESRD facilities for PY 2028. The table also details the distribution of ESRD facilities by size (both among facilities considered to be small entities and by number of treatments per facility), geography (both rural and urban and by region), and facility type (hospital based and freestanding facilities). Given that the performance period used for these calculations differs from the performance period we are using for the PY 2028 ESRD QIP, the actual impact of the PY 2028 ESRD QIP may vary significantly from the values provided here.

TABLE 28—UPDATED ESTIMATED IMPACT OF ESRD QIP PAYMENT REDUCTIONS TO ESRD FACILITIES FOR PY 2028

	Number of facilities	Number of treatments 2023 (in millions)	Number of facilities with QIP Score	Number of facilities expected to receive a payment reduction	Payment reduction (percent change in total ESRD payments)
All Facilities	7582	24.8	7425	3160	−0.33
Facility Type:					
Freestanding	7237	23.9	7119	3007	−0.33
Hospital-based	345	0.9	306	153	−0.46
Ownership Type:					
Large Dialysis	5839	19.3	5781	2328	−0.29
Regional Chain	894	3.1	870	334	−0.30
Independent	477	1.5	455	338	−0.88
Hospital-based (non-chain)	345	0.9	306	153	−0.46
Unknown	27	0	13	7	−0.50
Facility Size:					
Large Entities	6733	22.4	6651	2662	−0.29
Small Entities [1]	822	2.4	761	491	−0.71
Unknown	27	0	13	7	−0.50
Rural Status:					
(1) Yes	1227	3.4	1195	444	−0.29
(2) No	6355	21.4	6230	2716	−0.34
Census Region:					
Northeast	1060	4	1015	416	−0.34
Midwest	1642	4.7	1601	701	−0.35
South	3419	10	3379	1494	−0.34
West	1397	6	1367	506	−0.28
US Territories[2]	64	0.2	63	43	−0.48
Census Division:					
Unknown	10	0.1	10	8	−0.80
East North Central	1172	3.3	1145	529	−0.37
East South Central	591	1.5	586	237	−0.31
Middle Atlantic	860	3.1	822	349	−0.36
Mountain	429	1.4	422	150	−0.28
New England	200	0.9	193	67	−0.24
Pacific	968	4.5	945	356	−0.28
South Atlantic	1765	5.3	1739	782	−0.35
West North Central	470	1.4	456	172	−0.30

TABLE 28—UPDATED ESTIMATED IMPACT OF ESRD QIP PAYMENT REDUCTIONS TO ESRD FACILITIES FOR PY 2028—Continued

	Number of facilities	Number of treatments 2023 (in millions)	Number of facilities with QIP Score	Number of facilities expected to receive a payment reduction	Payment reduction (percent change in total ESRD payments)
West South Central	1063	3.2	1054	475	−0.35
US Territories[2]	54	0.1	53	35	−0.42
Facility Size (# of total treatments):					
Less than 4,000 treatments	1190	1.5	1078	389	−0.33
4,000–9,999 treatments	3389	8.4	3355	1298	−0.30
Over 10,000 treatments	3003	14.8	2992	1473	−0.37

[1] Small Entities include hospital-based and satellite facilities, and non-chain facilities based on EQRS.
[2] Includes American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands.

(3) Effects on the Medicare Program

For PY 2027, we estimate that the ESRD QIP will contribute approximately $21,652,956 in Medicare savings. For PY 2028, we estimate that the ESRD QIP will contribute approximately $20,624,345 in Medicare savings. For comparison, Table 29 shows the payment reductions that we estimate will be applied by the ESRD QIP from PY 2018 through PY 2028.

TABLE 29—UPDATED ESTIMATED ESRD QIP AGGREGATE PAYMENT REDUCTIONS FOR PAYMENT YEARS 2018 THROUGH 2028

Payment year	Estimated payment reductions
PY 2028	$20,624,345.
PY 2027	$21,652,956.
PY 2026	$15,990,524 (88 FR 76500).
PY 2025	$32,457,693 (87 FR 67297).
PY 2024	$17,104,031 (86 FR 62011).
PY 2023	$5,548,653 (87 FR 67297).
PY 2022	$0 (86 FR 62011).
PY 2021	$32,196,724 (83 FR 57062).
PY 2020	$31,581,441 (81 FR 77960).
PY 2019	$15,470,309 (80 FR 69074).
PY 2018	$11,576,214 (79 FR 66257).

(4) Effects on Medicare Beneficiaries

The ESRD QIP is applicable to ESRD facilities. Since the Program's inception, there is evidence of improved performance on ESRD QIP measures. As we stated in the CY 2018 ESRD PPS final rule, one objective measure we can examine to demonstrate the improved quality of care over time is the improvement of performance standards (82 FR 50795). As the ESRD QIP has refined its measure set and as facilities have gained experience with the measures included in the Program, performance standards have generally continued to rise. We view this as evidence that facility performance (and therefore the quality of care provided to Medicare beneficiaries) is objectively improving. We continue to monitor and evaluate trends in the quality and cost of care for patients under the ESRD QIP, incorporating both existing measures and new measures as they are implemented in the Program. We will provide additional information about the impact of the ESRD QIP on beneficiaries as we learn more by examining these impacts through the analysis of available data from our existing measures.

(5) Alternatives Considered

In section IV.C.2. of this final rule, we are finalizing updates to the ICH CAHPS clinical measure by removing questions from the ICH CAHPS Survey beginning with PY 2028. We considered not adopting this change. However, we concluded that reducing the length of the ICH CAHPS Survey will help to mitigate ongoing concerns regarding patient burden due to survey fatigue and lead to increased survey response rates, thereby more comprehensively capturing the experience of in-center hemodialysis patients through the ICH CAHPS clinical measure.

e. ETC Model

(1) Overview

The ETC Model is a mandatory payment model designed to test payment adjustments to certain dialysis and dialysis-related payments, as discussed in the Specialty Care Models final rule (85 FR 61114), the CY 2022 ESRD PPS final rule (86 FR 61874), the CY 2023 ESRD PPS final rule (87 FR 67136), and the CY 2024 ESRD PPS final rule (88 FR 76344) for ESRD facilities and for Managing Clinicians for claims with dates of service from January 1, 2021 to June 30, 2027. The requirements for the ETC Model are set forth in 42 CFR part 512, subpart C. For the results of the detailed economic analysis of the ETC Model and a description of the methodology used to perform the analysis, see the Specialty Care Models final rule (85 FR 61114).

(2) Data and Methods

A stochastic simulation was created to estimate the financial impacts of the ETC Model relative to baseline expenditures that use actual data for MYs 1–3 and updated methodology. Results were generated from an average of 400 simulations. The datasets and risk-adjustment methodologies for the ETC Model were developed by the CMS Office of the Actuary (OACT).

Table 30 is provided to isolate the total impact of terminating the ETC Model on December 31, 2025, by

displaying the projected impact to Medicare for the PYs that will no longer be included in the ETC Model. Negative spending reflects a reduction in Medicare spending, while positive spending reflects an increase in Medicare spending. We estimate that the Medicare program will increase program spending by a net total of $5 million from the PPA between January 1, 2026, and June 30, 2027, less $6 million from training and education expenditures that will not occur due to the model ending. Therefore, the net impact to Medicare spending from terminating the model early is estimated to be $1 million in savings during the final 18 months of the performance period (January 1, 2026 through June 30, 2027).

(3) Medicare Estimate—Impact of Model Termination Effective December 31, 2025

TABLE 30—ESTIMATES OF IMPACT ON MEDICARE PROGRAM SPENDING (ROUNDED $M) FOR ENDING THE ESRD TREATMENT CHOICES (ETC) MODEL ON DECEMBER 31, 2025

[Estimates represent the reversal of impacts otherwise projected if the model were to finish originally-specified testing period]

]	2026	2027	1.5 Year total *
Net Impact to Medicare Spending	−2	1	−1
Overall PPA Net & HDPA	1	4	5
Clinician PPA Downward Adjustment	4	3	7
Clinician PPA Upward Adjustment	−5	−2	−7
Clinician PPA Net	0	0	0
Clinician HDPA	.....	.....	.....
Facility Downward Adjustment	46	27	73
Facility Upward Adjustment	−45	−23	−68
Facility PPA Net	1	4	5
Facility HDPA	.....	.....	.....
Total PPA Downward Adjustment	50	30	80
Total PPA Upward Adjustment	−50	−25	−75
Total PPA Net	1	4	5
Total HDPA	.....	.....	.....
KDE Benefit Costs	−1	−1	−2
HD Training Costs	−2	−2	−4

* Totals may not sum due to rounding and from beneficiaries that have dialysis treatment spanning multiple years. Negative spending reflects a reduction in Medicare spending. The kidney disease patient education services benefit costs are less than $1M each year but are rounded up to $1M to show what years they apply to.

The ETC Model Second Annual Evaluation Report (2024) [55] examined the impact of the ETC Model through 2022 and found that during the first 2 calendar years of the model, there was no evidence of an impact of the ETC Model on the use of home dialysis modalities, transplant waitlisting, and living donor transplantation, which are the direct targets of the model's payment adjustments. Therefore, the impact of terminating the ETC Model early is simply the negation of the projected performance and other payments for PYs 2026 and 2027 of the model, which are very small on net for that period.

Table 30 uses the assumptions for the performance payment adjustments, kidney disease patient education (KDE) services, and HD training add-ons that were used in the CY 2025 ESRD PPS final rule (89 FR 89209). There is no impact reported for the Home Dialysis Payment Adjustment (HDPA) because the HDPA applied only to claims with claim service dates beginning January 1, 2021 and ending December 31, 2023. In contrast to what was reported in CY 2025 ESRD PPS final rule (89 FR 89209), Table 30 uses actual HDPA counts and actual PPAs for MYs 1 through 3 (which align with PYs 2022 and 2023). Partial estimates based on actual data were available for PY 2024 and were incorporated into the model for that year. The ETC model's projections were used for PYs 2025–2027. If we had not updated our baseline model projection for actual experience, then the net impact to Medicare spending will not have resulted in savings to Medicare.

Table 30 also includes two updates to the methodology used to generate the estimate. In the CY 2025 ESRD PPS final rule (89 FR 89209) estimates, we interpreted the *percentage* improvement in the ETC participant's MY performance on the home dialysis rate and transplant rate relative to the Benchmark Year rate to be a ''percentage point improvement'' rather than a relative percentage increase. In Table 30, we revised the baseline model's improvement scoring methodology to award improvement points based on relative improvement (this was the original intent of the ETC Model's design). For example, a facility with benchmark home dialysis rate of 5 percent and MY home dialysis rate of 6 percent is now measured to have 20 percent improvement in the home dialysis rate (relative improvement) instead of only 1 percentage point of improvement. No additional changes were made to the improvement thresholds or points awarded used in the improvement scoring methodology. A minor update was also made to the rolling benchmark used in the home dialysis rate calculation to reflect the fact that hospital referral regions not randomized to participate in the ETC model saw increases in their home dialysis rate during the initial MYs of the model. We modified the rolling benchmark from assuming that hospital referral regions not randomized to participate in the ETC model will have a static home dialysis rate to restricting the geographies included in the model to only be those hospital referral regions that were actually randomized into the model. The values estimated by the model for PYs 2021–2024 were validated against actual reported spending in the HDPA and PPA categories.

[55] Negrusa, B., Wiens, J., Ullman, D., Turenne, M., Mukhopadhyay, P., Young, E., Mandell, R., Stanik, C., Pozniak, A., Goyat, R., Ji, N., Martin, A., Wang, D., Wiseman, J., Tian, S., Milkovich, K., Dahlerus, C., & Hirth, R. (2024). *End-Stage Renal Disease Treatment Choices (ETC) Model: Second Annual Evaluation Report.* The Lewin Group. *https://www.cms.gov/priorities/innovation/data-and-reports/2024/etc-2nd-eval-rpt.*

(4) Effects on the Home Dialysis Rate, the Transplant Rate, and Kidney Transplantation

The change proposed in this rule is not expected to impact the findings reported for the effects of the ETC Model on the home dialysis rate or the transplant rate described in the Specialty Care Models final rule (85 FR 61355) and the CY 2022 ESRD PPS final rule (86 FR 62017). The ETC Model Second Annual Evaluation Report examined the impact of the model through 2022 and found that during the first 2 calendar years of the model, there was no evidence of an impact of the ETC Model on the use of home dialysis modalities, transplant waitlisting, and living donor transplantation. Therefore, terminating the model early is not expected to have an impact on these trends.

(5) Effects on Kidney Disease Patient Education Services and HD Training Add-Ons

The change in this final rule will end the kidney disease patient education services and HD training add-ons described in the Specialty Care Models final rule (85 FR 61355) and the CY 2022 ESRD PPS final rule (86 FR 62017) for the final two PYs of the model.

(6) Effects on Medicare Beneficiaries

The proposal to terminate the model early is not expected to impact the findings reported for the effects of ETC Model on Medicare beneficiaries. Further details on the impact of the ETC Model on ESRD Beneficiaries may be found in the Specialty Care Models final rule (85 FR 61357) and the CY 2022 ESRD PPS final rule (86 FR 61874).

(7) Alternatives Considered

The Specialty Care Models final rule (85 FR 61114), the CY 2022 ESRD PPS final rule (86 FR 61874), the CY 2023 ESRD PPS final rule (87 FR 67136), the CY 2024 ESRD PPS final rule (88 FR 76344), CY 2025 ESRD PPS final rule (89 FR 89084), and the proposed policy herein address a model specific to ESRD. These rules provide descriptions of the requirements that we waive, identify the performance metrics and payment adjustments to be tested, and presents rationales for our changes, and where relevant, alternatives considered. For context related to alternatives previously considered when establishing and modifying the ETC Model we refer readers to section V.B. of this final rule and to the previous citations.

D. Accounting Statement

Consistent with OMB Circular A–4 (available at *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf*), we have prepared an accounting statement in Table 31 showing the classification of the impact associated with the provisions of this final rule.

TABLE 31—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED TRANSFERS, AND COSTS

Category	Primary estimate
ESRD PPS and AKI (CY 2026)	
Annualized Monetized Transfers	$140 million.
From Whom To Whom	Federal Government To ESRD Providers.
Increased Beneficiary Co-insurance Payments	$40 million.
From Whom To Whom	Beneficiaries To ESRD Providers.
ESRD QIP for PY 2027	
Annualized Monetized Transfers	−$21.6 million.
From Whom To Whom	Federal Government To ESRD Providers.
Annualized Monetized Burden Reduction Costs	−$15.5 million.
ESRD QIP for PY 2028	
Annualized Monetized Transfers	−$20.6 million.
From Whom To Whom	Federal Government To ESRD Providers.
Annualized Monetized Burden Reduction Costs	−$0.7 million.
ETC Model for PYs 2026–2027	
Annual Monetized Transfers	−$1 million.
From Whom To Whom	Federal Government To ESRD Providers.

E. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. We do not believe ESRD facilities are operated by small government entities such as counties or towns with populations of 50,000 or less, and therefore, they are not enumerated or included in this estimated RFA analysis. Individuals and States are not included in the definition of a small entity. Therefore, the number of small entities estimated in this RFA analysis includes the number of ESRD facilities that are either considered small businesses or nonprofit organizations.

According to the Small Business Administration's (SBA) size standards, an ESRD facility is classified as a small business if it has average revenues of less than $47 million across the past 5 years.[56] For the purposes of this analysis, we exclude the ESRD facilities that are owned and operated by large dialysis organizations (LDOs) and regional chains, which will have total revenues of more than $6.5 billion in any year when the total revenues for all locations are combined for each business (LDO or regional chain), and are not, therefore, considered small businesses. Because we lack data on

[56] *http://www.sba.gov/content/small-business-size-standards.*

individual ESRD facilities' receipts, we cannot determine the number of small proprietary ESRD facilities or the proportion of ESRD facilities' revenue derived from Medicare FFS payments. Therefore, we assume that all ESRD facilities that are not owned by LDOs or regional chains are considered small businesses. Accordingly, we consider the 491 ESRD facilities that are independent and 351 ESRD facilities that are hospital-based, as shown in the ownership category in Table 21, to be small businesses. These ESRD facilities represent approximately 11 percent of all ESRD facilities in our data set.

Additionally, we identified in our analytic file that there are 780 ESRD facilities that are considered nonprofit organizations, which is approximately 10 percent of all ESRD facilities in our data set. In total, accounting for the 366 nonprofit ESRD facilities that are also considered small businesses, there are 1,256 ESRD facilities that are either small businesses or nonprofit organizations, which is approximately 17 percent of all ESRD facilities in our data set.

As its measure of significant economic impact on a substantial number of small entities, HHS's practice in interpreting the RFA is to consider effects economically ''significant'' on a ''substantial'' number of small entities only if greater than 5 percent of providers reach a threshold of 3 to 5 percent or more of total revenue or total costs. As shown in Table 21, we estimate that the overall revenue impact of this final rule on all ESRD facilities is a positive increase to Medicare FFS payments by approximately 2.2 percent. For the ESRD PPS updates finalized in this rule, a hospital-based ESRD facility (as defined by type of ownership, not by type of ESRD facility) is estimated to receive a 1.5 percent increase in Medicare FFS payments for CY 2026. An independent facility (as defined by ownership type) is likewise estimated to receive a 2.0 percent increase in Medicare FFS payments for CY 2026. Although not displayed in Table 21, we have found that among the 842 ESRD facilities that are small businesses, those furnishing fewer than 3,000 treatments per year are estimated to receive a 1.9 percent increase in Medicare FFS payments, and those furnishing 3,000 or more treatments per year are estimated to receive a 1.8 percent increase in Medicare FFS payments. Additionally, among the 780 nonprofit ESRD facilities, those furnishing fewer than 3,000 treatments per year are estimated to receive a 1.7 percent increase in Medicare FFS payments, and those furnishing 3,000 or more treatments per year are estimated to receive a 1.3 percent increase in Medicare FFS payments.

For AKI dialysis, we are unable to estimate whether patients will go to certain types of ESRD facilities, however, we have estimated there is a potential for $80 million in payment for AKI dialysis treatments that could potentially be furnished in ESRD facilities that are small businesses or nonprofits.

Based on the estimated Medicare payment impacts described previously, we believe that the change in revenue threshold will be reached by some categories of small entities as a result of the policies in this final rule. This analysis is based on the assumptions described earlier in this section of this final rule as well as the detailed impact analysis discussed in section VII.C. of this final rule, which includes a discussion of data sources, general assumptions, and alternatives considered.

For the ESRD QIP, we estimate that of the 3,256 ESRD facilities expected to receive a payment reduction as a result of their performance on the PY 2027 ESRD QIP, 508 are ESRD small entity facilities. We present these findings in Table 23 (''Updated Estimated Distribution of PY 2027 ESRD QIP Payment Reductions'') and Table 25 (''Updated Estimated Impact of ESRD QIP Payment Reductions to ESRD Facilities for PY 2027''). Table 23 shows the overall estimated distribution of payment reductions resulting from the PY 2027 ESRD QIP. Table 25 shows the updated estimated impact of the ESRD QIP payment reductions to all ESRD facilities for PY 2027, and also details the distribution of ESRD facilities by size, geography, and facility type. We also estimate that of the 3,160 ESRD facilities expected to receive a payment reduction as a result of their performance on the PY 2028 ESRD QIP, 491 are ESRD small entity facilities. We present these findings in Table 26 (''Updated Estimated Distribution of PY 2028 ESRD QIP Payment Reductions'') and Table 28 (''Updated Estimated Impact of ESRD QIP Payment Reductions to ESRD Facilities for PY 2028''). Table 26 shows the overall estimated distribution of payment reductions resulting from the PY 2028 ESRD QIP. Table 28 shows the updated estimated impact of the ESRD QIP payment reductions to all ESRD facilities for PY 2028, and also details the distribution of ESRD facilities by size, geography, and facility type.

Regarding the ETC Model, we estimate $1 million in savings to Medicare from terminating the Model effective December 31, 2025.

Therefore, the Secretary has determined that this final rule will have a significant economic impact, reflecting a positive revenue increase, on a substantial number of small entities. This RFA section along with the RIA constitutes our final regulatory flexibility analysis.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. We do not believe this final rule will have a significant impact on operations of a substantial number of small rural hospitals because most dialysis facilities are freestanding. While there are 112 rural hospital-based ESRD facilities, we do not know how many of them are hospital-based with fewer than 100 beds. However, overall, the 112 rural hospital-based ESRD facilities will experience an estimated 2.3 percent increase in payments. Therefore, the Secretary has certified that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

F. Unfunded Mandates Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2025, that threshold is approximately $187 million. We do not interpret Medicare payment rules as being unfunded mandates but simply as conditions for the receipt of payments from the Federal Government for providing services that meet Federal standards. This interpretation applies whether the facilities or providers are private, State, local, or Tribal. Therefore, this final rule does not mandate any requirements for State, local, or Tribal governments, or for the private sector.

G. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct

requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. We have reviewed this final rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that it will not have substantial direct effects on the rights, roles, and responsibilities of State, local, or Tribal government.

H. Executive Order 14192, ''Unleashing Prosperity Through Deregulation''

Executive Order 14192, entitled ''Unleashing Prosperity Through Deregulation'' was issued on January 31, 2025, and requires that ''any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.'' The updates finalized for the ESRD QIP do not create new regulations, nor do the finalized policies create new incremental costs. We estimate that these finalized policies will generate approximately $13.1 million in annualized cost savings relative to PY 2027 based on currently available facility and patient data. Therefore, the updates finalized for the ESRD QIP will be considered an Executive Order 14192 deregulatory action.

I. Congressional Review Act

This final regulation is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and has been transmitted to the Congress and the Comptroller General for review.

VIII. Files Available to the Public

The Addenda for the annual ESRD PPS proposed and final rule will no longer appear in the **Federal Register**. Instead, the Addenda will be available only through the internet and will be posted on CMS's website under the regulation number, CMS–1830–F, at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/End-Stage-Renal-Disease-ESRD-Payment-Regulations-and-Notices.* In addition to the Addenda, limited data set files (LDS) are available for purchase at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Files-for-Order/LimitedDataSets/EndStageRenalDiseaseSystemFile.* Readers who experience any problems accessing the Addenda or LDS files, should contact CMS by sending an email to CMS at the following mailbox: *ESRDPayment@cms.hhs.gov.*

IX. Waiver of Delayed Effective Date

In the absence of an appropriation for fiscal year 2026 or a Continuing Resolution, the federal government funding for HHS lapsed on October 1, 2025. During the funding lapse, which lasted from October 1, 2025, through November 12, 2025, only excepted or exempted operations continued, which significantly delayed work on this final rule. CMS identified funding that allowed the agency to restore additional day-to-day operations on a temporary basis beginning on October 27, 2025. However, most of the work on this final rule was not completed in accordance with our usual schedule for final CY payment rules, which aims for an issuance date of November 1 followed by an effective date of January 1 to ensure that the policies are effective at the start of the calendar year to which they apply.

We ordinarily provide a 60-day delay in the effective date of final rules after the date they are issued. The 60-day delay in effective date required by the Congressional Review Act, 5 U.S.C. 801(a)(3), can be waived, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of reasons in the rule issued, 5 U.S.C. 808(2). For the following reasons, we find it would be impracticable and contrary to the public interest to delay the effective date of the ESRD PPS, AKI, ETC Model, and ESRD QIP policies in this final rule. The ESRD PPS is a calendar-year payment system, and we typically issue the final rule by November 1 of each year to ensure that the payment policies for the system are effective on January 1, the first day of the calendar year to which the policies are intended to apply. CMS also updates the AKI dialysis payment rate in the ESRD PPS final rule to ensure that AKI payment policies are effective on January 1, the first day of the calendar year to which the policies are intended to apply. CMS also includes in the ESRD PPS final rule its policies for the ESRD QIP because the performance of a dialysis facility under the ESRD QIP has a direct effect on that facility's payment under the ESRD PPS. In this final rule, we are finalizing policies that impact the PY 2028 ESRD QIP, which corresponds to a facility's ESRD QIP measure set requirements for 2026 beginning with January 1, the first day of the calendar year to which the policies are intended to apply. ETC Model policies are also included in the ESRD PPS final rule as the ETC Model is mandatory and has a direct positive or negative financial impact on participating ESRD facilities. We note that CMS publicly announced its intention to terminate the ETC Model in March of 2025, and we intend to follow to follow through on this commitment.[57] An ESRD facility's ESRD PPS and AKI payments in 2026 will be based, in part, on the policies finalized in this final rule. If the effective date of this final rule is delayed by 60 days, the ESRD PPS, AKI, ETC Model, and ESRD QIP policies adopted in this final rule will not be effective until after January 1, 2026. This would result in ESRD facilities in 2026 receiving payment based on 2025 ESRD PPS and AKI dialysis payment rates, having their payment impacted based on past performance in the ETC Model, and being subject to 2025 QIP reporting requirements. This would be contrary to the public's interest in ensuring that ESRD facilities receive appropriate payments in a timely manner, and that their payments in 2026 properly and completely reflect their performance on quality measures in 2024. Furthermore, such a delay would be impractical as it would require different processing of claims from before and after the delayed effective date, including the use of different systems to process the 2025 payment amounts, 2025 QIP reporting requirements, and the continuation of the ETC model for the portion of 2026 before the delayed effective date. This would require notable additional resource use for ESRD facilities, as well as for CMS and its contractors.

Mehmet Oz, Administrator of the Centers for Medicare & Medicaid Services, approved this document on November 17, 2025.

List of Subjects

42 CFR Part 413

Diseases, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 512

Administrative practice and procedure, Health care, Health facilities, Health insurance, Intergovernmental relations, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

[57] *https://www.cms.gov/newsroom/fact-sheets/cms-innovation-center-announces-model-portfolio-changes-better-protect-taxpayers-and-help-americans.*

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES; PAYMENT FOR ACUTE KIDNEY INJURY DIALYSIS

■ 1. The authority citation for part 413 continues to read as follows:

Authority: 42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395m, 1395x(v), 1395x(kkk), 1395hh, 1395rr, 1395tt, and 1395ww.

■ 2. Section 413.230 is amended by revising paragraph (a) to read as follows:

§ 413.230 Determining the per treatment payment amount.

* * * * *

(a) The per treatment base rate established in § 413.220, adjusted for wages as described in § 413.231, and adjusted for facility-level and patient-level characteristics described in §§ 413.232, 413.233, and 413.235 of this part;

* * * * *

■ 3. Section 413.233 is revised to read as follows:

§ 413.233 Additional facility-level adjustments.

(a) CMS adjusts the base rate for facilities in rural areas, as defined in § 413.231(b)(2).

(b) CMS adjusts the non-labor-related portion of the base rate for facilities in Alaska, Hawaii, Guam, American Samoa, and the Northern Mariana Islands.

■ 4. Section 413.234 is amended—

■ a. In paragraph (a) by revising the definition of ''New renal dialysis drug or biological product'';

■ b. By revising paragraphs (b)(1)(ii) and (b)(2)(ii);

■ c. By adding paragraph (c)(5); and

■ d. By revising paragraph (g)(5).

The revisions and addition read as follows:

§ 413.234 Drug designation process.

(a) * * *

New renal dialysis drug or biological product. An injectable, intravenous, oral or other form or route of administration drug or biological product that is used to treat or manage a condition(s) associated with ESRD. It must be approved by the Food and Drug Administration (FDA) on or after January 1, 2020, under section 505 of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act, be commercially available, and be designated by CMS as a renal dialysis service under § 413.171. Oral-only drugs are excluded until January 1, 2025.

* * * * *

(b) * * *

(1) * * *

(ii) If the new renal dialysis drug or biological product meets the requirements in paragraph (c)(5) of this section and is not excluded under paragraph (e) of this section, the new drug or biological product is paid for using the transitional drug add-on payment adjustment described in paragraph (c)(1) of this section.

* * * * *

(2) * * *

(ii) If the new renal dialysis drug or biological product meets the requirements in paragraph (c)(5) of this section, the new renal dialysis drug or biological product is paid for using the transitional drug add-on payment adjustment described in paragraph (c)(2) of this section; and

* * * * *

(c) * * *

(5) CMS provides for a transitional drug add-on payment adjustment (as specified in paragraphs (c)(1) and (2) of this section) to an ESRD facility for furnishing a new renal dialysis drug or biological product if the new drug or biological product meets the following requirements:

(i) Has a HCPCS application submitted in accordance with the official Level II HCPCS coding procedures; and

(ii) Has submitted a complete application for the transitional drug add-on payment adjustment to CMS prior to January 1, 2028, or within three years of FDA approval under section 505 of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act.

* * * * *

(g) * * *

(5) The post-TDAPA add-on payment adjustment that is applied to an ESRD PPS claim is adjusted by any applicable patient-level case-mix adjustments under § 413.235

* * * * *

PART 512—STANDARD PROVISIONS FOR MANDATORY INNOVATION CENTER MODELS AND SPECIFIC PROVISIONS FOR CERTAIN MODELS

■ 5. The authority citation for part 512 continues to read as follows:

Authority: 42 U.S.C. 1302, 1315(a), and 1395hh.

■ 6. Section 512.320 is revised to read as follows:

§ 512.320 Duration.

CMS will apply the payment adjustments described in this subpart under the ETC Model to claims with claim service dates beginning on or after January 1, 2021, and ending on or before December 31, 2025.

■ 7. Section 512.355 is amended by revising paragraphs (a) and (b); and Table 1 to paragraph (c) to read as follows:

§ 512.355 Schedule of performance assessment and performance payment adjustment.

(a) *Measurement Years.* CMS assesses ETC Participant performance on the home dialysis rate and the transplant rate during each of the MYs. The first MY begins on January 1, 2021, and the final MY ends on December 31, 2024.

(b) *Performance Payment Adjustment Period.* CMS adjusts payments for ETC Participants by the PPA during each of the PPA Periods, each of which corresponds to a MY. The first PPA Period begins on July 1, 2022, and the final PPA Period ends on December 31, 2025.

(c) * * *

TABLE 1 TO PARAGRAPH (c)—ETC MODEL SCHEDULE OF MEASUREMENT YEARS AND PPA PERIODS

Measurement Year (MY)	Performance Payment Adjustment (PPA) period
MY 1—1/1/2021 through 12/31/2021	PPA Period 1—7/1/2022 through 12/31/2022.
MY 2—7/1/2021 through 6/30/2022	PPA Period 2—1/1/2023 through 6/30/2023.
MY 3—1/12022 through 12/31/2022	PPA Period 3—7/1/2023 through 12/31/2023.
MY 4—7/1/2022 through 6/30/2023	PPA Period 4—1/1/2024 through 6/30/2024.
MY 5—1/1/2023 through 12/31/2023	PPA Period 5—7/1/2024 through 12/31/2024.
MY 6—7/1/2023 through 6/30/2024	PPA Period 6—1/1/2025 through 6/30/2025.
MY 7—1/1/2024 through 12/31/2024	PPA Period 7—7/1/2025 through 12/31/2025.

■ 8. Section 512.360 is amended by revising paragraph (c)(2)(iii) introductory text to read as follows:

§ 512.360 Beneficiary population and attribution.

* * * * *

(c) * * *

(2) * * *

(iii) For MY3 through MY7, a Pre-emptive LDT Beneficiary who is not excluded based on the criteria in paragraph (b) of this section is attributed to the Managing Clinician who submitted the most claims for services furnished to the beneficiary in the 365 days preceding the date in which the beneficiary received the transplant.

* * * * *

■ 9. Section 512.365 is amended by revising paragraphs (b)(1)(ii) introductory text, (b)(2)(ii) introductory text, (c)(1)(i)(A) introductory text, (c)(1)(ii)(A), (c)(2)(i)(A), (c)(2)(ii)(A)(1) and (2) to read as follows:

§ 512.365 Performance assessment.

* * * * *

(b) * * *

(1) * * *

(ii) For MY3 through MY7, the numerator is the total number of home dialysis treatment beneficiary years, plus one half the total number of self dialysis treatment beneficiary years, plus one half the total number of nocturnal in center dialysis beneficiary years for attributed ESRD Beneficiaries during the MY.

* * * * *

(2) * * *

(ii) For MY3 through MY7, the numerator is the total number of home dialysis treatment beneficiary years, plus one half the total number of self dialysis treatment beneficiary years, plus one half the total number of nocturnal in center dialysis beneficiary years for attributed ESRD Beneficiaries during the MY.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) The denominator is the total dialysis treatment beneficiary years for attributed ESRD Beneficiaries during the MY. Dialysis treatment beneficiary years included in the denominator are composed of those months during which an attributed ESRD beneficiary received maintenance dialysis at home or in an ESRD facility, such that 1-beneficiary year is comprised of 12-beneficiary months. For MY3 through MY7, months during which an attributed ESRD Beneficiary received maintenance dialysis are identified by claims with Type of Bill 072X, excluding claims for beneficiaries who were 75 years of age or older at any point during the month, or had a vital solid organ cancer diagnosis and were receiving treatment with chemotherapy or radiation for vital solid organ cancer during the MY.

* * * * *

(ii) * * *

(A) The denominator is the total dialysis treatment beneficiary years for attributed ESRD Beneficiaries during the MY. Dialysis treatment beneficiary years included in the denominator are composed of those months during which an attributed ESRD Beneficiary received maintenance dialysis at home or in an ESRD facility, such that 1-beneficiary year is comprised of 12-beneficiary months. For MY3 through MY7, months during which an attributed ESRD Beneficiary received maintenance dialysis are identified by claims with Type of Bill 072X, excluding claims for beneficiaries who were 75 years of age or older at any point during the month, or had a vital solid organ cancer diagnosis and were receiving treatment with chemotherapy or radiation for vital solid organ cancer during the MY. Months in which an attributed ESRD Beneficiary had a diagnosis of vital solid organ cancer are identified as described in paragraph (c)(1)(i)(A)(*1*) of this section. Months in which an attributed ESRD Beneficiary received treatment with chemotherapy or radiation for vital solid organ cancer are identified as described in paragraph (c)(1)(i)(A)(*2*) of this section.

* * * * *

(2) * * *

(i) * * *

(A) The denominator is the total dialysis treatment beneficiary years for attributed ESRD Beneficiaries during the MY. Dialysis treatment beneficiary years included in the denominator are composed of those months during which an attributed ESRD Beneficiary received maintenance dialysis at home or in an ESRD facility, such that 1-beneficiary year is comprised of 12-beneficiary months. For MY3 through MY7, months during which an attributed ESRD Beneficiary received maintenance dialysis are identified by claims with CPT codes 90957, 90958, 90959, 90960, 90961, 90962, 90965, or 90966, excluding claims for beneficiaries who were 75 years of age or older at any point during the month, or had a vital solid organ cancer diagnosis and were receiving treatment with chemotherapy or radiation for vital solid organ cancer during the MY. Months in which an attributed ESRD Beneficiary had a diagnosis of vital solid organ cancer are identified as described in paragraph (c)(1)(i)(A)(1) of this section. Months in which an attributed ESRD Beneficiary received treatment with chemotherapy or radiation for vital solid organ cancer are identified as described in paragraph (c)(1)(i)(A)(2) of this section.

* * * * *

(ii) * * *

(A) * * *

(1) Dialysis treatment beneficiary years included in the denominator are composed of those months during which an attributed ESRD Beneficiary received maintenance dialysis at home or in an ESRD facility, such that 1-beneficiary year is comprised of 12-beneficiary months. For MY3 through MY7, months during which an attributed ESRD Beneficiary received maintenance dialysis are identified by claims with CPT codes 90957, 90958, 90959, 90960, 90961, 90962, 90965, or 90966, excluding claims for beneficiaries who were 75 years of age or older at any point during the month, or had a vital solid organ cancer diagnosis and were receiving treatment with chemotherapy or radiation for vital solid organ cancer during the MY. Months in which an attributed ESRD Beneficiary had a vital solid organ cancer diagnosis are identified as described in paragraph (c)(1)(i)(A)(*1*) of this section. Months in which an attributed ESRD Beneficiary received treatment with chemotherapy or radiation for vital solid organ cancer are identified as described in paragraph (c)(1)(i)(A)(*2*) of this section.

(2) MY1 and MY2, Pre-emptive LDT beneficiary years included in the denominator are composed of those months during which a Pre-emptive LDT Beneficiary is attributed to a Managing Clinician, from the beginning of the MY up to and including the month of the living donor transplant. For MY3 through MY7, Pre-emptive LDT beneficiary years included in the denominator are composed of those months during which a Pre-emptive LDT Beneficiary is attributed to a Managing Clinician, from the beginning of the MY up to and including the month of the living donor transplant, excluding beneficiaries who had a vital solid organ cancer diagnosis and were receiving treatment with chemotherapy or radiation for vital solid organ cancer during the MY. Months in which an attributed ESRD Beneficiary had a vital solid organ cancer diagnosis are identified as described in paragraph (c)(1)(i)(A)(1) of this section. Months in which an attributed ESRD Beneficiary

received treatment with chemotherapy or radiation for vital solid organ cancer are identified as described in paragraph (c)(1)(i)(A)(2) of this section. Pre-emptive LDT Beneficiaries are identified using information about living donor transplants from the SRTR Database and Medicare claims data.

* * * * *

■ 10. Section 512.370 is amended by revising paragraph (b) introductory text, Table 1 to § 512.370(b)(1), and paragraphs (b)(2) introductory text, (b)(3), (c) introductory text, (c)(1)(v), and (d)(2) to read as follows:

§ 512.370 Benchmarking and scoring.

* * * * *

(b) *Achievement Scoring.* CMS assesses ETC Participant performance at the aggregation group level on the home dialysis rate and transplant rate against achievement benchmarks constructed based on the home dialysis rate and transplant rate among aggregation groups of ESRD facilities and Managing Clinicians located in Comparison Geographic Areas during the Benchmark Year. Achievement benchmarks are calculated as described in paragraph (b)(1) of this section and, for MY3 through MY7, are stratified as described in paragraph (b)(2) of this section. For MY5 through MY7, the ETC Participant's achievement score is subject to the restriction described in paragraph (b)(3) of this section.

(1) * * *

TABLE 1 TO § 512.370(b)(1)—ETC MODEL SCHEDULE OF PPA ACHIEVEMENT BENCHMARKS BY MEASUREMENT YEAR

MY1 and MY2	MY3 and MY4	MY5 and MY6	MY7	Points
90th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year.	1.1 * (90th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.2 * (90th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.3 * (90th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	2
75th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year.	1.1 * (75th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.2 * (75th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.3 * (75th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.5
50th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year.	1.1 * (50th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.2 * (50th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.3 * (50th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1
30th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year.	1.1 * (30th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.2 * (30th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.3 * (30th+ Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	0.5
<30th Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year.	1.1 * (<30th Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.2 * (<30th Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	1.3 * (<30th Percentile of benchmark rates for Comparison Geographic Areas during the Benchmark Year).	0

(2) *Stratifying achievement benchmarks.* For MY3 through MY7, CMS stratifies achievement benchmarks based on the proportion of beneficiary years attributed to the aggregation group for which attributed beneficiaries are dual eligible or LIS recipients during the MY. An ESRD Beneficiary or Pre-emptive LDT Beneficiary is considered to be dual eligible or a LIS recipient for a given month if at any point during the month the beneficiary was dual eligible or an LIS recipient based on Medicare administrative data. CMS stratifies the achievement benchmarks into the following two strata:

* * * * *

(3) For MY5 through MY7, CMS will assign an achievement score to an ETC Participant for the home dialysis rate or the transplant rate only if the ETC Participant's aggregation group has a home dialysis rate or a transplant rate greater than zero for the MY.

(c) *Improvement scoring.* CMS assesses ETC Participant improvement on the home dialysis rate and transplant rate against benchmarks constructed based on the ETC Participant's aggregation group's historical performance on the home dialysis rate and transplant rate during the Benchmark Year to calculate the ETC Participant's improvement score, as specified in paragraph (c)(1) of this section. For MY3 through MY7, CMS assesses ETC Participant improvement on the home dialysis rate and transplant rate for ESRD Beneficiaries and, if applicable, Pre-emptive LDT Beneficiaries, who are dual eligible or LIS recipients to determine whether to add the Health Equity Incentive to the ETC Participant's improvement score, as specified in paragraph (c)(2) of this section.

(1) * * *

(v) For MY3 through MY7, when calculating improvement benchmarks constructed based on the ETC Participant's aggregation group's historical performance on the home dialysis rate and transplant rate during the Benchmark Year, CMS adds one beneficiary month to the numerator of the home dialysis rate and adds one beneficiary month to the numerator of the transplant rate, such that the Benchmark Year rates cannot be equal to zero.

* * * * *

(d) * * *

(2) For MY3 through MY7, CMS calculates the ETC Participant's MPS as the higher of the ETC Participant's achievement score for the home dialysis rate or the sum of the ETC Participant's improvement score for the home dialysis rate calculated as specified in paragraph (c)(1) of this section and, if applicable, the Health Equity Incentive, calculated as described in paragraph (c)(2)(i) of this section, together with the higher of the ETC Participant's achievement score for the transplant rate or the sum of the ETC Participant's improvement score for the transplant rate calculated as specified in paragraph (c)(1) of this section and, if applicable, the Heath Equity Incentive, calculated as described in paragraph (c)(2)(ii) of this section, weighted such that the ETC Participant's score for the home dialysis rate constitutes ⅔ of the MPS and the ETC Participant's score for the transplant rate constitutes ⅓ of the MPS. CMS uses the following formula to calculate the ETC Participant's MPS for MY3 through MY7: *Modality Performance Score* = 2 × (*Higher of the home dialysis achievement or* (*home dialysis improvement score* + *Health Equity Bonus* †)) + (*Higher of the transplant achievement or* (*transplant improvement score* + *Health Equity Bonus*†))

† The Health Equity Incentive is applied to the home dialysis improvement score or transplant

improvement score only if earned by the ETC Participant.

■ 11. Section 512.380 is amended by revising Tables 1 and 2 to § 512.380 to read as follows:

§ 512.380 PPA Amounts and schedules.

* * * * *

TABLE 1 TO § 512.380—FACILITY PPA AMOUNTS AND SCHEDULE

	MPS	Performance payment adjustment period			
		1 and 2 (%)	3 and 4 (%)	5 and 6 (%)	7 (%)
Facility Performance Payment Adjustment	≤6	+4.0	+5.0	+6.0	+7.0
	≤5	+2.0	+2.5	+3.0	+3.5
	≤3.5	0	0	0	0
	≤2	−2.5	−3.0	−3.5	−4.5
	≤.5	−5.0	−6.0	−7.0	−9.0

TABLE 2 TO § 512.380—CLINICIAN PPA AMOUNTS AND SCHEDULE

	MPS	Performance payment adjustment period			
		1 and 2 (%)	3 and 4 (%)	5 and 6 (%)	7 (%)
Clinician Performance Payment Adjustment	≤6	+4.0	+5.0	+6.0	+7.0
	≤5	+2.0	+2.5	+3.0	+3.5
	≤3.5	0	0	0	0
	≤2	−2.5	−3.0	−3.5	−4.0
	≤.5	−5.0	−6.0	−7.0	−8.0

■ 12. Section 512.390 is amended by revising paragraph (b) introductory text to read as follows:

§ 512.390 Notification, data sharing, and targeted review.

* * * * *

(b) *Data sharing with ETC Participants.* CMS shares certain beneficiary-identifiable data as described in paragraph (b)(1) of this section and certain aggregate data as described in paragraph (b)(2) of this section with ETC Participants regarding their attributed beneficiaries and performance under the ETC Model. Data will not be shared after November 30, 2025.

* * * * *

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2025–20681 Filed 11–20–25; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL REGISTER

Vol. 90 Monday,
No. 224 November 24, 2025

Part III

Department of the Treasury

Internal Revenue Service

26 CFR Parts 1 and 58
Excise Tax on Repurchase of Corporate Stock; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 58

[TD 10037]

RIN 1545–BQ59

Excise Tax on Repurchase of Corporate Stock

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance regarding the application of the excise tax on repurchases of corporate stock made after December 31, 2022. The regulations affect certain publicly traded corporations that repurchase their stock or whose stock is acquired by certain specified affiliates.

DATES:

Effective date: The final regulations are effective on November 24, 2025.

Applicability dates: For dates of applicability, *see* §§ 1.1275–6(f)(12)(iii)(B), 58.4501–6, 58.4501–7(r), and 58.6011–1(d).

FOR FURTHER INFORMATION CONTACT: Concerning § 58.4501–7, Brittany N. Dobi of the Office of Associate Chief Counsel (International) at (202) 317–5469 (not a toll-free number). For all other issues, Kailee H. Hock of the Office of Associate Chief Counsel (Corporate) at (202) 317–3181 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains final regulations under sections 1275, 4501, and 6011 of the Internal Revenue Code (Code). These regulations would amend 26 CFR parts 1 (Income Tax Regulations) and 58 (Stock Repurchase Excise Tax Regulations) by providing guidance regarding the application of the excise tax on repurchases of corporate stock (stock repurchase excise tax) enacted as section 10201 of Public Law 117–169, 136 Stat. 1818 (August 16, 2022), commonly referred to as the Inflation Reduction Act of 2022 (IRA). The additions and amendments to the Income Tax Regulations and Stock Repurchase Excise Tax Regulations are issued pursuant to the express delegations of authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) provided under sections 1275(d), 4501(f), and 7805(a) of the Code.

Section 1275(d) states that the Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, or other circumstances, the tax treatment under sections 1271 through 1275 or section 163(e) of the Code does not carry out the purposes of those sections, ''such treatment shall be modified to the extent appropriate to carry out the purposes of'' those sections.

Section 4501(f) states that ''[t]he Secretary shall prescribe such regulations and other guidance as are necessary or appropriate to carry out, and to prevent the avoidance of, the purposes of [section 4501],'' including regulations or other guidance (i) to prevent the abuse of the statutory exceptions provided by section 4501(e), (ii) to address special classes of stock and preferred stock, and (iii) for the application of the special rules for acquisitions of stock of certain foreign corporations under section 4501(d).

Section 7805(a) authorizes the Secretary to ''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

I. Overview of Section 4501

A. In General

Section 4501 was added to a new chapter 37 of the Code. Section 4501 imposes on each covered corporation an excise tax (that is, the stock repurchase excise tax) on repurchases of corporate stock made after December 31, 2022. Under section 4501(a), the stock repurchase excise tax is equal to one percent of the fair market value of any stock of the covered corporation that is repurchased by the corporation during the taxable year. Section 4501(b) defines the term ''covered corporation'' to mean any domestic corporation the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1) of the Code).

Section 4501(c)(1) provides that, for purposes of section 4501, a ''repurchase'' includes (1) a redemption within the meaning of section 317(b) of the Code with regard to the stock of a covered corporation (section 317(b) redemption), and (2) any transaction determined by the Secretary to be economically similar to a section 317(b) redemption (economically similar transaction).

B. Specified Affiliates

Section 4501(c)(2)(A) treats the acquisition of stock of a covered corporation by a specified affiliate of the covered corporation, from a person who is not the covered corporation or a specified affiliate of the covered corporation, as a repurchase of stock of the covered corporation by the covered corporation. Section 4501(c)(2)(B) defines the term ''specified affiliate'' to mean, with regard to any corporation, (i) any corporation more than 50 percent of the stock of which is owned (by vote or by value), directly or indirectly, by the corporation, and (ii) any partnership more than 50 percent of the capital interests or profits interests of which is held, directly or indirectly, by the corporation.

C. Adjustment to Amount Taken Into Account Under Section 4501(a)

The stock repurchase excise tax is applied to the fair market value of any stock of the covered corporation repurchased by the covered corporation during its taxable year. However, the ''netting rule'' of section 4501(c)(3) provides that the amount taken into account under section 4501(a) with respect to any stock repurchased by a covered corporation is reduced by the fair market value of any stock issued by the covered corporation during the taxable year, including the fair market value of any stock issued or provided to employees of the covered corporation or employees of a specified affiliate of the covered corporation during the taxable year (whether or not the stock is issued or provided in response to the exercise of an option to purchase the stock).

D. Special Rules for Certain Acquisitions and Repurchases of Stock of Certain Foreign Corporations

Section 4501(d) provides special rules for the imposition of the stock repurchase excise tax on acquisitions of stock of applicable foreign corporations and covered surrogate foreign corporations. Under section 4501(d)(3)(A), the term ''applicable foreign corporation'' means any foreign corporation the stock of which is traded on an established securities market. Under section 4501(d)(3)(B), the term ''covered surrogate foreign corporation'' means any surrogate foreign corporation (as determined under section 7874(a)(2)(B) of the Code by substituting ''September 20, 2021'' for ''March 4, 2003'' each place it appears) the stock of which is traded on an established securities market, but only with respect to taxable years that include any portion of the applicable period with respect to

that corporation under section 7874(d)(1).

Section 4501(d)(1) applies in the case of an acquisition of stock of an applicable foreign corporation by a specified affiliate of the corporation (other than a foreign corporation or a foreign partnership (unless the partnership has a domestic entity as a direct or indirect partner)) from a person that is not the applicable foreign corporation or a specified affiliate of the applicable foreign corporation. If section 4501(d)(1) applies, then for purposes of determining the stock repurchase excise tax: (i) the specified affiliate is treated as a covered corporation with respect to the acquisition; (ii) the acquisition is treated as a repurchase of stock of a covered corporation by the covered corporation; and (iii) the adjustment under the netting rule of section 4501(c)(3) is determined only with respect to stock issued or provided by the specified affiliate to employees of the specified affiliate.

Section 4501(d)(2) applies in the case of either a repurchase of stock of a covered surrogate foreign corporation by the covered surrogate foreign corporation, or an acquisition of stock of a covered surrogate foreign corporation by a specified affiliate of such corporation. If section 4501(d)(2) applies, then for purposes of determining the stock repurchase excise tax: (i) the expatriated entity (within the meaning of section 7874(a)(2)(A)) with respect to the covered surrogate foreign corporation is treated as a covered corporation with respect to the repurchase or acquisition; (ii) the repurchase or acquisition is treated as a repurchase of stock of a covered corporation by the covered corporation; and (iii) the adjustment under section 4501(c)(3) is determined only with respect to stock issued or provided by the expatriated entity to employees of the expatriated entity.

E. Statutory Exceptions to the Application of Section 4501(a)

Section 4501(e) lists six transactions that are statutorily excepted, in whole or in part, from the application of section 4501(a) to a repurchase of a covered corporation's stock. These exceptions, each of which is referred to as a ''statutory exception'' in this preamble, are:

(1) To the extent that the repurchase is part of a reorganization (within the meaning of section 368(a) of the Code) and no gain or loss is recognized on the repurchase by the shareholder under chapter 1 of the Code (chapter 1) by reason of the reorganization (section 4501(e)(1));

(2) In any case in which the stock repurchased, or an amount of stock equal to the value of the stock repurchased, is contributed to an employer-sponsored retirement plan, employee stock ownership plan (ESOP), or similar plan (section 4501(e)(2));

(3) In any case in which the total value of the stock repurchased during the taxable year does not exceed $1,000,000 (section 4501(e)(3)) (de minimis exception);

(4) Under regulations prescribed by the Secretary, in cases in which the repurchase is by a dealer in securities in the ordinary course of business (section 4501(e)(4));

(5) By a regulated investment company (RIC), as defined in section 851 of the Code, or by a real estate investment trust (REIT), as defined in section 856(a) of the Code (section 4501(e)(5)); or

(6) To the extent that the repurchase is treated as a dividend for purposes of the Code (section 4501(e)(6)).

II. Prior Guidance

On January 17, 2023, the Department of the Treasury (Treasury Department) and the IRS published Notice 2023–2, 2023–3 I.R.B. 374, to provide initial guidance regarding the application of the stock repurchase excise tax. On July 24, 2023, the Treasury Department and the IRS published Announcement 2023–18, 2023–30 I.R.B. 366, announcing that taxpayers would not be required to report the stock repurchase excise tax, or to make any payments of the tax, before the time specified in forthcoming regulations.

On April 12, 2024, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–115710–22) in the **Federal Register** (89 FR 25980) proposing to add a new part 58 to 26 CFR chapter I and providing proposed regulations in subpart A thereof that would implement the stock repurchase excise tax for repurchases made after December 31, 2022 (proposed computational regulations). On April 12, 2024, the Treasury Department and the IRS also published a separate notice of proposed rulemaking (REG–118499–23) in the same issue of the **Federal Register** (89 FR 25829) providing proposed regulations in subpart B of proposed 26 CFR part 58 regarding the reporting and payment of the stock repurchase excise tax (proposed procedural regulations). After taking into account comments received on the proposed procedural regulations, the Treasury Department and the IRS published final regulations (TD 10002) in the **Federal Register** (89 FR 55045) on July 3, 2024 (final procedural regulations) adopting the proposed procedural regulations with modifications as subpart B of 26 CFR part 58 (Stock Repurchase Excise Tax Regulations).

A public hearing regarding the proposed computational regulations was held on August 27, 2024. As described in the Summary of Comments and Explanation of Revisions, this Treasury decision adopts the proposed computational regulations, with modifications in response to the comments received at the public hearing as well as additional written comments, as subpart A of the Stock Repurchase Excise Tax Regulations and amends the final procedural regulations under section 6011 in subpart B of the Stock Repurchase Excise Tax Regulations. This Treasury decision also amends the Income Tax Regulations under section 1275 by adopting proposed § 1.1275–6(f)(12)(iii) without substantive modification.

Summary of Comments and Explanation of Revisions

I. Application of the Stock Repurchase Excise Tax to Various Types of Stock

Proposed § 58.4501–1(b)(29)(i) generally would define ''stock'' as any instrument issued by a corporation that is stock or that is treated as stock for Federal tax purposes at the time of issuance, regardless of whether the instrument is traded on an established securities market. However, proposed § 58.4501–1(b)(29)(ii) would exclude from the definition of ''stock'' preferred stock that (i) qualifies as additional tier 1 capital (within the meaning of 12 CFR 3.20(c), 217.20(c), or 324.20(c)), and (ii) does not qualify as common equity tier 1 capital (within the meaning of 12 CFR 3.20(b), 217.20(b), or 324.20(b)) (additional tier 1 preferred stock). The proposed computational regulations otherwise would apply the stock repurchase excise tax to preferred stock (including preferred stock issued prior to the enactment date of the IRA) that is treated as ''stock'' for Federal tax purposes in the same manner as to common stock.

A. Preferred Stock Generally; Section 1504(a)(4) Preferred Stock

Several commenters recommended excluding redemptions of all preferred stock from the application of the stock repurchase excise tax. The commenters contended that, although preferred stock is treated as ''stock'' for Federal tax purposes, applying the stock repurchase excise tax to repurchases of such stock would contravene congressional intent that the tax apply solely to repurchases

of common stock. Commenters further contended that (i) because repurchases of preferred stock (particularly ''plain vanilla'' preferred stock described in section 1504(a)(4) of the Code) are more akin to repaying debt, repurchases of such stock do not implicate the policy concerns underlying the stock repurchase excise tax, and (ii) if redemptions of preferred stock were subject to the stock repurchase excise tax, publicly traded corporations might be incentivized to increase their leverage by issuing debt in lieu of preferred stock. Commenters also contended that the grant of authority in section 4501(f) to address special classes of stock and preferred stock essentially directs (or, at the very least, is a statement of congressional intent) that the Secretary issue regulations excluding preferred stock from the stock repurchase excise tax.

The plain language of the definitions and operative rules in section 4501 does not differentiate between common stock and preferred stock, and a repurchase of preferred stock is a ''redemption'' within the meaning of section 317(b). Additionally, the grant of regulatory authority in section 4501(f) is neither a mandate to exclude all preferred stock from the stock repurchase excise tax nor an indication that Congress intended the Treasury Department and the IRS to provide such an exclusion in regulations. If Congress had intended to exclude all preferred stock, it would have so provided in the statute. Accordingly, these final regulations do not exclude all preferred stock from the stock repurchase excise tax.

However, the Treasury Department and the IRS agree that preferred stock described in section 1504(a)(4) is more akin to debt. Accordingly, the Treasury Department and the IRS do not view repurchases of such stock as implicating the policy concerns underlying the stock repurchase excise tax. Consequently, these final regulations provide that repurchases of preferred stock described in section 1504(a)(4) are not subject to the stock repurchase excise tax. *See* § 58.4501–1(b)(34)(iii) (excluding section 1504(a)(4) stock from the definition of ''stock'' for purposes of the stock repurchase excise tax regulations). As discussed in the remainder of this part I of the Summary of Comments and Explanation of Revisions, these final regulations also provide additional exceptions for special classes of stock and for certain preferred stock under the grant of authority in section 4501(f).

B. Mandatorily Redeemable Stock; Stock Issued Prior to Enactment of the IRA

Several commenters recommended that, if the final regulations do not generally exclude preferred stock from the stock repurchase excise tax, the final regulations should provide (i) an additional exception for mandatorily redeemable preferred stock, or (ii) transition relief for repurchases of preferred stock issued prior to the date of enactment of the IRA (that is, August 16, 2022). One commenter recommended excluding all mandatorily redeemable preferred stock from application of the stock repurchase excise tax. Another commenter recommended transition relief for all types of preferred stock issued prior to the date of enactment of the IRA. Still other commenters recommended limiting transition relief to (i) mandatorily redeemable stock (or at least mandatorily redeemable preferred stock), and (ii) stock subject by its terms to unilateral put options of the holders, if such stock was outstanding as of the date of enactment of the IRA. According to the commenters, the requested relief is appropriate because (i) absent such relief, previously established economic entitlements will be undermined, (ii) covered corporations are required to repurchase mandatorily redeemable stock, and (iii) mandatorily redeemable preferred stock may resemble other instruments treated as debt for tax purposes.

The Treasury Department and the IRS agree that transition relief is appropriate for certain types of stock issued prior to the date of enactment of the IRA if the covered corporation no longer has discretion as to whether to repurchase such stock after that date. Accordingly, these final regulations incorporate transition relief for mandatorily redeemable stock and for stock subject by its terms to a unilateral put option of the holder, if such stock was outstanding prior to August 16, 2022. *See* § 58.4501–2(e)(3)(iii).

C. Additional Tier 1 Preferred Stock

As previously discussed in this part I of the Summary of Comments and Explanation of Revisions, proposed § 58.4501–1(b)(29)(ii) would exclude certain additional tier 1 preferred stock from the definition of ''stock'' for purposes of the stock repurchase excise tax. The proposed computational regulations would define ''additional tier 1 preferred stock'' to mean preferred stock that qualifies as additional tier 1 capital (within the meaning of 12 CFR 3.20(c), 217.20(c), or 324.20(c)) and does not qualify as common equity tier 1 capital (within the meaning of 12 CFR 3.20(b), 217.20(b), or 324.20(b)). Consequently, under the proposed computational regulations, additional tier 1 preferred stock described in those regulations would not be subject to the stock repurchase excise tax, and the issuance of that additional tier 1 preferred stock would not be taken into account for purposes of the netting rule.

1. Farm Credit System Stock; Savings and Loan Holding Companies With Significant Insurance Operations

Commenters recommended expanding the definition of ''additional tier 1 preferred stock'' to include preferred stock issued by cooperative banks, agricultural credit associations, Federal land credit associations, and production credit associations in the Farm Credit System, which are collectively referred to as ''system entities.'' According to the commenters, system entities are chartered under the Farm Credit Act of 1971 (Pub. L. 92–181, 85 Stat. 583) and subject to regulation and oversight by the Farm Credit Administration (FCA). For example, according to the commenters, system entities are subject to regulatory capital requirements prescribed by the FCA and issue and redeem preferred stock governed by 12 CFR 628.20(c) to meet these regulatory capital requirements.

The commenters also noted that, although the stock of cooperatives that are system entities generally is not publicly traded, the preferred stock of such entities occasionally is traded over the counter (OTC), and such trades are reported on the Financial Industry Regulatory Authority OTC Reporting Facility (ORF). The commenters further noted that the U.S. Securities and Exchange Commission (SEC) has designated the ORF as a qualifying electronic quotation system for purposes of the penny stock rules and as an automated interdealer quotation system for purposes of the definition of ''penny stock'' under 17 CFR 240.3a51–1. Accordingly, the commenters noted that the ORF potentially could qualify as an ''established securities market'' as defined in proposed § 58.4501–1(b)(13).

Another commenter noted that the capital adequacy rules for qualifying preferred stock as additional tier 1 capital are functionally the same for bank holding companies as for savings and loan holding companies with significant insurance operations (savings and loan holding companies). Additional tier 1 capital requirements for savings and loan holding companies are described in 12 CFR 217.608. The commenter requested that preferred

stock qualifying as additional tier 1 capital issued by savings and loan holding companies be included in the definition of ''additional tier 1 preferred stock.''

According to the commenters, the preferred stock issued by system entities and governed by 12 CFR 628.20(c), as well as the preferred stock issued by savings and loan holding companies and governed by 12 CFR 217.608, have the same requirements and restrictions as the additional tier 1 preferred stock governed by 12 CFR 3.20(c), 217.20(c), and 324.20(c). Specifically, the system entity and the savings and loan holding company may not redeem or repurchase the preferred stock without prior approval from the FCA or the Board of Governors of the Federal Reserve System (Board), respectively. Moreover, if such preferred stock is callable by its terms, (i) it may not be called for at least five years, (ii) the system entity or the savings and loan holding company must receive prior approval from the FCA or the Board, respectively, to exercise the call option, and (iii) the system entity or the savings and loan holding company either must replace the instrument with other tier 1 capital or demonstrate to the FCA or the Board, respectively, that it will continue to hold capital commensurate with risk.

The Treasury Department and the IRS agree with the commenters that the requirements and restrictions for certain stock issued by system entities and savings and loan holding companies are similar to the requirements and restrictions for additional tier 1 preferred stock governed by 12 CFR 3.20(c), 217.20(c), and 324.20(c). Accordingly, these final regulations provide an exception to the stock repurchase excise tax for stock of system entities that qualifies as additional tier 1 preferred stock that is not common equity tier 1 capital, as well as for stock of savings and loan holding companies that qualifies as additional tier 1 preferred stock that is not common equity tier 1 capital. *See* § 58.4501–1(b)(34)(ii).

2. Foreign Additional Tier 1 Preferred Stock

Another commenter recommended expanding the definition of ''additional tier 1 preferred stock'' to include instruments issued by foreign-parented banks that issue additional tier 1 capital pursuant to their own local rules implementing the Basel III Accord. According to the commenter, the Basel III Accord established numerous requirements that an instrument must meet to qualify as additional tier 1 capital, including that: (i) the issuer must obtain supervisory approval prior to repurchasing or redeeming the instrument; (ii) the instrument may be callable only after a minimum of five years; and (iii) the issuer may not exercise a call option unless it either (A) replaces the called instrument with capital of the same or better quality, or (B) demonstrates that its capital position is well above the minimum capital requirements after the call option is exercised. *See* Basel Committee on Banking Supervision, *Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems,* at 16 (rev. June 2011). The commenter noted that such requirements are reflected in the framework for the rules and regulations adopted by the United States with respect to an instrument's qualification as additional tier 1 capital under 12 CFR 3.20(c), 217.20(c), and 324.20(c).

These final regulations do not include an exception for additional tier 1 preferred stock of a foreign issuer. As described in part VIII.B of this Summary of Comments and Explanation of Revisions, these final regulations do not adopt the proposed funding rule. Moreover, the commenter did not identify any regulatory reason why an applicable specified affiliate would acquire additional tier 1 preferred stock of a foreign parent. By contrast, it is common for a U.S. issuer of additional tier 1 preferred stock to repurchase or redeem its stock in order to manage its compliance with U.S. regulatory rules. Accordingly, the reasons for providing an exception for U.S. additional tier 1 preferred stock do not apply to additional tier 1 preferred stock of a foreign issuer.

II. Becoming or Ceasing To Be a Covered Corporation

Under the proposed computational regulations, a corporation generally would be treated as (i) becoming a covered corporation at the beginning of the date on which its stock begins to be traded on an established securities market (initiation date), and (ii) ceasing to be a covered corporation at the end of the date on which all of its stock ceases to be traded on an established securities market (cessation date). *See* proposed §§ 58.4501–1(b)(3) and (16) and 58.4501–2(d)(1) and (d)(2)(i). Proposed § 58.4501–4(b)(2) would provide that stock issued by a covered corporation or provided by a specified affiliate before the initiation date or after the cessation date is not taken into account in computing the covered corporation's stock repurchase excise tax base.

However, proposed § 58.4501–2(d)(2)(ii) would provide an exception for certain repurchases after the cessation date. Under this exception, if a corporation ceased to be a covered corporation pursuant to a plan that included a repurchase, and if the cessation date preceded the date of any repurchase undertaken pursuant to the plan, the corporation would continue to be a covered corporation with regard to each repurchase pursuant to the plan until the end of the date of the last repurchase pursuant to the plan. For example, all repurchases of target covered corporation stock in an acquisitive reorganization pursuant to the plan of reorganization would be subject to the stock repurchase excise tax (if no exception applied), even if all the target covered corporation's stock ceased to be traded on an established securities market prior to the last repurchase made pursuant to the plan of reorganization.

One commenter recommended narrowly tailoring this exception to apply only in situations in which (i) there is a binding commitment to execute a series of steps that include a cessation date and a repurchase, (ii) the repurchase and cessation of publicly traded status are part of the same series of steps, and (iii) the repurchase relates to the shares outstanding at the time the covered corporation entered into the plan. Commenters also recommended expanding the exception to include issuances that occur as a part of a ''take private'' plan for purposes of the netting rule. For example, one commenter noted that certain ''take private'' transactions are structured to include both issuances to new shareholders and repurchases from other shareholders, and that the timing of the issuances may not always precede the date that a corporation ceases to have stock that is traded on an established securities market. The commenter recommended that, if a corporation continues to be treated as a covered corporation after the cessation date, its status as a covered corporation should be respected for both repurchases and issuances. A commenter also recommended clarifying whether a corporation is treated as a covered corporation until the date of the final repurchase (i) only for purposes of repurchases made pursuant to the plan, or (ii) for all purposes.

These final regulations do not include an exception for certain repurchases after the cessation date because, as discussed in parts III and IV.C of this Summary of Comments and Explanation of Revisions, the Treasury Department and the IRS have concluded that section

4501 does not apply to ''take private'' transactions (including but not limited to acquisitive reorganizations). *See* § 58.4501–2(e)(3)(ii) and (e)(5)(v). For the same reason, these final regulations do not provide an exception for issuances after the cessation date.

III. Target-Sourced Cash in Take-Private Transactions

Under the proposed computational regulations, unless an exception applies, the target-corporation-funded portion of the consideration in a leveraged buyout or other ''take private'' transaction would be treated as a repurchase for purposes of computing the target corporation's stock repurchase excise tax base. *See* proposed § 58.4501–2(e)(2); *see also* Rev. Rul. 78–250, 1978–1 C.B. 83 (disregarding the creation and merger of a transitory corporation into an existing corporation and treating the cashing out of the existing corporation's minority shareholders as a redemption subject to section 302).

To determine the target-corporation-funded portion of the consideration used to pay shareholders in such transactions, one commenter recommended against applying a tracing rule and, instead, recommended a rule treating cash on a target corporation's balance sheet or cash borrowed by the target corporation as being used to satisfy the target corporation's liabilities in order of seniority (similar to the priority of claims on a corporation's assets in an insolvency or bankruptcy under title 11 of the U.S. Code) before being distributed to its shareholders. Under this approach, cash on the target corporation's balance sheet or borrowed at the target corporation level would not be treated as resulting in a repurchase to the extent there were transaction expenses, accrued cash amounts owed to employees, or target corporation debt that was being repaid, as any of these liabilities would be senior to shareholders' rights to payment.

In a prior comment received with respect to Notice 2023–2, a stakeholder also contended that taxable acquisitions generally should not be subject to the stock repurchase excise tax because, like other M&A transactions, taxable acquisitions generally do not bear the traditional hallmarks of conventional, often opportunistic stock repurchase transactions and programs that, in the stakeholder's view, were the intended target of the stock repurchase excise tax. In other words, taxable acquisitions are not single-company transactions that distribute corporate value to shareholders in exchange for the surrender of corporate stock.

The Treasury Department and the IRS agree with the commenter that Congress generally did not intend for the stock repurchase excise tax to apply to transactions, such as leveraged buyouts and other ''take private'' transactions, that fundamentally restructure corporate ownership or control through combinations of separate business entities. Accordingly, these final regulations provide that redemptions by a covered corporation that occur as part of a transaction in which the covered corporation ceases to be a covered corporation are not treated as repurchases for purposes of the stock repurchase excise tax. *See* § 58.4501–2(e)(3)(ii). Because the Treasury Department and the IRS have concluded that since section 4501 does not apply to transactions that fundamentally restructure corporate ownership or control through combinations or separate business entities, the Treasury Department and the IRS have determined that it is not necessary for these final regulations to address how to determine the target-corporation-funded portion of the consideration in such transactions.

IV. Economically Similar Transactions

Consistent with section 4501(c)(1), proposed § 58.4501–2(e)(2) would define a ''repurchase'' to mean solely (i) a section 317(b) redemption (unless otherwise excluded under proposed § 58.4501–2(e)(3)), or (ii) an economically similar transaction. Proposed § 58.4501–2(e)(4) would provide an exclusive list of transactions that are economically similar transactions, including: (i) an acquisitive reorganization under section 368(a)(1)(A) (including by reason of section 368(a)(2)(D) and (E)), section 368(a)(1)(C), or section 368(a)(1)(D) or (G) (if the reorganization satisfies the requirements of section 354(b)(1) of the Code) in which the target corporation is a covered corporation; (ii) a reorganization under section 368(a)(1)(E) (E reorganization) in which the recapitalizing corporation is a covered corporation; (iii) a reorganization under section 368(a)(1)(F) (F reorganization) in which the transferor corporation is a covered corporation; (iv) a split-off under section 355 of the Code by a distributing corporation that is a covered corporation; (v) a distribution to which section 331 of the Code applies if the distribution is part of a complete liquidation of a covered corporation to which both sections 331 and 332(a) of the Code apply; and (vi) certain forfeitures and clawbacks of stock of a covered corporation.

A. List of Economically Similar Transactions

Several commenters recommended that any transactions added to the exclusive list of economically similar transactions in future guidance should be subject to the stock repurchase excise tax only on a prospective basis, in order to provide clarity and certainty.

As stated in the preamble to the proposed computational regulations, the Treasury Department and the IRS anticipate that most transactions treated as economically similar transactions in future regulations would be treated as such only on a prospective basis. *See* section 7805(b)(1), which generally limits the retroactive application of temporary, proposed, or final regulations under the Code.

However, under section 7805(b)(3), the Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse. The Treasury Department and the IRS decline to preemptively provide that future regulations will not retroactively treat any additional transactions as economically similar transactions, as such retroactive treatment may be necessary in certain situations to prevent abuse. Accordingly, these final regulations do not adopt this recommendation.

B. Complete Liquidations

Under proposed § 58.4501–2(e)(5), a distribution in complete liquidation of a covered corporation to which either section 331 or 332 (but not both) applies would not be a repurchase and, thus, would not be subject to the stock repurchase excise tax. However, under proposed § 58.4501–2(e)(4)(v)(A), if sections 331 and 332 both apply to a complete liquidation, then (i) the distribution to the 80-percent distributee (*see* section 332(b)(1)) would not be subject to the stock repurchase excise tax, but (ii) each distribution to which section 331 applies (that is, the surrender of covered corporation stock by each minority shareholder) would be subject to the stock repurchase excise tax. Such a complete liquidation is substantively similar to an upstream reorganization of the liquidating subsidiary into the 80-percent distributee in which the minority shareholders receive only non-qualifying property in exchange for their stock in the liquidating subsidiary.

As discussed in parts IV.C.1 and 4 of this Summary of Comments and Explanation of Revisions, the Treasury Department and IRS have concluded that section 4501 does not apply to upstream reorganizations and other

acquisitive reorganizations. Accordingly, to provide consistency, these final regulations also provide that complete liquidations to which sections 331 and 332 both apply are not subject to the stock repurchase excise tax. *See* § 58.4501–2(e)(5)(i).

C. Acquisitive Reorganizations

In the case of an acquisitive reorganization in which the target corporation is a covered corporation, proposed § 58.4501–2(e)(4)(i) would treat the exchange by the target corporation shareholders of their target corporation stock pursuant to the plan of reorganization as a repurchase by the target corporation. Under proposed § 58.4501–2(c)(1)(i) and (e)(4)(i), the effect of an acquisitive reorganization on a target corporation's stock repurchase excise tax base would be computed by first including in that tax base the fair market value of all target corporation stock exchanged in the transaction (regardless of the type of consideration for which the stock is exchanged) (gross repurchase amount). Under proposed § 58.4501–2(c)(1)(ii), the gross repurchase amount then would be reduced under the statutory exception in section 4501(e)(1) (reorganization exception) by the fair market value of the target corporation stock exchanged for property permitted to be received by the target corporation shareholders without recognition of gain or loss under section 354 or 355 (that is, qualifying property). Thus, under the foregoing approach, the target corporation generally would have been subject to the stock repurchase excise tax only to the extent of the fair market value of target corporation stock exchanged for property that is non-qualifying property.

1. Acquisitive Reorganizations as Economically Similar Transactions

Several commenters recommended excluding acquisitive reorganizations from the stock repurchase excise tax in whole or in part. The commenters disagreed with subjecting all exchanges of target corporation stock as part of an acquisitive reorganization to the stock repurchase excise tax. According to the commenters, a multi-step analysis is required to ensure the properly tailored application of the stock repurchase excise tax to merger and acquisition (M&A) transactions: (i) first, there must be a threshold determination that a ''repurchase'' (as defined in section 4501(c)(1)) has occurred; (ii) second, the repurchase must be determined to be part of a section 368(a) reorganization; and (iii) third, the reorganization exception must be applied to determine the extent to which the repurchase is excluded from the stock repurchase excise tax.

One commenter asserted that, if Congress had intended the exchange of target corporation stock in connection with any type of reorganization under section 368(a) to be treated as a repurchase, Congress could have provided explicit language to that effect in the statute. In a prior comment received with respect to Notice 2023–2, a stakeholder also contended that acquisitive reorganizations should not be subject to the stock repurchase excise tax because acquisitive reorganizations and other M&A transactions do not bear the traditional hallmarks of conventional, often opportunistic stock repurchase transactions and programs that, in the stakeholder's view, were the intended target of the stock repurchase excise tax.

The Treasury Department and the IRS agree with the commenters that Congress generally did not intend for the stock repurchase excise tax to apply to transactions, such as acquisitive reorganizations, that fundamentally restructure corporate ownership or control through combinations of separate business entities. In other words, as noted by one commenter, reorganizations are not single-company transactions that distribute corporate value to shareholders in exchange for the surrender of corporate stock. Moreover, as discussed in parts III and IV.B of this Summary of Comments and Explanation of Revisions, the Treasury Department and the IRS have concluded that section 4501 does not apply to a covered corporation that ceases to be a covered corporation (for example, through a merger or a liquidation for Federal income tax purposes) as a result of the reorganization. Accordingly, in the case of an acquisitive reorganization in which the target corporation is a covered corporation prior to the transaction, these final regulations do not treat the exchange by the target corporation shareholders of their target corporation stock pursuant to the plan of reorganization as a repurchase by the target corporation. *See* § 58.4501–2(e)(5)(v).

2. Sourcing Approach to Acquisitive Reorganizations

Several commenters recommended that, if the final regulations do not wholly exempt acquisitive reorganizations from the stock repurchase excise tax, this tax should apply solely to the extent that any non-qualifying property is sourced from the target corporation (sourcing approach). Under the proposed computational regulations, a sourcing approach would apply to taxable acquisitions involving partial redemptions using cash sourced from the target corporation, but not to acquisitive reorganizations. According to the commenters, this disparate treatment of taxable transactions and acquisitive reorganizations is contrary to the plain language of section 4501(c)(1) and extending the sourcing approach would strike a better balance between the statutory language of section 4501 and the types of single-entity corporate contractions to which, in the commenters' view, the excise tax was intended to apply.

Another commenter recommended applying a sourcing approach to cash paid to dissenting shareholders. Under this approach, the stock repurchase excise tax would apply to the extent cash sourced from the target corporation was used to satisfy dissenting shareholders' claims.

By concluding that section 4501 does not apply to acquisitive reorganizations, these final regulations have addressed this comment.

3. Reverse Triangular Mergers

One commenter recommended that, if the foregoing recommendations regarding acquisitive reorganizations are not adopted, the stock repurchase excise tax base should exclude any non-qualifying property sourced from the acquiring corporation and paid to target shareholders in connection with a reorganization qualifying under section 368(a)(1)(A) by means of section 368(a)(2)(E) (reverse triangular merger). According to the commenter, a reverse triangular merger (like a reorganization under section 368(a)(1)(B) (B reorganization)) is a stock-based reorganization that does not involve an actual or a deemed redemption within the meaning of section 317(b). Another commenter recommended providing an overlap rule for reverse triangular mergers that also qualify as B reorganizations (because the consideration provided includes only qualifying property). Under this overlap rule, such transactions would be treated as B reorganizations and would not be subject to the stock repurchase excise tax.

By concluding that section 4501 does not apply to acquisitive reorganizations, these final regulations have addressed this comment.

4. Upstream Reorganizations

One commenter requested clarification as to whether an actual or deemed upstream reorganization of a specified affiliate into a covered corporation in a transaction that

qualifies under section 368(a)(1)(A) or (C) is a ''repurchase'' for purposes of the stock repurchase excise tax. *See* Rev. Rul. 69–617, 1969–2 C.B. 57. For Federal income tax purposes, the transaction would be treated as if (i) the specified affiliate's assets were transferred to the covered corporation in exchange for covered corporation stock in an exchange that qualifies for nonrecognition under section 361(a), and then (ii) the specified affiliate transferred the covered corporation stock back to the covered corporation in exchange for the specified affiliate's stock (that is, the covered corporation is treated as acquiring its own stock) in an exchange that qualifies for nonrecognition treatment to the covered corporation under section 354 and to the specified affiliate under section 361(c).

Under the proposed computational regulations, the deemed exchange described in clause (ii) of the prior sentence may implicate the stock repurchase excise tax, because the acquiring covered corporation is deemed to acquire its stock from the specified affiliate in exchange for property (that is, stock of the specified affiliate). Additionally, the reorganization exception would not apply, because that exception is limited to situations where a covered corporation is the target corporation. The commenter recommended providing that such transactions are not repurchases for purposes of the stock repurchase excise tax if the target corporation is not also a covered corporation.

By concluding that section 4501 does not apply to acquisitive reorganizations, these final regulations have addressed this comment.

D. Single-Entity Reorganizations

1. In General

Under proposed § 58.4501–2(e)(4)(ii) and (iii), respectively, E reorganizations and F reorganizations would be treated as economically similar transactions in the same manner as other reorganizations for purposes of the stock repurchase excise tax. Accordingly, a recapitalizing corporation in an E reorganization or the transferor corporation in an F reorganization would have a repurchase to the extent of the fair market value of the shares exchanged by its shareholders in the transaction. However, under proposed § 58.4501–3(c)(2) and (3) (applying the reorganization exception to E reorganizations and F reorganizations, respectively), the fair market value of the repurchased shares exchanged for qualifying property (that is, property permitted to be received by the shareholders without recognition of gain or loss under section 354) would reduce the corporation's gross repurchase amount. As a result, the corporation would be subject to the stock repurchase excise tax only to the extent of the fair market value of its shares repurchased with non-qualifying property (if any). Additionally, stock issued by the recapitalizing corporation in the E reorganization, or by the resulting corporation in the F reorganization, would be disregarded for purposes of the netting rule under the ''no double benefit rule.'' *See* proposed § 58.4501–4(f)(3).

A distribution of non-qualifying property by the transferor corporation in an F reorganization is treated as a separate transaction (for example, under section 302) for Federal income tax purposes. *See* § 1.368–2(m)(1)(iii) (providing that any distribution of money or other property from either the transferor corporation or the resulting corporation, including any money or other property exchanged for shares, in an F reorganization is treated as an unrelated, separate transaction from the reorganization). The proposed computational regulations would not have changed the application of this rule for purposes of the stock repurchase excise tax.

Several commenters contended that an exchange of stock for qualifying property in an E reorganization or an F reorganization should not be subject to the stock repurchase excise tax. Stated differently, commenters recommended that E reorganizations and F reorganizations should not give rise to a repurchase unless and to the extent that shareholders receive non-qualifying property. One commenter contended that stock issued by a covered corporation is not ''property'' for purposes of section 317(b). Therefore, according to the commenter, the issuance of qualifying property in exchange for stock in an E reorganization or an F reorganization should not be treated as an economically similar transaction that results in a repurchase for purposes of section 4501(a). A commenter recommended analyzing the distribution of non-qualifying property separately under section 301 and/or section 302 of the Code for purposes of the stock repurchase excise tax, consistent with general principles of Federal income tax law. The commenter also requested clarification as to whether all E reorganizations and F reorganizations are covered, or only those in which an ''exchange'' occurs in form.

The Treasury Department and the IRS agree with the commenters that the issuance of qualifying property in exchange for stock in an E reorganization or an F reorganization should not be treated as an economically similar transaction. Accordingly, these final regulations provide that E reorganizations are treated as repurchases for purposes of the stock repurchase excise tax only if and to the extent that (i) shareholders receive non-qualifying property (that is, property not permitted to be received by the shareholders without recognition of gain or loss under section 354), and (ii) the receipt of such property is not treated as a distribution under section 301 (either by reason of § 1.301–1(j), 1.305–7(c)(2), or 1.368–2(e)(5)). *See* § 58.4501–2(e)(4)(i). As a result, E reorganizations in which the recapitalizing corporation's shareholders receive only qualifying property (i) are not treated as repurchases for purposes of the de minimis exception, and (ii) do not need to be reported on the stock repurchase excise tax return under § 58.6011–1(a).

Because any distribution of money or other property from either the transferor corporation or the resulting corporation in an F reorganization is treated as an unrelated, separate transaction (*see* § 1.368–2(m)(1)(iii)), and because such a distribution to the corporation's shareholders in exchange for their stock in the corporation constitutes a section 317(b) redemption (*see* § 58.4501–5(b)(10) (*Example 10*)), these final regulations do not include an explicit rule treating F reorganizations in which the transferor corporation's shareholders receive non-qualifying property as economically similar transactions. *See* § 58.4501–2(e)(4). As is the case with E reorganizations, F reorganizations in which the transferor corporation's shareholders receive only qualifying property (i) are not treated as repurchases for purposes of the de minimis exception, and (ii) do not need to be reported on the stock repurchase excise tax return under § 58.6011–1(a).

2. Debt-for-Debt Exchanges

The proposed computational regulations provided that the stock repurchase excise tax would apply to E reorganizations only if there is an exchange by the recapitalizing corporation shareholders of their recapitalizing corporation stock. *See* proposed § 58.4501–2(e)(4)(ii); *see also* proposed §§ 58.4501–1(a) (excise tax is imposed on ''any stock of the corporation that is repurchased'');

58.4501–1(b)(29) (definition of ''stock''); 58.4501–2(c)(1) (determination of stock repurchase excise tax base). Nevertheless, one commenter recommended clarifying that the stock repurchase excise tax does not apply to E reorganizations in which there is no exchange of recapitalizing corporation stock (for example, in a recapitalization solely with respect to debt securities). Accordingly, although these final regulations continue to provide that the stock repurchase excise tax applies to E reorganizations only if there is an exchange by the recapitalizing corporation shareholders of their recapitalizing corporation stock (*see* § 58.4501–2(e)(4)(i)), these final regulations also include an example illustrating that such debt-for-debt exchanges are not subject to the stock repurchase excise tax. *See* § 58.4501–5(b)(2) (*Example 2*).

3. Preferred Stock With Dividends in Arrears

Another commenter recommended that, to the extent shares are repurchased in an E reorganization in exchange for qualifying property, the fair market value of those repurchased shares should be a reduction to the excise tax base, regardless of whether any shares (that is, qualifying property) issued are treated as distributed under sections 301 and 305(b) of the Code pursuant to section 305(c) and § 1.305–7(c)(1)(ii). (Section 305(c) concerns certain transactions that are treated as distributions, and § 1.305–7(c)(1)(ii) provides that a recapitalization is deemed to result in a distribution to which section 305(c) and § 1.305–7 apply if a shareholder owning preferred stock with dividends in arrears exchanges the stock for other stock and, as a result, increases the shareholder's proportionate interest in the assets or earnings and profits (E&P) of the corporation.) In other words, the commenter recommended that the reorganization exception apply to the entire repurchase in connection with the E reorganization, and not just to the part of the repurchase that is not treated as a distribution under sections 301 and 305(b).

The Treasury Department and the IRS agree that the fair market value of shares exchanged in an E reorganization attributable to dividends in arrears should not be subject to the stock repurchase excise tax. As discussed in part IV.D.1 of this Summary of Comments and Explanation of Revisions, these final regulations treat E reorganizations as repurchases for purposes of the stock repurchase excise tax only if and to the extent (i) shareholders receive non-qualifying property, and (ii) the receipt of such property is not treated as a distribution under section 301 by reason of § 1.305–7(c)(2) or 1.368–2(e)(5). Accordingly, these final regulations have addressed this comment through narrowing the scope of what constitutes a repurchase, which has the added benefit of eliminating the reporting burden for such exchanges.

E. Split-Offs

Proposed § 58.4501–2(e)(4)(iv) would provide that, in the case of a split-off qualifying under section 355 (or so much of section 356 of the Code as relates to section 355) by a distributing corporation that is a covered corporation, the exchange by the distributing corporation shareholders of their distributing corporation stock is a repurchase by the distributing corporation. Thus, under the proposed computational regulations, a split-off that involves the exchange of distributing corporation stock solely for qualifying property would be taken into account for purposes of the de minimis exception and would be required to be reported on the stock repurchase excise tax return. However, under proposed § 58.4501–3(c), the distributing corporation would be able to reduce its repurchase amount pursuant to the reorganization exception (*see* part V.A of this Summary of Comments and Explanation of Revisions for a discussion of the reorganization exception).

The Treasury Department and the IRS have concluded that section 4501 applies to the exchange by the distributing corporation shareholders of their distributing corporation stock for the stock of a controlled corporation in a split-off. Accordingly, these final regulations continue to treat the acquisition by a distributing corporation that is a covered corporation of its stock in a split-off as a repurchase by the distributing corporation. *See* § 58.4501–2(e)(4)(ii).

V. Statutory Exceptions

A. Reorganization Exception

With respect to the reorganization exception, the proposed computational regulations would adopt a consideration-based approach to the requirement in section 4501(e)(1) that no gain or loss is recognized on the repurchase by the shareholder under chapter 1 by reason of the reorganization. The approach would focus on whether the target corporation shareholders receive property permitted to be received without the recognition of gain or loss under section 354 or 355 (that is, qualifying property). *See* proposed § 58.4501–3(c). This approach would be consistent with the interpretation of similar requirements elsewhere in subchapter C of chapter 1 of the Code (subchapter C). *See,* for example, §§ 1.306–2(b)(2) (interpreting the exception to section 306(a) for a disposition of section 306 stock in which no gain or loss is recognized); 1.355–3(b)(4)(i) (interpreting the requirement under section 355(b)(2)(C) and (D) that an active trade or business not be acquired direct or indirectly within the five-year period preceding the distribution in a transaction in which gain or loss was recognized in whole or in part).

A commenter recommended that the determination of whether a shareholder recognized gain or loss also should take into account whether, and the extent to which, a shareholder receiving non-qualified property actually recognized gain (that is, whether the amount realized by the shareholder exceeds the shareholder's basis). According to the commenter, this interpretation is closer to the language of the statute than the proposed consideration-based approach. However, in prior comments provided with respect to section 4501, a different stakeholder expressed the view that the consideration-based approach is superior from a policy perspective.

The Treasury Department and the IRS disagree with the commenter that the determination of whether the reorganization exception applies should take into account the basis and amount realized in the transaction of each shareholder of a covered corporation. Congress overlaid the stock repurchase excise tax on top of the provisions and principles of subchapter C. As specifically applicable to the reorganization exception, Congress defined a ''repurchase'' in section 4501(c)(1) to mean solely a section 317(b) redemption (and any transaction determined by the Secretary to be economically similar to a section 317(b) redemption), and then provided an exception in section 4501(e)(1) to the extent that the repurchase is part of a reorganization (within the meaning of section 368(a)) and no gain or loss is recognized on the repurchase by the shareholder under chapter 1 by reason of the reorganization. The Treasury Department and the IRS have determined that, consistent with the interpretation of similar provisions of subchapter C (and taking into account the narrowed scope of economically similar transactions), the reorganization exception in these final regulations applies only if section 355 prevents the

shareholder of a covered corporation from recognizing gain or loss on the exchange of the covered corporation's stock (that is, if the shareholder receives only qualifying property). This interpretation gives effect to the statutory language ''by reason of such reorganization.''

The consideration-based approach also is consistent with the Treasury Department's and the IRS's view that the reorganization exception should be available to the extent shareholders' interests in the covered corporation are preserved. Moreover, basing the application of the reorganization exception on whether shareholders actually recognized gain as an economic matter would be inconsistent with the statutory structure of section 4501, because the general statutory definition of ''repurchase'' in section 4501(c)(1) includes any section 317(b) redemption or economically similar transaction regardless of whether the shareholder recognizes gain or loss in an economic sense.

In addition, the Treasury Department and the IRS continue to be of the view that the consideration-based approach not only implements the plain language of the reorganization exception but also provides a rule that is readily administrable by taxpayers and the IRS. In contrast, an approach that focuses on whether each shareholder of a covered corporation actually recognized gain or loss would impose an unreasonable administrative burden on taxpayers and the IRS. Therefore, these final regulations do not adopt the commenter's recommendation.

Instead, consistent with the views expressed by the other stakeholder, these final regulations maintain an approach based on the type of consideration provided in the reorganization, and, thus, similar to the applicability of the ''no recognition of gain or loss'' rules in section 355. Relatedly, however, and as previously discussed in part IV of this Summary of Comments and Explanation of Revisions, the reorganization exception in these final regulations also reflects the narrower scope of reorganizations that are economically similar transactions for purposes of section 4501.

B. Stock Contribution Exception

Section 4501(e)(2) provides an exception to the application of the stock repurchase excise tax ''in any case in which the stock repurchased is, or an amount of stock equal to the value of the stock repurchased is, contributed to an employer-sponsored retirement plan, employee stock ownership plan, or similar plan.''

One commenter recommended that, to better reflect the reality of group employee plans and align with congressional intent, the final regulations should exempt a stock repurchase from the stock repurchase excise tax if the repurchase is related to either (i) the granting of stock to employees as part of a long-term incentive plan, or (ii) a cancellation of stock triggered by a previous capital increase carried out as part of an employee shareholder program. The commenter also requested exempting all repurchases made in connection with employee stock plans if (i) such repurchases are made using trust assets by a grantor trust established in connection with unfunded deferred compensation arrangements (commonly referred to as a ''rabbi trust''), and (ii) the shares continue to be held by the rabbi trust for use in connection with those employee stock plans.

These final regulations do not adopt the commenter's recommendations. The Treasury Department and the IRS are of the view that the stock contribution exception should not be used to encourage executive compensation arrangements. The definition of an ''employer-sponsored retirement plan'' in proposed § 58.4501–1(b)(11) is limited to plans that are qualified under section 401(a) of the Code (including ESOPs). These final regulations do not broaden this term to include executive compensation arrangements.

C. RIC/REIT Exception

To implement the exception for repurchases by a RIC or a REIT in section 4501(e)(5), proposed § 58.4501–3(f) would provide that a repurchase by a covered corporation that is a RIC or a REIT is a reduction for purposes of computing the covered corporation's stock repurchase excise tax base. These final regulations retain this rule. *See* § 58.4501–3(f).

A commenter recommended extending the exception for RICs to all funds registered under the Investment Company Act of 1940, 15 U.S.C. 80a–1 *et seq.,* including funds that do not qualify as RICs for Federal income tax purposes (non-RIC funds). The commenter suggested that Congress's rationale for excepting RICs from the stock repurchase excise tax also applies to non-RIC funds, because the organizational structure, operations, applicable securities laws, and accounting standards are the same for those funds as for funds that are RICs for Federal income tax purposes. The commenter indicated that the majority of non-RIC funds affected by the stock repurchase excise tax fail to qualify as RICs solely because their investments in publicly traded partnerships exceed the limits in section 851(b)(3). According to the commenter, those investments do not distinguish these funds from RICs in any way relevant to the stock repurchase excise tax. The commenter also noted that most non-RIC funds are required to redeem shares at the demand of a shareholder, which means that the stock repurchase excise tax will not deter repurchases. Moreover, the commenter noted that because shares of non-RIC funds are priced based on net asset value, such funds are incapable of using stock repurchases to artificially increase their share value.

The Treasury Department and the IRS agree that certain non-RIC funds are obligated to redeem shares at the demand of a shareholder and, therefore, are limited in their ability to use stock repurchases for other purposes, such as artificially increasing share value. Accordingly, under the grant of authority in section 4501(f), these final regulations provide an exception for certain non-RIC funds that parallels the exception for RICs in § 58.4501–3(f). Under these final regulations, the exception applies only to a covered corporation that is described in section 851(a)(1)(A) but that has not elected to be a RIC under section 851(b) (non-RIC '40 Act fund) and that is either: (i) an ''open-end company'' as defined in section 5(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–5); or (ii) a ''closed-end company'' as defined in section 5(a) of the Investment Company Act of 1940, if the repurchase occurs as part of a periodic repurchase offer of the closed-end non-RIC '40 Act fund (sometimes referred to as an ''interval fund'') pursuant to SEC Rule 23c–3 (17 CFR 270.23c–3).

D. Dividend Exception

To implement the ''dividend exception'' of section 4501(e)(6), proposed § 58.4501–3(g)(1) generally would provide that the fair market value of stock repurchased by a covered corporation is a reduction for purposes of computing the covered corporation's stock repurchase excise tax base to the extent the repurchase is treated as a distribution of a dividend under section 301(c)(1) or 356(a)(2).

Proposed § 58.4501–3(g)(2)(i) would provide a rebuttable presumption that a repurchase to which section 302 or 356(a) applies is subject to section 302(a) or 356(a)(1), respectively (and, therefore, is ineligible for the dividend exception). Under proposed § 58.4501–3(g)(2)(ii), a covered corporation would

be permitted to rebut this presumption with regard to a specific shareholder solely by establishing with sufficient evidence (sufficient evidence requirement) that the shareholder treats the repurchase as a dividend on the shareholder's Federal income tax return.

Proposed § 58.4501–3(g)(2)(iii) would provide that, to satisfy the sufficient evidence requirement, the covered corporation must obtain the shareholder's certification, in accordance with proposed § 58.4501–3(g)(3), that the repurchase either (i) constitutes a redemption treated as a distribution to which section 301 applies, or (ii) has the effect of the distribution of a dividend under section 356(a)(2). The covered corporation also would be required to (i) treat the repurchase consistent with the shareholder certification, (ii) have no knowledge of facts indicating that the shareholder certification is incorrect, and (iii) demonstrate sufficient E&P to treat as a dividend either the redemption under section 302 or the receipt of money or other property under section 356.

Several commenters recommended adopting a sufficient evidence requirement that does not require shareholder certification (at least in certain circumstances). According to commenters, covered corporations may be unable to compel their shareholders to provide a certification in accordance with proposed § 58.4501–3(g)(3), and obtaining certification from foreign shareholders that do not file U.S. tax returns and otherwise have no U.S. tax nexus may be difficult. Accordingly, one commenter recommended requiring shareholder certification only if the covered corporation lacks sufficient evidence to determine that a repurchase should be treated as a dividend.

Several commenters also recommended adopting a sufficient evidence requirement that does not require shareholders to treat the repurchase as a dividend on their Federal income tax return, because some shareholders are not required to file a Federal income tax return. One commenter recommended modifying the sufficient evidence requirement to permit U.S. companies to provide IRS Form 1042–S, *Foreign Person's U.S. Source Income Subject to Withholding,* to show payment of a dividend to foreign shareholders in lieu of obtaining certifications from those shareholders.

The Treasury Department and the IRS agree with the commenters that the sufficient evidence requirement should be modified to facilitate administrability and reduce taxpayer burden. Accordingly, under these final regulations, the sufficient evidence requirement no longer requires shareholders to treat a repurchase as a dividend on their Federal income tax return. Instead, a covered corporation may rebut the presumption of no dividend equivalence in § 58.4501–3(g)(2)(i) with regard to a specific shareholder by establishing with sufficient evidence that the covered corporation and the shareholder treat the repurchase as a dividend for Federal income tax purposes. *See* § 58.4501–3(g)(2)(ii).

Moreover, the sufficient evidence requirement no longer requires a shareholder certification, although the final regulations continue to allow covered corporations to satisfy this requirement by obtaining a shareholder certification. Instead, the sufficient evidence requirement may be satisfied if the covered corporation: (i) establishes, based on information known to the covered corporation (for example, through legal documentation of share ownership, publicly available information, the pro rata nature of the repurchase, or the shareholder certification safe harbor), that the repurchase either (A) is a redemption that is treated as a distribution to which section 301 applies by reason of section 302(d), or (B) has the effect of the distribution of a dividend under section 356(a)(2); (ii) has no knowledge of facts indicating that the treatment described in clause (i) of this sentence is incorrect; (iii) treats the repurchase consistent with such treatment, including by withholding the applicable amounts if required; and (iv) demonstrates sufficient E&P to treat as a dividend either the redemption under section 302 or the receipt of money or other property under section 356. *See* § 58.4501–3(g)(3).

Like the aforementioned documentation requirement in § 58.4501–3(c)(4) for the reorganization exception, § 58.4501–3(g)(4) requires a covered corporation to retain the evidence described in § 58.4501–3(g)(3), make that evidence available for inspection to the IRS if any of the evidence becomes material in the administration of any internal revenue law, and retain records of all information necessary to document and substantiate such evidence.

The Treasury Department and the IRS continue to be of the view that reliance solely on the Form 1042–S does not provide sufficient evidence that a shareholder treats a repurchase as a dividend. The Form 1042–S is based on the presumption that share repurchases are dividends subject to withholding tax. Consequently, reliance solely on the Form 1042–S for purposes of substantiating the dividend exception could overstate the amount of repurchases that qualify for this exception.

VI. Netting Rule

A. Overview

Proposed § 58.4501–4 would provide rules implementing the netting rule. In general, under proposed § 58.4501–4(b)(1), the stock repurchase excise tax base with regard to a taxable year of a covered corporation would be reduced by the aggregate fair market value of stock of the covered corporation: (i) issued by the covered corporation during its taxable year in connection with the performance of services for the covered corporation by employees or other service providers of the covered corporation; (ii) provided by a specified affiliate of the covered corporation in connection with the performance of services for the specified affiliate by an employee of the specified affiliate during the covered corporation's taxable year; or (iii) issued by the covered corporation during the covered corporation's taxable year not in connection with the performance of services.

Proposed § 58.4501–4(c) would provide additional rules regarding stock issued or provided to an employee of a covered corporation or specified affiliate as compensation for services performed as an employee, including transfers of stock in connection with the performance of services described in section 83 of the Code (such as pursuant to a nonqualified stock option or pursuant to a stock option described in section 421 of the Code).

Proposed § 58.4501–4(f)(3) contains the ''no double benefit rule'' under which stock issued by a covered corporation as part of a transaction qualifying as a reorganization under section 368(a) or a distribution under section 355 would be disregarded for purposes of the netting rule if: (i) the stock is qualifying property; (ii) the stock is used by another covered corporation (second covered corporation) to repurchase stock of the second covered corporation in an acquisitive reorganization, an E reorganization, an F reorganization, or a split-off; and (iii) the repurchase described in clause (ii) of this sentence is not included in the second covered corporation's stock repurchase excise tax base because that repurchase is a qualifying property repurchase.

B. No Double Benefit Rule; Issuances in E Reorganizations, F Reorganizations, and Section 355 Transactions

Commenters agreed with the proposed exclusion of stock issued by a recapitalizing corporation in an E reorganization or a resulting corporation in an F reorganization for purposes of the netting rule. *See* proposed § 58.4501–4(f)(3). One commenter agreed with the end result under the proposed regulations but recommended that, because a corporation's own stock is not ''property'' for purposes of section 317(b), a special rule should be added to disregard such issuances for purposes of the netting rule.

Another commenter queried whether the ''no double benefit rule'' would apply to an E reorganization. As noted previously, this rule applies to disregard the issuance of stock by a covered corporation if, among other conditions, the stock is ''used by another covered corporation (second covered corporation) to repurchase stock of the second covered corporation.'' However, the commenter noted that there is no second corporation in an E reorganization.

These final regulations do not include the ''no double benefit rule,'' because that rule is no longer necessary in light of other changes under these final regulations. For example, as discussed in part IV.D.1 of this Summary of Comments and Explanation of Revisions, these final regulations (i) treat E reorganizations as repurchases only if and to the extent that non-qualifying property is distributed by the recapitalizing corporation to its shareholders in exchange for their stock, and (ii) treat a distribution of non-qualifying property by the transferor corporation in an F reorganization as a separate transaction. Moreover, as discussed in part IV.C.1 of this Summary of Comments and Explanation of Revisions, the exchange by target corporation shareholders of their target corporation stock pursuant to the plan of reorganization in an acquisitive reorganization is not a repurchase by the target corporation under these final regulations.

Additionally, these final regulations adopt the comment recommending the addition of a special rule providing that stock issued by the recapitalizing corporation in an E reorganization or the resulting corporation in an F reorganization is not taken into account for purposes of the netting rule. *See* § 58.4501–4(f)(3). These final regulations also provide that stock issued by a covered corporation that is a controlled corporation in a distribution qualifying under section 355 (or so much of section 356 as relates to section 355) is disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(9).

C. Issuances in Acquisitive Reorganizations

One commenter recommended against treating qualifying property issued by the acquiring corporation in connection with an acquisitive reorganization as being issued in a redemption or as resulting in an increase in the target corporation's stock repurchase excise tax base. Instead, the commenter recommended allowing a reduction by the acquiring corporation for purposes of its stock repurchase excise tax base.

Because these final regulations eliminate the ''no double benefit rule,'' the acquiring corporation is no longer prohibited from reducing its stock repurchase excise tax base under the netting rule for its stock issued in an acquisitive reorganization.

D. Instruments Not in the Legal Form of Stock

The proposed computational regulations would provide an anti-avoidance rule to address the issuance or provision of instruments of a covered corporation that are treated as stock for Federal tax purposes but are not in the legal form of stock (non-stock instruments). For example, a taxpayer seeking to avoid the application of the stock repurchase excise tax might issue deep-in-the-money call options (which the taxpayer treats as stock for Federal tax purposes) to accommodation parties with the mutual understanding that such options never would be exercised.

Under proposed § 58.4501–4(f)(13), the issuance or provision of a non-stock instrument (including certain deep-in-the-money options) would be disregarded for purposes of the netting rule unless and until the instrument is repurchased, and the amount of the issuance for purposes of the netting rule would be limited to the lesser of the fair market value of the instrument at the time of issuance or repurchase. To prevent taxpayers from taking inconsistent positions with respect to comparable non-stock instruments, proposed § 58.4501–4(f)(13)(ii)(D) would provide that a taxpayer that fails to timely report a repurchase of a non-stock instrument may not take into account any issuances for purposes of the netting rule for comparable non-stock instruments repurchased within the five taxable years ending on the last day of the repurchase year, unless the failure to timely report the earlier repurchase was due to reasonable cause.

Consistent with the general application of the stock repurchase excise tax to all instruments treated as stock for Federal tax purposes, the proposed computational regulations would not exclude the acquisition of non-stock instruments from the definition of a ''repurchase.''

Several commenters recommended removing the special netting rule for non-stock instruments so that all instruments of a covered corporation treated as stock for Federal tax purposes, regardless of legal form, are treated alike for purposes of the stock repurchase excise tax. One commenter noted that the value of stock issued to closely related parties (which would be the most likely to accommodate non-economic abusive behavior) already is excluded for the purpose of the netting rule. *See* proposed § 58.4501–4(f)(13)(ii)(A). Another commenter noted that taxpayers would be unlikely to engage in transactions involving accommodation parties, because those transactions would be subject to substance-based challenges by the IRS and would face other legal and non-tax impediments discouraging non-economic activity. A commenter also contended that the proposed rule may encourage taxpayers to strategically choose the legal form of equity issuances to obtain preferable treatment with regard to the stock repurchase excise tax, thereby engaging in non-economic activity strictly for Federal tax benefits.

The commenters also suggested alternatives if the special netting rule for non-stock instruments is retained. One commenter suggested that, if the rule is not removed, it should be expanded to apply to equity instruments that are limited and preferred as to dividends and do not participate in corporate growth, or at least expanded to incorporate preferred equity that is mandatorily redeemable or redeemable at a specified time. Other commenters suggested applying the rule only to specific cases in which the non-stock instrument is issued to an accommodation party and subject to a binding repurchase agreement.

These final regulations adopt the commenters' view that non-stock instruments generally should be treated the same as stock for purposes of the netting rule, except in certain potentially abusive transactions. Under these final regulations, the issuance or provision of non-stock instruments generally is regarded at the time of issuance. However, to address certain potentially abusive transactions, these final regulations retain a limited version of the proposed special netting rule that

applies only to non-stock instruments that are (i) not a non-stock instrument the offer and sale of which was registered with the SEC, and (ii) issued to a person that owns (or, under the attribution rules of section 318 of the Code, is considered to own) at least 10 percent of the stock of the covered corporation, either by vote or value, but only if the covered corporation has knowledge of facts that would indicate such ownership, including through legal documentation of share ownership, publicly available information, or any other means at the time of issuance by the covered corporation or at the time of the provision by the specified affiliate of the covered corporation. *See* § 58.4501–4(f)(13).

The changes to the special netting rule for non-stock instruments under these final regulations are intended to avoid the potential application of the rule to situations that are not abusive, while still applying to situations in which taxpayers seek to avoid the application of the stock repurchase excise tax. Consistent with this intent, these final regulations would not subject public offerings of non-stock instruments to the special netting rule. In addition, in light of commenters' suggestion that abusive transactions are likely to involve accommodation parties, these final regulations limit the application of the rule to situations in which there is a direct or indirect ownership relationship between the covered corporation and the holder of the non-stock instrument. Finally, these final regulations remove the proposed consistency requirement and the proposed fair market value rule in order to simplify the application of the rule. Taken together, these changes are intended to exclude non-tax motivated issuances of non-stock instruments, thereby facilitating administrability and reducing taxpayer burden in the application of the special netting rule for non-stock instruments.

E. Stock Issued or Provided to Non-Employee Service Providers of a Specified Affiliate

Under the proposed computational regulations, a covered corporation's stock repurchase excise tax base would be reduced by the aggregate fair market value of stock of the covered corporation provided by a specified affiliate of the covered corporation in connection with the performance of services for the specified affiliate by an employee of the specified affiliate during the covered corporation's taxable year. *See* proposed § 58.4501–4(b)(1)(ii). Under proposed § 58.4501–4(f)(2)(iv), stock of a covered corporation issued by the covered corporation in connection with the performance of services for a specified affiliate would not be treated as ''issued'' for purposes of the netting rule. However, a transfer of stock of a covered corporation described in § 1.83–6(d) by a specified affiliate to an employee (but not a non-employee service provider) of the specified affiliate would be treated as ''provided'' by the specified affiliate under proposed § 58.4501–4(b)(1)(ii).

Commenters recommended applying the netting rule when a covered corporation issues its stock to any service provider (employee or non-employee) of a specified affiliate of the covered corporation in connection with services performed for the specified affiliate. Similarly, commenters recommended that the result should be the same when the specified affiliate provides stock of a covered corporation to its employee or non-employee service provider as compensation for services rendered (or when such transfer is deemed to occur under § 1.83–6(d)).

The Treasury Department and the IRS agree with the commenters that the netting rule should apply to stock provided by a specified affiliate to a non-employee service provider (other than the covered corporation or a specified affiliate of the covered corporation) in connection with the performance of services for the specified affiliate. Accordingly, these final regulations provide that the stock repurchase excise tax base with regard to a taxable year of a covered corporation is reduced by the aggregate fair market value of stock of the covered corporation provided by a specified affiliate of the covered corporation in connection with the performance of services for the specified affiliate by an employee or other service provider of the specified affiliate during the covered corporation's taxable year. *See* § 58.4501–4(b)(1)(ii) and (f)(2)(iv).

VII. Constructive Specified Affiliate Acquisitions

Under proposed § 58.4501–2(f)(3), an acquisition by a covered corporation of a corporation or partnership that owns stock in the covered corporation generally would be treated as a repurchase of covered corporation stock (constructive specified affiliate acquisition rule). More specifically, shares of stock of a covered corporation would be treated as repurchased by the covered corporation to the extent that: (i) the target corporation or partnership becomes a specified affiliate of the covered corporation; and (ii) at the time the target corporation or partnership becomes a specified affiliate, it owns stock of the covered corporation (A) representing more than one percent of the fair market value of the assets of the target corporation or partnership (constructive acquisition de minimis threshold), and (B) that was acquired after December 31, 2022. Shares of covered corporation stock previously treated as repurchased under the constructive specified affiliate acquisition rule would not be subject to the rule a second time (no double detriment rule).

Several commenters asserted that the constructive specified affiliate acquisition rule is overly broad. For example, rather than just address transactions in which the covered corporation and a potential specified affiliate are acting in concert to facilitate avoidance of the stock repurchase excise tax, this rule would encompass non-abusive transactions in which (i) the potential specified affiliate's acquisition of covered corporation stock is entirely unrelated to the transaction in which it becomes a specified affiliate, (ii) the covered corporation does not know in advance that its stock is owned by the potential specified affiliate, and/or (iii) the potential specified affiliate owns only a small amount of covered corporation stock. As a result, according to commenters, this rule effectively could add unexpected transaction costs to ordinary M&A transactions.

Accordingly, commenters recommended limiting the application of this rule. For example, one commenter recommended applying this rule only in situations in which either (i) the potential specified affiliate's acquisition of covered corporation stock occurs pursuant to a binding agreement, or (ii) the covered corporation stock held by the potential specified affiliate exceeds a certain threshold. Additionally, commenters recommended increasing the constructive acquisition de minimis threshold from one percent to five percent. (One commenter further recommended changing this threshold from one percent of the fair market value of the assets of the target corporation or partnership to five percent of the covered corporation's stock; another commenter recommended clarifying the meaning of ''fair market value of the assets.'') A commenter also recommended broadening the no double detriment rule and providing additional examples to illustrate its application.

The Treasury Department and the IRS agree with the commenters that the constructive specified affiliate acquisition rule is overly broad. Accordingly, these final regulations do not adopt the constructive specified affiliate acquisition rule.

VIII. Section 4501(d)—Acquisition of Stock of Certain Foreign Corporations

A. In General

Proposed § 58.4501–7 would provide rules that relate to the application of section 4501(d) to the acquisition of stock of certain foreign corporations (section 4501(d) proposed regulations). The section 4501(d) proposed regulations generally would apply based on related rules in proposed §§ 58.4501–2 through 58.4501–4, with modifications as appropriate to reflect differences in the operation of section 4501(d). *See* part I.D of the Background. Among other differences, section 4501(d) provides special rules for the imposition of the stock repurchase excise tax on specified affiliates treated as covered corporations under section 4501(d)(1)(A) and expatriated entities treated as covered corporations under section 4501(d)(2)(A) (each, a section 4501(d) covered corporation under the section 4501(d) proposed regulations). In addition, the netting rule applies only to stock issued or provided by the specified affiliate or expatriated entity, as applicable, to its employees under section 4501(d)(1)(C) and (d)(2)(C), respectively.

B. Funding Rule

1. Proposed Funding Rule

The proposed funding rule would provide that an applicable specified affiliate of an applicable foreign corporation is treated as acquiring stock of the applicable foreign corporation to the extent the applicable specified affiliate funds by any means (including through distributions, debt, or capital contributions), directly or indirectly, an AFC repurchase (as defined in proposed § 58.4501–7(b)(2)(i)) or an acquisition of stock of an applicable foreign corporation by a relevant entity (as defined in proposed § 58.4501–7(b)(2)(xiv)) (such repurchase or acquisition, a covered purchase) with a principal purpose of avoiding the section 4501(d) excise tax. *See* proposed § 58.4501–7(e)(1). If a principal purpose of a funding is to fund, directly or indirectly, a covered purchase, then with respect to that funding, there is a principal purpose of avoiding the section 4501(d) excise tax. A principal purpose described in proposed § 58.4501–7(e)(1) would be presumed to exist if the applicable specified affiliate funds by any means, directly or indirectly, a downstream relevant entity (as defined in proposed § 58.4501–7(b)(2)(xi)), and the funding occurs within two years of a covered purchase by or on behalf of the downstream relevant entity.

2. Comments To Withdraw or Revise the Proposed Funding Rule

Several commenters requested that the proposed funding rule be withdrawn or revised for various reasons, including the following: (i) the rule could be burdensome to comply with, given its potential to apply to common business transactions (such as when an applicable foreign corporation has a pattern of redeeming its own stock, which was established before Congress enacted the stock repurchase excise tax, and an applicable specified affiliate makes regular dividend distributions to the applicable foreign corporation); (ii) it is unclear (A) when to determine whether the applicable specified affiliate has a principal purpose of funding a covered purchase, and (B) whose purpose to avoid the stock repurchase excise tax is relevant; (iii) there is insufficient clarity (and examples) surrounding the application of the rule; and (iv) the priority rule for covered fundings provided in proposed § 58.4501–7(e)(6) does not take into account that the foreign group may have a variety of funding sources.

Some commenters either supported the proposed funding rule or agreed that the Treasury Department and the IRS have the authority to promulgate the rule. Other commenters supported a narrower application of the proposed funding rule and suggested applying it to acquisitions of stock of an applicable foreign corporation by a downstream relevant entity when the acquisition is funded by an applicable specified affiliate as well as other transactions structured to avoid section 4501(d). Commenters also noted that it is uncommon for an applicable specified affiliate, and by extension a downstream relevant entity, to acquire the stock of an applicable foreign corporation.

Taking into account all comments, these final regulations do not adopt the proposed funding rule.

C. Section 4501(d) Netting Rule

1. Overview

Section 4501(d)(1)(C) and (d)(2)(C) provide that the adjustment in section 4501(c)(3) is determined only with respect to stock issued or provided by the section 4501(d) covered corporation to employees of the section 4501(d) covered corporation (section 4501(d) netting rule). Proposed § 58.4501–7(n) would clarify that the section 4501(d) netting rule applies only to stock of the applicable foreign corporation or covered surrogate foreign corporation, as applicable, that is issued or provided by a section 4501(d) covered corporation to an employee in connection with the employee's performance of services in the employee's capacity as an employee of the section 4501(d) covered corporation. Consequently, the section 4501(d) proposed regulations would provide that the section 4501(d) netting rule applies only with respect to stock issued or provided by the section 4501(d) covered corporation to its own employees in connection with the performance of services.

2. Stock Issued or Provided to Non-Employee Service Providers

Commenters requested clarification that the section 4501(d) netting rule applies to stock issued or provided by a specified affiliate to a non-employee service provider (other than the covered corporation or a specified affiliate of the covered corporation) in connection with services provided for the specified affiliate. These final regulations do not adopt this comment. The Treasury Department and the IRS are of the view that the section 4501(d) netting rule does not apply to non-employee service providers. Section 4501(d)(1)(C) explicitly states that the adjustment under section 4501(c)(3) is determined only with respect to stock issued or provided by a specified affiliate to employees of the specified affiliate. Accordingly, the section 4501(d) netting rule precludes the reduction of the section 4501(d) excise tax base when the section 4501(d) covered corporation issues or provides shares to someone other than employees of the section 4501(d) covered corporation.

3. Other Comments Related to the Section 4501(d) Netting Rule

Commenters recommended that the section 4501(d) netting rule apply to treat all members of a consolidated group as one corporation, rather than the proposed entity-by-entity approach. Other commenters recommended extending the section 4501(d) netting rule to cover employees of all specified affiliates (that is, all employees in the affiliated group, rather than the employees of an applicable specified affiliate), because, in the commenters' view, this rule is otherwise discriminatory against inbound companies. A commenter also recommended exempting from the

section 4501(d) excise tax stock repurchases that are (i) related to either (A) stock grants to employees as part of a long-term incentive plan, or (B) a cancellation of stock triggered by a previous capital increase carried out as part of an employee shareholder program, or (ii) made in connection with employee stock plans using trusts' assets established in connection with unfunded deferred compensation arrangements (that is, rabbi trusts) where (A) such shares are held for use in connection with employee stock plans, and (B) such trusts and associated plans were established prior to the effective date of the final regulations. Some commenters also suggested changes to the section 4501(d) netting rule if the proposed funding rule applies.

These final regulations do not adopt these comments. The Treasury Department and the IRS have determined that the recommendations related to consolidated groups and additional exclusions from the section 4501(d) netting rule are inconsistent with the plain language of section 4501(d), and it is not appropriate to expand the section 4501(d) netting rule beyond its statutory scope. Moreover, as discussed in part VIII.B.2 of this Summary of Comments and Explanation of Revisions, these final regulations do not adopt the proposed funding rule.

D. Foreign Partnerships as Applicable Specified Affiliates

Under section 4501(d)(1), if a foreign partnership that is a specified affiliate of an applicable foreign corporation has a direct or indirect partner that is a domestic entity, then the foreign partnership is an applicable specified affiliate of the applicable foreign corporation. Proposed § 58.4501–7(h) would provide rules for determining if a foreign partnership is an applicable specified affiliate, including treating a domestic entity as an indirect partner with respect to a foreign partnership if the domestic entity owns an interest in the foreign partnership through: (i) one or more foreign partnerships; (ii) one or more foreign corporations controlled by one or more domestic entities (domestic control requirement); or (iii) an ownership chain with one or more entities described in the preceding clauses (i) and (ii). *See* proposed § 58.4501–7(h)(2)(ii). The section 4501(d) proposed regulations also would provide a *de minimis* rule pursuant to which a foreign partnership with one or more direct or indirect domestic entity partners would not be considered an applicable specified affiliate if the domestic entities hold, directly or indirectly, in aggregate, less than five percent of the capital and profits interests in the foreign partnership. *See* proposed § 58.4501–7(h)(5).

One commenter suggested that the proposed *de minimis* rule produces a cliff effect that may result in a relatively minimal U.S. nexus through a domestic partner causing such a foreign partnership to be treated in the same manner as a domestic corporation. The commenter recommended applying the stock repurchase excise tax proportionately to domestic partners of a foreign partnership (that is, based on the domestic partner's interest in the foreign partnership), rather than with respect to the entire foreign partnership.

These final regulations do not adopt this recommendation, because section 4501(d) equates a foreign partnership having a domestic entity as a direct or indirect partner with a domestic corporation and does not apply the stock repurchase excise tax proportionately to domestic partners of a foreign partnership.

With respect to the *de minimis* rule, the commenter acknowledged its appropriateness but recommended raising the threshold such that the rule (i) would apply only to situations in which the domestic partner has a material interest in, and material influence on, the operations of a foreign partnership, and (ii) is administrable. The commenter recommended applying the section 4501(d) excise tax to a foreign partnership if the foreign partnership's direct or indirect domestic partners, and related parties of such domestic partners, hold, directly or indirectly, in aggregate, 80 percent or more of the capital and profits interests in the foreign partnership. In the alternative, the commenter recommended that the *de minimis* threshold be increased to 25 percent for the domestic partner itself or increased to 50 percent to reflect actual control by the domestic partner and to be consistent with the percentage used to determine specified affiliate status more generally under section 4501.

These final regulations do not adopt the foregoing recommendations. Section 4501(d) does not require the domestic entity partner to have a material interest in, or material influence on, the operations of a foreign partnership. Moreover, the *de minimis* rule addresses compliance burdens regarding the determination of when direct or indirect ownership by domestic entity partners causes a foreign partnership to be an applicable specified affiliate. However, in response to the comment, these final regulations raise the *de minimis* threshold so that a foreign partnership with one or more direct or indirect domestic entity partners is not considered an applicable specified affiliate if the domestic entities hold, directly or indirectly, in aggregate, less than 10 percent of the capital and profits interests in the foreign partnership.

The commenter further requested clarification on how a foreign partnership applicable specified affiliate that makes a covered purchase pays the section 4501(d) excise tax. The commenter stated that the section 4501(d) proposed regulations do not specify which entity is responsible for paying the section 4501(d) excise tax when the tax arises because of a covered purchase by a foreign partnership applicable specified affiliate. Although acknowledging that the foreign partnership itself is the payor of the excise tax because it is the entity whose section 4501(d) excise tax basis is increased as a result of the covered funding, the commenter stated that this requirement imposes significant administrative compliance burdens. These asserted burdens include: (i) tracking direct and indirect domestic entity partners to determine whether domestic ownership falls outside of the *de minimis* threshold; (ii) requiring a foreign partnership to file a section 4501 excise tax return and pay the section 4501(d) excise tax liability even though such foreign partnership would not otherwise be required to file U.S. tax returns or report operations for Federal tax purposes; and (iii) requiring the foreign partnership to set aside funds at the partnership level to pay the section 4501(d) excise tax liability and determine how to allocate that liability among its partners.

The Treasury Department and the IRS have determined that the statute is clear that a foreign partnership applicable specified affiliate is the entity responsible for paying the section 4501(d) excise tax when the tax arises because that foreign partnership acquires the stock of the applicable foreign corporation. In respect of filing the stock repurchase excise tax return and paying the section 4501(d) excise tax liability, *see* §§ 58.6011–1(a) (requirement to file stock repurchase excise tax return) and 58.6151–1(a) (time and place for paying tax shown on stock repurchase excise tax return). *See also* the discussion of filing issues in respect of foreign partnership applicable specified affiliates in the preamble to the proposed computational regulations.

E. Other Modifications to the Section 4501(d) Proposed Regulations

As noted in part VIII.A. of this Summary of Comments and Explanation of Revisions, the section 4501(d) proposed regulations generally apply based on related rules in proposed §§ 58.4501–2 through 58.4501–4, with modifications as appropriate to reflect differences in the operation of section 4501(d). Accordingly, these final regulations modify the section 4501(d) proposed regulations to reflect modifications to the related rules in proposed §§ 58.4501–2 through 58.4501–4, as appropriate.

IX. Other Comments

One commenter recommended that these final regulations distinguish between ''illegitimate'' repurchases (in the commenter's view, repurchases that benefit executives rather than investors) and ''legitimate'' repurchases. The Treasury Department and the IRS are of the view that the statute does not draw a distinction between repurchases that benefit executives versus those that benefit investors. Accordingly, these final regulations do not adopt this comment. However, as reflected in this Summary of Comments and Explanation of Revisions, these final regulations streamline the stock repurchase excise tax regulations while preserving clear, bright-line rules for determining which repurchases are subject to the stock repurchase excise tax.

X. Applicability Dates

A. In General

These final regulations generally provide that §§ 58.4501–1 through 58.4501–5 apply to (i) repurchases of stock of a covered corporation occurring after December 31, 2022, and (ii) issuances and provisions of stock of a covered corporation occurring during taxable years ending after December 31, 2022. *See* § 58.4501–6(a). However, § 58.4501–6(b)(1) provides that certain rules in §§ 58.4501–2 through 58.4501–4 that were not described in Notice 2023–2 apply to (i) repurchases of stock of a covered corporation occurring after April 12, 2024 (the date of publication of the proposed computational regulations in the **Federal Register**), and (ii) issuances and provisions of stock of a covered corporation occurring after April 12, 2024. Nevertheless, § 58.4501–6(b)(2) provides that so long as a covered corporation consistently applies the provisions of §§ 58.4501–1 through 58.4501–5, the covered corporation may choose to apply these final regulations with respect to the provisions described in § 58.4501–6(b)(1) to (i) repurchases of stock of the covered corporation occurring on or before April 12, 2024, and after December 31, 2022, and (ii) issuances and provisions of stock of the covered corporation occurring on or before April 12, 2024, and during taxable years ending after December 31, 2022.

Except with respect to the rules under § 58.4501–7(p)(2) and (3), the rules of § 58.4501–7 apply to transactions that occur after April 12, 2024. *See* § 58.4501–7(p)(1). Section 58.4501–7(p)(2) provides a transition rule for the foreign partnership de minimis rule, allowing a section 4501(d) covered corporation to apply § 58.4501–7(g)(5) by replacing the phrase ''10 percent'' with ''five percent'' for transactions that occur after April 12, 2024, but November 24, 2025. Alternatively, a section 4501(d) covered corporation may apply the final rules of § 58.4501–7 for transactions that occur after December 31, 2022, provided that the section 4501(d) covered corporation applies all those rules consistently. *See* § 58.4501–7(p)(3).

B. Effect on Prior Returns

If a covered corporation previously filed a Form 7208, *Excise Tax on Repurchase of Corporate Stock,* applying Notice 2023–2 or the proposed computational regulations and would like to file a refund claim after the effective date of these final regulations, the covered corporation should file a Form 720–X, *Amended Quarterly Federal Excise Tax Return,* for the quarter (or previously amended quarter, if applicable) in which the covered corporation filed the original Form 720, *Quarterly Federal Excise Tax Return,* and attach a corrected Form 7208 (with the word ''Amended'' added to the top of the corrected Form 7208). If a taxpayer other than the original filer would like to file a refund claim, the taxpayer should file a claim on Form 8849, *Claim for Refund of Excise Taxes,* and attach Schedule 6, *Other Claims,* and a corrected Form 7208.

If a covered corporation is filing a Form 720–X for the third quarter of 2024, and if the covered corporation previously attached two Forms 7208 (one for a tax year ending in 2023, and one for a tax year ending in 2024) to the Form 720 for that quarter, the covered corporation must attach two corrected Forms 7208 (with the word ''Amended'' added to the top of each corrected Form 7208) to the Form 720–X for that quarter.

Special Analyses

I. Regulatory Planning and Review

The Office of Information and Regulatory Analysis (OIRA) of the Office of Management and Budget (OMB) has determined that these final regulations are not significant and are not subject to review under section 6(b) of Executive Order 12866. Therefore, a regulatory impact analysis is not required.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. 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 control number assigned by the OMB.

The collections of information in these regulations contain reporting, third-party disclosure, and recordkeeping requirements in §§ 58.4501–3(g) and 58.4501–7(l)(6). This information is necessary for the IRS to accurately determine the stock repurchase excise tax due and is required by law to comply with the provisions of section 4501 of the Code as enacted by section 10201 of the Inflation Reduction Act of 2022. The likely respondents are corporations and partnerships. The burdens associated with these information collections are included in Form 7208 and its instructions and approved with OMB control number 1545–2323 in accordance with PRA procedures under 5 CFR 1320.10.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations only apply to publicly traded corporations, which tend to consist of larger businesses. Specifically, based on the most recent data available to the IRS for tax year 2023, approximately 3,800 corporations reported publicly traded common stock.

Of those corporations, approximately 3,210 (over 84 percent) reported total assets over $100 million, and approximately 3,750 (over 98 percent) reported total assets over $10 million. Meanwhile, for tax year 2023, the IRS received 8,269,075 Corporation Income Tax Returns. IRS Publication 6292, Fiscal Year Projections for the United States: 2024–2031, Fall 2024, Table 2. Of these corporation returns, 8,009,010 reported total assets below $10 million. Thus, the number of corporations affected by these regulations that reported total assets below $10 million is less than one thousandth of one percent of the total number of corporations that reported total assets below $10 million. Therefore, these regulations do not create additional obligations for, or impose an economic impact on, a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

V. Unfunded Mandates Reform Act

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

Statement of Availability of IRS Documents

Any IRS Revenue Procedure, Revenue Ruling, Notice, or other guidance cited in this document is published in the Internal Revenue Bulletin (or Cumulative Bulletin) and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov.*

Drafting Information

The principal authors of these regulations are Kailee H. Hock of the Office of Associate Chief Counsel (Corporate), Naomi Lehr and Robert C. Weedman of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), Lucas J. Eberhart of the Office of Associate Chief Counsel (Financial Institutions and Products), and Brittany N. Dobi of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 58

Excise taxes, Stocks, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR parts 1 and 58 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 * * *

■ **Par. 2.** Section 1.1275–6 is amended by adding paragraph (f)(12)(iii) to read as follows:

§ 1.1275–6 Integration of qualifying debt instruments.

* * * * *

(f) * * *

(12) * * *

(iii) *Excise tax on repurchase of corporate stock*—(A) *Application.* If a taxpayer enters into an integrated transaction (for example, a convertible debt instrument integrated with one or more § 1.1275–6 hedges consisting of an option on the taxpayer's own stock), then, solely for purposes of section 4501 of the Code and the stock repurchase excise tax regulations (as defined in § 58.4501–1(b)(37) of this chapter), the taxpayer must apply the rules that would apply on a separate basis to the components of the integrated transaction, rather than the rules that otherwise would apply to the integrated transaction under this section.

(B) *Applicability date.* Notwithstanding paragraph (j) of this section, paragraph (f)(12)(iii)(A) of this section applies to an integrated transaction outstanding after December 31, 2022 (regardless of when such integrated transaction was entered into by the taxpayer).

* * * * *

PART 58—STOCK REPURCHASE EXCISE TAX

■ **Par. 3.** The authority citation for part 58 continues to read in part as follows:

Authority: 26 U.S.C. 4501(f) and 7805.

* * * * *

■ **Par. 4.** Subpart A is added to read as follows:

Subpart A—Excise Tax on Stock Repurchases

Sec.

58.4501–0 Table of contents.
58.4501–1 Excise tax on stock repurchases.
58.4501–2 General rules regarding excise tax on stock repurchases.
58.4501–3 Exceptions.
58.4501–4 Application of netting rule.
58.4501–5 Examples.
58.4501–6 Applicability dates.
58.4501–7 Special rules for acquisitions or repurchases of stock of certain foreign corporations.

Subpart A—Excise Tax on Stock Repurchases

§ 58.4501–0 Table of contents.

This section lists the major captions that appear in §§ 58.4501–1 through 58.4501–7.

§ 58.4501–1 Excise tax on stock repurchases.
(a) Excise tax imposed.
(b) Definitions.
(1) Acquisitive reorganization.
(2) Applicable percentage.
(3) Cessation date.
(4) Clawback.
(5) Code.
(6) Controlled corporation.
(7) Covered corporation.
(8) Covered holder.

(9) Covered non-stock instrument.
(10) De minimis exception.
(11) Distributing corporation.
(12) E reorganization.
(13) Economically similar transaction.
(14) Employee.
(15) Employer-sponsored retirement plan.
(16) Established securities market.
(17) F reorganization.
(18) Forfeiture.
(19) Gross repurchase amount.
(20) Initiation date.
(21) IRS.
(22) Netting rule.
(23) Non-RIC '40 Act fund.
(24) Non-stock instrument.
(25) Recapitalizing corporation.
(26) REIT.
(27) Reorganization exception.
(28) Repurchase.
(29) RIC.
(30) SEC.
(31) Section 317(b) redemption.
(32) Specified affiliate.
(33) Split-off.
(34) Stock.
(35) Stock repurchase excise tax.
(36) Stock repurchase excise tax base.
(37) Stock repurchase excise tax regulations.
(38) Taxable year.
(39) Treasury stock.
(c) No application for any purposes of chapter 1 of the Code.
(d) Status as a domestic or foreign corporation.
(e) F reorganizations.

§ 58.4501–2 General rules regarding excise tax on stock repurchases.

(a) Scope.
(b) Computation of excise tax liability.
(1) Imposition of tax.
(2) De minimis exception.
(c) Stock repurchase excise tax base.
(1) In general.
(2) Taxable year determination.
(3) Repurchases before January 1, 2023.
(d) Duration of covered corporation status.
(1) Initiation date.
(2) Cessation date.
(3) Inbound and outbound F reorganizations.
(e) Repurchase.
(1) Overview.
(2) Scope of repurchase.
(3) Certain section 317(b) redemptions that are not repurchases.
(4) Economically similar transactions.
(5) Transactions that are not repurchases.
(f) Specified affiliates.
(1) Acquisitions of stock of a covered corporation by a specified affiliate treated as a repurchase.
(2) Determination of specified affiliate status.
(g) Date of repurchase.
(1) General rule.
(2) Regular-way sale.
(h) Fair market value of repurchased stock.
(1) In general.
(2) Stock traded on an established securities market.
(3) Stock not traded on an established securities market.
(4) Market price of stock denominated in non-U.S. currency.

§ 58.4501–3 Exceptions.

(a) Scope.
(b) Reduction of covered corporation's stock repurchase excise tax base.
(1) In general.
(2) Coordination of exceptions.
(c) Reorganization exception.
(d) Stock contributions to an employer-sponsored retirement plan.
(1) Reductions in computing covered corporation's stock repurchase excise tax base.
(2) Classes of stock contributed to an employer-sponsored retirement plan.
(3) Same class of stock repurchased and contributed.
(4) Different class of stock repurchased and contributed.
(5) Timing of contributions.
(6) Contributions before January 1, 2023.
(e) Repurchases or acquisitions by a dealer in securities in the ordinary course of business.
(1) In general.
(2) Applicability.
(f) Repurchases by a RIC or a REIT.
(g) Repurchase treated as a dividend.
(1) In general.
(2) Rebuttable presumption of no dividend equivalence.
(3) Sufficient evidence requirement.
(4) Documentation of sufficient evidence.
(h) Repurchases by a non-RIC '40 Act fund.

§ 58.4501–4 Application of netting rule.

(a) Scope.
(b) Issuances and provisions of stock that are a reduction in computing the stock repurchase excise tax base.
(1) General rule.
(2) Stock issued or provided outside period of covered corporation status.
(3) Issuances or provisions before January 1, 2023.
(c) Stock issued or provided in connection with the performance of services.
(1) In general.
(2) Sale of shares to cover exercise price and withholding.
(d) Date of issuance.
(1) In general.
(2) Stock issued or provided in connection with the performance of services.
(e) Fair market value of issued or provided stock.
(1) In general.
(2) Stock traded on an established securities market.
(3) Stock not traded on an established securities market.
(4) Market price of stock denominated in non-U.S. currency.
(5) Stock issued or provided in connection with the performance of services.
(f) Issuances that are disregarded for purposes of applying the netting rule.
(1) Distributions by a covered corporation of its own stock.
(2) Issuances to a specified affiliate.
(3) Issuances in an E reorganization or an F reorganization.
(4) Deemed issuances under section 304(a)(1).
(5) Deemed issuance of a fractional share.
(6) Issuance by a covered corporation that is a dealer in securities.
(7) Issuance by the target corporation in a reverse triangular merger.
(8) Issuance as part of a section 1036(a) exchange.
(9) Issuance as part of a distribution under section 355.
(10) Stock contributions to an employer-sponsored retirement plan.
(11) Net exercises and share withholding.
(12) Settlement other than in stock.
(13) Instrument not in the legal form of stock.

§ 58.4501–5 Examples.

(a) Scope.
(b) In general.
(1) Example 1: Redemption of preferred stock not subject to an exception.
(2) Example 2: Debt-for-debt exchange.
(3) Example 3: Valuation of repurchase.
(4) Example 4: Acquisition partially funded by the target corporation.
(5) Example 5: Pro rata stock split.
(6) Example 6: Acquisition of a target corporation in an acquisitive reorganization.
(7) Example 7: E reorganization.
(8) Example 8: E reorganization with non-qualifying property.
(9) Example 9: Cash paid in lieu of fractional shares.
(10) Example 10: F reorganization.
(11) Example 11: Section 355 split-off.
(12) Example 12: Section 355 split-off as part of a D reorganization.
(13) Example 13: Section 355 spin-off.
(14) Example 14: Section 355 spin-off as part of a D reorganization.
(15) Example 15: Repurchase pursuant to an accelerated share repurchase agreement.
(16) Example 16: Distribution in complete liquidation of a covered corporation.
(17) Example 17: Complete liquidation of a covered corporation to which sections 331 and 332(a) both apply.
(18) Example 18: Acquisition by disregarded entity.
(19) Example 19: Multiple repurchases and contributions of same class of stock.
(20) Example 20: Multiple repurchases and contributions of different classes of stock.
(21) Example 21: Treatment of contributions after the taxable year.
(22) Example 22: Becoming a covered corporation.
(23) Example 23: Actual pro rata redemption in partial liquidation.
(24) Example 24: Constructive redemption in partial liquidation.
(25) Example 25: Non-pro rata redemption in partial liquidation.
(26) Example 26: Physical settlement of call option contract.
(27) Example 27: Net cash settlement of call option contract.
(28) Example 28: Physical settlement of put option contract.
(29) Example 29: Net cash settlement of put option contract.
(30) Example 30: Indirect ownership.
(31) Example 31: Restricted stock provided to a service provider.
(32) Example 32: Restricted stock provided to a service provider with section 83(b) election.
(33) Example 33: Forfeiture of restricted stock provided to a service provider with section 83(b) election.

(34) Example 34: Vested stock provided to a service provider with share withholding.
(35) Example 35: Stock option net exercise.
(36) Example 36: Net share settlement not in connection with performance of services.
(37) Example 37: Broker-assisted net exercise.
(38) Example 38: Stock provided by a specified affiliate to an employee.
(39) Example 39: Stock provided by a specified affiliate to a non-employee.
(40) Example 40: Corporation treated as a domestic corporation under section 7874(b).
§ 58.4501–6 Applicability dates.
(a) In general.
(b) Exceptions.
(1) Applicability date for certain rules.
(2) Early application.
(c) Special rules for acquisitions or repurchases of stock of certain foreign corporations.
§ 58.4501–7 Special rules for acquisitions or repurchases of stock of certain foreign corporations.
(a) Scope.
(b) Definitions.
(1) Application of definitions in § 58.4501–1(b).
(2) Section 4501(d) definitions.
(c) Computation of section 4501(d) excise tax liability for a section 4501(d) covered corporation.
(1) Imposition of tax.
(2) Section 4501(d) de minimis exception.
(3) Section 4501(d) excise tax base.
(4) Section 4501(d)(1) repurchases or section 4501(d)(2) repurchases before January 1, 2023.
(d) Section 4501(d)(2) coordination rules.
(1) Coordination rule for section 4501(d)(1) repurchases and section 4501(d)(2) repurchases.
(2) Coordination rule for multiple section 4501(d) covered corporations.
(e) Status as applicable foreign corporation or covered surrogate foreign corporation.
(1) Initiation date.
(2) Cessation date.
(3) Rules regarding F reorganizations.
(f) Status as an applicable specified affiliate or a specified affiliate of a covered surrogate foreign corporation.
(1) Timing of determination.
(2) Determination of indirect ownership.
(g) Foreign partnerships that are applicable specified affiliates.
(1) In general.
(2) Direct or indirect partner.
(3) Control of a foreign corporation.
(4) Indirect interests held through applicable foreign corporations.
(5) De minimis domestic entity (direct or indirect) partner.
(h) CSFC repurchase.
(1) Overview.
(2) Scope of CSFC repurchases.
(3) Certain section 317(b) redemptions that are not CSFC repurchases.
(4) Section 4501(d) economically similar transactions.
(5) Transactions that are not CSFC repurchases.
(i) [Reserved]
(j) Date of section 4501(d)(1) repurchase or section 4501(d)(2) repurchase.
(1) General rule.
(2) Regular-way sale.
(k) Fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation that is repurchased or acquired.
(1) In general.
(2) Stock traded on an established securities market.
(3) Stock not traded on an established securities market.
(4) Market price of stock denominated in non-U.S. currency.
(l) Section 4501(d) exceptions.
(1) In general.
(2) Section 4501(d) reorganization exception.
(3) Stock contributions to an employer-sponsored retirement plan.
(4) Repurchases or acquisitions by a dealer in securities in the ordinary course of business.
(5) Repurchases by a RIC or REIT.
(6) CSFC repurchase treated as a dividend.
(7) Repurchases by a non-RIC '40 Act fund.
(m) Application of section 4501(d) netting rule.
(1) In general.
(2) Stock issued or provided outside period of applicable foreign corporation or covered surrogate foreign corporation status.
(3) Issuances or provisions before January 1, 2023.
(4) Stock Issued or provided in connection with the performance of services.
(5) Date of issuance or provision for section 4501(d) netting rule.
(6) Fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation that is issued or provided to employees.
(7) Issuances that are disregarded for purposes of applying the section 4501(d) netting rule.
(n) Section 4501(d)(1) examples.
(1) Example 1: Section 4501(d) netting rule with respect to a single applicable specified affiliate.
(2) Example 2: Section 4501(d) netting rule with respect to multiple applicable specified affiliates.
(3) Example 3: Foreign partnership that is an applicable specified affiliate.
(4) Example 4: Foreign partnership that is not an applicable specified affiliate.
(5) Example 5: Foreign partnership that is directly owned by foreign corporations and is an applicable specified affiliate.
(o) Section 4501(d)(2) examples.
(1) Example 1: Section 4501(d) netting rule with respect to an expatriated entity.
(2) Example 2: Section 4501(d)(2) repurchase from the covered surrogate foreign corporation or another specified affiliate of the covered surrogate foreign corporation.
(3) Example 3: Liability with respect to multiple expatriated entities.
(p) Applicability dates.
(1) In general.
(2) Transition rule for foreign partnership de minimis rule.
(3) Early application.

§ 58.4501–1 Excise tax on stock repurchases.

(a) *Excise tax imposed.* Section 4501(a) of the Code imposes a stock repurchase excise tax on each covered corporation equal to the applicable percentage of the fair market value of any stock of the corporation that is repurchased by the corporation during the taxable year. This section and § 58.4501–2 provide generally applicable definitions and operating rules regarding the application of the stock repurchase excise tax and the computation of the stock repurchase excise tax liability of a covered corporation. Section 58.4501–3 provides rules regarding the application of the exceptions in section 4501(e) (other than the de minimis exception described in section 4501(e)(3), which is addressed in § 58.4501–2(b)(2)) and related exceptions. Section 58.4501–4 provides rules regarding the application of section 4501(c)(3). Section 58.4501–5 provides examples that illustrate the application of section 4501 and the stock repurchase excise tax regulations. Section 58.4501–6 provides applicability dates for the stock repurchase excise tax regulations (other than § 58.4501–7). For special rules and examples regarding the application of section 4501(d) to acquisitions or repurchases of stock of certain foreign corporations, *see* § 58.4501–7.

(b) *Definitions.* The following definitions apply for purposes of this section and §§ 58.4501–2 through 58.4501–6, and, to the extent provided in § 58.4501–7(b), for purposes of § 58.4501–7:

(1) *Acquisitive reorganization.* The term *acquisitive reorganization* means a transaction that qualifies as a reorganization under—

(i) Section 368(a)(1)(A) of the Code, including by reason of section 368(a)(2)(D) or (a)(2)(E);

(ii) Section 368(a)(1)(C);

(iii) Section 368(a)(1)(D), if the reorganization satisfies the requirements of section 354(b)(1) of the Code; or

(iv) Section 368(a)(1)(G), if the reorganization satisfies the requirements of section 354(b)(1).

(2) *Applicable percentage.* The term *applicable percentage* means the percentage provided in section 4501(a).

(3) *Cessation date.* The term *cessation date* means the date on which all stock of a covered corporation ceases to be traded on an established securities market.

(4) *Clawback.* The term *clawback* means a surrender of stock pursuant to a contractual provision that requires an employee to return vested stock.

(5) *Code.* The term *Code* means the Internal Revenue Code.

(6) *Controlled corporation.* The term *controlled corporation* has the meaning given the term in section 355(a)(1)(A) of the Code.

(7) *Covered corporation.* The term *covered corporation* means any domestic corporation (including within the meaning of paragraph (d) of this section) the stock of which is traded on an established securities market.

(8) *Covered holder.* The term *covered holder* has the meaning given the term in § 58.4501–4(f)(13)(ii)(C).

(9) *Covered non-stock instrument.* The term *covered non-stock instrument* has the meaning given the term in § 58.4501–4(f)(13)(ii)(B).

(10) *De minimis exception.* The term *de minimis exception* has the meaning given the term in § 58.4501–2(b)(2)(i).

(11) *Distributing corporation.* The term *distributing corporation* has the meaning given the term in section 355(a)(1)(A).

(12) *E reorganization.* The term *E reorganization* means a transaction that qualifies as a reorganization under section 368(a)(1)(E).

(13) *Economically similar transaction.* The term *economically similar transaction* means a transaction described in § 58.4501–2(e)(4).

(14) *Employee.* The term *employee* means an employee as defined in section 3401(c) of the Code and § 31.3401(c)–1 of this chapter, or a former employee, of a covered corporation or a specified affiliate of the covered corporation (as appropriate).

(15) *Employer-sponsored retirement plan*—(i) *In general.* The term *employer-sponsored retirement plan* means a plan that includes a trust that is qualified under section 401(a) of the Code and maintained by a covered corporation or a specified affiliate of the covered corporation.

(ii) *ESOPs included.* For the purposes of these regulations, the term *employer-sponsored retirement plan* includes an employee stock ownership plan defined in section 4975(e)(7) of the Code (ESOP) that is maintained by a covered corporation or a specified affiliate of the covered corporation.

(16) *Established securities market.* The term *established securities market* has the meaning given the term in § 1.7704–1(b) of this chapter.

(17) *F reorganization.* The term *F reorganization* means a transaction that qualifies as a reorganization under section 368(a)(1)(F).

(18) *Forfeiture.* The term *forfeiture* means a surrender of stock to the issuing corporation for no consideration.

(19) *Gross repurchase amount.* The term *gross repurchase amount* has the meaning given the term in § 58.4501–2(c)(1)(i).

(20) *Initiation date.* The term *initiation date* means the date on which stock of a corporation begins to be traded on an established securities market.

(21) *IRS.* The term *IRS* means the Internal Revenue Service.

(22) *Netting rule.* The term *netting rule* has the meaning given the term in § 58.4501–4(a).

(23) *Non-RIC '40 Act fund.* The term *non-RIC '40 Act fund* has the meaning given the term in § 58.4501–3(h).

(24) *Non-stock instrument.* The term *non-stock instrument* has the meaning given the term in § 58.4501–4(f)(13)(ii)(A).

(25) *Recapitalizing corporation.* The term *recapitalizing corporation* means the corporation recapitalizing its stock in an E reorganization.

(26) *REIT.* The term *REIT* has the meaning given the term *real estate investment trust* in section 856(a) of the Code.

(27) *Reorganization exception.* The term *reorganization exception* means the exception provided in § 58.4501–3(c).

(28) *Repurchase.* The term *repurchase* has the meaning given the term in § 58.4501–2(e)(2).

(29) *RIC.* The term *RIC* has the meaning given the term *regulated investment company* in section 851 of the Code.

(30) *SEC.* The term *SEC* means the U.S. Securities and Exchange Commission.

(31) *Section 317(b) redemption.* The term *section 317(b) redemption* means a redemption within the meaning of section 317(b) of the Code with regard to the stock of a covered corporation.

(32) *Specified affiliate.* The term *specified affiliate* means, with regard to any corporation—

(i) Any corporation more than 50 percent of the stock of which is owned (by vote or by value), directly or indirectly, by the corporation; and

(ii) Any partnership more than 50 percent of the capital interests or profits interests of which is held, directly or indirectly, by the corporation.

(33) *Split-off.* The term *split-off* means a distribution qualifying under section 355 (or so much of section 356 of the Code as relates to section 355) by a distributing corporation pursuant to which the shareholders of the distributing corporation exchange stock of the distributing corporation for stock of the controlled corporation and, if applicable, other property (including securities of the controlled corporation) or money.

(34) *Stock*—(i) *In general.* Except as provided in paragraph (b)(34)(ii) or (iii) of this section, the term *stock* means any instrument issued by a corporation that is stock (including treasury stock) or that is treated as stock for Federal tax purposes at the time of issuance, regardless of whether the instrument is traded on an established securities market.

(ii) *Additional tier 1 capital.* The term *stock* does not include preferred stock that—

(A) Qualifies as additional tier 1 capital (within the meaning of 12 CFR 3.20(c), 217.20(c), 217.608(a)(2), 324.20(c), or 628.20(c)); and

(B) Does not qualify as common equity tier 1 capital (within the meaning of 12 CFR 3.20(b), 217.20(b), 217.608(a)(3), 324.20(b), or 628.20(b)).

(iii) *Section 1504(a)(4) stock.* The term *stock* does not include preferred stock described in section 1504(a)(4) of the Code.

(35) *Stock repurchase excise tax.* The term *stock repurchase excise tax* means the excise tax imposed by section 4501(a) on each covered corporation equal to the applicable percentage of the fair market value of any stock of the corporation that is repurchased by the corporation during the taxable year.

(36) *Stock repurchase excise tax base.* The term *stock repurchase excise tax base* has the meaning given the term in § 58.4501–2(c)(1).

(37) *Stock repurchase excise tax regulations.* The term *stock repurchase excise tax regulations* means—

(i) Subparts A and B of this part; and

(ii) Section 1.1275–6(f)(12)(iii) of this chapter (providing that the integration of a qualifying debt instrument with a hedge pursuant to § 1.1275–6 of this chapter is not taken into account in determining whether and when stock is repurchased or issued).

(38) *Taxable year.* The term *taxable year* has the meaning given the term in section 7701(a)(23) of the Code.

(39) *Treasury stock.* The term *treasury stock* means treasury stock within the meaning of section 317(b).

(c) *No application for any purposes of chapter 1 of the Code.* The rules of this part have no application for purposes of chapter 1 of the Code.

(d) *Status as a domestic or foreign corporation.* If a corporation is, or is treated as, a domestic corporation for purposes of the Code or for purposes that include chapter 37 of the Code, then the corporation is a domestic corporation for purposes of the stock repurchase excise tax regulations. A corporation that is not a domestic

corporation for purposes of the stock repurchase excise tax regulations is a foreign corporation for such purposes.

(e) *F reorganizations.* For purposes of the stock repurchase excise tax regulations, the transferor corporation and the resulting corporation (each as defined in § 1.368–2(m)(1) of this chapter) in an F reorganization are treated as the same corporation.

§ 58.4501–2 General rules regarding excise tax on stock repurchases.

(a) *Scope.* This section provides general rules regarding the application of the stock repurchase excise tax and the computation of the stock repurchase excise tax liability of a covered corporation. Paragraphs (b) and (c) of this section provide rules for computing a covered corporation's stock repurchase excise tax liability. Paragraph (d) of this section provides rules for determining whether a corporation is a covered corporation. Paragraph (e) of this section provides rules for determining whether a transaction is a repurchase. Paragraph (f) of this section provides rules for acquisitions of stock of a covered corporation by a specified affiliate of the covered corporation. Paragraph (g) of this section provides rules for determining when stock is repurchased. Paragraph (h) of this section provides rules for determining the fair market value of repurchased stock.

(b) *Computation of excise tax liability*—(1) *Imposition of tax.* Except as provided in paragraph (b)(2) of this section (regarding the de minimis exception), the amount of stock repurchase excise tax imposed by section 4501(a) on a covered corporation for a taxable year equals the product obtained by multiplying—

(i) The applicable percentage; by

(ii) The stock repurchase excise tax base of the covered corporation for the taxable year determined in accordance with paragraph (c)(1) of this section.

(2) *De minimis exception*—(i) *In general.* A covered corporation is not subject to the stock repurchase excise tax with regard to a taxable year if, during that taxable year, the aggregate fair market value of the stock described in paragraphs (b)(2)(i)(A) and (B) of this section does not exceed $1,000,000 (*de minimis exception*):

(A) The stock of the covered corporation that is repurchased by the covered corporation (as determined under paragraph (e) of this section).

(B) The stock of the covered corporation that is acquired by a specified affiliate of the covered corporation (as determined under paragraph (f) of this section).

(ii) *Determination.* A determination of whether the de minimis exception applies with regard to a taxable year is made before applying—

(A) Any exception under § 58.4501–3; and

(B) Any adjustments pursuant to the netting rule under § 58.4501–4.

(c) *Stock repurchase excise tax base*—(1) *In general.* With regard to a covered corporation, the term *stock repurchase excise tax base* means the dollar amount (not less than zero) that is obtained by—

(i) Determining (in accordance with paragraphs (e) through (h) of this section) the aggregate fair market value of the stock of the covered corporation that is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation during the covered corporation's taxable year (*gross repurchase amount*);

(ii) Reducing the gross repurchase amount by the fair market value of the stock of the covered corporation repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation during the covered corporation's taxable year to the extent the repurchase or acquisition qualifies for an exception in accordance with § 58.4501–3; and then

(iii) Further reducing the gross repurchase amount by the aggregate fair market value of stock of the covered corporation issued by the covered corporation or provided by a specified affiliate of the covered corporation during the covered corporation's taxable year under the netting rule in accordance with § 58.4501–4.

(2) *Taxable year determination*—(i) *In general.* The determinations under paragraph (c)(1)(i) of this section are made separately for each covered corporation and for each taxable year of the covered corporation.

(ii) *No carrybacks or carryforwards.* Reductions under paragraphs (c)(1)(ii) and (iii) of this section in excess of the gross repurchase amount may not be carried forward or backward to preceding or succeeding taxable years of the covered corporation.

(3) *Repurchases before January 1, 2023.* Stock of a covered corporation repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation before January 1, 2023 (as determined under paragraphs (e) through (g) of this section) is neither—

(i) Included in the stock repurchase excise tax base of the covered corporation; nor

(ii) Taken into account in determining the applicability of the de minimis exception.

(d) *Duration of covered corporation status*—(1) *Initiation date.* A corporation becomes a covered corporation at the beginning of the corporation's initiation date (that is, the date on which stock of the corporation begins to be traded on an established securities market).

(2) *Cessation date.* A corporation ceases to be a covered corporation at the end of the corporation's cessation date (that is, the date on which all stock of the corporation ceases to be traded on an established securities market).

(3) *Inbound and outbound F reorganizations*—(i) *Inbound F reorganization.* In the case of a foreign corporation that transfers its assets or that is treated as transferring its assets to a domestic corporation in an F reorganization (as described in § 1.367(b)–2(f) of this chapter), the corporation is not treated as a domestic corporation until the day after the reorganization.

(ii) *Outbound F reorganization.* In the case of a domestic corporation that transfers its assets or that is treated as transferring its assets to a foreign corporation in an F reorganization (as described in § 1.367(a)–1(e) of this chapter), the corporation is not treated as a foreign corporation until the day after the reorganization.

(e) *Repurchase*—(1) *Overview.* This paragraph (e) provides rules for determining whether a transaction is a repurchase. Paragraph (e)(2) of this section provides a general rule regarding the scope of the term *repurchase* for purposes of the stock repurchase excise tax. Paragraph (e)(3) of this section provides an exclusive list of transactions that are section 317(b) redemptions but are not repurchases. Paragraph (e)(4) of this section provides an exclusive list of transactions that are economically similar transactions. Paragraph (e)(5) of this section provides a non-exclusive list of transactions that are not repurchases.

(2) *Scope of repurchase.* A *repurchase* means solely—

(i) A section 317(b) redemption, except as provided in paragraph (e)(3) of this section; or

(ii) An economically similar transaction described in paragraph (e)(4) of this section.

(3) *Certain section 317(b) redemptions that are not repurchases.* This paragraph (e)(3) provides an exclusive list of section 317(b) redemptions that are not repurchases for purposes of the stock repurchase excise tax regulations.

(i) *Section 304(a)(1) transactions*—(A) *Rule regarding deemed distributions.* The deemed distribution by an acquiring corporation (within the

meaning of section 304(a)(1) of the Code) that is a covered corporation in redemption of stock of the acquiring corporation (resulting from the application of section 304(a)(1) to an acquisition of stock by such acquiring corporation), regardless of whether section 302(a) or (d) of the Code applies to the acquiring corporation's deemed distribution in redemption of its stock.

(B) *Rule regarding deemed issuances.* For the rule addressing the treatment of any stock deemed to be issued by the acquiring corporation as a result of the application of section 304(a)(1), *see* § 58.4501–4(f)(4).

(ii) *Leveraged buyouts and take-private transactions.* A redemption by a covered corporation that occurs as part of a transaction in which the covered corporation ceases to be a covered corporation.

(iii) *Stock issued prior to August 16, 2022.* A redemption by a covered corporation of stock of the covered corporation issued prior to August 16, 2022, if, at the time such stock was issued and continuing until the time of the redemption, the stock was subject to—

(A) Mandatory redemption by the covered corporation; or

(B) A unilateral put option by the holder of such stock.

(iv) *Payment by a covered corporation of cash in lieu of fractional shares.* A payment by a covered corporation of cash in lieu of a fractional share of the covered corporation's stock, if—

(A) The payment is carried out as part of a transaction that qualifies as a reorganization under section 368(a) of the Code or a distribution to which section 355 of the Code applies, or pursuant to the settlement of an option or a similar financial instrument (for example, a convertible debt instrument or convertible preferred share);

(B) The cash received by the shareholder entitled to the fractional share is not separately bargained-for consideration (that is, the cash paid by the covered corporation in lieu of the fractional share represents a mere rounding off of the shares issued in the exchange or settlement);

(C) The payment is carried out solely for administrative convenience (and, therefore, solely for non-tax reasons); and

(D) The amount of cash paid to the shareholder in lieu of a fractional share does not exceed the fair market value of one full share of the class of stock of the covered corporation with respect to which the payment of cash in lieu of a fractional share is made.

(4) *Economically similar transactions.* This paragraph (e)(4) provides an exclusive list of transactions that are economically similar to section 317(b) redemptions solely for purposes of the stock repurchase excise tax (that is, economically similar transactions) and, therefore, are taken into account as repurchases for purposes of the stock repurchase excise tax regulations.

(i) *E reorganizations*—(A) *In general.* Except as provided in paragraph (e)(4)(i)(B) of this section, in the case of an E reorganization in which the recapitalizing corporation is a covered corporation, solely the recapitalizing corporation's acquisition of its stock pursuant to the plan of reorganization in exchange for property that is not permitted to be received by the recapitalizing corporation's shareholders under section 354 of the Code without the recognition of gain.

(B) *Exception.* Paragraph (e)(4)(i)(A) of this section does not apply to the extent that—

(*1*) The distribution of such property is treated as a distribution with respect to the recapitalizing corporation's stock under § 1.301–1(j) of this chapter; or

(*2*) The exchange is with respect to preferred stock with dividends in arrears that is treated under § 1.305–7(c)(2) or 1.368–2(e)(5) of this chapter as a deemed distribution to which sections 301 and 305(b)(4) of the Code apply.

(ii) *Split-offs.* In the case of a split-off by a distributing corporation that is a covered corporation, the acquisition by the distributing corporation of its stock in exchange for property.

(iii) *Certain forfeitures and clawbacks of stock*—(A) *In general.* In the case of a forfeiture or clawback of stock of a covered corporation pursuant to a legal or contractual obligation, the forfeiture to or clawback by the covered corporation or a specified affiliate of the covered corporation (as appropriate) on the date of forfeiture or clawback (as appropriate) if the stock was treated as issued or provided under § 58.4501–4(b) and the forfeiture or clawback of the stock (as appropriate) is described in paragraph (e)(4)(iii)(B), (C), or (D) of this section.

(B) *Stock subject to post-closing price adjustments.* The stock was issued pursuant to an acquisition of a target entity or its business, and the forfeiture of the stock was in accordance with the terms of the documents governing the transaction (for example, to compensate the acquiring corporation for breaches of representations or warranties made by the target entity, or because the business of the target entity did not achieve certain performance benchmarks agreed upon in the transaction documents).

(C) *Stock for which a section 83(b) election was made.* The stock was subject to a substantial risk of forfeiture within the meaning of section 83(a) of the Code on the date the stock was issued or provided, the service provider made a valid election under section 83(b) with regard to the stock, and the forfeiture resulted from the service provider failing to meet the vesting condition.

(D) *Clawbacks.* On the date the stock was issued or provided, the stock was subject to a clawback agreement, and a clawback of the stock resulted from the occurrence of an event specified in the clawback agreement.

(5) *Transactions that are not repurchases.* This paragraph (e)(5) provides a non-exclusive list of transactions each of which is not a repurchase for purposes of the stock repurchase excise tax regulations.

(i) *Complete liquidations.* A distribution by a covered corporation—

(A) In complete liquidation of the covered corporation to which section 331 or 332(a) (or both) applies;

(B) Pursuant to a resolution or plan of dissolution of the covered corporation that is reported on an original (but not a supplemented or an amended) IRS Form 966, *Corporate Dissolution or Liquidation* (or any successor form); or

(C) Pursuant to a deemed dissolution of the covered corporation (for instance, pursuant to a deemed liquidation under § 301.7701–3 of this chapter).

(ii) *Distributions during taxable year of complete liquidation or dissolution.* A distribution by a covered corporation during a taxable year of the covered corporation, if the covered corporation—

(A) Completely liquidates during the taxable year (that is, has a final distribution during the taxable year in a complete liquidation to which section 331 or 332(a) (or both) applies);

(B) Dissolves during the taxable year pursuant to a resolution or plan of dissolution as reported on an original (but not a supplemented or an amended) IRS Form 966, *Corporate Dissolution or Liquidation* (or any successor form); or

(C) Is deemed to dissolve during the taxable year (for instance, pursuant to a deemed liquidation under § 301.7701–3 of this chapter).

(iii) *Divisive transactions under section 355 other than split-offs*—(A) *In general.* Subject to paragraph (e)(5)(iii)(B) of this section, a distribution by a distributing corporation that is a covered corporation of stock of a controlled corporation qualifying under section 355 that is not a split-off.

(B) *Exception regarding non-qualifying property in spin-offs.* A distribution by a distributing

corporation that is a covered corporation of other property or money in exchange for stock of the distributing corporation is a repurchase by the distributing corporation if it occurs in pursuance of a transaction qualifying under section 355 in which the distribution by the distributing corporation of stock of the controlled corporation is with respect to stock of the distributing corporation.

(iv) *Non-redemptive distributions subject to section 301(c)(2) or (3).* A distribution to which section 301 applies by a covered corporation to a distributee, if the distribution—

(A) Is subject to section 301(c)(2) or (3); and

(B) The distributee does not exchange stock of the covered corporation (and is not treated as exchanging stock of the covered corporation for Federal income tax purposes).

(v) *Acquisitive reorganizations.* In the case of an acquisitive reorganization in which the target corporation is a covered corporation, the acquisition by the target corporation of its stock pursuant to the plan of reorganization in exchange for property that is permitted to be received by the target corporation's shareholders under section 354 or 356 of the Code.

(vi) *Net cash settlement of an option contract or other derivative financial instrument*—(A) *In general.* Subject to paragraph (e)(5)(vi)(B) of this section, the net cash settlement of an option contract or other derivative financial instrument with respect to stock of a covered corporation.

(B) *Exception regarding net cash settlement of an option contract or other derivative financial instrument treated as stock.* The net cash settlement of an instrument in the legal form of an option contract or other derivative financial instrument that is treated as stock of a covered corporation for Federal tax purposes at the time of issuance is a repurchase.

(vii) *Repurchases from a specified affiliate.* The acquisition by a covered corporation of its stock from a specified affiliate of the covered corporation if the specified affiliate's acquisition of such stock of the covered corporation was treated as a repurchase under paragraph (f)(1) of this section.

(f) *Specified affiliates*—(1) *Acquisitions of stock of a covered corporation by a specified affiliate treated as a repurchase.* If a specified affiliate of a covered corporation acquires stock of the covered corporation from a person that is not the covered corporation or another specified affiliate of the covered corporation, the acquisition is treated as a repurchase of the stock of the covered corporation by the covered corporation.

(2) *Determination of specified affiliate status*—(i) *Timing of determination.* A covered corporation must determine whether another corporation or partnership is a specified affiliate of the covered corporation at the time the stock of the covered corporation is acquired or provided by the other corporation or partnership for purposes of computing the stock repurchase excise tax with regard to the covered corporation.

(ii) *Indirect ownership.* For purposes of determining whether a corporation or a partnership is a specified affiliate of a covered corporation, the covered corporation is treated as indirectly owning stock in the corporation or holding capital or profits interests in the partnership in the percentage equal to the covered corporation's proportionate percentage of stock owned, or capital or profits interests held, through other entities.

(g) *Date of repurchase*—(1) *General rule.* In general, stock of a covered corporation is treated as repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation on the date on which ownership of the stock transfers to the covered corporation or specified affiliate (as appropriate) for Federal income tax purposes.

(2) *Regular-way sale.* A regular-way sale of stock of a covered corporation (that is, a transaction in which a trade order is placed on the trade date, and settlement of the transaction, including payment and delivery of the stock, occurs a standardized period of time, as set by a regulator, after the trade date) is treated as a repurchase by the covered corporation or an acquisition by a specified affiliate of the covered corporation on the trade date.

(h) *Fair market value of repurchased stock*—(1) *In general.* The fair market value of stock of a covered corporation that is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation is the market price of the stock on the date the stock is repurchased or acquired (as determined under paragraph (g) of this section). That is, if the price at which the repurchased or acquired stock is purchased differs from the market price of the stock on the date the stock is repurchased or acquired, the fair market value of the stock is the market price on the date the stock is repurchased or acquired.

(2) *Stock traded on an established securities market*—(i) *In general.* If stock of a covered corporation that is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation is traded on an established securities market, the covered corporation must determine the market price of the repurchased or acquired stock by applying one of the methods provided in paragraph (h)(2)(ii) of this section. For purposes of this paragraph (h)(2), repurchased or acquired stock of a covered corporation is treated as traded on an established securities market if any stock of the same class and issue of stock is so traded, regardless of whether the shares repurchased or acquired are so traded.

(ii) *Acceptable methods.* The following are acceptable methods for determining the market price of repurchased or acquired stock of a covered corporation traded on an established securities market:

(A) The daily volume-weighted average price as determined on the date the stock is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation.

(B) The closing price on the date the stock is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation.

(C) The average of the high and low prices on the date the stock is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation.

(D) The trading price at the time the stock is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation.

(iii) *Date of repurchase not a trading day.* For purposes of each method provided in paragraph (h)(2)(ii) of this section, if the date the stock of a covered corporation is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation is not a trading day, the date on which the market price is determined is the immediately preceding trading day.

(iv) *Consistency requirement*—(A) *Solely one method permitted for determining market price of repurchased or acquired stock.* The market price of repurchased or acquired stock of a covered corporation that is traded on an established securities market must be determined by consistently applying one (but not more than one) of the methods provided in paragraph (h)(2)(ii) of this section to all stock of the covered corporation repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation throughout the covered corporation's taxable year.

(B) *Application to netting rule.* The method used by the covered corporation under paragraph (h)(2)(iv)(A) of this

section must be consistently applied to determine the market price of all stock of the covered corporation issued or provided throughout the covered corporation's taxable year for purposes of the netting rule under § 58.4501–4 except with respect to the determination of the fair market value of stock of a covered corporation that the covered corporation issues, or that a specified affiliate of the covered corporation provides, in connection with the performance of services. *See* § 58.4501–4(e).

(v) *Stock traded on multiple exchanges*—(A) *In general.* A covered corporation the stock of which is traded on multiple established securities markets must determine the market price of the stock of the covered corporation by reference to trading on the established securities market in the country in which the covered corporation is organized, including a regional established securities market that trades in that country.

(B) *Stock traded on multiple exchanges in country where covered corporation is organized.* If a covered corporation's stock is traded on multiple established securities markets in the country in which the covered corporation is organized, the covered corporation must determine the market price of the stock by reference to trading on the established securities market in that country with the highest trading volume in that stock in the prior taxable year.

(C) *Other cases in which stock is traded on multiple exchanges.* If stock of a covered corporation is traded on multiple established securities markets and neither paragraph (h)(2)(v)(A) nor (B) of this section applies, the covered corporation must determine the market price of the stock in a manner that is reasonable and consistent under the facts and circumstances.

(3) *Stock not traded on an established securities market*—(i) *General rule.* If repurchased or acquired stock of a covered corporation is not traded on an established securities market, the market price of the stock is determined as of the date the stock is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation under the principles of § 1.409A–1(b)(5)(iv)(B)(*1*) of this chapter.

(ii) *Consistency requirement*—(A) *Solely one method permitted for determining market price of repurchased or acquired stock.* The valuation method for determining the market price of repurchased or acquired stock of a covered corporation that is not traded on an established securities market must be used for all repurchases of stock of the covered corporation or acquisitions by a specified affiliate of the covered corporation of the same class throughout the covered corporation's taxable year, unless the application of that method to a particular repurchase or acquisition would be unreasonable under the facts and circumstances as of the valuation date within the meaning of § 1.409A–1(b)(5)(iv)(B)(*1*) of this chapter.

(B) *Application to netting rule.* The method used by the covered corporation under paragraph (h)(3)(ii)(A) of this section must be consistently applied to determine the market price of all stock of the covered corporation of the same class issued throughout the covered corporation's taxable year for purposes of the netting rule under § 58.4501–4 except with respect to the determination of the market price of stock of the covered corporation that is issued or provided in connection with the performance of services or if the application of that method to a particular issuance in connection with the performance of services would be unreasonable under the facts and circumstances as of the valuation date.

(4) *Market price of stock denominated in non-U.S. currency.* The market price of any stock of a covered corporation that is denominated in a currency other than the U.S. dollar is converted into U.S. dollars at the spot rate (as defined in § 1.988–1(d)(1) of this chapter) on the date the stock is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation.

§ 58.4501–3 Exceptions.

(a) *Scope.* This section provides rules regarding the application of each exception set forth in section 4501(e) of the Code, other than the de minimis exception described in section 4501(e)(3) and subject to § 58.4501–2(b)(2), to a repurchase of stock of a covered corporation by the covered corporation or an acquisition of stock of a covered corporation by a specified affiliate of the covered corporation (as appropriate). This section also provides rules regarding an additional exception to the stock repurchase excise tax applicable to non-RIC '40 Act funds. For rules regarding the application of these exceptions in the context of section 4501(d), *see* § 58.4501–7(l).

(b) *Reduction of covered corporation's stock repurchase excise tax base*—(1) *In general.* For purposes of determining a covered corporation's stock repurchase excise tax base under § 58.4501–2(c)(1), the covered corporation reduces its gross repurchase amount by an amount equal to the aggregate fair market value of its repurchased stock that qualifies for an exception described in paragraphs (c) through (h) of this section. *See* § 58.4501–2(c)(1)(ii).

(2) *Coordination of exceptions.* If a repurchase of stock qualifies for more than one exception described in paragraphs (c) through (h) of this section, the covered corporation may reduce its gross repurchase amount under solely a single exception, as determined by the covered corporation.

(c) *Reorganization exception.* A covered corporation reduces its gross repurchase amount under § 58.4501–2(c)(1)(ii) by an amount equal to the aggregate fair market value of its stock repurchased from a shareholder in a transaction described in § 58.4501–2(e)(4)(ii) to the extent that the repurchase is for property permitted by section 355 to be received without the recognition of gain or loss.

(d) *Stock contributions to an employer-sponsored retirement plan*—(1) *Reductions in computing covered corporation's stock repurchase excise tax base*—(i) *General rule.* A covered corporation reduces its gross repurchase amount under § 58.4501–2(c)(1)(ii) if the stock of the covered corporation that is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation, or an amount of stock equal to the fair market value of the stock repurchased or acquired, is contributed to an employer-sponsored retirement plan. The amount of the reduction under this paragraph (d)(1) is determined as provided in paragraph (d)(3) or (4) of this section.

(ii) *Special rule for leveraged ESOPs.* If a covered corporation or a specified affiliate of the covered corporation maintains an ESOP with an exempt loan (as described in section 4975(d)(3) of the Code), allocations of qualifying employer securities from the ESOP suspense account to ESOP participants' accounts that are attributable to employer contributions (and not to dividends) are treated as contributions of stock under this paragraph (d) as of the date stock attributable to repayment of the exempt loan is released from the suspense account and allocated to ESOP participants' accounts.

(2) *Classes of stock contributed to an employer-sponsored retirement plan.* This paragraph (d) applies to contributions of any class of covered corporation stock to an employer-sponsored retirement plan, regardless of the class of stock that was repurchased or acquired.

(3) *Same class of stock repurchased and contributed.* If stock of a covered corporation is repurchased by the

covered corporation or acquired by a specified affiliate of the covered corporation, and stock of the covered corporation of the same class is contributed to an employer-sponsored retirement plan, the amount of the reduction under paragraph (d)(1) of this section is equal to the lesser of—

(i) The aggregate fair market value of the stock of the same class that was repurchased or acquired (as determined under § 58.4501–2(h)) during the covered corporation's taxable year; or

(ii) The amount obtained by—

(A) Determining the aggregate fair market value of all stock of that class repurchased or acquired (as determined under § 58.4501–2(h)) during the covered corporation's taxable year, reduced by the fair market value of shares of that class of stock that is a reduction to the stock repurchase excise tax base for the taxable year under an exception in this section other than the exception in this paragraph (d);

(B) Dividing the amount determined under paragraph (d)(3)(ii)(A) of this section by the number of shares of that class repurchased or acquired, reduced by the number of shares of that class of stock the fair market value of which is a reduction to the stock repurchase excise tax base for the taxable year under an exception in this section other than the exception in this paragraph (d); and

(C) Multiplying the amount determined under paragraph (d)(3)(ii)(B) of this section by the number of shares of that class contributed to an employer-sponsored retirement plan for the taxable year.

(4) *Different class of stock repurchased and contributed.* If stock of a covered corporation is repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation, and stock of the covered corporation of a different class is contributed to an employer-sponsored retirement plan, then the amount of the reduction under paragraph (d)(1) of this section is equal to the fair market value of the contributed stock at the time the stock is contributed to the employer-sponsored retirement plan.

(5) *Timing of contributions*—(i) *In general.* The reduction under paragraph (d)(1) of this section (that is, the reduction in computing the stock repurchase excise tax base), for a taxable year applies to contributions of covered corporation stock to an employer-sponsored retirement plan during the covered corporation's taxable year.

(ii) *Treatment of contributions after close of taxable year.* For purposes of paragraph (d)(5)(i) of this section, a covered corporation may treat stock contributions to an employer-sponsored retirement plan made after the close of the covered corporation's taxable year as having been contributed during that taxable year if the following two requirements are satisfied:

(A) The stock must be contributed to the employer-sponsored retirement plan by the filing deadline for the form on which the stock repurchase excise tax must be reported (applicable form) for that taxable year of the covered corporation.

(B) The stock must be treated by the employer-sponsored retirement plan in the same manner that the plan would treat a contribution received on the last day of that taxable year of the covered corporation.

(iii) *No duplicate reductions.* Stock contributions that are treated under paragraph (d)(5)(ii) of this section as having been contributed in the taxable year to which the applicable form applies may not be treated as having been contributed for any other taxable year for purposes of the stock repurchase excise tax.

(6) *Contributions before January 1, 2023.* A covered corporation with a taxable year that both begins before January 1, 2023, and ends after December 31, 2022, may include for that taxable year the fair market value of all contributions of its stock to an employer-sponsored retirement plan during the entirety of that taxable year for purposes of applying this paragraph (d).

(e) *Repurchases or acquisitions by a dealer in securities in the ordinary course of business*—(1) *In general.* Subject to paragraph (e)(2) of this section, a covered corporation reduces its gross repurchase amount under § 58.4501–2(c)(1)(ii) by an amount equal to the aggregate fair market value of its stock repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation (as appropriate) that is a dealer in securities (within the meaning of section 475(c)(1) of the Code) to the extent the stock is acquired in the ordinary course of the dealer's business of dealing in securities.

(2) *Applicability.* The reduction described in paragraph (e)(1) of this section applies solely to the extent that—

(i) The dealer accounts for the stock as securities held primarily for sale to customers in the dealer's ordinary course of business;

(ii) The dealer disposes of the stock within a period of time that is consistent with the holding of the stock for sale to customers in the dealer's ordinary course of business, taking into account the terms of the stock and the conditions and practices prevailing in the markets for similar stock during the period in which the stock is held; and

(iii) The dealer (if it is a covered corporation) does not sell or otherwise transfer the stock to a specified affiliate of the covered corporation, or the dealer (if it is a specified affiliate of the covered corporation) does not sell or otherwise transfer the stock to the covered corporation or to another specified affiliate of the covered corporation, in each case other than in a sale or transfer to a dealer that also satisfies the requirements of this paragraph (e)(2).

(f) *Repurchases by a RIC or REIT.* A covered corporation that is a RIC or a REIT reduces its gross repurchase amount under § 58.4501–2(c)(1)(ii) by an amount equal to the aggregate fair market value of any shares of its stock repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation.

(g) *Repurchase treated as a dividend*—(1) *In general.* A covered corporation reduces its gross repurchase amount under § 58.4501–2(c)(1)(ii) by an amount equal to the aggregate fair market value of the covered corporation's stock that the covered corporation repurchases (excluding stock treated as repurchased under § 58.4501–2(f)(1)) to the extent the repurchase is treated as a distribution of a dividend under section 301(c)(1) or 356(a)(2) of the Code.

(2) *Rebuttable presumption of no dividend equivalence*—(i) *Presumption.* A repurchase to which section 302 or 356(a) of the Code applies is presumed to be subject to section 302(a) or 356(a)(1), respectively (and, therefore, is presumed ineligible for the exception in paragraph (g)(1) of this section).

(ii) *Rebuttal of presumption.* A covered corporation may rebut the presumption described in paragraph (g)(2)(i) of this section with regard to a specific shareholder solely by establishing with sufficient evidence that the covered corporation and the shareholder treat the repurchase as a dividend for Federal income tax purposes.

(3) *Sufficient evidence requirement*—(i) *In general.* To provide sufficient evidence under paragraph (g)(2)(ii) of this section to establish that the shareholder treats the repurchase as a dividend for Federal income tax purposes, the covered corporation must—

(A) Establish, based on information known to the covered corporation (for example, through legal documentation of share ownership, publicly available

information, the pro rata nature of the repurchase, or the shareholder certification safe harbor described in paragraph (g)(3)(ii) of this section), that—

(*1*) The repurchase either constitutes a redemption that is treated as a distribution to which section 301 applies by reason of section 302(d) or has the effect of the distribution of a dividend under section 356(a)(2); and

(*2*) The covered corporation has no knowledge of facts that would indicate that the treatment described in paragraph (g)(3)(i)(A)(*1*) of this section is incorrect;

(B) Treat the repurchase consistent with the treatment described in paragraph (g)(3)(i)(A)(*1*) of this section, including by withholding the applicable amounts, if required; and

(C) Demonstrate sufficient earnings and profits to treat as a dividend either the redemption under section 302 or the receipt of money or other property under section 356.

(ii) *Shareholder certification safe harbor*—(A) *In general.* To provide sufficient evidence under paragraph (g)(3)(i)(A) of this section to establish that the shareholder treats the repurchase as a dividend for Federal income tax purposes, the covered corporation—

(*1*) May obtain certification from the shareholder, in accordance with paragraph (g)(3)(ii)(B) of this section, that the repurchase constitutes a redemption treated as a distribution to which section 301 applies by reason of section 302(d), or that the repurchase has the effect of the distribution of a dividend under section 356(a)(2); and

(*2*) Must have no knowledge of facts that would indicate that the shareholder certification is incorrect.

(B) *Content of shareholder certification.* The shareholder certification allowed under paragraph (g)(3)(ii)(A) of this section must include the following information:

(*1*) The name of the shareholder.

(*2*) The name of the covered corporation.

(*3*) The total number of shares of the covered corporation outstanding immediately before and immediately after the repurchase.

(*4*) A statement that the shareholder treated the repurchase as a dividend for Federal income tax purposes.

(*5*) The number of shares actually and constructively owned by the shareholder before and after the repurchase.

(*6*) The shareholder's percentage ownership before and after the repurchase.

(*7*) If the shareholder is not a United States person (within the meaning of section 7701(a)(30) of the Code) and the shares are held through a broker (within the meaning of section 6045(c) of the Code), a statement that a copy of the certification has been provided to the shareholder's broker.

(*8*) Any other information described in forms or instructions or in publications or guidance published in the Internal Revenue Bulletin (*see* §§ 601.601(d)(2) and 601.602 of this chapter).

(*9*) A penalties of perjury statement.

(*10*) The signature of the shareholder and date of signature.

(C) *Agreement to shareholder certification.* After receiving the shareholder certification provided under paragraph (g)(3)(ii)(A)(*1*) of this section, the covered corporation must include on the shareholder certification a statement signed by the covered corporation under penalties of perjury that the covered corporation—

(*1*) Agrees to treat the repurchase consistent with the shareholder certification provided under paragraph (g)(3)(ii)(A)(*1*) of this section; and

(*2*) Has no knowledge of facts that would indicate that the shareholder certification provided under paragraph (g)(3)(ii)(A)(*1*) of this section is incorrect.

(4) *Documentation of sufficient evidence*—(i) *Retention and availability of evidence.* A covered corporation must retain the evidence described in paragraph (g)(3) of this section and make that evidence available for inspection to the IRS if any of the evidence becomes material in the administration of any internal revenue law.

(ii) *Retention of supporting records.* The covered corporation must retain records of all information necessary to document and substantiate all content described in paragraph (g)(3) of this section.

(h) *Repurchases by a non-RIC '40 Act fund.* A covered corporation that is described in section 851(a)(1)(A) of the Code, but that has not elected to be a RIC under section 851(b) (non-RIC '40 Act fund), reduces its gross repurchase amount under § 58.4501–2(c)(1)(ii) by an amount equal to the aggregate fair market value of any shares of its stock repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation if—

(1) The non-RIC '40 Act fund is an *open-end company* as defined in section 5(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–5); or

(2) The non-RIC '40 Act fund is a *closed-end company* as defined in section 5(a)(2) of the Investment Company Act of 1940, and the repurchase occurs as part of a periodic repurchase offer made pursuant to SEC Rule 23c–3 (17 CFR 270.23c–3).

§ 58.4501–4 Application of netting rule.

(a) *Scope.* This section provides rules regarding the application of section 4501(c)(3) of the Code. Paragraph (b) of this section provides general rules regarding the adjustment to a covered corporation's stock repurchase excise tax base with respect to stock that is issued by the covered corporation or provided by a specified affiliate of the covered corporation (*netting rule*). Paragraph (c) of this section provides special rules for stock issued or provided in connection with the performance of services. Paragraph (d) of this section provides rules for determining the date on which stock is issued or provided. Paragraph (e) of this section provides rules for determining the fair market value of stock that is issued or provided. Paragraph (f) of this section sets forth the only circumstances under which an issuance or provision of stock is disregarded for purposes of the netting rule. For rules regarding the application of the netting rule in the context of section 4501(d), *see* § 58.4501–7(m).

(b) *Issuances and provisions of stock that are a reduction in computing the stock repurchase excise tax base*—(1) *General rule.* The aggregate fair market value of stock of a covered corporation that is issued by the covered corporation or provided by a specified affiliate of the covered corporation during the covered corporation's taxable year is a reduction for purposes of computing the covered corporation's stock repurchase excise tax base for that taxable year in the following circumstances:

(i) The stock is issued by the covered corporation in connection with the performance of services for the covered corporation by an employee or other service provider of the covered corporation.

(ii) The stock is provided by a specified affiliate of the covered corporation in connection with the performance of services for the specified affiliate by an employee or other service provider of the specified affiliate.

(iii) The stock is issued by the covered corporation other than in connection with the performance of services.

(2) *Stock issued or provided outside period of covered corporation status.* Any stock of a covered corporation issued by the covered corporation or provided by a specified affiliate of the covered corporation before the initiation date or after the cessation date is not

taken into account under paragraph (b)(1) of this section. *See* § 58.4501–2(d).

(3) *Issuances or provisions before January 1, 2023.* Except as provided in paragraph (b)(2) of this section, a covered corporation with a taxable year that both begins before January 1, 2023, and ends after December 31, 2022, may include the fair market value of all issuances or provisions of its stock during the entirety of that taxable year for purposes of applying paragraph (b)(1) of this section to that taxable year.

(c) *Stock issued or provided in connection with the performance of services*—(1) *In general.* For purposes of this section, stock of a covered corporation is issued or provided by the covered corporation or a specified affiliate of the covered corporation in connection with the performance of services only if the issuance or provision of stock is a transfer described in section 83 of the Code, including pursuant to the exercise of a nonqualified stock option described in § 1.83–7 of this chapter, pursuant to the exercise of a stock option described in section 421 of the Code, or pursuant to stock settlement of a restricted stock unit (RSU). A specified affiliate of the covered corporation is not a service provider for purposes of this section.

(2) *Sale of shares to cover exercise price and withholding*—(i) *Payment or advance by third party equal to exercise price.* If a third party pays the exercise price of an option to acquire stock of a covered corporation on behalf of a service provider or advances to a service provider an amount equal to the exercise price of a stock option that the service provider uses to exercise the option, then any stock transferred by the covered corporation or specified affiliate to the third party upon exercise of the option in connection with exercising the option (as well as any stock transferred by the covered corporation or specified affiliate to the service provider) is treated as issued or provided in connection with the performance of the services by the service provider.

(ii) *Advance by third party equal to withholding obligation.* If a third party advances an amount equal to the withholding obligation of a service provider, then any stock transferred by the covered corporation or specified affiliate to the third party in connection with this arrangement (as well as any stock transferred by the covered corporation or specified affiliate to the service provider) is treated as issued or provided in connection with the performance of services by the service provider.

(d) *Date of issuance*—(1) *In general.* Except as provided in paragraph (d)(2) of this section, stock of a covered corporation is treated as issued by the covered corporation or provided by a specified affiliate of the covered corporation on the date on which ownership of the stock transfers to the recipient for Federal income tax purposes.

(2) *Stock issued or provided in connection with the performance of services*—(i) *In general.* Stock of a covered corporation is issued by the covered corporation or provided by a specified affiliate of the covered corporation in connection with the performance of services as of the date the recipient of the stock is treated as the beneficial owner of the stock for Federal income tax purposes. In general, a recipient is treated as the beneficial owner of the stock when the stock is both transferred by the covered corporation (or a specified affiliate of the covered corporation) and substantially vested within the meaning of § 1.83–3(b) of this chapter. Thus, stock transferred pursuant to a vested stock award or an RSU is issued or provided when the covered corporation or a specified affiliate of the covered corporation initiates payment of the stock. Stock transferred that is not substantially vested within the meaning of § 1.83–3(b) of this chapter is not issued or provided until it vests, except as provided in paragraph (d)(2)(iii) of this section.

(ii) *Stock options and stock appreciation rights.* Stock of a covered corporation transferred by the covered corporation or a specified affiliate of the covered corporation pursuant to an option described in § 1.83–7 of this chapter or section 421 or a stock appreciation right is issued by the covered corporation or provided by the specified affiliate of the covered corporation (as applicable) as of the date the stock is transferred pursuant to the exercise of the option or stock appreciation right.

(iii) *Stock on which a section 83(b) election is made.* Stock of a covered corporation transferred by the covered corporation or a specified affiliate of the covered corporation when it is not substantially vested within the meaning of § 1.83–3(b) of this chapter, but as to which a valid election under section 83(b) is made, is treated as issued by the covered corporation or provided by the specified affiliate of the covered corporation (as applicable) as of the transfer date.

(e) *Fair market value of issued or provided stock*—(1) *In general.* Except as provided in paragraph (e)(5) of this section, the fair market value of stock of a covered corporation issued by the covered corporation or provided by a specified affiliate of the covered corporation is the market price of the stock on the date the stock is issued or provided.

(2) *Stock traded on an established securities market*—(i) *In general.* If stock of a covered corporation that is issued by the covered corporation is traded on an established securities market, the covered corporation must determine the market price of the stock by applying one of the methods provided in paragraph (e)(2)(ii) of this section.

(ii) *Acceptable methods.* The following are the acceptable methods for determining the market price of stock of a covered corporation traded on an established securities market:

(A) The daily volume-weighted average price as determined on the date the stock is issued by the covered corporation.

(B) The closing price on the trading day the stock is issued by the covered corporation, or the immediately preceding trading day.

(C) The average of the high and low prices on the date the stock is issued by the covered corporation.

(D) The trading price at the time the stock is issued by the covered corporation.

(iii) *Date of issuance not a trading day.* For purposes of each method provided in paragraph (e)(2)(ii) of this section, if the date the stock of a covered corporation is issued by the covered corporation is not a trading day, the date on which the market price is determined is the immediately preceding trading day.

(iv) *Consistency requirement*—(A) *Solely one method permitted for determining market price of issued stock.* The market price of stock of a covered corporation that is traded on an established securities market must be determined by consistently applying solely one of the methods provided in paragraph (e)(2)(ii) of this section to all stock of the covered corporation issued by the covered corporation throughout the covered corporation's taxable year.

(B) *Application to repurchased stock.* The method used by the covered corporation under paragraph (e)(2)(ii)(A) of this section must be consistently applied to determine the market price of all stock of the covered corporation repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation throughout the covered corporation's taxable year. *See* § 58.4501–2(h)(2)(iv).

(v) *Stock traded on multiple exchanges. See* § 58.4501–2(h)(2)(v) for rules regarding the valuation of stock of

a covered corporation traded on multiple established securities markets.

(3) *Stock not traded on an established securities market*—(i) *General rule.* If stock of a covered corporation is not traded on an established securities market, the market price of the stock is determined as of the date the stock is issued by a covered corporation under the principles of § 1.409A–1(b)(5)(iv)(B)(*1*) of this chapter.

(ii) *Consistency requirement.* In determining the market price of stock of a covered corporation that is not traded on an established securities market, the same valuation method must be used for all issuances of stock of the covered corporation belonging to the same class throughout the covered corporation's taxable year, unless the application of that method to a particular issuance would be unreasonable under the facts and circumstances as of the valuation date. That same method also must be consistently applied to determine the market price of all stock of the covered corporation of the same class repurchased by the covered corporation or acquired by a specified affiliate of the covered corporation throughout the covered corporation's taxable year, unless the application of that method to a particular issuance would be unreasonable under the facts and circumstances as of the valuation date. *See* § 58.4501–2(h)(3)(ii).

(4) *Market price of stock denominated in non-U.S. currency.* The market price of any stock of a covered corporation that is denominated in a currency other than the U.S. dollar is converted into U.S. dollars at the spot rate (as defined in § 1.988–1(d)(1) of this chapter) on the date the stock is issued by the covered corporation or provided by a specified affiliate of the covered corporation (as applicable).

(5) *Stock issued or provided in connection with the performance of services.* The fair market value of stock of a covered corporation issued by the covered corporation or provided by a specified affiliate of the covered corporation (as applicable) in connection with the performance of services is the fair market value of the stock, as determined under section 83, as of the date the stock is issued by the covered corporation or provided by the specified affiliate of the covered corporation (as applicable). For purposes of this section, the fair market value of the stock is determined under the rules provided in section 83 regardless of whether an amount is includible in the service provider's income under section 83 or otherwise. For example, the fair market value of stock issued by a covered corporation pursuant to a stock option described in section 421 and stock issued by a covered corporation to a nonresident alien for services performed outside of the United States is determined using the rules provided in section 83.

(f) *Issuances that are disregarded for purposes of applying the netting rule.* This paragraph (f) lists the only circumstances in which an issuance of stock of a covered corporation is disregarded for purposes of the netting rule.

(1) *Distributions by a covered corporation of its own stock.* Stock of a covered corporation distributed by the covered corporation to its shareholders with respect to the covered corporation's stock is disregarded for purposes of the netting rule.

(2) *Issuances to a specified affiliate*—(i) *In general.* Subject to paragraphs (f)(2)(ii) through (iv) of this section, stock of a covered corporation is disregarded for purposes of the netting rule if that stock is issued by the covered corporation—

(A) To a specified affiliate of the covered corporation; or

(B) In connection with the performance of services by an employee of, or other service provider for, a specified affiliate of the covered corporation (but see paragraph (f)(2)(iv) of this section, allowing certain compensatory transfers of a specified affiliate to be regarded in accordance with paragraph (b)(1)(ii) of this section).

(ii) *Subsequent transfer by specified affiliate.* Stock of a covered corporation issued by the covered corporation to a specified affiliate of the covered corporation that is subsequently transferred by the specified affiliate to a person that is not a specified affiliate of the covered corporation is regarded for purposes of the netting rule, and is treated as issued by the covered corporation on the date of the subsequent transfer, only if—

(A) The subsequent transfer by the specified affiliate occurs within the same taxable year that the specified affiliate receives the stock from the covered corporation (*applicable year*);

(B) The covered corporation does not otherwise reduce its stock repurchase excise tax base for the applicable year with respect to the stock under this section; and

(C) The subsequent transfer by the specified affiliate is not in connection with the performance of services provided to the specified affiliate (but see paragraph (f)(2)(iv) of this section, allowing certain compensatory transfers of a specified affiliate to be regarded in accordance with paragraph (b)(1)(ii) of this section).

(iii) *Specific identification of shares.* For purposes of paragraph (f)(2)(ii)(A) of this section, unless specifically identified, the shares of stock of the covered corporation in a specific class of the covered corporation's stock treated as subsequently transferred by the specified affiliate are the earliest shares of that class issued by the covered corporation to the specified affiliate.

(iv) *Subsequent transfers in connection with the performance of services for a specified affiliate.* Stock issued by a covered corporation in connection with the performance of services for a specified affiliate is not treated as issued by the covered corporation. However, a transfer of stock of a covered corporation described in § 1.83–6(d) of this chapter (in addition to an actual provision of stock by a specified affiliate described in paragraph (b)(1)(ii) of this section) by a specified affiliate of the covered corporation to an employee or other service provider (that is not another specified affiliate of the covered corporation) of the specified affiliate is treated as a provision of stock described in paragraph (b)(1)(ii) of this section.

(3) *Issuances in an E reorganization or an F reorganization.* The following issuances are disregarded for purposes of the netting rule:

(i) Any stock issued by a recapitalizing corporation as part of a transaction qualifying as an E reorganization.

(ii) Any stock issued by a resulting corporation (as defined in § 1.368–2(m)(1) of this chapter) as part of a transaction qualifying as an F reorganization.

(4) *Deemed issuances under section 304(a)(1).* Any stock treated as issued by the acquiring corporation by reason of the application of section 304(a)(1) to a transaction (as more fully described in § 58.4501–2(e)(3)(i)) is disregarded for purposes of the netting rule.

(5) *Deemed issuance of a fractional share.* Any fractional share of a covered corporation's stock deemed to be issued for Federal income tax purposes (by virtue of a payment described in § 58.4501–2(e)(3)(iv)) is disregarded for purposes of the netting rule.

(6) *Issuance by a covered corporation that is a dealer in securities.* Any stock of a covered corporation that is a dealer in securities issued by such covered corporation is disregarded for purposes of the netting rule to the extent the stock is issued, or otherwise is used to satisfy obligations to customers arising, in the ordinary course of the covered corporation's business of dealing in securities.

(7) *Issuance by the target corporation in a reverse triangular merger.* Any target corporation stock that is issued by the target corporation to the merged corporation (within the meaning of section 368(a)(2)(E)) in exchange for consideration that includes the stock of the controlling corporation (within the meaning of section 368(a)(2)(E)) in a transaction qualifying as a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(E) is disregarded for purposes of the netting rule.

(8) *Issuance as part of a section 1036(a) exchange.* Any stock of a covered corporation issued by the covered corporation in exchange for stock of the covered corporation in a transaction that qualifies under section 1036(a) of the Code is disregarded for purposes of the netting rule.

(9) *Issuance as part of a distribution under section 355.* Any stock issued by a controlled corporation in a distribution qualifying under section 355 (or so much of section 356 as relates to section 355) is disregarded for purposes of the netting rule.

(10) *Stock contributions to an employer-sponsored retirement plan.* Any stock of a covered corporation contributed to an employer-sponsored retirement plan, any stock of a covered corporation treated as contributed to an employer-sponsored retirement plan under § 58.4501–3(d)(1)(ii) and (d)(5)(ii), and any stock of a covered corporation sold to a leveraged or non-leveraged ESOP, is disregarded for purposes of the netting rule.

(11) *Net exercises and share withholding.* Stock of a covered corporation withheld by the covered corporation or a specified affiliate of the covered corporation to satisfy the exercise price of a stock option, or to pay any withholding obligation, is disregarded for purposes of the netting rule. For example, stock of a covered corporation withheld by a covered corporation or a specified affiliate of the covered corporation to pay the exercise price of a stock option, to satisfy an employer's income tax withholding obligation under section 3402 of the Code, to satisfy an employer's withholding obligation under section 3102 of the Code, or to satisfy an employer's withholding obligation for State, local, or foreign taxes, is disregarded for purposes of the netting rule.

(12) *Settlement other than in stock.* Settlement of an option contract with respect to stock of a covered corporation using any consideration other than stock of the covered corporation (including cash) is disregarded for purposes of the netting rule.

(13) *Instrument not in the legal form of stock*—(i) *Issuance or provision of covered non-stock instrument generally disregarded.* Except as provided in paragraph (f)(13)(iii) or (iv) of this section, the issuance by a covered corporation or provision by a specified affiliate of the covered corporation of a covered non-stock instrument (as defined in paragraph (f)(13)(ii)(B) of this section), including an issuance or provision before the initiation date or after the cessation date, is disregarded for purposes of the netting rule.

(ii) *Definitions.* The following definitions apply for purposes of this paragraph (f)(13).

(A) *Non-stock instrument.* A *non-stock instrument* is an instrument of a covered corporation that is not in the legal form of stock but that is treated as stock for Federal tax purposes. For the avoidance of doubt, in the case of a covered corporation that is an eligible entity within the meaning of § 301.7701–3(a) of this chapter, a *non-stock instrument* does not include an instrument that is in the legal form of a membership, partnership, or other ownership interest of the eligible entity.

(B) *Covered non-stock instrument.* A *covered non-stock instrument* is a non-stock instrument issued by a covered corporation or provided by a specified affiliate of the covered corporation to a covered holder.

(C) *Covered holder.* A *covered holder* is any person that owns (or under the attribution rules of section 318 of the Code is considered to own) at least 10 percent of the stock of the covered corporation, either by vote or value, but only if the covered corporation has knowledge of facts that would indicate such ownership, including through legal documentation of share ownership, publicly available information, or any other means—

(*1*) In the case of the covered corporation's issuance of a non-stock instrument, at the time of the issuance by the covered corporation; or

(*2*) In the case of a specified affiliate of the covered corporation's provision of a non-stock instrument, at the time of the provision by the specified affiliate.

(iii) *Certain instruments treated as issued when repurchased or acquired*—(A) *In general.* Subject to the identification requirement in paragraph (f)(13)(iii)(B) of this section, if a covered non-stock instrument is repurchased by a covered corporation or acquired by a specified affiliate of the covered corporation, the issuance or provision of the instrument is regarded for purposes of the netting rule at the time of such repurchase or acquisition based on the fair market value of the instrument when the instrument was issued or provided. Such fair market value is determined under paragraph (e) of this section. For purposes of the stock repurchase excise tax regulations, the delivery of stock pursuant to the terms of a covered non-stock instrument is treated as a repurchase of the covered non-stock instrument in exchange for an issuance or provision of the stock that is delivered.

(B) *Identification of an instrument not in the legal form of stock.* The issuance or provision of a covered non-stock instrument is regarded under paragraph (f)(13)(iii)(A) of this section only if the covered corporation identifies the repurchase or acquisition of the covered non-stock instrument as the repurchase or acquisition of a covered non-stock instrument on the return on which the stock repurchase excise tax must be reported for the covered corporation's taxable year in which the repurchase or acquisition occurs.

(iv) *Issuances pursuant to a public offering.* Paragraph (f)(13)(i) of this section does not apply to any issuance of a covered non-stock instrument the offer and sale of which was registered with the SEC.

(v) *Coordination with specified affiliate rule.* This paragraph (f)(13) does not apply to the extent that paragraph (f)(2) of this section applies.

§ 58.4501–5 Examples.

(a) *Scope.* The examples in this section illustrate the application of section 4501 of the Code and the stock repurchase excise tax regulations other than the provisions of section 4501(d) and § 58.4501–7. *See* § 58.4501–7(n) and (o) for examples that illustrate the application of the rules in § 58.4501–7 related to section 4501(d).

(b) *In general.* For purposes of the examples in this section, unless otherwise stated: each of Corporation X and unrelated Target is a covered corporation that is a calendar-year taxpayer; the only outstanding stock of each of Corporation X and Target is a single class of common stock that is traded on an established securities market; any shareholder whose stock is redeemed in a section 317(b) redemption qualifies for sale or exchange treatment under section 302(a) of the Code; the de minimis exception does not apply; the covered corporation determines the fair market value of its stock repurchased or issued based on the trading price of the stock at the time it is repurchased or issued; the stock is not a non-stock instrument; and the

facts set forth the only repurchases and issuances made during the taxable year.

(1) *Example 1: Redemption of preferred stock not subject to an exception*—(i) *Facts.* Corporation X has outstanding common stock that is traded on an established securities market. Corporation X also has outstanding mandatorily redeemable preferred stock issued on July 1, 2023, that is stock for Federal tax purposes but is not traded on an established securities market, is not additional tier 1 capital, and is not described in section 1504(a)(4) of the Code. On January 1, 2025, Corporation X redeems the preferred stock pursuant to its terms.

(ii) *Analysis.* The redemption by Corporation X of its mandatorily redeemable preferred stock is a repurchase because Corporation X redeems an instrument that is stock for purposes of the stock repurchase excise tax regulations (that is, preferred stock issued by Corporation X that is neither additional tier 1 capital nor described in section 1504(a)(4)), the redemption is a section 317(b) redemption, and the exception for mandatorily redeemable stock does not apply. *See* §§ 58.4501–1(b)(34) and 58.4501–2(e)(2)(i) and (e)(3)(iii).

(iii) *Mandatorily redeemable preferred stock issued prior to August 16, 2022.* The facts are the same as in paragraph (b)(1)(i) of this section (*Example 1*), except that Corporation X issues the mandatorily redeemable preferred stock on July 1, 2022. The redemption by Corporation X of such stock is not a repurchase. *See* § 58.4501–2(e)(3)(iii).

(2) *Example 2: Debt-for-debt exchange*—(i) *Facts.* Corporation X has outstanding securities with a principal amount of $100x. On January 1, 2024, Corporation X issues new securities with a principal amount of $100x to its security holders in exchange for the outstanding securities (debt-for-debt exchange). Neither the outstanding securities nor the new securities are treated as stock for Federal tax purposes.

(ii) *Analysis.* The debt-for-debt exchange is not subject to the stock repurchase excise tax because it is not a repurchase of stock. *See* §§ 58.4501–1(a) and (b)(34) and 58.4501–2(c)(1) and (e)(4)(i).

(3) *Example 3: Valuation of repurchase*—(i) *Facts.* On April 15, 2025, when the stock of Corporation X is trading at $0.70x per share, Corporation X purchases 50 shares of its stock for $35x from one of its shareholders on an established securities market. The shareholder is required to deliver the stock to Corporation X within the standard settlement cycle for the stock (a regular-way sale), which is one business day after execution of the sale (that is, the trade date of April 15, 2025). On April 17, 2025, the 50 shares are delivered to Corporation X.

(ii) *Analysis.* Corporation X's purchase of 50 shares of Corporation X stock is a repurchase, because the transaction is a section 317(b) redemption and no exception applies. *See* § 58.4501–2(e)(2)(i) and (e)(3). For purposes of computing Corporation X's stock repurchase excise tax base, the trade date of April 15, 2025, is the date of repurchase. *See* § 58.4501–2(g)(1) and (2). The fair market value of the 50 shares of stock repurchased on April 15, 2025, is the aggregate market price of those shares on the date of repurchase, or $35x ($0.70x per share × 50 shares = $35x). *See* § 58.4501–2(h)(1). Accordingly, the repurchase by Corporation X increases its stock repurchase excise tax base for the 2025 taxable year by $35x.

(iii) *Application of netting rule.* The facts are the same as in paragraph (b)(3)(i) of this section (*Example 3*), except that, on August 1, 2025, Corporation X issues 20 shares of its stock to an unrelated party, at which time ownership of the stock transfers to the unrelated party for Federal income tax purposes. On that date, the stock of Corporation X is trading at $0.50x per share. For purposes of computing Corporation X's stock repurchase excise tax base, Corporation X is treated as issuing the 20 shares of its stock on August 1, 2025 (that is, the date on which ownership of the stock transfers to the recipient for Federal income tax purposes). *See* § 58.4501–4(d)(1). The fair market value of that issued stock is its aggregate market price on the date of issuance by Corporation X, or $10x ($0.50x per share × 20 shares = $10x). *See* § 58.4501–4(e)(1). Accordingly, the net increase in Corporation X's stock repurchase excise tax base for its 2025 taxable year is $25x ($35x repurchase − $10x issuance = $25x). *See* § 58.4501–2(c)(1).

(4) *Example 4: Acquisition partially funded by the target corporation*—(i) *Facts.* On May 30, 2025, Corporation X acquires all of Target's outstanding stock (Target Stock Acquisition). To effectuate the Target Stock Acquisition, Corporation X causes the following transaction steps to occur. First, Corporation X contributes $40x to a newly formed corporation (Merger Sub). Second, Merger Sub merges into Target, with Target surviving the merger (Subsidiary Merger). At the time of the Subsidiary Merger, the stock of Target has an aggregate fair market value of $100x. In the Subsidiary Merger, Target's shareholders exchange all their Target stock for $100x of cash, of which $60x is funded by Target and $40x is funded by Corporation X. For Federal income tax purposes, the transitory existence of Merger Sub is disregarded, and Target is treated as if Target redeemed 60 percent of its outstanding stock for $60x as part of the Subsidiary Merger. (This treatment results from the fact that Target funded $60x of the consideration received by Target's shareholders in exchange for their Target stock.) All of Target's stock ceases to trade on an established securities market upon completion of the Target Stock Acquisition.

(ii) *Analysis.* Target ceases to be a covered corporation after the Target Stock Acquisition. *See* § 58.4501–1(b)(7). Target's redemption of 60 percent of its outstanding stock is a redemption within the meaning of section 317(b) with regard to the stock of a covered corporation. *See* § 58.4501–2(e)(2)(i). However, because Target's redemption occurs as part of a transaction in which Target ceases to be a covered corporation, it is not a repurchase. *See* § 58.4501–2(e)(3)(ii).

(5) *Example 5: Pro rata stock split*—(i) *Facts.* On October 1, 2025, Corporation X distributes three shares of Corporation X stock with respect to each existing share of its outstanding stock (Corporation X Stock Split).

(ii) *Analysis.* The stock distributed by Corporation X to its shareholders through the Corporation X Stock Split is disregarded for purposes of the netting rule because Corporation X distributed the stock to its shareholders with respect to its outstanding stock. *See* § 58.4501–4(f)(1). Accordingly, the Corporation X Stock Split is not taken into account in computing Corporation X's stock repurchase excise tax base for its 2025 taxable year. *See* § 58.4501–2(c)(1) (regarding the computation of the stock repurchase excise tax base).

(6) *Example 6: Acquisition of a target corporation in an acquisitive reorganization*—(i) *Facts.* On October 1, 2025, Target merges into Corporation X in a transaction that qualifies as a reorganization under section 368(a)(1)(A) of the Code (Target Merger). On the date of the Target Merger, the fair market value of Target's outstanding stock is $100x. In the Target Merger, Target's shareholders exchange their Target stock for Corporation X stock and cash.

(ii) *Analysis.* Target's acquisition of its stock from the Target shareholders in exchange for the consideration received

in the Target Merger is not a repurchase by Target. *See* § 58.4501–2(e)(5)(v).

(7) *Example 7: E reorganization*—(i) *Facts.* On November 1, 2025, Corporation X issues shares of new stock, with a fair market value of $100x (New Common Stock), to its shareholders in exchange for their outstanding stock in Corporation X (Old Common Stock) pursuant to a plan of reorganization (Recapitalization). The Recapitalization qualifies as an E reorganization. At the time of the Recapitalization, the fair market value of Corporation X's Old Common Stock is $100x.

(ii) *Analysis.* The acquisition by Corporation X of its Old Common Stock solely in exchange for New Common Stock in the Recapitalization is not a repurchase. *See* § 58.4501–2(e)(4)(i). The issuance of the New Common Stock by Corporation X is disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(3)(i).

(8) *Example 8: E reorganization with non-qualifying property*—(i) *Facts.* The facts are the same as in paragraph (b)(7)(i) of this section (*Example 7*), except that some shareholders receive solely shares of New Common Stock in exchange for their shares of Old Common Stock, and other shareholders receive both shares of New Common Stock and Corporation X securities in exchange for their shares of Old Common Stock. The aggregate fair market value of the New Common Stock is $80x, and the aggregate fair market value of the Corporation X securities is $20x. The distribution of the Corporation X securities is not treated as a distribution with respect to Corporation X's stock under § 1.301–1(j) of this chapter and is not treated as having the effect of a distribution of a dividend under section 356(a)(2) of the Code.

(ii) *Analysis regarding repurchase treatment, timing, and amount.* The acquisition by Corporation X of its Old Common Stock in exchange for New Common Stock in the Recapitalization is not a repurchase. *See* § 58.4501–2(e)(4)(i). The acquisition by Corporation X of its Old Common Stock for Corporation X securities is a repurchase by Corporation X because the securities would not be permitted to be received by Corporation X shareholders under section 354 of the Code without the recognition of gain. *See id.* The repurchase occurs on November 1, 2025 (that is, the date on which ownership of the Old Common Stock transfers to Corporation X for Federal income tax purposes). *See* § 58.4501–2(g)(1). The amount of the repurchase by Corporation X is $20x, which equals the fair market value of the Old Common Stock exchanged for Corporation X securities on the date of the repurchase. *See* § 58.4501–2(h)(1).

(iii) *Analysis regarding impact of issuance of New Common Stock on Corporation X's stock repurchase excise tax base.* Corporation X's issuance of the New Common Stock is disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(3) (disregarding such types of issuances). Therefore, Corporation X does not take into account any of the New Common Stock issued to its shareholders in computing its stock repurchase excise tax base for its 2025 taxable year under § 58.4501–4(b)(1).

(9) *Example 9: Cash paid in lieu of fractional shares*—(i) *Facts.* The facts are the same as in paragraph (b)(7)(i) of this section (*Example 7*), except that, as part of the Recapitalization, Corporation X shareholders receive cash in lieu of fractional shares of New Common Stock. The payment by Corporation X of cash in lieu of fractional shares of New Common Stock was not separately bargained-for consideration (that is, the cash paid by Corporation X in lieu of the fractional shares represented a mere rounding off of the shares issued in the Recapitalization). In addition, the payment by Corporation X of cash in lieu of fractional shares of New Common Stock was carried out solely for administrative convenience (and, therefore, solely for non-tax reasons) and was for an amount of cash that did not exceed the value of one full share of New Common Stock.

(ii) *Analysis.* The payment by Corporation X of cash in lieu of fractional shares of New Common Stock is treated for Federal income tax purposes as though the fractional shares were distributed by Corporation X as part of the Recapitalization and then redeemed by Corporation X for cash. This deemed redemption is not a repurchase because the payment of cash in lieu of the fractional shares satisfies the requirements of § 58.4501–2(e)(3)(iv). In addition, Corporation X's deemed issuance of the fractional shares is disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(5).

(10) *Example 10: F reorganization*—(i) *Facts.* Corporation X is a State A corporation. To reorganize under the laws of State B, on November 15, 2025, Corporation X forms New Corporation X (a State B corporation) and merges into New Corporation X in a transaction that qualifies as an F reorganization (Corporation X Redomiciliation). On the date of the Corporation X Redomiciliation, the fair market value of Corporation X's stock is $100x. Shareholder A owns $25x of Corporation X's outstanding stock. In the Corporation X Redomiciliation, Shareholder A transfers all its Corporation X stock in exchange for $25x of cash, which is treated for Federal income tax purposes as an unrelated, separate transaction from the Corporation X Redomiciliation to which section 302(a) applies (Shareholder A Redemption). *See* § 1.368–2(m)(3)(iii) of this chapter. The remaining Corporation X shareholders exchange their Corporation X stock for New Corporation X stock as part of the Corporation X Redomiciliation.

(ii) *Analysis regarding repurchase treatment, timing, and amount.* Corporation X and New Corporation X are treated as the same corporation for purposes of the stock repurchase excise tax regulations. *See* § 58.4501–1(e). The Shareholder A Redemption is a repurchase by Corporation X because it is a section 317(b) redemption. *See* § 58.4501–2(e)(2)(i). This repurchase occurs on November 15, 2025 (that is, the date on which Shareholder A's ownership of its Corporation X stock transfers to Corporation X as part of the transaction). *See* § 58.4501–2(g)(1). The acquisition by Corporation X of its Corporation X stock in exchange for New Corporation X stock pursuant to the plan of reorganization is not a repurchase because that exchange is not an economically similar transaction. *See* § 58.4501–2(e)(4). The total amount of the repurchase by Corporation X is $25x (the fair market value of the Corporation X stock redeemed in the Shareholder A Redemption on the date of the redemption). *See* § 58.4501–2(h)(1). New Corporation X's transfer of $75x of its stock to Corporation X in the Corporation X Redomiciliation is disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(3) (disregarding such types of issuances). Therefore, New Corporation X's stock repurchase excise tax base for its 2025 taxable year is $25x ($25x gross repurchase amount unreduced by the $75x of New Corporation X stock issued in the Corporation X Redomiciliation).

(11) *Example 11: Section 355 split-off*—(i) *Facts.* Corporation X owns all the stock of a pre-existing subsidiary (Controlled). On December 1, 2025, Corporation X distributes all the stock of Controlled (with a fair market value of $80x) and $20x of cash to certain of Corporation X's shareholders (Participating Shareholders) in exchange for $100x of Corporation X stock in a split-off (Corporation X Split-Off).

(ii) *Analysis regarding repurchase treatment, timing, and amount.* The acquisition by Corporation X of its stock

in exchange for Controlled stock is not a repurchase because the Controlled stock would be permitted to be received by the Participating Shareholders under section 355 without the recognition of gain. *See* § 58.4501–2(e)(4)(ii). The acquisition by Corporation X of its stock in exchange for Controlled stock and cash in the Corporation X Split-Off is a repurchase by Corporation X. *See* § 58.4501–2(e)(2)(ii) and (e)(4)(ii). This repurchase occurs on December 1, 2025 (that is, the date on which ownership of the Corporation X stock transfers to Corporation X for Federal income tax purposes). *See* § 58.4501–2(g)(1). The total amount of the repurchase by Corporation X is $100x, which equals the aggregate fair market value of the Corporation X stock on the date the stock is exchanged by the Participating Shareholders for Controlled stock and cash in the Corporation X Split-Off (that is, December 1, 2025). *See* § 58.4501–2(h)(1).

(iii) *Analysis regarding impact of Corporation X Split-Off on Corporation X's stock repurchase excise tax base.* Corporation X's gross repurchase amount for its 2025 taxable year is $100x on account of the Corporation X Split-Off. *See* § 58.4501–2(c)(1)(i). Under the reorganization exception, Corporation X may reduce its gross repurchase amount under § 58.4501–2(c)(1)(ii) by an amount equal to the aggregate fair market value of any Corporation X stock repurchased from a Participating Shareholder in the Corporation X Split-Off to the extent that the repurchase is for property permitted by section 355 to be received without the recognition of gain or loss. *See* § 58.4501–3(c). Accordingly, Corporation X's gross repurchase amount is reduced under § 58.4501–2(c)(1)(ii) by $80x as a result of the application of the reorganization exception. Consequently, Corporation X's stock repurchase excise base for its 2025 taxable year is $20x ($100x − $80x).

(12) *Example 12: Section 355 split-off as part of a D reorganization*—(i) *Facts.* The facts are the same as in paragraph (b)(11)(i) of this section (*Example 11*), except that Controlled is a newly formed corporation, and the Corporation X Split-Off is carried out as part of a transaction qualifying as a reorganization under section 368(a)(1)(D) in which Corporation X transfers assets to Controlled.

(ii) *Analysis regarding Corporation X's stock repurchase excise tax base.* The analysis regarding Corporation X's stock repurchase excise tax base is the same as in paragraphs (b)(11)(ii) and (iii) of this section (*Example 11*).

(iii) *Analysis regarding Controlled's stock repurchase excise tax base.* Controlled's transfer of $80x of its stock to Corporation X in the Corporation X Split-Off is disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(9) (disregarding such types of issuances). Controlled's transfer of its stock to Corporation X also is disregarded for purposes of the netting rule because Controlled is not a covered corporation at the time of the transfer. *See* § 58.4501–2(d)(1). Therefore, Controlled does not take into account any of the $80x of its stock transferred to Corporation X in computing Controlled's stock repurchase excise tax base for its 2025 taxable year under § 58.4501–4(b)(1).

(13) *Example 13: Section 355 spin-off*—(i) *Facts.* The facts are the same as in paragraph (b)(11)(i) of this section (*Example 11*), except that Corporation X distributes the Controlled stock and cash to the Corporation X shareholders pro rata without the shareholders exchanging any Corporation X stock (Corporation X Spin-Off).

(ii) *Analysis.* The Corporation X Spin-Off is not a repurchase by Corporation X. *See* § 58.4501–2(e)(5)(iii).

(14) *Example 14: Section 355 spin-off as part of a D reorganization*—(i) *Facts.* The facts are the same as in paragraph (b)(13)(i) of this section (*Example 13*), except that Controlled is a newly formed corporation, the Corporation X Spin-Off is carried out as part of a transaction qualifying as a reorganization under section 368(a)(1)(D) in which Corporation X transfers assets to Controlled, and Corporation X receives the $20x of cash from Controlled and distributes the cash to certain of Corporation X's shareholders in exchange for Corporation X stock.

(ii) *Analysis regarding Corporation X's stock repurchase excise tax base.* The distribution by Corporation X of the $80x of stock of Controlled in the Corporation X Spin-Off is not a repurchase by Corporation X. *See* § 58.4501–2(e)(5)(iii)(A). The distribution by Corporation X of the $20x of cash in exchange for Corporation X stock is a repurchase. *See* § 58.4501–2(e)(5)(iii)(B).

(iii) *Analysis regarding Controlled's stock repurchase excise tax base.* The analysis regarding Controlled's stock repurchase excise tax base is the same as in paragraph (b)(12)(iii) of this section (*Example 12*).

(15) *Example 15: Repurchase pursuant to an accelerated share repurchase agreement*—(i) *Facts.* On October 10, 2022, Corporation X entered into an accelerated share repurchase (ASR) agreement with an investment bank (Bank). Under the terms of the ASR agreement, Bank agrees to deliver a number of shares of Corporation X stock to Corporation X during the term of the ASR, in an amount determined by reference to the price of Corporation X stock on specified days during the term of the ASR. Pursuant to the terms of the ASR agreement, Corporation X paid Bank a prepayment amount. Bank borrowed 80 shares of Corporation X stock from a party not related to Bank or Corporation X. Pursuant to the terms of the ASR agreement, Bank delivered 80 shares of Corporation X stock to Corporation X on October 12, 2022. On final settlement of the ASR, Bank may be required to deliver additional shares of Corporation X stock to Corporation X or Corporation X may be required to make a payment to Bank. The terms of the ASR agreement and the facts and circumstances cause ownership of the 80 shares to transfer from Bank to Corporation X for Federal income tax purposes at the time of delivery (that is, October 12, 2022). The agreement settled in 2023. On February 1, 2023, Bank delivers an additional 20 shares to Corporation X in final settlement of the ASR agreement. For Federal income tax purposes, ownership of those 20 shares is treated as transferring from Bank to Corporation X at the time of delivery (that is, February 1, 2023).

(ii) *Analysis.* Corporation X is treated as repurchasing 80 shares of Corporation X stock on October 12, 2022 (that is, the date on which ownership of the 80 shares delivered by Bank transferred from Bank to Corporation X for Federal income tax purposes). *See* § 58.4501–2(g)(1). However, the repurchase by Corporation X of the 80 shares of Corporation X stock does not increase Corporation X's stock repurchase excise tax base for its 2022 taxable year because the repurchase occurred prior to January 1, 2023. *See* § 58.4501–2(c)(3); *see also* section 10201(d) of the IRA (providing that the stock repurchase excise tax applies to repurchases after December 31, 2022). The delivery by Bank to Corporation X of 20 shares of Corporation X stock on February 1, 2023, constitutes a repurchase because, for Federal income tax purposes, the terms of the ASR agreement and the facts and circumstances cause ownership of those shares to transfer from Bank to Corporation X on that date. *See* § 58.4501–2(g)(1). Therefore, the repurchase by Corporation X of those 20 shares of Corporation X stock increases Corporation X's gross repurchase amount for its 2023 taxable year.

(16) *Example 16: Distribution in complete liquidation of a covered corporation*—(i) *Facts.* Corporation X adopts a plan of complete liquidation that becomes effective on March 1, 2025 (Corporation X Liquidation). Corporation X has 100 shares of stock outstanding. On April 1, 2025, all shareholders of Corporation X receive a liquidating distribution by Corporation X in full payment for their Corporation X stock. On the date on which Corporation X distributes all its corporate assets to its shareholders in complete liquidation (that is, April 1, 2025), Corporation X stock is trading at $1x per share. Each distribution in complete liquidation is subject to section 331 of the Code.

(ii) *Analysis.* A distribution in complete liquidation of a covered corporation (that is, Corporation X) to which section 331 applies is not a repurchase by the covered corporation. *See* § 58.4501–2(e)(5)(i). Therefore, none of the distributions by Corporation X in complete liquidation is a repurchase by Corporation X, and Corporation X's gross repurchase amount for its 2025 taxable year is not increased because of the Corporation X Liquidation.

(17) *Example 17: Complete liquidation of a covered corporation to which sections 331 and 332(a) both apply*—(i) *Facts.* The facts are the same as in paragraph (b)(16)(i) of this section (*Example 16*), except that one of Corporation X's shareholders (Corporation Z) is an 80-percent distributee (as defined in section 337(c) of the Code), and the liquidating distribution by Corporation X to Corporation Z as part of the Corporation X Liquidation qualifies as a complete liquidation under section 332(a).

(ii) *Analysis.* The analysis is the same as in paragraph (b)(16)(ii) of this section (*Example 16*).

(18) *Example 18: Acquisition by disregarded entity*—(i) *Facts.* Corporation X owns all the interests in LLC, a domestic limited liability company that is disregarded as an entity separate from its owner for Federal tax purposes (disregarded entity) under § 301.7701–3 of this chapter. On May 31, 2025, LLC purchases shares of Corporation X's stock for cash from an unrelated shareholder.

(ii) *Analysis.* Because LLC is a disregarded entity, the May 31, 2025, acquisition of Corporation X stock is treated as an acquisition by Corporation X. Accordingly, the acquisition is a section 317(b) redemption and therefore a repurchase. *See* § 58.4501–2(e)(2)(i). Section 301.7701–2(c)(2)(v) of this chapter (treating disregarded entities as corporations for purposes of certain excise taxes) does not apply to treat LLC as a corporation because neither chapter 37 of the Code nor section 4501 is described in § 301.7701–2(c)(2)(v)(A) of this chapter.

(19) *Example 19: Multiple repurchases and contributions of same class of stock*—(i) *Facts.* On January 15, 2025, Corporation X repurchases 100 shares of its Class A stock that have an aggregate fair market value of $1,000x ($10x per share). On September 16, 2025, Corporation X repurchases 50 shares of its Class A stock that have an aggregate fair market value of $200x ($4x per share). Corporation X contributes to its ESOP 75 shares of its Class A stock on March 15, 2025, and 75 shares of its Class A stock on October 15, 2025.

(ii) *Analysis.* Corporation X's gross repurchase amount for its 2025 taxable year is increased by $1,200x ($1,000x + $200x = $1,200x) as a result of the repurchases of its Class A stock. *See* § 58.4501–2(c)(1)(i). Under the exception for stock contributions to an employer-sponsored retirement plan, Corporation X's stock contributions reduce Corporation X's gross repurchase amount. *See* §§ 58.4501–2(c)(1)(ii) and 58.4501–3(d). The amount of the reduction is determined by dividing the aggregate fair market value of shares of Class A stock repurchased by the number of shares repurchased ($1,200x/150 shares = $8 per share) and multiplying the number of shares contributed by the average price of the repurchased shares (150 shares × $8 per share = $1,200x). *See* § 58.4501–3(d)(3)(i). Therefore, Corporation X's stock repurchase excise tax base for its 2025 taxable year is $0 ($1,200x repurchase − $1,200x exception = $0).

(20) *Example 20: Multiple repurchases and contributions of different classes of stock*—(i) *Facts.* The facts are the same as in paragraph (b)(19)(i) of this section (*Example 19*), except that Corporation X has Class B stock and contributes its Class B stock rather than its Class A stock to its ESOP. On October 15, 2025, Corporation X contributes to its ESOP 75 shares of its Class B stock that have an aggregate fair market value of $1,000x. On December 16, 2025, Corporation X contributes to its ESOP 25 shares of its Class B stock that have an aggregate fair market value of $500x.

(ii) *Analysis.* Corporation X reduces its gross repurchase amount by an amount equal to the sum of the fair market values of the different class of stock at the time the stock is contributed to the employer-sponsored retirement plan ($1,000x + $500x = $1,500x). However, the amount of the reduction may not exceed the aggregate fair market value of stock of a different class repurchased during the taxable year by Corporation X (that is, $1,200x). *See* § 58.4501–3(d)(4)(ii). Therefore, Corporation X's stock repurchase excise tax base for its 2025 taxable year is $0 ($1,200x repurchase − $1,200x exception = $0). The $300x excess of the contributions over the allowable reduction ($1,500x contributions − $1,200x allowable reduction) may not be carried forward or backward to preceding or succeeding taxable years of Corporation X. *See* § 58.4501–2(c)(2)(ii).

(21) *Example 21: Treatment of contributions after the taxable year*—(i) *Facts.* Corporation X repurchases 200 shares of its stock on December 31, 2025, for $200x ($1x per share). Corporation X has no other repurchases in 2025. On February 2, 2026, Corporation X contributes 200 shares of stock to its ESOP. Corporation X treats the contribution as if it had been received for the 2025 calendar year for plan allocation purposes. *See* § 58.4501–3(d)(5)(ii).

(ii) *Analysis.* Corporation X may use the contribution of the 200x shares of its stock on February 2, 2026, to reduce its $200x gross repurchase amount for 2025. *See* § 58.4501–3(d)(5)(ii).

(22) *Example 22: Becoming a covered corporation*—(i) *Facts.* As of January 1, 2025, all of Corporation X's stock is privately held (and, therefore, none of Corporation X's stock is traded on an established securities market). On February 15, 2025, Corporation X purchases 10 shares of its stock for $5x of cash ($.50x per share). On April 1, 2025, Corporation X issues 100 shares of its stock to the public (Public Shareholders), at which time Corporation X's stock begins trading on an established securities market. On November 15, 2025, when Corporation X stock is trading at $2x per share, Corporation X purchases 60 shares of its stock for $120x of cash.

(ii) *Analysis regarding purchase on February 15, 2025.* Corporation X becomes a covered corporation at the beginning of the day on April 1, 2025 (the initiation date). *See* § 58.4501–2(d)(1). Accordingly, Corporation X's purchase of 10 shares of its stock for $5x of cash on February 15, 2025, is not a repurchase. Thus, the purchase on February 15, 2025, is not included in Corporation X's gross repurchase amount for its 2025 taxable year.

(iii) *Analysis regarding issuance on April 1, 2025.* Corporation X is a covered corporation at the beginning of the day on April 1, 2025. *See* § 58.4501–2(d)(1). Accordingly, the Corporation X

stock issued to the Public Shareholders on that date is stock of a covered corporation for purposes of the netting rule. *See* § 58.4501–4(b)(1). As a result, Corporation's gross repurchase amount for its 2025 taxable year is reduced by $100x. *See* § 58.4501–2(c)(1)(iii).

(iv) *Analysis regarding purchase on November 15, 2025.* Corporation X is a covered corporation on November 15, 2025. Accordingly, Corporation X's purchase of 60 shares of its stock on that date is a repurchase because the transaction is a section 317(b) redemption (that is, a redemption within the meaning of section 317(b) with regard to the stock of a covered corporation). *See* §§ 58.4501–1(b)(31) and 58.4501–2(e)(2)(i). For purposes of computing Corporation X's gross repurchase amount, the fair market value of the 60 shares of stock repurchased on November 15, 2025, is the aggregate market price of those shares on that repurchase date, or $120x ($2x per share × 60 shares = $120x). *See* § 58.4501–2(g)(1). Accordingly, Corporation's gross repurchase amount for its 2025 taxable year is increased by $120x. *See* § 58.4501–2(c)(1)(i).

(23) *Example 23: Actual pro rata redemption in partial liquidation*—(i) *Facts.* Corporation X is actively engaged in the conduct of Businesses A and B. Each business constitutes a qualified trade or business within the meaning of section 302(e)(3). On September 1, 2025, pursuant to a plan of partial liquidation adopted in the same taxable year, Corporation X sells Business B for $100x and distributes the proceeds to its shareholders pro rata in redemption of $100x of Corporation X stock. The transaction qualifies as a distribution in partial liquidation under section 302(b)(4) and (e).

(ii) *Analysis.* Corporation X's distribution in partial liquidation is a section 317(b) redemption. In addition, Corporation X's pro rata distribution in partial liquidation is not included in the exclusive list of transactions under § 58.4501–2(e)(3) that are a section 317(b) redemption but are not treated as a repurchase. Accordingly, the distribution in partial liquidation is a repurchase. *See* § 58.4501–2(e)(2)(i). Therefore, as a result of the distribution, Corporation X's gross repurchase amount for its 2025 taxable year is increased by $100x. *See* § 58.4501–2(c)(1)(i).

(24) *Example 24: Constructive redemption in partial liquidation*—(i) *Facts.* The facts are the same as in paragraph (b)(23)(i) of this section (*Example 23*), except that the shareholders of Corporation X surrender no stock in exchange for the proceeds from the sale of Business B. For Federal income tax purposes, a constructive redemption of stock is deemed to occur, and the transaction qualifies as a distribution in partial liquidation under section 302(b)(4) and (e).

(ii) *Analysis.* The analysis regarding Corporation X's gross repurchase amount is the same as in paragraph (b)(23)(ii) of this section (*Example 23*).

(25) *Example 25: Non-pro rata redemption in partial liquidation*—(i) *Facts.* The facts are the same as in paragraph (b)(23)(i) of this section (*Example 23*), except that Corporation X distributes the proceeds to Shareholder A in redemption of $100x of preferred Corporation X stock that is not described in § 58.4501–1(b)(34)(ii) or (iii).

(ii) *Analysis.* The analysis regarding Corporation X's gross repurchase amount is the same as in paragraph (b)(23)(ii) of this section (*Example 23*).

(26) *Example 26: Physical settlement of call option contract*—(i) *Facts.* On March 1, 2025, Corporation X issues an option that entitles the holder to buy 100 shares of Corporation X stock from Corporation X for $150x ($1.50x per share). On the date the option is issued, Corporation X stock is trading at $1x per share. On November 1, 2025, when Corporation X stock is trading at $2x per share, the holder pays $150x to Corporation X to exercise the option, and Corporation X issues 100 shares of Corporation X stock to the holder, at which time ownership of the shares transfers to the holder for Federal income tax purposes.

(ii) *Analysis.* For purposes of computing Corporation X's stock repurchase excise tax base, Corporation X is treated as issuing 100 shares of Corporation X stock on November 1, 2025. *See* § 58.4501–4(d)(1). The fair market value of that stock is its aggregate market price on the date of issuance by Corporation X, or $200x ($2x per share × 100 shares = $200x). *See* § 58.4501–4(e)(1). Accordingly, the issuance is a $200x reduction of $200x to Corporation X's gross repurchase amount in computing Corporation X's stock repurchase excise tax base for its 2025 taxable year. *See* § 58.4501–2(c)(1)(iii).

(27) *Example 27: Net cash settlement of call option contract*—(i) *Facts.* The facts are the same as in paragraph (b)(26)(i) of this section (*Example 26*), except that Corporation X net cash settles the option by paying the holder $50x.

(ii) *Analysis.* The net cash settlement is disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(12) (disregarding the settlement of an option contract with respect to stock of a covered corporation using any consideration other than stock of the covered corporation). The net cash settlement also is not a repurchase. *See* § 58.4501–2(e)(5)(iv) (providing that net cash settlement of an option contract with respect to stock of a covered corporation generally is not a repurchase by the covered corporation).

(28) *Example 28: Physical settlement of put option contract*—(i) *Facts.* On April 1, 2025, Corporation X issues an option entitling the holder to sell 100 shares of Corporation X stock to Corporation X for $100x ($1x per share). On the date the option is issued, Corporation X stock is trading at $1.25x per share. On October 1, 2025, when Corporation X stock is trading at $0.75x per share, the holder exercises the option, and Corporation X purchases 100 shares of Corporation X stock for $100x, at which time ownership of the shares transfers to Corporation X.

(ii) *Analysis.* Corporation X's purchase on October 1, 2025, is a repurchase because it is a section 317(b) redemption that is not otherwise excluded. *See* § 58.4501–2(e)(2) and (3). For purposes of computing Corporation X's gross repurchase amount, the fair market value of the repurchased stock is its aggregate market price on the date on which ownership of the stock transfers to Corporation X for Federal income tax purposes (October 1, 2025), or $75x ($0.75x per share × 100 shares = $75x). *See* § 58.4501–2(g)(1) and (h)(1). Accordingly, the repurchase is an increase of $75x to Corporation X's gross repurchase amount for its 2025 taxable year. *See* § 58.4501–2(c)(1)(i).

(29) *Example 29: Net cash settlement of put option contract*—(i) *Facts.* The facts are the same as in paragraph (b)(28)(i) of this section (*Example 28*), except that Corporation X net cash settles the put option by paying the holder $25x.

(ii) *Analysis.* The net cash settlement is not a repurchase. *See* § 58.4501–2(e)(5)(vi) (providing that net cash settlement of an option contract with respect to stock of a covered corporation generally is not a repurchase by the covered corporation).

(30) *Example 30: Indirect ownership*—(i) *Facts.* Corporation X owns 60 percent of the only class of stock of Sub 1, a domestic corporation. Sub 1 owns 60 percent of the only class of stock of Sub 2, which also is a domestic corporation. On October 15, 2025, Sub 2 purchases stock of Corporation X with a market price of $100,000.

(ii) *Analysis.* Corporation X must determine at the time its stock is

repurchased by Sub 2 (that is, on October 15, 2025) whether Sub 2 is a specified affiliate of Corporation X. *See* § 58.4501–2(f)(2)(i). Under § 58.4501–2(f)(2)(ii), Corporation X indirectly owns 36 percent (60% × 60% = 36%) of the stock of Sub 2. Sub 2 is not a specified affiliate of Corporation X, because Corporation X does not own, directly or indirectly, more than 50 percent of the stock of Sub 2. *See* § 58.4501–1(b)(32). Accordingly, Sub 2's purchase of Corporation X stock on October 15, 2025, is not a repurchase under § 58.4501–2(f)(1).

(31) *Example 31: Restricted stock provided to a service provider*—(i) *Facts.* Individual M provides services to Corporation X. In 2025, as compensation for Individual M's services, Corporation X transfers to Individual M 100 shares of Corporation X restricted stock with an aggregate fair market value of $500x ($5x per share). The shares vest in 2028. Individual M does not make an election under section 83(b) of the Code. In 2028, Corporation X withholds from Individual M's other wages amounts that are required to pay the income tax and employment tax withholding obligations arising from the stock transfer. The shares have a fair market value of $7x per share when they vest.

(ii) *Analysis.* Corporation X is treated as issuing 100 shares of stock to Individual M when they become substantially vested in 2028. *See* § 58.4501–4(d)(2)(i). The fair market value of the shares issued is $700x (100 shares × $7x per share = $700x). Accordingly, the issuance is a reduction of $700x in computing Corporation X's stock repurchase excise tax base for its 2028 taxable year.

(32) *Example 32: Restricted stock provided to a service provider with section 83(b) election*—(i) *Facts.* The facts are the same as in paragraph (b)(31)(i) of this section (*Example 31*), except that Individual M makes a valid election under section 83(b) to include the fair market value of the shares of restricted stock in gross income when the shares are transferred.

(ii) *Analysis.* Corporation X is treated as issuing 100 shares of stock to Individual M when the shares are transferred in 2025. *See* § 58.4501–4(d)(2)(iii). The fair market value of the shares issued is $500x (100 shares × $5x per share = $500x). Accordingly, the issuance is a reduction of $500x in computing Corporation X's stock repurchase excise tax base for its 2025 taxable year. Corporation X is not treated as issuing stock to Individual M when the shares vest in 2028.

(33) *Example 33: Forfeiture of restricted stock provided to a service provider with section 83(b) election*—(i) *Facts.* The facts are the same as in paragraph (b)(32)(i) of this section (*Example 32*), except that Individual M forfeits the 100 shares of restricted stock in 2027 because of a failure to meet the vesting conditions for the stock. At the time of the forfeiture, the fair market value of the 100 shares of stock is $600x (100 shares × $6x per share = $600x).

(ii) *Analysis.* The analysis regarding the timing and amount of Corporation X's issuance of stock is the same as in paragraph (b)(32)(ii) of this section (*Example 32*). *See* § 58.4501–4(d)(2)(iii). However, because Individual M made a valid election under section 83(b) with regard to the stock and the forfeiture resulted from Individual M failing to meet the vesting conditions for the stock, Individual M's forfeiture of the 100 shares of stock to Corporation X is a repurchase by Corporation X. *See* § 58.4501–2(e)(4)(iii). The stock is treated as repurchased in 2027. *See* § 58.4501–2(g)(1). The amount of the repurchase by Corporation X equals the fair market value of the stock (that is, $600x) on the date of the repurchase. *See* § 58.4501–2(h)(1).

(34) *Example 34: Vested stock provided to a service provider with share withholding*—(i) *Facts.* Individual N is an employee of Corporation X. In 2025, as compensation for Individual N's services, Corporation X grants Individual N 100 restricted stock units (RSUs). Pursuant to the RSUs, if Individual N remains employed by Corporation X through December 31, 2027, Corporation X will transfer 100 shares of Corporation X stock to Individual N in January 2028. Individual N remains employed by Corporation X through December 31, 2027. In January 2028, when the shares have a fair market value of $5x per share, Corporation X initiates the transfer of 60 shares of Corporation X stock to Individual N and withholds 40 shares to satisfy Corporation X's income tax and employment tax withholding obligations arising from Individual N vesting in the shares.

(ii) *Analysis.* Corporation X is treated as issuing 60 shares of stock to Individual N when the shares are transferred in 2028. *See* § 58.4501–4(d)(2)(i). The 40 shares of Corporation X stock withheld to satisfy Corporation X's withholding obligations are disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(11)(i). The fair market value of the shares issued is $300x (60 shares × $5x per share = $300x). Accordingly, the issuance is a reduction of $300x in computing Corporation X's stock repurchase excise tax base for its 2028 taxable year.

(35) *Example 35: Stock option net exercise*—(i) *Facts.* Individual O is an employee of Corporation X. In 2025, in connection with the performance of services, Corporation X transfers to Individual O options to purchase 100 shares of Corporation X stock with an exercise price of $4x per share ($400x exercise price in total). The options are described in § 1.83–7 of this chapter and do not have a readily ascertainable fair market value. Individual O exercises the options to purchase 100 shares in 2026, when the fair market value is $5x per share. Corporation X withholds 80 shares to pay the $400x exercise price (80 shares × $5x per share = $400x).

(ii) *Analysis.* Corporation X is treated as issuing 20 shares of stock to Individual O when Individual O exercises the options in 2026. *See* § 58.4501–4(d)(2)(ii). The 80 shares of Corporation X stock withheld to pay the exercise price are disregarded for purposes of the netting rule. *See* § 58.4501–4(f)(11). The fair market value of the shares issued is $100x (20 shares × $5x per share = $100x). Accordingly, the issuance is a reduction of $100x in computing Corporation X's stock repurchase excise tax base for its 2026 taxable year.

(36) *Example 36: Net share settlement not in connection with performance of services*—(i) *Facts.* Corporation X issues a call option to Individual P that entitles Individual P to buy 100 shares of Corporation X stock for $100x ($1x per share) from Corporation X for a limited time. The terms of the option require or permit net share settlement. On the date the option is issued, Corporation X stock is trading at $1x per share. On the date the option is exercised, Corporation X stock is trading at $1.25x per share. To settle the option, Individual P makes no payment to Corporation X, and Corporation X issues 20 shares of Corporation X stock (worth $25x).

(ii) *Analysis.* Corporation X is treated as issuing 20 shares with a fair market value of $25x. *See* § 58.4501–4(f)(11).

(37) *Example 37: Broker-assisted net exercise*—(i) *Facts.* The facts are the same as in paragraph (b)(35)(i) of this section (*Example 35*), except that, instead of Corporation X withholding shares to pay the exercise price, a third-party broker pays an amount equal to the exercise price (that is, $400x) to Corporation X. Corporation X transfers 100 shares of Corporation X stock to the third-party broker, which deposits the 100 shares into Individual O's account. The third-party broker then immediately sells 80 shares to recover the $400x

exercise price paid to Corporation X (80 shares × $5x per share = $400x).

(ii) *Analysis.* Corporation X is treated as issuing 100 shares of stock to Individual O when Individual O exercises the options in 2026. *See* § 58.4501–4(c)(2) and (d)(1)(i). The fair market value of the shares issued is $500x (100 shares × $5x per share = $500x). Accordingly, the issuance is a reduction of $500x in computing Corporation X's stock repurchase excise tax base for its 2026 taxable year.

(38) *Example 38: Stock provided by a specified affiliate to an employee*—(i) *Facts.* Individual Q is an employee of Corporation Y, which is a specified affiliate of Corporation X. In 2025, Corporation X transfers 100 shares of its stock to Individual Q, when the stock is valued at $9x per share, in connection with Individual Q's performance of services as an employee of Corporation Y.

(ii) *Analysis.* Under § 1.83–6(d) of this chapter, Corporation X is treated as contributing the stock to the capital of Corporation Y, which is treated as transferring the shares to Individual Q as compensation for services. Corporation Y is treated as providing 100 shares to Individual Q. *See* § 58.4501–4(b)(1)(ii) and (f)(2)(iv). The fair market value of the shares provided is $900x (100 shares × $9x per share = $900x). Accordingly, the provision is a reduction of $900x in computing Corporation X's stock repurchase excise tax base for its 2025 taxable year.

(39) *Example 39: Stock provided by a specified affiliate to a non-employee*—(i) *Facts.* The facts are the same as in paragraph (b)(38)(i) of this section (*Example 38*), except that Individual Q provides services as a non-employee service provider of Corporation Y.

(ii) *Analysis.* The analysis is the same as in paragraph (b)(38)(ii) of this section (*Example 38*).

(40) *Example 40: Corporation treated as a domestic corporation under section 7874(b)*—(i) *Facts.* Corporation FB is a corporation the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1) of the Code) and that is created or organized in a foreign jurisdiction. Corporation FB is treated as a domestic corporation under section 7874(b) of the Code.

(ii) *Analysis.* Corporation FB is treated for purposes of this title as a domestic corporation under section 7874(b). Corporation FB is a covered corporation because it is treated for purposes of this title as a domestic corporation and its stock is traded on an established securities market. *See* § 58.4501–1(b)(7).

§ 58.4501–6 Applicability dates.

(a) *In general.* Except as provided in paragraph (b) of this section, §§ 58.4501–1 through 58.4501–5 apply to—

(1) Repurchases of stock of a covered corporation occurring after December 31, 2022; and

(2) Issuances and provisions of stock of a covered corporation occurring during taxable years ending after December 31, 2022.

(b) *Exceptions*—(1) *Applicability date for certain rules.* Sections 58.4501–2(d), (e)(4)(iii), (f)(2), (h)(2)(v), and (h)(3)(ii), 58.4501–3(g)(3) through (5), 58.4501–4(e)(2)(v), (e)(3)(ii), (f)(2)(ii), (f)(8), (f)(9), and (f)(13) apply to—

(i) Repurchases of stock of a covered corporation occurring after April 12, 2024; and

(ii) Issuances and provisions of stock of a covered corporation occurring after April 12, 2024.

(2) *Early application.* Provided a covered corporation consistently applies all the rules set forth in paragraph (b)(1) of this section, the covered corporation may choose to apply all the rules set forth in paragraph (b)(1) of this section to—

(i) Repurchases of stock of the covered corporation occurring on or before April 12, 2024, and after December 31, 2022; and

(ii) Issuances and provisions of stock of the covered corporation occurring on or before April 12, 2024, and during taxable years ending after December 31, 2022.

(c) *Special rules for acquisitions or repurchases of stock of certain foreign corporations. See* § 58.4501–7(p) for applicability dates for the provisions of § 58.4501–7 and the provisions of § 58.4501–1 as applicable to transactions subject to § 58.4501–7.

§ 58.4501–7 Special rules for acquisitions or repurchases of stock of certain foreign corporations.

(a) *Scope.* This section provides rules regarding the application of section 4501(d) of the Code. Paragraph (b) of this section provides definitions applicable for purposes of this section. Paragraph (c) of this section provides rules for computing a section 4501(d) covered corporation's section 4501(d) excise tax liability. Paragraph (d) of this section provides certain coordination rules related to section 4501(d)(2). Paragraph (e) of this section provides certain rules for determining the status of a corporation as an applicable foreign corporation or a covered surrogate foreign corporation. Paragraph (f) of this section provides certain rules for determining the status of a corporation or partnership as an applicable specified affiliate of an applicable foreign corporation or a specified affiliate of a covered surrogate foreign corporation. Paragraph (g) of this section provides rules for determining whether a foreign partnership is an applicable specified affiliate. Paragraph (h) of this section defines the term *CSFC repurchase.* Paragraph (i) of this section is reserved. Paragraph (j) of this section provides rules for determining the date of a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase. Paragraph (k) of this section provides rules for determining the fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation that is repurchased or acquired. Paragraph (l) of this section provides rules regarding the application of certain section 4501(d) exceptions. Paragraph (m) of this section provides rules regarding the section 4501(d) netting rule. Paragraph (n) of this section illustrates the application of the rules of this section through examples involving section 4501(d)(1). Paragraph (o) of this section illustrates the application of the rules of this section through examples involving section 4501(d)(2). Paragraph (p) of this section provides applicability dates for the rules of this section.

(b) *Definitions*—(1) *Application of definitions in § 58.4501–1(b).* Any term used in this section but not defined in paragraph (b)(2) of this section has the meaning provided in § 58.4501–1(b), with the following modifications:

(i) For all definitions provided in § 58.4501–1(b) other than those described in paragraph (b)(1)(ii) of this section, any reference in those definitions to a *covered corporation* is treated as a reference to either a *section 4501(d) covered corporation,* an *applicable foreign corporation,* or a *covered surrogate foreign corporation,* as appropriate based on the context.

(ii) For the definitions of *employee* and *employer-sponsored retirement plan* provided in § 58.4501–1(b)(14) and (15), any reference to a *covered corporation* or its *specified affiliates* is treated solely as a reference to a *section 4501(d) covered corporation.*

(2) *Section 4501(d) definitions.* The definitions in this paragraph (b)(2) apply solely for purposes of this section.

(i) *Applicable foreign corporation.* The term *applicable foreign corporation* means any foreign corporation the stock of which is traded on an established securities market.

(ii) *Applicable specified affiliate.* The term *applicable specified affiliate* means a specified affiliate of an applicable foreign corporation, other than a foreign

corporation or a foreign partnership (unless the partnership has a domestic entity as a direct or indirect partner, as determined under paragraph (g) of this section).

(iii) *CSFC repurchase.* The term *CSFC repurchase* has the meaning provided in paragraph (h) of this section.

(iv) *Covered surrogate foreign corporation.* The term *covered surrogate foreign corporation* means any surrogate foreign corporation (as determined under section 7874(a)(2)(B) of the Code by substituting *September 20, 2021* for *March 4, 2003* each place it appears) the stock of which is traded on an established securities market, including any successor to the surrogate foreign corporation (as determined under § 1.7874–12(a)(10) of this chapter), but only with respect to taxable years that include any portion of the applicable period with respect to such corporation under section 7874(d)(1).

(v) *Direct partner.* The term *direct partner* has the meaning given the term in paragraph (g)(2)(i) of this section.

(vi) *Domestic entity.* The term *domestic entity* means a domestic corporation, a domestic partnership, or a trust within the meaning of section 7701(a)(30)(E) of the Code.

(vii) *Expatriated entity.* The term *expatriated entity* has the meaning given the term in section 7874(a)(2)(A) and § 1.7874–12(a)(8) of this chapter, including any successor (as determined under § 1.7874–12(a)(6) of this chapter).

(viii) *Indirect partner.* The term *indirect partner* has the meaning given the term in paragraph (g)(2)(ii) of this section.

(ix) *Section 4501(d) covered corporation.* The term *section 4501(d) covered corporation* means either—

(A) An applicable specified affiliate of an applicable foreign corporation that is treated as a covered corporation under section 4501(d)(1)(A) by reason of a section 4501(d)(1) repurchase; or

(B) Any expatriated entity with respect to a covered surrogate foreign corporation that is treated as a covered corporation under section 4501(d)(2)(A) by reason of a section 4501(d)(2) repurchase.

(x) *Section 4501(d) covered holder.* The term *section 4501(d) covered holder* has the meaning provided in paragraph (m)(7)(v)(B)(*3*) of this section.

(xi) *Section 4501(d) covered non-stock instrument.* The term *section 4501(d) covered non-stock instrument* has the meaning provided in paragraph (m)(7)(v)(B)(*2*) of this section.

(xii) *Section 4501(d) de minimis exception.* The term *section 4501(d) de minimis exception* has the meaning provided in paragraph (c)(2)(i) of this section.

(xiii) *Section 4501(d) economically similar transaction.* The term *section 4501(d) economically similar transaction* has the meaning provided in paragraph (h)(4) of this section.

(xiv) *Section 4501(d) exception.* The term *section 4501(d) exception* has the meaning provided in paragraph (l)(1) of this section.

(xv) *Section 4501(d) excise tax.* The term *section 4501(d) excise tax* has the meaning provided in paragraph (c)(1) of this section.

(xvi) *Section 4501(d) excise tax base.* The term *section 4501(d) excise tax base* has the meaning provided in paragraph (c)(3)(i) of this section.

(xvii) *Section 4501(d) gross repurchase amount.* The term *section 4501(d) gross repurchase amount* has the meaning provided in paragraph (c)(3)(i)(A) of this section.

(xviii) *Section 4501(d) netting rule.* The term *section 4501(d) netting rule* has the meaning provided in paragraph (m)(1) of this section.

(xix) *Section 4501(d) non-stock instrument.* The term *section 4501(d) non-stock instrument* has the meaning provided in paragraph (m)(7)(v)(B)(*1*) of this section.

(xx) *Section 4501(d) reorganization exception.* The term *section 4501(d) reorganization exception* has the meaning provided in paragraph (l)(2) of this section.

(xxi) *Section 4501(d)(1) repurchase.* The term *section 4501(d)(1) repurchase* means an acquisition of stock of an applicable foreign corporation by an applicable specified affiliate of the applicable foreign corporation from a person other than the applicable foreign corporation or a specified affiliate of the applicable foreign corporation. A *section 4501(d)(1) repurchase* includes a clawback or forfeiture of stock of an applicable foreign corporation pursuant to a legal or contractual obligation on the date of forfeiture or clawback (as appropriate), but only if the stock was treated in the current or a prior year as issued or provided by the section 4501(d) covered corporation to its employees in accordance with the section 4501(d) netting rule.

(xxii) *Section 4501(d)(2) repurchase.* The term *section 4501(d)(2) repurchase* means a CSFC repurchase or an acquisition of stock of a covered surrogate foreign corporation by a specified affiliate of the covered surrogate foreign corporation.

(c) *Computation of section 4501(d) excise tax liability for a section 4501(d) covered corporation*—(1) *Imposition of tax.* Except as provided in paragraph (c)(2) of this section (regarding the section 4501(d) de minimis exception), the amount of excise tax imposed pursuant to section 4501(a) on a section 4501(d) covered corporation (*section 4501(d) excise tax*) for a taxable year equals the product obtained by multiplying—

(i) The applicable percentage; by

(ii) The section 4501(d) excise tax base of the section 4501(d) covered corporation for the taxable year determined in accordance with paragraph (c)(3)(i) of this section.

(2) *Section 4501(d) de minimis exception*—(i) *In general.* A section 4501(d) covered corporation is not subject to the section 4501(d) excise tax with regard to a taxable year of the section 4501(d) covered corporation if, during that taxable year, the aggregate fair market value of all section 4501(d)(1) repurchases with respect to all applicable specified affiliates of the applicable foreign corporation or all section 4501(d)(2) repurchases by the covered surrogate foreign corporation and all specified affiliates of the covered surrogate foreign corporation, as applicable, does not exceed $1,000,000 (*section 4501(d) de minimis exception*).

(ii) *Determination.* A determination of whether the section 4501(d) de minimis exception applies with regard to a taxable year of a section 4501(d) covered corporation is made before applying—

(A) Any section 4501(d) exception under paragraph (l) of this section; and

(B) Any adjustments pursuant to the section 4501(d) netting rule under paragraph (m) of this section.

(3) *Section 4501(d) excise tax base*—(i) *In general.* With regard to a section 4501(d) covered corporation, the term *section 4501(d) excise tax base* means the dollar amount (not less than zero) that is obtained by—

(A) Determining the aggregate fair market value of, as applicable, all section 4501(d)(1) repurchases or section 4501(d)(2) repurchases during the section 4501(d) covered corporation's taxable year (*section 4501(d) gross repurchase amount*);

(B) Reducing the section 4501(d) gross repurchase amount by the fair market value of stock repurchased or acquired in all section 4501(d)(1) repurchases or section 4501(d)(2) repurchases, as applicable, during the section 4501(d) covered corporation's taxable year to the extent any section 4501(d) exceptions apply in accordance with paragraph (l) of this section; and then

(C) Further reducing the section 4501(d) gross repurchase amount by the aggregate fair market value of, as applicable, stock of the applicable foreign corporation or stock of the

covered surrogate foreign corporation to the extent the section 4501(d) netting rule applies in accordance with paragraph (m) of this section.

(ii) *Taxable year determination*—(A) *In general.* The determinations under paragraph (c)(3)(i) of this section are made separately for each section 4501(d) covered corporation and for each taxable year of such section 4501(d) covered corporation.

(B) *No carrybacks or carryforwards.* Reductions under paragraphs (c)(3)(i)(B) and (C) of this section in excess of the section 4501(d) gross repurchase amount with regard to a section 4501(d) covered corporation may not be carried forward or backward to preceding or succeeding taxable years of the section 4501(d) covered corporation.

(4) *Section 4501(d)(1) repurchases or section 4501(d)(2) repurchases before January 1, 2023.* Section 4501(d)(1) repurchases and section 4501(d)(2) repurchases before January 1, 2023, are neither included in the section 4501(d) excise tax base of a section 4501(d) covered corporation nor taken into account in determining the applicability of the section 4501(d) de minimis exception.

(d) *Section 4501(d)(2) coordination rules*—(1) *Coordination rule for section 4501(d)(1) repurchases and section 4501(d)(2) repurchases.* To the extent any CSFC repurchase or acquisition of stock of a covered surrogate foreign corporation by a specified affiliate of the covered surrogate foreign corporation would be both a section 4501(d)(1) repurchase and a section 4501(d)(2) repurchase absent this paragraph (d)(1), the CSFC repurchase or acquisition will only be a section 4501(d)(2) repurchase.

(2) *Coordination rule for multiple section 4501(d) covered corporations*—(i) *In general.* Except as provided in paragraph (d)(2)(ii) of this section, each section 4501(d) covered corporation with respect to a covered surrogate foreign corporation is liable for any section 4501(d) excise tax with respect to section 4501(d)(2) repurchases that occur during a taxable year of the section 4501(d) covered corporation.

(ii) *Full payment and reporting by a section 4501(d) covered corporation.* If there are multiple section 4501(d) covered corporations with respect to a covered surrogate foreign corporation, then provided that one of those section 4501(d) covered corporations pays the amount of section 4501(d) excise tax determined under paragraph (c)(1) of this section with respect to all section 4501(d)(2) repurchases that occur during the paying section 4501(d) covered corporation's taxable year and fulfills the filing obligations for the taxable year with respect to such section 4501(d)(2) repurchases, no other section 4501(d) covered corporation with respect to the covered surrogate foreign corporation is liable for section 4501(d) excise tax related to such section 4501(d)(2) repurchases.

(e) *Status as applicable foreign corporation or covered surrogate foreign corporation*—(1) *Initiation date.* A corporation becomes an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, at the beginning of the corporation's initiation date (that is, the date on which stock of the corporation begins to be traded on an established securities market).

(2) *Cessation date.* A corporation ceases to be an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, at the end of the corporation's cessation date (that is, the date on which all stock of the corporation ceases to be traded on an established securities market).

(3) *Rules regarding F reorganizations*—(i) *Inbound F reorganization.* In the case of a foreign corporation that transfers its assets or that is treated as transferring its assets to a domestic corporation in an F reorganization (as described in § 1.367(b)–2(f) of this chapter), the corporation is not treated as a domestic corporation until the day after the reorganization.

(ii) *Outbound F reorganization.* In the case of a domestic corporation that transfers its assets or that is treated as transferring its assets to a foreign corporation in an F reorganization (as described in § 1.367(a)–1(e) of this chapter), the corporation is not treated as a foreign corporation until the day after the reorganization.

(iii) *Treatment of F reorganizations.* For purposes of the stock repurchase excise tax regulations, the transferor corporation and the resulting corporation (each as defined in § 1.368 2(m)(1) of this chapter) in an F reorganization are treated as the same corporation.

(f) *Status as an applicable specified affiliate or a specified affiliate of a covered surrogate foreign corporation*—(1) *Timing of determination.* The determination of whether a corporation or partnership is an applicable specified affiliate of an applicable foreign corporation, or a specified affiliate of a covered surrogate foreign corporation, as applicable, is made at the time the stock of the applicable foreign corporation or covered surrogate foreign corporation is acquired or provided by the applicable specified affiliate or a specified affiliate of a covered surrogate foreign corporation, respectively, whenever such determination is relevant for purposes of this section.

(2) *Determination of indirect ownership.* Except as provided in paragraph (g)(2)(ii)(B) of this section, a corporation or partnership is treated as indirectly owning stock in a corporation or holding capital or profits interests in a partnership equal to the corporation's or partnership's proportionate percentage of stock owned or capital or profits interests held through other entities.

(g) *Foreign partnerships that are applicable specified affiliates*—(1) *In general.* A foreign partnership is an applicable specified affiliate of an applicable foreign corporation, if—

(i) More than 50 percent of the capital interests or profits interests of the foreign partnership are held, directly or indirectly, by the applicable foreign corporation; and

(ii) Under the rules described in paragraphs (g)(2) through (5) of this section, at least one domestic entity is a direct or indirect partner with respect to the foreign partnership.

(2) *Direct or indirect partner.* Except as provided in paragraphs (g)(4) and (5) of this section—

(i) A domestic entity is a direct partner with respect to a foreign partnership if it directly owns an interest in the foreign partnership; and

(ii) A domestic entity is an indirect partner with respect to a foreign partnership if the domestic entity owns an interest in the foreign partnership indirectly through—

(A) One or more other foreign partnerships;

(B) One or more foreign corporations controlled by one or more domestic entities within the meaning of paragraph (g)(3) of this section; or

(C) An ownership chain with one or more entities described in paragraphs (g)(2)(ii)(A) and (B) of this section.

(3) *Control of a foreign corporation.* For purposes of paragraph (g)(2)(ii)(B) of this section, a foreign corporation is controlled by one or more domestic entities, if more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote or the total value of the stock of such corporation is owned, directly or indirectly, in aggregate, by one or more domestic entities.

(4) *Indirect interests held through applicable foreign corporations.* Solely for purposes of paragraph (g)(2)(ii) of this section, if an applicable foreign corporation owns, directly or indirectly, stock of a foreign corporation or an interest in a foreign partnership, a domestic entity is not treated as

indirectly owning stock of the foreign corporation or an interest in the foreign partnership solely by reason of owning, directly or indirectly, stock of the applicable foreign corporation.

(5) *De minimis domestic entity (direct or indirect) partner.* A foreign partnership that has one or more domestic entities as direct or indirect partners is not considered an applicable specified affiliate if the domestic entities hold, directly or indirectly, in aggregate, less than 10 percent in each of the capital interests and profits interests in the foreign partnership.

(h) *CSFC repurchase*—(1) *Overview.* This paragraph (h) provides rules for determining whether a transaction is a CSFC repurchase for purposes of this section. Paragraph (h)(2) of this section provides a general rule regarding the scope of such term. Paragraph (h)(3) of this section provides an exclusive list of transactions that are section 317(b) redemptions but are not CSFC repurchases. Paragraph (h)(4) of this section provides an exclusive list of transactions that are section 4501(d) economically similar transactions. Paragraph (h)(5) of this section provides a non-exclusive list of transactions that are not CSFC repurchases.

(2) *Scope of CSFC repurchases.* For purposes of this section, a *CSFC repurchase* means solely—

(i) A section 317(b) redemption with respect to stock of a covered surrogate foreign corporation, except as provided in paragraph (h)(3) of this section; or

(ii) A section 4501(d) economically similar transaction described in paragraph (h)(4) of this section.

(3) *Certain section 317(b) redemptions that are not CSFC repurchases.* This paragraph (h)(3) provides an exclusive list of section 317(b) redemptions that are not CSFC repurchases for purposes of the section 4501(d) excise tax.

(i) *Section 304(a)(1) transactions.* The deemed distribution by an acquiring corporation (within the meaning of section 304(a)(1) of the Code) that is a covered surrogate foreign corporation in redemption of stock of the acquiring corporation (resulting from the application of section 304(a)(1) to an acquisition of stock by such acquiring corporation), regardless of whether section 302(a) or (d) of the Code applies to the acquiring corporation's deemed distribution in redemption of its stock.

(ii) *Leveraged buyouts and take-private transactions.* A redemption by a covered surrogate foreign corporation that occurs as part of a transaction in which the covered surrogate foreign corporation ceases to be a covered surrogate foreign corporation.

(iii) *Stock issued prior to August 16, 2022.* A redemption by a covered surrogate foreign corporation of stock of the covered corporation issued prior to August 16, 2022, if, at the time such stock was issued, the stock was subject to—

(A) Mandatory redemption by the covered surrogate foreign corporation; or

(B) A unilateral put option by the holder of such stock.

(iv) *Payment by a covered surrogate foreign corporation of cash in lieu of fractional shares.* A payment by a covered surrogate foreign corporation of cash in lieu of a fractional share of the stock of the covered surrogate foreign corporation, if—

(A) The payment is carried out as part of a transaction that qualifies as a reorganization under section 368(a) of the Code or a distribution to which section 355 of the Code applies, or pursuant to the settlement of an option or a similar financial instrument (for example, a convertible debt instrument or convertible preferred share);

(B) The cash received by the shareholder entitled to the fractional share is not separately bargained-for consideration (that is, the cash paid by the covered surrogate foreign corporation in lieu of the fractional share represents a mere rounding off of the shares issued in the exchange or settlement);

(C) The payment is carried out solely for administrative convenience (and, therefore, solely for non-tax reasons); and

(D) The amount of cash paid to the shareholder in lieu of a fractional share does not exceed the fair market value of one full share of the class of stock of the applicable foreign corporation or covered surrogate foreign corporation, as applicable, with respect to which the payment of cash in lieu of a fractional share is made.

(4) *Section 4501(d) economically similar transactions.* This paragraph (h)(4) provides an exclusive list of transactions that are economically similar to section 317(b) redemptions solely for purposes of the section 4501(d) excise tax (each, a *section 4501(d) economically similar transaction*) and, therefore, are taken into account as CSFC repurchases for purposes of this section.

(i) *E reorganizations*—(A) *In general.* Except as provided in paragraph (h)(4)(i)(B) of this section, in the case of an E reorganization in which the recapitalizing corporation is a covered surrogate foreign corporation, solely the recapitalizing corporation's acquisition of its stock pursuant to the plan of reorganization in exchange for property that is not permitted to be received by the recapitalizing corporation's shareholders under section 354 of the Code without the recognition of gain.

(B) *Exception.* Paragraph (h)(4)(i)(A) of this section does not apply to the extent that—

(*1*) The distribution of such property is treated as a distribution with respect to the recapitalizing corporation's stock under § 1.301–1(j) of this chapter; or

(*2*) The exchange is with respect to preferred stock with dividends in arrears and is treated under § 1.305–7(c)(2) or 1.368–2(e)(5) of this chapter as a deemed distribution to which sections 301 and 305(b)(4) of the Code apply.

(ii) *Split-offs.* In the case of a split-off by a distributing corporation that is a covered surrogate foreign corporation, the acquisition by the distributing corporation of its stock in exchange for property.

(iii) *Certain forfeitures and clawbacks of stock*—(A) *In general.* In the case of a forfeiture or clawback of stock of a covered surrogate foreign corporation pursuant to a legal or contractual obligation, the forfeiture or clawback is a section 4501(d)(2) repurchase on the date of forfeiture or clawback (as appropriate) if the stock was treated as issued or provided under paragraph (m)(1) of this section and the forfeiture or clawback of the stock (as appropriate) is described in paragraph (h)(4)(iii)(B) or (C) of this section.

(B) *Stock for which a section 83(b) election was made.* The stock was subject to a substantial risk of forfeiture within the meaning of section 83(a) of the Code on the date the stock was issued or provided, the service provider made a valid election under section 83(b) with regard to the stock, and the forfeiture resulted from the service provider failing to meet the vesting condition.

(C) *Clawbacks.* On the date the stock was issued or provided, the stock was subject to a clawback agreement, and a clawback of the stock resulted from the occurrence of an event specified in the clawback agreement.

(5) *Transactions that are not CSFC repurchases.* This paragraph (h)(5) provides a non-exclusive list of transactions each of which is not a CSFC repurchase for purposes of this section.

(i) *Complete liquidations.* A distribution by a covered surrogate foreign corporation—

(A) In complete liquidation of the covered surrogate foreign corporation to which section 331 or 332(a) (or both) applies;

(B) Pursuant to a resolution or plan of dissolution of the covered surrogate foreign corporation that is reported on an original (but not a supplemented or an amended) IRS Form 966, *Corporate Dissolution or Liquidation* (or any successor form); or

(C) Pursuant to a deemed dissolution of the covered surrogate foreign corporation (for instance, pursuant to a deemed liquidation under § 301.7701–3 of this chapter).

(ii) *Distributions during taxable year of complete liquidation or dissolution.* A distribution by a covered surrogate foreign corporation during a taxable year of the covered surrogate foreign corporation, if the covered surrogate foreign corporation—

(A) Completely liquidates during the taxable year (that is, has a final distribution during the taxable year in a complete liquidation to which section 331 or 332(a) (or both) applies);

(B) Dissolves during the taxable year pursuant to a resolution or plan of dissolution as reported on an original (but not a supplemented or an amended) IRS Form 966, *Corporate Dissolution or Liquidation* (or any successor form); or

(C) Is deemed to dissolve during the taxable year (for instance, pursuant to a deemed liquidation under § 301.7701–3 of this chapter).

(iii) *Divisive transactions under section 355 other than split-offs*—(A) *In general.* Subject to paragraph (h)(5)(iii)(B) of this section, a distribution by a distributing corporation that is a covered surrogate foreign corporation of stock of a controlled corporation qualifying under section 355 that is not a split-off.

(B) *Exception regarding non-qualifying property in spin-offs.* A distribution by a distributing corporation that is a covered surrogate foreign corporation of other property or money in exchange for stock of the distributing corporation is a repurchase by the distributing corporation if it occurs in pursuance of a transaction qualifying under section 355 in which the distribution by the distributing corporation of stock of the controlled corporation is with respect to stock of the distributing corporation.

(iv) *Non-redemptive distributions subject to section 301(c)(2) or (3).* A distribution to which section 301 applies by a covered surrogate foreign corporation to a distributee, if the distribution—

(A) Is subject to section 301(c)(2) or (3); and

(B) The distributee does not exchange stock of the covered surrogate foreign corporation (and is not treated as exchanging stock of the covered surrogate foreign corporation for Federal income tax purposes).

(v) *Acquisitive reorganizations.* In the case of an acquisitive reorganization in which the target corporation is a covered surrogate foreign corporation, the acquisition by the target corporation of its stock pursuant to the plan of reorganization in exchange for property that is received by the target corporation's shareholders under section 354 or 356 of the Code.

(vi) *Net cash settlement of an option contract*—(A) *In general.* Subject to paragraph (h)(5)(vi)(B) of this section, the net cash settlement of an option contract or other derivative financial instrument with respect to stock of a covered surrogate foreign corporation.

(B) *Exception regarding net cash settlement of an option contract or other derivative financial instrument treated as stock.* The net cash settlement of an instrument in the legal form of an option contract or other derivative financial instrument that is treated as stock of a covered surrogate foreign corporation for Federal tax purposes at the time of issuance is a repurchase.

(i) [Reserved]

(j) *Date of section 4501(d)(1) repurchase or section 4501(d)(2) repurchase*—(1) *General rule.* In general, stock of an applicable foreign corporation or a covered surrogate foreign corporation is treated as acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase, as applicable, on the date on which ownership of the stock transfers to the specified affiliate of the applicable foreign corporation, the specified affiliate of the covered surrogate foreign corporation, or the covered surrogate foreign corporation, as applicable, for Federal income tax purposes.

(2) *Regular-way sale.* A regular-way sale of stock of an applicable foreign corporation or a covered surrogate foreign corporation (that is, a transaction in which a trade order is placed on the trade date, and settlement of the transaction, including payment and delivery of the stock, occurs a standardized period of time, as set by a regulator, after the trade date) is treated as acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase, as applicable, on the trade date.

(k) *Fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation that is repurchased or acquired*—(1) *In general.* The fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase is the market price of the stock on the date of the section 4501(d)(1) repurchase or the section 4501(d)(2) repurchase (as determined under paragraph (j) of this section). That is, if the price at which the repurchased or acquired stock is purchased differs from the market price of the stock on the date the stock is repurchased or acquired, the fair market value of the stock is the market price on the date the stock is repurchased or acquired.

(2) *Stock traded on an established securities market*—(i) *In general.* If stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is acquired in a section 4501(d)(1) repurchase a or section 4501(d)(2) repurchase with respect to a section 4501(d) covered corporation is traded on an established securities market, the section 4501(d) covered corporation must determine the market price of the stock by applying one of the methods provided in paragraph (k)(2)(ii) of this section. For purposes of this paragraph (k)(2), stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, is treated as traded on an established securities market if any stock of the same class and issue of stock is so traded, regardless of whether the shares repurchased or acquired are so traded.

(ii) *Acceptable methods.* The following are acceptable methods for determining the market price of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, traded on an established securities market:

(A) The daily volume-weighted average price as determined on the date the stock is acquired in a section 4501(d)(1) repurchase or section 4501(d)(2) repurchase.

(B) The closing price on the date the stock is acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase.

(C) The average of the high and low prices on the date the stock is acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase.

(D) The trading price at the time the stock is acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase.

(iii) *Date of section 4501(d)(1) repurchase or section 4501(d)(2) repurchase not a trading day.* For purposes of each method provided in paragraph (k)(2)(ii) of this section, if the date stock is acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase is not a trading

day, the date on which the market price is determined is the immediately preceding trading day.

(iv) *Consistency requirement.* The market price of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is traded on an established securities market must be determined by consistently applying one (but not more than one) of the methods provided in paragraph (k)(2)(ii) of this section to all section 4501(d)(1) repurchases with respect to an applicable foreign corporation or all section 4501(d)(2) repurchases with respect to a covered surrogate foreign corporation, as applicable, in the same taxable year of the applicable foreign corporation or covered surrogate foreign corporation, as applicable (which, if the applicable foreign corporation or covered surrogate foreign corporation, as applicable, does not have a taxable year for Federal tax purposes, is the calendar year).

(v) *Stock traded on multiple exchanges*—(A) *In general.* A section 4501(d) covered corporation must determine the market price of the stock of the applicable foreign corporation or covered surrogate foreign corporation, as applicable, by reference to trading on the established securities market in the country in which the applicable foreign corporation or covered surrogate foreign corporation, as applicable, is organized, including a regional established securities market that trades in that country.

(B) *Stock traded on multiple exchanges in country where corporation is organized.* If the stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, is traded on multiple established securities markets in the country in which the applicable foreign corporation or covered surrogate foreign corporation, as applicable, is organized, a section 4501(d) covered corporation must determine the market price of the stock by reference to trading on the established securities market in that country with the highest trading volume in the stock of the applicable foreign corporation or covered surrogate foreign corporation, as applicable, in the section 4501(d) covered corporation's prior taxable year.

(C) *Other cases in which stock is traded on multiple exchanges.* If stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, is traded on multiple established securities markets and neither paragraph (k)(2)(v)(A) nor (B) of this section applies, a section 4501(d) covered corporation must determine the market price of the stock of the applicable foreign corporation or covered surrogate foreign corporation, as applicable, in a manner that is reasonable and consistent under the facts and circumstances.

(3) *Stock not traded on an established securities market*—(i) *General rule.* If stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, is not traded on an established securities market, the market price of the stock is determined as of the date the stock is acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase under the principles of § 1.409A–1(b)(5)(iv)(B)(*1*) of this chapter.

(ii) *Consistency requirement.* The valuation method for determining the market price of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is not traded on an established securities market must be used for all section 4501(d)(1) repurchases with respect to the same class of stock of an applicable foreign corporation or all section 4501(d)(2) repurchases with respect to the same class of stock of a covered surrogate foreign corporation, as applicable, in the same taxable year of the applicable foreign corporation or covered surrogate foreign corporation, as applicable (which, if the applicable foreign corporation or covered surrogate foreign corporation, as applicable, does not have a taxable year for Federal tax purposes, is the calendar year), unless the application of that method to a particular section 4501(d)(1) repurchase or a particular section 4501(d)(2) repurchase would be unreasonable under the facts and circumstances as of the valuation date within the meaning of § 1.409A–1(b)(5)(iv)(B)(*1*) of this chapter.

(4) *Market price of stock denominated in non-U.S. currency.* The market price of any stock of an applicable foreign corporation or a covered surrogate foreign corporation that is denominated in a currency other than the U.S. dollar is converted into U.S. dollars at the spot rate (as defined in § 1.988–1(d)(1) of this chapter) on the date the stock is acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase.

(l) *Section 4501(d) exceptions*—(1) *In general*—(i) *Overview.* This paragraph (l) provides rules regarding the application of each exception set forth in section 4501(e) (other than the section 4501(d) de minimis exception) and an additional exception applicable to certain investment companies (each, a *section 4501(d) exception*) to a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase.

(ii) *Reduction of section 4501(d) excise tax base.* For purposes of determining a section 4501(d) covered corporation's section 4501(d) stock repurchase excise tax base under paragraph (c)(3) of this section, the section 4501(d) covered corporation reduces its section 4501(d) gross repurchase amount by an amount equal to the aggregate fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that qualifies for an exception described in this paragraph (l). *See* paragraph (c)(3)(i)(B) of this section.

(iii) *Coordination of exceptions.* If a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase qualifies for more than one exception described in paragraphs (l)(2) through (7) of this section, the section 4501(d) covered corporation may reduce its gross repurchase amount under solely a single exception, as determined by the section 4501(d) covered corporation.

(2) *Section 4501(d) reorganization exception.* A section 4501(d) covered corporation reduces its section 4501(d) gross repurchase amount under paragraph (c)(3)(i)(B) of this section by an amount equal to the aggregate fair market value of a covered surrogate foreign corporation's stock repurchased from a shareholder in a CSFC repurchase described in paragraph (h)(4)(i) or (ii) of this section to the extent that the repurchase is for property permitted by section 355 to be received without the recognition of gain or loss on that CSFC repurchase (*section 4501(d) reorganization exception*).

(3) *Stock contributions to an employer-sponsored retirement plan*—(i) *Reductions to section 4501(d) excise tax base*—(A) *General rule.* A section 4501(d) covered corporation reduces its section 4501(d) gross repurchase amount under paragraph (c)(3)(i)(B) of this section if the stock of the applicable foreign corporation or the covered surrogate foreign corporation, as applicable, that is repurchased or acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase, as applicable, or an amount of stock equal to the fair market value of the stock repurchased or acquired, is contributed to an employer-sponsored retirement plan of the section 4501(d) covered corporation.

(B) *Special rule for leveraged ESOPs.* If a section 4501(d) covered corporation maintains an ESOP with an exempt loan (as described in section 4975(d)(3) of the Code), allocations of qualifying

employer securities that are stock of the applicable foreign corporation or covered surrogate foreign corporation from the ESOP suspense account to ESOP participants' accounts that are attributable to employer contributions (and not to dividends) are treated as contributions of stock under this paragraph (l)(3) as of the date stock attributable to repayment of the exempt loan is released from the suspense account and allocated to ESOP participants' accounts.

(ii) *Classes of stock contributed to an employer-sponsored retirement plan.* This paragraph (l)(3) applies to contributions of any class of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, to an employer-sponsored retirement plan of the section 4501(d) covered corporation, regardless of the class of stock that was repurchased or acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase by the section 4501(d) covered corporation.

(iii) *Determining amount of reduction to section 4501(d) excise tax base.* The amount of the reduction under paragraph (l)(3)(i) of this section for a section 4501(d) covered corporation is determined as provided in paragraph (l)(3)(iii)(A) or (B) of this section.

(A) *Same class of stock repurchased and contributed.* If stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, is repurchased or acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase, as applicable, and stock of the applicable foreign corporation or the covered surrogate foreign corporation, as applicable, that is of the same class is contributed to an employer-sponsored retirement plan of the section 4501(d) covered corporation, the amount of the reduction under paragraph (l)(3)(i) of this section is equal to the lesser of—

(*1*) The aggregate fair market value of the stock of the same class that was repurchased or acquired (as determined under paragraph (k) of this section) during the section 4501(d) covered corporation's taxable year; or

(*2*) The amount obtained by—

(*i*) Determining the aggregate fair market value of all stock of that class repurchased or acquired (as determined under paragraph (k) of this section) in all section 4501(d)(1) repurchases or section 4501(d)(2) repurchases, as applicable, during the section 4501(d) covered corporation's taxable year, reduced by the fair market value of shares of that class of stock that is a reduction to the section 4501(d) excise tax base for the taxable year under a section 4501(d) exception other than this paragraph (l)(3);

(*ii*) Dividing the amount determined under paragraph (l)(3)(iii)(A)(*2*)(*i*) of this section by the number of shares of that class repurchased or acquired in all section 4501(d)(1) repurchases or section 4501(d)(2) repurchases, as applicable, during the section 4501(d) covered corporation's taxable year, reduced by the number of shares of that class of stock the fair market value of which is a reduction to the section 4501(d) excise tax base for the taxable year under a section 4501(d) exception other than this paragraph (l)(3); and

(*iii*) Multiplying the amount determined under paragraph (l)(3)(iii)(A)(*2*)(*ii*) of this section by the number of shares of that class contributed to an employer-sponsored retirement plan of the section 4501(d) covered corporation for the taxable year.

(B) *Different class of stock repurchased and contributed*—(*1*) *In general.* Subject to paragraph (l)(3)(iii)(B)(*2*) of this section, if stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, of a different class of stock than is repurchased or acquired in a section 4501(d)(1) repurchase or a section 4501(d)(2) repurchase, as applicable, with respect to a section 4501(d) covered corporation is contributed to an employer-sponsored retirement plan of the section 4501(d) covered corporation, then the amount of the reduction under paragraph (l)(3)(i) of this section is equal to the fair market value of the contributed stock at the time the stock is contributed to the employer-sponsored retirement plan.

(*2*) *Maximum reduction permitted.* The amount of the reduction under paragraph (l)(3)(iii)(B)(*1*) of this section may not exceed the section 4501(d) excise tax base for the taxable year (determined without regard to any reduction under paragraph (l)(3)(i) of this section).

(iv) *Timing of contributions*—(A) *In general.* The reduction under paragraph (l)(3)(i) of this section (that is, the reduction in the section 4501(d) excise tax base), for a taxable year applies to contributions of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, to an employer-sponsored retirement plan during the section 4501(d) covered corporation's taxable year.

(B) *Treatment of contributions after close of taxable year.* For purposes of paragraph (l)(3)(iv)(A) of this section, a section 4501(d) covered corporation may treat stock contributions to an employer-sponsored retirement plan made after the close of the section 4501(d) covered corporation's taxable year as having been contributed during that taxable year if the following two requirements are satisfied:

(*1*) The stock must be contributed to the employer-sponsored retirement plan by the filing deadline for the form on which the section 4501(d) excise tax must be reported (applicable form) for that taxable year of the section 4501(d) covered corporation.

(*2*) The stock must be treated by the employer-sponsored retirement plan in the same manner that the plan would treat a contribution received on the last day of that taxable year of the section 4501(d) covered corporation.

(C) *No duplicate reductions.* Stock contributions that are treated under paragraph (l)(3)(iv)(B) of this section as having been contributed in the taxable year to which the applicable form applies may not be treated as having been contributed for any other taxable year for purposes of the section 4501(d) excise tax.

(v) *Contributions before January 1, 2023.* A section 4501(d) covered corporation with a taxable year that both begins before January 1, 2023, and ends after December 31, 2022, may include for that taxable year the fair market value of all contributions of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, to an employer-sponsored retirement plan during the entirety of that taxable year for purposes of applying this paragraph (l)(3).

(4) *Repurchases or acquisitions by a dealer in securities in the ordinary course of business*—(i) *In general.* Subject to paragraph (l)(4)(ii) of this section, a section 4501(d) covered corporation reduces its section 4501(d) gross repurchase amount under paragraph (c)(3)(i)(B) of this section by an amount equal to the aggregate fair market value of stock acquired in a section 4501(d)(1) repurchase or in a section 4501(d)(2) repurchase if the repurchasing or acquiring entity is a dealer in securities (within the meaning of section 475(c)(1) of the Code) to the extent the stock is repurchased or acquired in the ordinary course of the dealer's business of dealing in securities.

(ii) *Applicability.* The reduction described in paragraph (l)(4)(i) of this section applies solely to the extent that—

(A) The dealer accounts for the stock as securities held primarily for sale to customers in the dealer's ordinary course of business;

(B) The dealer disposes of the stock within a period of time that is consistent

with the holding of the stock for sale to customers in the dealer's ordinary course of business, taking into account the terms of the stock and the conditions and practices prevailing in the markets for similar stock during the period in which the stock is held; and

(C) The dealer (if it is a covered surrogate foreign corporation) does not sell or otherwise transfer the stock to a specified affiliate of the covered surrogate foreign corporation or the dealer (if it is a specified affiliate of an applicable foreign corporation or of a covered surrogate foreign corporation, as applicable) does not sell or otherwise transfer the stock to the applicable foreign corporation, covered surrogate foreign corporation, or to another specified affiliate of the applicable foreign corporation or covered surrogate foreign corporation, as applicable, in each case other than in a sale or transfer to a dealer that also satisfies the requirements of this paragraph (l)(4)(ii).

(5) *Repurchases by a RIC or REIT.* Section 4501(e)(5) does not apply for purposes of section 4501(d).

(6) *CSFC repurchase treated as a dividend*—(i) *In general.* A section 4501(d) covered corporation reduces its section 4501(d) gross repurchase amount under paragraph (c)(3)(i)(B) of this section by an amount equal to the aggregate fair market value of stock of a covered surrogate foreign corporation repurchased by the covered surrogate foreign corporation in a CSFC repurchase to the extent the CSFC repurchase is treated as a distribution of a dividend under section 301(c)(1) or 356(a)(2).

(ii) *Rebuttable presumption of no dividend equivalence*—(A) *Presumption.* A CSFC repurchase to which section 302 or 356(a) applies is presumed to be subject to section 302(a) or 356(a)(1), respectively (and, therefore, is presumed ineligible for the exception in paragraph (l)(6)(i) of this section).

(B) *Rebuttal of presumption.* A section 4501(d) covered corporation may rebut the presumption described in paragraph (l)(6)(ii)(A) of this section with regard to a specific shareholder of the covered surrogate foreign corporation solely by establishing with sufficient evidence that the covered surrogate foreign corporation and the shareholder treat the CSFC repurchase as a dividend for Federal income tax purposes.

(iii) *Sufficient evidence requirement*—(A) *In general.* To provide sufficient evidence under paragraph (l)(6)(ii)(B) of this section to establish that the covered surrogate foreign corporation and the shareholder treat the CSFC repurchase as a dividend for Federal income tax purposes, the section 4501(d) covered corporation must—

(*1*) Establish, based on information known to the section 4501(d) covered corporation (for example, through legal documentation of share ownership, publicly available information, the pro rata nature of the repurchase, or the shareholder certification safe harbor described in paragraph (l)(6)(iii)(B) of this section), that—

(*i*) The CSFC repurchase either constitutes a redemption that is treated as a distribution to which section 301 applies by reason of section 302(d) or has the effect of the distribution of a dividend under section 356(a)(2); and

(*ii*) The section 4501(d) covered corporation has no knowledge of facts that would indicate that the treatment described in paragraph (l)(6)(iii)(A)(*1*)(*i*) of this section is incorrect;

(*2*) Treat the CSFC repurchase consistent with the treatment described in paragraph (l)(6)(iii)(A)(*1*)(*i*) of this section, including by withholding the applicable amounts, if required; and

(*3*) Demonstrate sufficient earnings and profits to treat as a dividend either the redemption under section 302 or the receipt of money or other property under section 356.

(B) *Shareholder certification safe harbor.* To provide sufficient evidence under paragraph (l)(6)(iii)(A) of this section to establish that the shareholder treats the repurchase as a dividend for Federal income tax purposes, the section 4501(d) covered corporation—

(*1*) May obtain certification from the shareholder, in accordance with § 58.4501–3(g)(3)(ii), that the repurchase constitutes a redemption treated as a distribution to which section 301 applies by reason of section 302(d), or that the repurchase has the effect of the distribution of a dividend under section 356(a)(2), including evidence that applicable withholding occurred if required; and

(*2*) Must have no knowledge of facts that would indicate that the shareholder certification is incorrect.

(iv) *Documentation of sufficient evidence*—(A) *Retention and availability of evidence.* A section 4501(d) covered corporation must retain the evidence described in paragraph (l)(6)(iii) of this section and make that evidence available for inspection to the IRS if any of the evidence becomes material in the administration of any internal revenue law.

(B) *Retention of supporting records.* The section 4501(d) covered corporation must retain records of all information necessary to document and substantiate all content described in paragraph (l)(6)(iii) of this section.

(7) *Repurchases by a non-RIC '40 Act fund.* The exception for repurchases by a non-RIC '40 Act fund under § 58.4501–3(h) does not apply for purposes of section 4501(d).

(m) *Application of section 4501(d) netting rule*—(1) *In general.* This paragraph (m) provides the *section 4501(d) netting rule,* under which the section 4501(d) excise tax base with respect to a section 4501(d) covered corporation for a taxable year is reduced only by stock of the applicable foreign corporation or the covered surrogate foreign corporation, as applicable, issued or provided by the section 4501(d) covered corporation to its employees during its taxable year. Any reference in this paragraph (m) to issuing or providing stock to an employee refers solely to stock of the applicable foreign corporation or the covered surrogate foreign corporation, as applicable, that is issued or provided by a section 4501(d) covered corporation to an employee in connection with the employee's performance of services in the employee's capacity as an employee of the section 4501(d) covered corporation. The fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is described in this paragraph (m) is a reduction for purposes of computing the section 4501(d) covered corporation's section 4501(d) excise tax base. *See* paragraph (c)(3)(i)(C) of this section.

(2) *Stock issued or provided outside period of applicable foreign corporation or covered surrogate foreign corporation status.* Any stock issued or provided prior to the initiation date or after the cessation date of the applicable foreign corporation or the covered surrogate foreign corporation, as applicable, is not taken into account under paragraph (m)(1) of this section. *See* paragraph (e)(1) of this section (determination of initiation date and cessation date).

(3) *Issuances or provisions before January 1, 2023.* Except as provided in paragraph (m)(2) of this section, a section 4501(d) covered corporation with a taxable year that both begins before January 1, 2023, and ends after December 31, 2022, must include the fair market value of all issuances or provisions of stock during the entirety of that taxable year for purposes of applying paragraph (m)(1) of this section for that taxable year.

(4) *Stock issued or provided in connection with the performance of services*—(i) *In general.* For purposes of this paragraph (m), stock of an applicable foreign corporation or a covered surrogate foreign corporation,

as applicable, is transferred by the section 4501(d) covered corporation in connection with the performance of services only if the transfer is described in section 83, including pursuant to the exercise of a nonqualified stock option described in § 1.83–7 of this chapter, or is pursuant to the exercise of a stock option described in section 421 of the Code.

(ii) *Sale of shares to cover exercise price or withholding*—(A) *Payment or advance by third party equal to exercise price.* If a third party pays the exercise price of an option to acquire stock of a covered corporation on behalf of an employee or advances to an employee an amount equal to the exercise price of a stock option that the employee uses to exercise the option, then any stock transferred by the section 4501(d) covered corporation to the third party in connection with exercising the option (as well as any stock transferred by the covered corporation or specified affiliate to the employee) is treated as issued or provided in connection with the performance of the services by the employee.

(B) *Advance by third party equal to withholding obligation.* If a third party advances an amount equal to the withholding obligation of an employee, then any stock transferred by the section 4501(d) covered corporation to the third party (as well as any stock transferred by the covered corporation or specified affiliate to the employee) in connection with this arrangement is treated as issued or provided in connection with the performance of services by the employee.

(5) *Date of issuance or provision for section 4501(d) netting rule*—(i) *In general.* Stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, is issued or provided to an employee of a section 4501(d) covered corporation as of the date the employee is treated as the beneficial owner of the stock for Federal income tax purposes. In general, an employee is treated as the beneficial owner of the stock when the stock is both transferred by the section 4501(d) covered corporation and substantially vested within the meaning of § 1.83–3(b) of this chapter. Thus, stock transferred pursuant to a vested stock award or a restricted stock unit is issued or provided when the section 4501(d) covered corporation initiates payment of the stock. Stock transferred that is not substantially vested within the meaning of § 1.83–3(b) of this chapter is not issued or provided until it vests, except as provided in paragraph (m)(5)(iii) of this section.

(ii) *Stock options and stock appreciation rights.* Stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, transferred by a section 4501(d) covered corporation pursuant to an option described in § 1.83–7 of this chapter or section 421 or a stock appreciation right is issued or provided by the section 4501(d) covered corporation as of the date the option or stock appreciation right is exercised.

(iii) *Stock on which a section 83(b) election is made.* Stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, transferred by the section 4501(d) covered corporation when it is not substantially vested within the meaning of § 1.83–3(b) of this chapter, but as to which a valid election under section 83(b) is made, is treated as issued or provided by the section 4501(d) covered corporation as of the transfer date.

(6) *Fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation that is issued or provided to employees*—(i) *In general.* For purposes of paragraph (m)(1) of this section, the fair market value of stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is issued or provided is determined under section 83 as of the date the stock is issued or provided to an employee by the section 4501(d) covered corporation. The fair market value of the stock is determined under the rules provided in section 83 regardless of whether an amount is includible in the employee's income under section 83 or otherwise. For example, the fair market value of stock issued or provided by a section 4501(d) covered corporation to its employee pursuant to a stock option described in section 421 and stock issued or provided by a section 4501(d) covered corporation to an employee who is a nonresident alien for services performed outside of the United States is determined using the rules provided in section 83.

(ii) *Market price of stock denominated in non-U.S. currency.* The market price of any stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is denominated in a currency other than the U.S. dollar is converted into U.S. dollars at the spot rate (as defined in § 1.988–1(d)(1) of this chapter) on the date the stock is issued or provided by the section 4501(d) covered corporation to its employee.

(7) *Issuances that are disregarded for purposes of applying the section 4501(d) netting rule*—(i) *In general.* This paragraph (m)(7) lists the sole circumstances in which an issuance or provision of stock by the section 4501(d) covered corporation to its employee is disregarded for purposes of this paragraph (m). The transfers of stock described in § 58.4501–4(f)(1) through (9) are not issuances or provisions of stock by a section 4501(d) covered corporation to its employees and therefore are not relevant to the section 4501(d) netting rule.

(ii) *Stock contributions to an employer-sponsored retirement plan.* Any stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, contributed to an employer-sponsored retirement plan of the section 4501(d) covered corporation, any stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, treated as contributed to an employer-sponsored retirement plan of the section 4501(d) covered corporation under paragraph (l)(3) of this section, and any stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, sold to a leveraged or non-leveraged ESOP, is disregarded for purposes of this paragraph (m).

(iii) *Net exercises and share withholding.* Stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, withheld by a section 4501(d) covered corporation to satisfy the exercise price of a stock option issued to an employee, or to pay any withholding obligation, is disregarded for purposes of this paragraph (m). For example, stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, withheld by a section 4501(d) covered corporation to pay the exercise price of a stock option, to satisfy an employer's income tax withholding obligation under section 3402 of the Code, to satisfy an employer's withholding obligation under section 3102 of the Code, or to satisfy an employer's withholding obligation for State, local, or foreign taxes, is disregarded for purposes of this paragraph (m).

(iv) *Settlement other than in stock.* Settlement of an option contract with respect to stock of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, using any consideration other than stock of the applicable foreign corporation or the covered surrogate foreign corporation, as applicable, (including cash) is disregarded for purposes of this paragraph (m).

(v) *Instrument not in the legal form of stock*—(A) *Issuance or provision of section 4501(d) covered non-stock instrument generally disregarded.* Except as provided in paragraph (m)(7)(v)(C) or (D) of this section, the issuance or provision by a section 4501(d) covered corporation of a section 4501(d) covered non-stock instrument (as defined in paragraph (m)(7)(v)(B)(*2*) of this section, including an issuance or provision before the initiation date or after the cessation date, is disregarded for purposes of the section 4501(d) netting rule.

(B) *Definitions.* The following definitions apply for purposes of this paragraph (m)(7)(v).

(*1*) *Section 4501(d) non-stock instrument.* A *section 4501(d) non-stock instrument* is an instrument of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is not in the legal form of stock but that is treated as stock for Federal tax purposes. For the avoidance of doubt, in the case of an applicable foreign corporation or a covered surrogate foreign corporation, as applicable, that is an eligible entity with the meaning of § 301.7701–3(a) of this chapter, a *section 4501(d) non-stock instrument* does not include an instrument that is in the legal form of membership, partnership, or other ownership interests of the eligible entity.

(*2*) *Section 4501(d) covered non-stock instrument.* A *section 4501(d) covered non-stock instrument* is a section 4501(d) non-stock instrument issued or provided by a section 4501(d) covered corporation to a section 4501(d) covered holder.

(*3*) *Section 4501(d) covered holder.* A *section 4501(d) covered holder* is any person that owns (or under the attribution rules of section 318 of the Code is considered to own) at least 10 percent of the stock of the applicable foreign corporation or the covered surrogate foreign corporation, as applicable, either by vote or value, but only if the section 4501(d) covered corporation has knowledge of facts that would indicate such ownership, including through legal documentation of share ownership, publicly available information, or any other means at the time of the issuance or provision of the section 4501(d) non-stock instrument by the section 4501(d) covered corporation.

(C) *Certain instruments treated as issued when repurchased*—(*1*) *In general.* Subject to the identification requirement in paragraph (m)(7)(v)(C)(*2*) of this section, if a section 4501(d) covered non-stock instrument is repurchased by a section 4501(d) covered corporation, the issuance or provision of the instrument is regarded for purposes of the section 4501(d) netting rule at the time of such repurchase based on the fair market value of the instrument when the instrument was issued or provided. Such fair market value is determined under paragraph (m)(6) of this section. For purposes of the section 4501(d) excise tax, the delivery of stock pursuant to the terms of a section 4501(d) covered non-stock instrument is treated as a repurchase of the section 4501(d) covered non-stock instrument in exchange for an issuance or provision of the stock that is delivered.

(*2*) *Identification of an instrument not in the legal form of stock.* The issuance or provision of a section 4501(d) covered non-stock instrument is regarded under paragraph (m)(7)(v)(C)(*1*) of this section only if the section 4501(d) covered corporation identifies the section 4501(d)(1) repurchase or the section 4501(d)(2) repurchase, as applicable, of the section 4501(d) covered non-stock instrument on the return on which the section 4501(d) excise tax must be reported for the section 4501(d) covered corporation's taxable year in which the section 4501(d)(1) repurchase or the section 4501(d)(2) repurchase, as applicable, occurs.

(D) *Issuances pursuant to a public offering.* Paragraph (m)(7)(v)(A) of this section does not apply to any issuance or provision of a section 4501(d) covered non-stock instrument the offer and sale of which was registered with the SEC.

(n) *Section 4501(d)(1) examples.* The following examples illustrate the application of the rules in this section relating to section 4501(d)(1). For purposes of the following examples, unless otherwise stated: Corporation FZ is an applicable foreign corporation; each entity has a calendar taxable year, has no direct or indirect owner that is a domestic entity, and is not related to any other entity; each corporation's only outstanding stock for Federal tax purposes is a single class of common stock; the functional currency (within the meaning of section 985 of the Code) of any entity is the U.S. dollar; any acquisition of the stock of an applicable foreign corporation is from a person who is not the applicable foreign corporation or a specified affiliate of the applicable foreign corporation; no stock is transferred to any employee; for examples that expressly provide that stock is transferred to any employee, such transfer is made in connection with the employee's performance of services in its capacity as an employee of the transferor, and the employee is treated as the beneficial owner of the stock for Federal income tax purposes on the date of the transfer; and the section 4501(d) exceptions are inapplicable.

(1) *Example 1: Section 4501(d) netting rule with respect to a single applicable specified affiliate*—(i) *Facts.* Corporation FZ owns all the outstanding stock of Corporation US1, a domestic corporation. Each of Employee M and Employee P is an employee of Corporation US1. On February 1, 2025, Corporation US1 purchases 100 shares of stock of Corporation FZ when the market price of each share is $8x. On May 15, 2025, Corporation US1 transfers to Employee M 50 shares of stock of Corporation FZ when the fair market value of each share is $5x. On November 1, 2025, Corporation US1 transfers to Employee P 30 shares of stock of Corporation US1 when the fair market value of each share is $9x.

(ii) *Analysis.* Corporation US1 is an applicable specified affiliate. *See* paragraph (b)(2)(ii) of this section. Corporation US1's purchase of 100 shares of stock of Corporation FZ on February 1, 2025, is a section 4501(d)(1) repurchase. *See* paragraph (b)(2)(xxi) of this section. Corporation US1 is a section 4501(d) covered corporation with respect to the section 4501(d)(1) repurchase. *See* paragraph (b)(2)(ix)(A) of this section. For purposes of computing Corporation US1's section 4501(d) excise tax base for its 2025 taxable year, the fair market value of the 100 shares of stock of Corporation FZ subject to the section 4501(d)(1) repurchase is $800x. *See* paragraph (k)(1) of this section. Accordingly, the section 4501(d)(1) repurchase increases Corporation US1's section 4501(d) excise tax base for the 2025 taxable year by $800x. 50 shares of Corporation FZ stock are treated as issued or provided to Employee M on May 15, 2025. *See* paragraph (m)(5) of this section. Therefore, Corporation US1's section 4501(d) excise tax base for its 2025 taxable year is reduced by $250x (50 shares × $5x per share = $250x). *See* paragraph (c)(3)(i)(C) of this section. Corporation US1's section 4501(d) excise tax base for its 2025 taxable year is not reduced by the transfer of stock of Corporation US1 to Employee P because the section 4501(d) excise tax base with respect to Corporation US1 can only be reduced by the fair market value of stock of Corporation FZ issued or provided by Corporation US1 to employees of Corporation US1. *See* paragraph (m) of this section. Accordingly, Corporation US1's section 4501(d) excise tax base with respect to

these transactions for its 2025 taxable year is $550x ($800x repurchase − $250x issuance = $550x).

(2) *Example 2: Section 4501(d) netting rule with respect to multiple applicable specified affiliates*—(i) *Facts.* Corporation FZ owns all the outstanding stock of both Corporation US1, a domestic corporation, and Corporation US2, a domestic corporation. Employee T is an employee of Corporation US2. On February 1, 2025, Corporation US1 purchases 100 shares of stock of Corporation FZ when the market price of each share is $8x. On May 15, 2025, Corporation US2 transfers to Employee T 50 shares of stock of Corporation FZ when the fair market value of each share is $5x.

(ii) *Analysis.* Corporation US1 is an applicable specified affiliate. *See* paragraph (b)(2)(ii) of this section. Corporation US1's purchase of 100 shares of stock of Corporation FZ on February 1, 2025, is a section 4501(d)(1) repurchase. *See* paragraph (b)(2)(xxi) of this section. Corporation US1 is a section 4501(d) covered corporation with respect to the section 4501(d)(1) repurchase. *See* paragraph (b)(2)(ix)(A) of this section. For purposes of computing Corporation US1's section 4501(d) excise tax base for its 2025 taxable year, the fair market value of the 100 shares of stock of Corporation FZ subject to the section 4501(d)(1) repurchase is $800x. *See* paragraph (k)(1) of this section. Accordingly, the section 4501(d)(1) repurchase increases Corporation US1's section 4501(d) excise tax base for the 2025 taxable year by $800x. Corporation US1's section 4501(d) excise tax base for its 2025 taxable year is not reduced by the transfer of stock of Corporation FZ to Employee T, an employee of Corporation US2, because the section 4501(d) excise tax base with respect to Corporation US1 can only be reduced by the fair market value of stock of Corporation FZ issued or provided by Corporation US1 to employees of Corporation US1. *See* paragraph (m) of this section. Because there is no section 4501(d) repurchase by Corporation US2, the section 4501(d) netting rule does not apply to Corporation US2's transfer of 50 shares of stock of Corporation FZ to Employee T.

(3) *Example 3: Foreign partnership that is an applicable specified affiliate*—(i) *Facts.* Partnership FP is a foreign partnership in which Corporation FZ, Corporation FB, a foreign corporation, and Corporation US1, a domestic corporation, are partners. Corporation FZ owns 70 percent of the capital interests and profits interests of Partnership FP; Corporation FB owns 20 percent of the capital interests and profits interests of Partnership FP; and Corporation US1 owns 10 percent of the capital interests and profits interests of Partnership FP. On March 1, 2024, Partnership FP purchases 100 shares of stock of Corporation FZ when the market price of each share is $8x.

(ii) *Analysis.* Corporation US1 is a domestic entity. *See* paragraph (b)(2)(vi) of this section. Corporation US1 is a direct partner with respect to Partnership FP for purposes of section 4501(d)(1) because Corporation US1 directly owns an interest in Partnership FP and is not a de minimis domestic entity partner with respect to Partnership FP. *See* paragraphs (g)(2)(i) and (g)(5) of this section. Accordingly, Partnership FP is an applicable specified affiliate of Corporation FZ because Corporation FZ owns more than 50 percent of the capital interests or profits interests of Partnership FP, and Corporation US1, a domestic entity, is a direct partner of Partnership FP. *See* paragraph (g)(1) of this section. Consequently, Partnership FP's purchase of 100 shares of stock of Corporation FZ is a section 4501(d)(1) repurchase. *See* paragraph (b)(2)(xxi) of this section. Partnership FP is a section 4501(d) covered corporation with respect to the section 4501(d)(1) repurchase. *See* paragraph (b)(2)(ix)(A) of this section. For purposes of computing Partnership FP's section 4501(d) excise tax base, the fair market value of the 100 shares of stock of Corporation FZ subject to the section 4501(d)(1) repurchase is $800x. *See* paragraph (k)(1) of this section. Accordingly, the section 4501(d)(1) repurchase increases Partnership FP's section 4501(d) excise tax base for the 2024 taxable year by $800x. *See* paragraph (c)(3)(i) of this section.

(4) *Example 4: Foreign partnership that is not an applicable specified affiliate*—(i) *Facts.* The facts are the same as in paragraph (n)(3)(i) of this section (*Example 3*), except that Corporation FZ owns 76 percent of the capital interests and profits interests of Partnership FP; Corporation FB owns 20 percent of the capital interests and profits interests of Partnership FP; and Corporation US1 owns 4 percent of the capital interests and profits interests of Partnership FP.

(ii) *Analysis.* Corporation US1 is not a direct or indirect partner with respect to Partnership FP for purposes of section 4501(d)(1) because Corporation US1 qualifies as a de minimis domestic entity partner. *See* paragraph (g)(5) of this section. Consequently, Partnership FP is not an applicable specified affiliate of Corporation FZ because Partnership FP has no direct or indirect domestic entity partner. *See* paragraph (g)(1) of this section. Accordingly, Partnership FP's purchase of 100 shares of stock of Corporation FZ is not a section 4501(d)(1) repurchase. *See* paragraph (b)(2)(xxi) of this section.

(5) *Example 5: Foreign partnership that is directly owned by foreign corporations and is an applicable specified affiliate*—(i) *Facts.* Corporation FZ owns all the outstanding stock of Corporation US1, a domestic corporation. Corporation US1 owns all the outstanding stock of Corporation FB, a foreign corporation. Partnership FP is a foreign partnership in which Corporation FB and Corporation FE, a foreign corporation, are partners. Corporation FB owns 80 percent of the capital interests and profits interests of Partnership FP, and Corporation FE owns 20 percent of the capital interests and profits interests of Partnership FP.

(ii) *Analysis.* Corporation US1 is a domestic entity. *See* paragraph (b)(2)(vi) of this section. Corporation US1 owns an interest in Partnership FP indirectly through Corporation FB, a foreign corporation that Corporation US1 controls within the meaning of paragraph (g)(3) of this section. Corporation US1 does not qualify as a de minimis domestic entity partner with respect to Partnership FP. *See* paragraph (g)(5) of this section. Thus, Corporation US1 is an indirect partner with respect to Partnership FP for purposes of section 4501(d)(1). *See* paragraph (g)(2)(ii)(B) of this section. Accordingly, Partnership FP is an applicable specified affiliate of Corporation FZ because Corporation FZ indirectly owns more than 50 percent of the capital interests or profits interests of Partnership FP and Corporation US1, a domestic entity, is an indirect partner of Partnership FP. *See* paragraph (g)(1) of this section.

(o) *Section 4501(d)(2) examples.* The following examples illustrate the application of the rules in this section relating to section 4501(d)(2). For purposes of the following examples, unless otherwise stated: Corporation FZ is a covered surrogate foreign corporation; each domestic entity is an expatriated entity within the meaning of section 7874(a)(2)(A) with respect to Corporation FZ and is not a member of a consolidated group; there are no expatriated entities with respect to Corporation FZ other than as described in the facts; a reference to ownership refers to direct ownership; any repurchase or acquisition of stock is during a taxable year that includes at least a portion of the applicable period with respect to Corporation FZ under

section 7874(d)(1); each entity has a calendar taxable year; each corporation's only outstanding stock is a single class of common stock; the functional currency (within the meaning of section 985) of any entity is the U.S. dollar; no stock is transferred to any employee; for examples that expressly provide that stock is transferred to any employee, such transfer is made in connection with the employee's performance of services in its capacity as an employee of the transferor, and the employee is treated as the beneficial owner of the stock for Federal income tax purposes on the date of the transfer; and the section 4501(d) exceptions are inapplicable.

(1) *Example 1: Section 4501(d) netting rule with respect to an expatriated entity*—(i) *Facts.* Corporation FZ owns all the outstanding stock of Corporation US1, a domestic corporation. Employee M is an employee of Corporation FZ, and Employee P is an employee of Corporation US1. On February 1, 2024, Corporation US1 purchases 100 shares of stock of Corporation FZ when the market price of each share is $8x. On May 15, 2024, Corporation FZ transfers to Employee M 50 shares of stock of Corporation FZ when the fair market value of each share is $5x. On November 1, 2024, Corporation US1 transfers to Employee P 30 shares of stock of Corporation US1 when the fair market value of each share is $9x. On December 15, 2024, Corporation FZ purchases 90 shares of its stock when the market price of each share is $12x.

(ii) *Analysis.* Each of Corporation US1's purchase of 100 shares of stock of Corporation FZ and Corporation FZ's purchase of 90 shares of its stock is a section 4501(d)(2) repurchase. *See* paragraph (b)(2)(xxii) of this section. Corporation US1 is a section 4501(d) covered corporation with respect to the section 4501(d)(2) repurchases. *See* paragraph (b)(2)(ix)(B) of this section. For purposes of computing Corporation US1's section 4501(d) excise tax base, the fair market value of the 100 shares of stock of Corporation FZ subject to the section 4501(d)(2) repurchase on February 1, 2024, is $800x, and the fair market value of the 90 shares of stock of Corporation FZ subject to the section 4501(d)(2) repurchase on December 15, 2024, is $1,080x. *See* paragraph (k)(1) of this section. Thus, the section 4501(d)(2) repurchases increase Corporation US1's section 4501(d) excise tax base for the 2024 taxable year by $1,880x ($800x + $1,080x). *See* paragraph (c)(3)(i)(A) of this section. Corporation US1's section 4501(d) excise tax base for its 2024 taxable year is not reduced by the fair market value of the stock of Corporation FZ transferred to Employee M or the fair market value of the stock of Corporation US1 transferred to Employee P because the section 4501(d) excise tax base with respect to Corporation US1 can only be reduced by the fair market value of stock of Corporation FZ issued or provided by Corporation US1 to employees of Corporation US1. *See* paragraph (m)(1) of this section. Accordingly, Corporation US1's section 4501(d) excise tax base with respect to these transactions for its 2024 taxable year is $1,880x.

(2) *Example 2: Section 4501(d)(2) repurchase from the covered surrogate foreign corporation or another specified affiliate of the covered surrogate foreign corporation*—(i) *Facts.* Corporation FZ owns all the outstanding stock of each of Corporation US1, a domestic corporation, Corporation FB, a foreign corporation, and Corporation FE, a foreign corporation. On February 1, 2024, Corporation US1 purchases 100 shares of stock of Corporation FZ from Corporation FB when the market price of each share is $8x. On December 15, 2024, Corporation FZ contributes 90 shares of its stock to Corporation FE when the fair market value of each share is $12x.

(ii) *Analysis.* Each of Corporation US1's purchase of 100 shares of stock of Corporation FZ and Corporation FZ's transfer of 90 shares of its stock is a section 4501(d)(2) repurchase. *See* paragraph (b)(2)(xxii) of this section. Corporation US1 is a section 4501(d) covered corporation with respect to the section 4501(d)(2) repurchases. *See* paragraph (b)(2)(ix)(B) of this section. For purposes of computing Corporation US1's section 4501(d) excise tax base, the fair market value of the 100 shares of stock of Corporation FZ subject to the section 4501(d)(2) repurchase on February 1, 2024, is $800x, and the fair market value of the 90 shares of stock of Corporation FZ subject to the section 4501(d)(2) repurchase on December 15, 2024, is $1,080x. *See* paragraph (k)(1) of this section. Accordingly, Corporation US1's section 4501(d) excise tax base with respect to these transactions for its 2024 taxable year is $1,880x. *See* paragraph (c)(3)(i) of this section.

(3) *Example 3: Liability with respect to multiple expatriated entities*—(i) *Facts.* Corporation FZ owns all the outstanding stock of each of Corporation US1, a domestic corporation, and Corporation US2, a domestic corporation. Employee M is an employee of Corporation US1, and Employee P is an employee of Corporation US2. On February 1, 2024, Corporation US1 purchases 100 shares of stock of Corporation FZ when the market price of each share is $8x. On May 15, 2024, Corporation US2 purchases 40 shares of stock of Corporation FZ when the market price of each share is $9x. On October 15, 2024, Corporation FZ repurchases 50 shares of its stock when the market price of each share is $7x. On November 1, 2024, Corporation US1 transfers to Employee M 30 shares of stock of Corporation FZ when the fair market value of each share is $9x. On November 20, 2024, Corporation US2 transfers to Employee P 30 shares of stock of Corporation FZ when the fair market value of each share is $8x. Corporation US1 pays the entire amount of section 4501(d) excise tax that it owes with respect to all section 4501(d)(2) repurchases relating to Corporation FZ and its specified affiliates that occur during Corporation US1's 2024 taxable year and fulfills its filing obligations for its 2024 taxable year with respect to such section 4501(d)(2) repurchases.

(ii) *Analysis.* Each of Corporation US1's purchase of 100 shares of stock of Corporation FZ, Corporation US2's purchase of 40 shares of stock of Corporation FZ, and Corporation FZ's repurchase of 50 shares of its stock is a section 4501(d)(2) repurchase. *See* paragraphs (b)(2)(xxii) and (d)(2)(i) of this section. Each of Corporation US1 and Corporation US2 is a section 4501(d) covered corporation with respect to the section 4501(d)(2) repurchases. *See* paragraph (b)(2)(ix)(B) of this section. For purposes of computing the section 4501(d) excise tax base for each of Corporation US1 and Corporation US2, the fair market value of the 100 shares subject to the section 4501(d)(2) repurchase on February 1, 2024, is $800x; the fair market value of the 40 shares of stock of Corporation FZ subject to the section 4501(d)(2) repurchase on May 15, 2024, is $360x; and the fair market value of the 50 shares of stock of Corporation FZ subject to the section 4501(d)(2) repurchase on October 15, 2024, is $350x. *See* paragraph (k)(1) of this section. Thus, the section 4501(d)(2) repurchases increase each of Corporation US1's and Corporation US2's section 4501(d) excise tax base for the 2024 taxable year by $1,510x ($800x + $360x + $350x). *See* paragraph (c)(3)(i)(A) of this section. 30 shares of Corporation FZ stock are treated as issued or provided to Employee M on November 1, 2024. *See* paragraph (m)(5) of this section. Therefore, Corporation US1's section 4501(d) excise tax base is reduced for its 2024 taxable year by the fair market value of the 30 shares of

stock of Corporation FZ transferred on November 1, 2024, or $270x ($9x per share × 30 shares = $270x). *See* paragraph (m)(7) of this section. Corporation US1's section 4501(d) excise tax base for its 2024 taxable year is not reduced by the fair market value of the stock of Corporation FZ that Corporation US2 transferred to Employee P because the section 4501(d) excise tax base with respect to Corporation US1 can only be reduced by the fair market value of stock of Corporation FZ issued or provided by Corporation US1 to employees of Corporation US1. *See* paragraph (m)(1) of this section. Accordingly, Corporation US1's section 4501(d) excise tax base with respect to these transactions for its 2024 taxable year is $1,240x ($1,510x − $270x). *See* paragraph (c)(3)(i) of this section. Because Corporation US1 pays the entire amount of section 4501(d) excise tax that it owes with respect to all section 4501(d)(2) repurchases that occur during Corporation US1's 2024 taxable year relating to Corporation FZ and its specified affiliates and fulfills its filing obligations for its 2024 taxable year with respect to such section 4501(d)(2) repurchases, Corporation US2 is not liable for section 4501(d) excise tax with respect to such section 4501(d)(2) repurchases. *See* paragraph (d)(2)(ii) of this section.

(p) *Applicability dates*—(1) *In general.* Except as provided in paragraphs (p)(2) and (3) of this section, the provisions of this section apply to transactions that occur after April 12, 2024.

(2) *Transition rule for foreign partnership de minimis rule.* A section 4501(d) covered corporation may choose to apply paragraph (g)(5) of this section by replacing the phrase ''10 percent'' with ''five percent'' for transactions that occur after April 12, 2024, but before November 24, 2025.

(3) *Early application.* A section 4501(d) covered corporation may choose to apply all the rules of this section to transactions occurring after December 31, 2022, provided that the section 4501(d) covered corporation and all other section 4501(d) covered corporations with respect to the same applicable foreign corporation or covered surrogate foreign corporation, as applicable, consistently apply all the rules of this section with respect to such transactions.

■ **Par. 5.** Section 58.6011–1 is amended by revising paragraph (a) to read as follows:

§ 58.6011–1 General requirement of return, statement, or list.

(a) *In general.* Any covered corporation (as defined in section 4501(b) of the Internal Revenue Code (Code)), or any person treated as a covered corporation (as described in section 4501(d)(1)(A) or (d)(2)(A)), other than a regulated investment company (as defined in section 851 of the Code), a real estate investment trust (as defined in section 856(a) of the Code), or a non-RIC '40 Act fund (as described in § 58.4501–3(h)), that makes a repurchase (as defined in section 4501(c)(1)), or that is treated as making a repurchase under section 4501(c)(2)(A), (d)(1)(B), or (d)(2)(B), after December 31, 2022, must file a stock repurchase excise tax return with respect to any taxable year in which the covered corporation or person treated as a covered corporation makes a repurchase or is treated as making a repurchase under section 4501(c)(2)(A), (d)(1)(B), or (d)(2)(B).

* * * * *

Frank J. Bisignano,

Chief Executive Officer.

Approved: October 22, 2025.

Kenneth J. Kies,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2025–20721 Filed 11–21–25; 8:45 am]

BILLING CODE 4831–GV–P

FEDERAL REGISTER

Vol. 90 Monday,
No. 224 November 24, 2025

Part IV

The President

Notice of November 20, 2025—Continuation of the National Emergency With Respect to the Situation in Nicaragua

Federal Register
Vol. 90, No. 224
Monday, November 24, 2025

Presidential Documents

Title 3—

The President

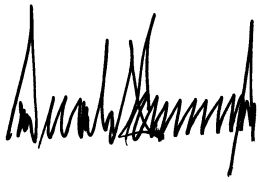
Notice of November 20, 2025

Continuation of the National Emergency With Respect to the Situation in Nicaragua

On November 27, 2018, by Executive Order 13851, the President 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 Nicaragua. On October 24, 2022, the President issued Executive Order 14088 to take additional steps with respect to the national emergency declared in Executive Order 13851.

The situation in Nicaragua, including the violent response by the Government of Nicaragua to the protests that began on April 18, 2018, and the Ortega-Murillo regime's continued systematic dismantling and undermining of democratic institutions and the rule of law, its use of indiscriminate violence and repressive tactics against civilians, as well as its corruption leading to the destabilization of Nicaragua's economy, 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 on November 27, 2018, must continue in effect beyond November 27, 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 13851 with respect to the situation in Nicaragua.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
November 20, 2025.

[FR Doc. 2025–21030
Filed 11–21–25; 2:00 pm]
Billing code 3395–F4–P

Reader Aids

Federal Register

Vol. 90, No. 224

Monday, November 24, 2025

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–741–6000**

Laws — **741–6000**

Presidential Documents

Executive orders and proclamations — **741–6000**

The United States Government Manual — **741–6000**

Other Services

Electronic and on-line services (voice) — **741–6020**

Privacy Act Compilation — **741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

49009–49214	3
49215–49246	4
49247–50482	5
50483–50488	6
50489–50740	7
50741–50856	10
50857–50890	12
50891–51016	13
51017–51080	14
51081–51500	17
51501–51988	18
51989–52230	19
52231–52554	20
52555–52846	21
52847–53194	24

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10987.....49211
10988.....51015
10989.....51071
10990.....51077
10991.....51079
10992.....52549

Executive Orders:
14357.....50725
14358.....50729
14359.....52227

Administrative Orders:
Notices:
Notice of November 5, 2025.....50735
Notice of November 5, 2025.....50737
Notice of November 5, 2025.....50739
Notice of November 20, 2025.....53193

6 CFR

13.....49009
139.....49247

7 CFR

760.....51956, 52231

Proposed Rules:
930.....51572

8 CFR

Ch. I.....51989
251.....51081
258.....51081

Proposed Rules:
1.....49062
103.....49062, 52168
204.....49062
207.....49062
208.....49062
209.....49062
210.....49062
212.....49062, 52168
214.....49062
215.....49062
216.....49062
235.....49062
236.....49062
240.....49062
244.....49062
245.....49062
245a.....49062
264.....49062
287.....49062
333.....49062
335.....49062

10 CFR

810.....52847

Proposed Rules:
821.....51208
1703.....52893

12 CFR

201.....51017
204.....51018, 52849
209.....52231

Proposed Rules:
5.....51577
27.....51583
30.....51587
225.....51856
238.....51856
252.....51856
1002.....50901, 50952

13 CFR

301.....51991

14 CFR

39.....49215, 49248, 49251, 51019, 51091, 51094, 51501, 51504, 52232, 52234, 52555, 52558, 52560, 52851
71.....51097, 51507
73.....51098
97.....50891, 50893

Proposed Rules:
27.....52569
39.....51212, 51216, 51218, 51222, 51225, 51227, 51590, 51592, 51596, 51600, 51602, 51605, 51607, 51610, 51613, 51620, 52005, 52008, 52264, 52570, 52573, 52897, 52899
71.....52011, 52576, 52578, 52580, 52899, 52901
Ch. II.....51230

15 CFR

732.....50857
734.....50857
736.....50857
744.....50857, 50858
748.....50857

18 CFR

Proposed Rules:
342.....52902
284.....52012

19 CFR

4.....51081
103.....52796
122.....51100, 52796

21 CFR

1308.....51102

22 CFR

126.....50489

23 CFR

660.....51105

970.....51107
971.....51109
973.....51110

24 CFR

570.....51992

26 CFR

1.....53144
58.....53144

30 CFR

700.....52853
872 (5 documents) 52855, 52856, 52858, 52860, 52862
874.....52862
875.....52862
879.....52862
885.....52865
886.....52862
887.....52862
935.....51112

Proposed Rules:

917.....51232

31 CFR

Proposed Rules:

1010.....51234

33 CFR

1.....52867
26.....52867
62.....52867
66.....52867
67.....52867
95.....52867
97.....52867
100.....52867
107.....52867
114.....52867
115.....52867
116.....52867
117 .....51508, 52867, 52882
118.....52867
133.....52867
151.....52867
155.....52867
159.....52867
164.....52867
165 .....51510, 52562, 52565, 52867
174.....52867

Proposed Rules:

117.....51623
328.....52498

37 CFR

Proposed Rules:

42.....50492

38 CFR

Proposed Rules:

17.....52581

39 CFR

111 .....50741, 52237, 52883
601.....51994

Proposed Rules:

111.....52266
3050.....49016

40 CFR

52 .....50742, 51510, 51512, 51515, 51518, 51525, 51527, 51529, 51546, 51548, 51551, 51554, 51560, 51997, 51999, 52238, 52241, 52242, 52245, 52248, 52582
70.....52250
81 .....51548, 51551, 51554, 51560, 51999
147.....51021
180 .....49254, 51115, 51118, 51123, 51127, 51164, 51562, 52252, 52256
257.....51168
272.....51565
300.....51181
370.....51187
721.....49218
751.....50894, 51027

Proposed Rules:

52 .....51029, 51247, 51263, 52019, 52270, 52288, 52290, 52297, 52303, 52305, 52308, 52311
62.....52312, 52313
63.....52908
70.....52316, 52318
81.....52319
82.....50766
84.....51042
120.....52498
271.....51625
370.....51266
705.....50923
721 .....49016, 49148, 49180

42 CFR

405.....49266
410.....49266
413.....53068
414.....49266
424.....49266
425.....49266
427.....49266
428.....49266
495.....49266
512.....49266, 53068

43 CFR

2360.....51470

46 CFR

2.....52867
3.....52867
4.....52867
7.....52867
11.....52867
15.....52867
24.....52867
26.....52867
58.....52867
62.....52867
68.....52867
90.....52867
108.....52867
110.....52867
118.....52867
125.....52867
126.....52867
131.....52867
132.....52867
133.....52867
147.....52867
169.....52867
177.....52867
181.....52867
182.....52867
188.....52867

47 CFR

Proposed Rules:

73 .....51291, 51630, 52327
74.....52327

49 CFR

Proposed Rules:

107.....52348
385.....52030
1241.....51631
1251.....51631

50 CFR

218.....50504
300.....52004
622.....49014
648 .....50490, 50743, 51570
660.....51205
679 .....49234, 49235, 49236, 50483, 52567

Proposed Rules:

17 .....51632, 52587, 52592
622.....52349
402.....52600
424.....52607

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *https://www.archives.gov/federal-register/laws/current.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text is available at *https://www.govinfo.gov/app/collection/plaw*. Some laws may not yet be available.

H.R. 4405/P.L. 119–38
Epstein Files Transparency Act (Nov. 19, 2025; 139 Stat. 656)
Last List November 14, 2025

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/__*layouts/pg/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.