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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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Breakage on Late Contributions, Makeup Contributions, and Loan Payments

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) adopts as final, without changes, the proposed rule permitting the TSP record keeper to calculate gains and losses on late contributions, makeup contributions, loan payments even when the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00. **DATES:** The effective date is April 16, 2025.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: James Kaplan, Office of External Affairs, (202) 864-7150.

For information about this final rule: Laurissa Stokes, Office of General Counsel, (202) 308-7707.

SUPPLEMENTARY INFORMATION: The FRTIB administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP is a retirement savings plan for Federal civilian employees and members of the uniformed services. It is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)). The provisions of FERSA that govern the TSP are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79.

Under 5 U.S.C 8432, the Executive Director of the FRTIB is directed to prescribe regulations to establish an error correction procedure for lost earnings that result from employing agencies' errors.

Employing agencies submit agency matching contributions, deduct employee contributions from participants' basic pay, and deduct loan payments from participants' basic pay. Employing agencies also submit makeup contributions to the TSP.

Contribution and loan payment information are submitted by employing agencies to the TSP record keeper using a payment record. Occasionally, a payment record is not submitted timely or contains an error. As a result, the participant's funds are unavailable for investment by the TSP record keeper and do not experience gains realized or losses incurred that they would have otherwise. These missed gains or losses are referred to as breakage.

Previously, section 1605.2(a)(1) said the TSP does not calculate breakage if the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00. We believe this rule existed due to technological and administrative limitations that no longer exist and is, therefore, obsolete. This final rule will direct the TSP record keeper to calculate breakage even when the total amount on a late payment record or total agency contributions on a current payment record is less than \$1.00.

On December 18, 2024, the FRTIB published a proposed rule with request for public comments in the **Federal Register** (89 FR 102840, December 18, 2024). The period for public comments closed on February 18, 2025, and we received no comments. For the reasons explained above, the FRTIB is adopting the proposed rule as final, without any substantive changes.

Regulatory Flexibility Act: I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, and which is administered by the FRTIB.

Paperwork Reduction Act: I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995: Pursuant to the Unfunded

Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501 1571, the effects of this regulation on State, local, and Tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by State, local, and Tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

Submission to Congress and the General Accountability Office: Pursuant to 5 U.S.C. 801(a)(1)(A), the FRTIB submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Government Accountability Office before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1605

Claims, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB amends 5 CFR part 1605 as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

■ 1. The authority citation for part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432a, 8432d, 8474(b)(5) and (c)(1). Subpart B also issued under section 1043(b) of Public Law 104-106, 110 Stat. 186 and § 7202(m)(2) of Public Law 101-508, 104 Stat. 1388.

■ 2. Amend § 1605.2 by revising paragraph (a)(1) to read as follows:

§ 1605.2 Calculating, posting, and charging breakage on late contributions and loan payments.

(a) * * *

(1) The TSP record keeper will not calculate breakage if contributions or loan payments are posted within 30 days of the "as of" date; and

* * * * *

[FR Doc. 2025-06407 Filed 4-15-25; 8:45 am]

BILLING CODE 6760-01-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 29**

[Docket No. FAA–2025–0080; Special Conditions No. 29–058–SC]

Special Conditions: Airbus Helicopters Model EC175B Helicopter; Use of 30-Minute All Engines Operating Power Rating

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Airbus Helicopters (Airbus) Model EC175B helicopter. This model helicopter will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category helicopters. This design feature is a 30-minute all engines operating (AEO) power rating. This rating will be used for hovering at increased power for search and rescue missions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Airbus on April 16, 2025. Send comments on or before June 2, 2025.

ADDRESSES: Send comments identified by Docket No. FAA–2025–0080 using any of the following methods:

- *Federal eRegulations 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 (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.

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 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.

FOR FURTHER INFORMATION CONTACT:

Andrew Birkenheuer, Engine and Propulsion Section, AIR–625, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5246; email Andrew.J.Birkenheuer@faa.gov.

SUPPLEMENTARY INFORMATION:

Substantially identical proposed special conditions have been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to title 14, Code of Federal Regulations (14 CFR) 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Privacy

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in § 11.35, the FAA will post all comments received without change to www.regulations.gov, including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the

public docket for these special conditions.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On September 14, 2022, Airbus requested FAA type certificate validation for the Airbus Model EC175B helicopter. The Model EC175B helicopter is a Transport Category, 14 CFR part 29, twin-engine conventional helicopter designed for civil operations. This model will be certificated with Category A performance and under dual pilot instrument flight rules, powered by two Pratt & Whitney Canada PT6C–67E engines with a dual channel Full Authority Digital Engine Control system, has five main rotor blades, a maximum gross weight of 17,196 pounds, and a velocity not exceeding 175 knots. The Model EC175B helicopter features an integrated modular avionics suite with four 6x8-inch multi-function displays called Common Integrated Global Avionics for Light Helicopters. This rotorcraft is capable of carrying 18 passengers and two crew members. Its initial customer base includes offshore oil and search and rescue operations.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model EC175B helicopter meets the applicable provisions of part 29, as amended by amendments 29–1 through 29–52.

If the Administrator finds that the applicable airworthiness regulations (e.g., 14 CFR part 29) do not contain adequate or appropriate safety standards for the Airbus Model EC175B helicopter because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions

would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model EC175B helicopter must comply with the exhaust-emission requirements of part 34 and the noise-certification requirements of part 36.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Feature

The Airbus Model EC175B helicopter will incorporate the following novel or unusual design feature:

A 30-minute AEO power rating.

Discussion

Airbus proposes a novel and unusual design feature for the Model EC175B helicopter: a 30-minute power rating identified in the Pratt & Whitney Canada PT6C-67E engine type certificate data sheet (TCDS) No. E00068EN. Under 14 CFR 1.1, “rated takeoff power” is limited to no more than 5 minutes for takeoff operations. As such, regulations in 14 CFR 29 that reference takeoff power are not adequate to address the use of takeoff power for 30 minutes. Therefore, takeoff power for 30 minutes requires special airworthiness standards, known as special conditions, to address the use of this 30-minute power rating and its effects on the rotorcraft. This power will be limited to 50 minutes per flight due to engine durability considerations. These special conditions will add requirements to evaluate the use of 30-minute takeoff power to the existing airworthiness requirements in § 29.1049, “Hovering cooling test procedures,” requirements to track 30-minute takeoff power usage to the requirements in § 29.1305, “Powerplant instruments,” and limitations on the use of 30-minute takeoff power to the requirements in § 29.1521, “Powerplant limitations.” A summary of the final special conditions is as follows:

1. Cooling Effects (§ 29.1049)

In addition to the hovering cooling test procedures requirements in § 29.1049, because § 29.1049 does not address the evaluation of cooling effects resulting from using a 30-minute power rating, these special conditions require evaluation through testing of aircraft cooling effects resulting from using the 30-minute power rating.

2. Powerplant Instruments (§ 29.1305)

In addition to the powerplant instruments requirements in § 29.1305, because § 29.1305 does not address 30-minute takeoff power, these special conditions require the pilot be provided with means to identify the following with respect to 30-minute takeoff power:

- When the rated engine power level is achieved,
- When the event begins,
- When the time interval expires, and
- When the cumulative time in one flight is reached.

3. Powerplant Limitations (§ 29.1521)

In addition to the powerplant limitations in § 29.1521, because § 29.1521 does not address 30-minute takeoff power, these special conditions limit the use of takeoff power for 30 minutes to:

- No more than 30 minutes per use, and
 - No more than 50 minutes per flight.
- Additionally, the Model EC175B helicopter flight manual must include the following limitations on the use of the 30-minute power rating per 14 CFR 29.1583(b)(1) (which requires furnishing the limitations required by § 29.1521):
- Continuous use above maximum continuous power (MCP) is limited to 30 minutes, and
 - Cumulative use above MCP is limited to 50 minutes per flight.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions apply to the Airbus Model EC175B helicopter. Should Airbus later apply for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would also apply to that model.

Conclusion

This action affects only a certain novel or unusual design feature on the Airbus Model EC175B helicopter. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus Helicopters Model EC175B helicopter. Unless stated otherwise, all requirements in 14 CFR 29.1049, 29.1305, and 29.1521 remain unchanged.

1. *Section 29.1049, Hovering cooling test procedures.* In addition to the requirements of this section, for this rotorcraft with a 30-minute all engines operating (AEO) power rating, the hovering cooling provisions at the 30-minute AEO power rating must be shown—

a. At maximum weight or at the greatest weight at which the rotorcraft can hover (if less), at sea level, with the power required to hover but not more than the 30-minute power, in the ground effect in still air, until at least five minutes after the occurrence of the highest temperature recorded, or until the continuous time limit of the 30-minute AEO power rating if the highest temperature recorded is not stabilized before.

b. At maximum weight and at the altitude resulting in zero rate of climb for this configuration until at least five minutes after the occurrence of the highest temperature recorded, or until the continuous time limit of the 30-minute AEO power rating if the highest temperature recorded is not stabilized before.

2. *Section 29.1305 Powerplant instruments, at Amendment 29–40.* In addition to the requirements of this section, for this rotorcraft with a 30-minute AEO power rating, a means must be provided to alert the pilot when the engine is at the 30-minute power level, when the event begins, when the time interval expires, and when the cumulative time in one flight is reached.

3. *Section 29.1521 Powerplant limitations, at Amendment 29–41.* In addition to the requirements of this section, the use of the 30-minute AEO power rating must be limited to not more than 30 minutes per use and not more than a 50-minute cumulative time per flight. The use of the 30-minute power must also be limited by:

- a. The maximum rotational speed, which may not be greater than—
 - (1) The maximum value determined by the rotor design; or
 - (2) The maximum value shown during the type tests;
- b. The maximum allowable turbine inlet or turbine outlet gas temperature.
- c. The maximum allowable power or torque for each engine, considering the

power input limitations of the transmission with all engines operating;

d. The time limit for the use of the power corresponding to the limitations established in this section, subparagraphs a. through c. of this section, and

e. The maximum allowable engine and transmission oil temperatures.

Issued in Kansas City, Missouri, on April 11, 2025.

Patrick R. Mullen,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2025-06440 Filed 4-15-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-2417; Project Identifier AD-2024-00336-E; Amendment 39-23012; AD 2025-07-10]

RIN 2120-AA64

Airworthiness Directives; General Electric Company Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020-20-17 and AD 2021-15-05 for all General Electric Company (GE) Model GE90-110B1 and GE90-115B engines. AD 2020-20-17 prohibits dispatch of an airplane if certain status messages are displayed on the engine indicating and crew alerting system (EICAS) and if certain conditions are present; and as terminating action, requires revision of the existing FAA-approved minimum equipment list (MEL) by incorporating the dispatch restrictions into the MEL. AD 2021-15-05 requires initial and repetitive replacement of the full authority digital engine control (FADEC) integrated circuit (MN4) microprocessor. Since the FAA issued AD 2020-20-17 and AD 2021-15-05, the manufacturer has developed a software revision for the electronic engine control (EEC) FADEC that further mitigates the unsafe condition. This AD retains all the actions of AD 2020-20-17 and AD 2021-15-05, and also requires upgrading the EEC FADEC software to an EEC FADEC software version eligible for installation as a terminating action. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 21, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 21, 2025.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of October 23, 2020 (85 FR 63443, October 8, 2020); and September 13, 2021 (86 FR 43409, August 9, 2021).

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2417; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For GE material identified in this AD, contact GE, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552-3272; email: aviation.fleetsupport@ge.com; website: [ge.com](https://www.ge.com).

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2417.

FOR FURTHER INFORMATION CONTACT:

Alexander Thickstun, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (202) 267-8292; email: alexander.m.thickstun@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020-20-17, Amendment 39-21273 (85 FR 63443, October 8, 2020) (AD 2020-20-17) and AD 2021-15-05, Amendment 39-21652 (86 FR 43409, August 9, 2021) (AD 2021-15-05). AD 2020-20-17 and AD 2021-15-05 applied to all GE Model GE90-110B1 and GE90-115B engines. The NPRM published in the **Federal Register** on November 1, 2024 (89 FR 87317). The NPRM was prompted by an in-service occurrence of loss of engine thrust control resulting in uncommanded high thrust. Degradation of the MN4 integrated circuit

microprocessor solder balls in the FADEC can result in the engine not following throttle commands. In the NPRM, the FAA proposed to continue to prohibit dispatch of an airplane if certain status messages are displayed on the EICAS and if certain conditions are present; and as terminating action, require revision of the existing FAA-approved MEL by incorporating the dispatch restrictions into the MEL. The FAA also proposed to continue to require initial and repetitive replacement of the FADEC MN4 microprocessor. In the NPRM, the FAA also proposed to require upgrading the EEC FADEC software to an EEC FADEC software version eligible for installation as a terminating action for the actions retained from AD 2020-20-17 and AD 2021-15-05.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from five commenters. The commenters were the Air Line Pilots Association, International (ALPA), The Boeing Company (Boeing), FedEx Express (FedEx), GE Aerospace (GE), and United Airlines (UAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

ALPA expressed support for the proposed AD. FedEx concurred with the intent and scope of the proposed AD and stated that the FedEx fleet has already upgraded the EEC FADEC software version to A.0.8.6. UAL indicated that it had no objections to the proposed AD.

Request for Updated Definition

GE requested that the FAA update the Material Incorporated by Reference under 14 CFR part 51 paragraph and revise the definition specified in paragraph (i)(1)(ii) of the NPRM to include a later revision of the acceptable service information. GE mentioned that the FAA has approved a global alternative method of compliance (AMOC) to the corresponding paragraph in AD 2021-15-05, which allowed the use of the later service information. GE pointed out that including the later service information would prevent similar requests for AMOCs to the NPRM.

The FAA agrees with the request. The FAA has revised the Material Incorporated by Reference under 14 CFR part 51 paragraph and paragraph (i)(1)(ii) of this AD to include reference to GE GE90-100 Service Bulletin 73-

0118 R02, dated November 15, 2024 (GE GE90–100 Service Bulletin 73–0118 R02). Additionally, the FAA has added paragraph (n)(3) of this AD to allow AMOCs approved previously for AD 2021–15–05 as AMOCs for the corresponding provisions of this AD.

Request for Added Clarification of FADEC Software Version A.0.8.6

GE requested that the FAA include a service bulletin reference (GE GE90–100 Service Bulletin 73–0122) in the required actions specified in paragraph (j) of the NPRM. GE pointed out that field configuration management is tracked with service bulletins that are used to release part numbers to the field, and that including reference to GE GE90–100 Service Bulletin 73–0122 provides clarification.

The FAA agrees and has updated the new required actions specified in paragraphs (j) and (l) of this AD to refer to GE GE90–100 Service Bulletin 73–0122.

Request for Credit

GE requested that the FAA include credit for previous versions of GE GE90–100 Service Bulletin 73–0122. GE pointed out that including credit would help avoid confusion about compliance with the required action.

The FAA disagrees with the request. The FAA has updated the new required actions specified in paragraphs (j) and (l) of this AD to include reference to GE GE90–100 Service Bulletin 73–0122. Since the reference is clarifying and does not require any action in accordance with the service information reference, there is no need for any credit

related to the action. The FAA did not change this AD as a result of this comment.

Request for Clarification of the Unsafe Condition

Boeing requested that the FAA revise the unsafe condition specified in paragraph (e) of the NPRM. Boeing requested that the unsafe condition be reworded to focus on describing the unsafe condition or to include the new mitigations provided in the NPRM. Boeing also included proposed language to revise paragraph (e) of the NPRM. Boeing noted that paragraph (e) of the NPRM does not describe the potentially unsafe condition in detail and does not discuss the new mitigations that were added in the NPRM.

The FAA agrees to clarify. However, the FAA has determined that the unsafe condition described in paragraph (e) of this AD correctly describes the unsafe condition and is consistent with the verbiage used in the previous (superseded) ADs. Instead, the FAA has determined to include an additional clarifying sentence in the Background of this AD, which states: “Degradation of the MN4 integrated circuit microprocessor solder balls in the FADEC can result in the engine not following throttle commands.”

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these

products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed GE GE90–100 Service Bulletin 73–0118 R02, which specifies procedures for replacing the FADEC MN4 microprocessor, which describes procedures for checking for an inbound FADEC EICAS “ENG EEC C1” status message and corresponding conditions.

The FAA also reviewed GE GE90–100 Service Bulletin 73–0117 R01, dated August 5, 2020, which the Director of the Federal Register approved for incorporation by reference as of October 23, 2020 (85 FR 63443, October 8, 2020).

The FAA also reviewed GE GE90–100 Service Bulletin 73–0118, Revision 01, dated April 27, 2021, which the Director of the Federal Register approved for incorporation by reference as of September 13, 2021 (86 FR 43409, August 9, 2021).

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

Costs of Compliance

The FAA estimates that this AD affects 330 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the existing MEL (Retained action from AD 2020–20–17).	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$28,050
Remove and replace the FADEC (Retained action from AD 2021–15–05).	1 work-hour × 85 per hour = 85	25,200	25,285	8,344,050
Upgrade the EEC FADEC software (New Action)	1 work-hour × 85 per hour = 85	0	85	28,050

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2020–20–17, Amendment 39–21273 (85 FR 63443, October 8, 2020); and Airworthiness Directive 2021–15–05, Amendment 39–21652 (86 FR 43409, August 9, 2021); and

■ b. Adding the following new airworthiness directive:

2025–07–10 General Electric Company:

Amendment 39–23012; Docket No. FAA–2024–2417; Project Identifier AD–2024–00336–E.

(a) Effective Date

This airworthiness directive (AD) is effective May 21, 2025.

(b) Affected ADs

(1) This AD replaces AD 2020–20–17, Amendment 39–21273 (85 FR 63443, October 8, 2020) (AD 2020–20–17).

(2) This AD replaces AD 2021–15–05, Amendment 39–21652 (86 FR 43409, August 9, 2021) (AD 2021–15–05).

(c) Applicability

This AD applies to General Electric Company (GE) Model GE90–110B1 and GE90–115B engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7320, Fuel Controlling System.

(e) Unsafe Condition

This AD was prompted by an in-service occurrence of loss of engine thrust control resulting in uncommanded high thrust. The FAA is issuing this AD to prohibit dispatch of the airplane when certain faults caused by degradation of the MN4 integrated circuit in the full authority digital engine control

(FADEC) are displayed and certain FADEC conditions are present, and to prevent failure of the electronic engine control (EEC) FADEC integrated circuit (MN4) microprocessor solder ball. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane.

(f) Compliance

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

(g) Retained Actions From AD 2020–20–17, With No Changes

(1) After October 23, 2020 (the effective date of AD 2020–20–17), notwithstanding the provisions of the operator's minimum equipment list (MEL), dispatch of an airplane is prohibited if the engine indicating and crew alerting system (EICAS) displays the status message “ENG EEC C1 L” or “ENG EEC C1 R” and any condition is present that is listed in the Accomplishment Instructions, paragraphs 3.A.(2)(f), 3.A.3(a), or 3.A.(4) of GE GE90–100 Service Bulletin 73–0117 R01, dated August 5, 2020.

(2) As terminating action for the requirements of paragraph (g)(1) of this AD, within 120 days of October 23, 2020 (the effective date of AD 2020–20–17), revise the existing FAA-approved MEL by incorporating into the MEL the dispatch restrictions listed in paragraph (g)(1) of this AD as a required operation or maintenance procedure. Specific alternative MEL wording to accomplish the actions specified in paragraph (g)(1) of this AD can be approved by the operator's principal operations or maintenance inspector.

(h) Retained Actions From AD 2021–15–05, With No Changes

(1) Within the following compliance times after September 13, 2021 (the effective date of AD 2021–15–05), replace the FADEC MN4 microprocessor using an approved overhaul procedure:

(i) For a FADEC MN4 microprocessor with 10,500 or more cycles since new (CSN), replace the FADEC MN4 microprocessor before accumulating 500 additional cycles on the FADEC MN4 microprocessor.

(ii) For a FADEC MN4 microprocessor with 5,000 CSN or more, but fewer than 10,500 CSN, replace the FADEC MN4 microprocessor at the next FADEC component shop visit or before accumulating 11,000 CSN on the FADEC MN4 microprocessor, whichever occurs first.

(2) Thereafter, repeat the replacement of the FADEC MN4 microprocessor at the first FADEC component shop visit after accumulating 5,000 cycles since the last replacement but before accumulating 11,000 cycles since the last replacement.

(i) Retained Definitions From AD 2021–15–05, With an Updated Definition

This paragraph restates the definitions of paragraph (h) of AD 2021–15–05, with new service information included for the definition of paragraph (h)(1)(ii). For the purpose of this AD:

(1) An “approved overhaul procedure” is one of the following:

(i) Replacement of the FADEC MN4 microprocessor using FADEC International-approved maintenance procedures; or

(ii) Replacement of the FADEC MN4 microprocessor using the Accomplishment Instructions, paragraph 3.A., of GE GE90–100 Service Bulletin 73–0118, Revision 01, dated April 27, 2021, or of GE GE90–100 Service Bulletin 73–0118, Revision 02, dated November 15, 2024.

(2) A “FADEC component shop visit” is the induction of the FADEC into a repair facility to perform internal maintenance on the FADEC.

(j) New Required Actions

Within 180 days after the effective date of this AD, replace any EEC FADEC software version that is earlier than A.0.8.6 (prior to GE GE90–100 Service Bulletin 73–0122) with an EEC FADEC software version that is eligible for installation.

(k) Terminating Action

The actions specified in paragraph (j) of this AD constitute terminating action for all the requirements of paragraphs (g) and (h) of this AD.

(l) Installation Prohibition

As of the effective date of this AD, no person may install on any engine, an EEC FADEC software version that is earlier than A.0.8.6 (prior to GE GE90–100 Service Bulletin 73–0122).

(m) Definition

For the purpose of this AD, an “EEC FADEC software version that is eligible for installation” is any software version that is A.0.8.6 or later.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (o) 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.

(3) AMOCs approved previously for AD 2021–15–05 are approved as AMOCs for the corresponding provisions of this AD.

(o) Additional Information

For more information about this AD, contact Alexander Thickstun, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (202) 267–8292; email: alexander.m.thickstun@faa.gov.

(p) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on May 21, 2025.

(i) General Electric Company (GE) GE90–100 Service Bulletin 73–0118, Revision 02, dated November 15, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on October 23, 2020 (85 FR 63443, October 8, 2020).

(i) GE GE90–100 Service Bulletin 73–0117 R01, dated August 5, 2020.

(ii) [Reserved]

(5) The following material was approved for IBR on September 13, 2021 (86 FR 43409, August 9, 2021).

(i) GE GE90–100 Service Bulletin 73–0118, Revision 01, dated April 27, 2021.

(ii) [Reserved]

(6) For GE material identified in this AD, contact GE, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: aviation.fleetsupport@ge.com; website: ge.com.

(7) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(8) 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 April 2, 2025.

Peter A. White,

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

[FR Doc. 2025–06420 Filed 4–15–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–2114; **Airspace**
Docket No. 24–AGL–19]

RIN 2120–AA66

Amendment of Class E Airspace; Marysville, OH

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Marysville, OH. This action is the result of an airspace review conducted due to the decommissioning of the Marysville nondirectional beacon (NDB). The geographic coordinates are being corrected due to a typographical error and updated to coincide with the FAA's aeronautical database. This

action brings the airspace into compliance with FAA orders and supports instrument flight rule (IFR) procedures and operations.

DATES: Effective 0901 UTC, June 12, 2025. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11J, 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, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 amends the Class E airspace extending upward from 700 feet above the surface at Union County Airport, Marysville, OH to support IFR operations at this airport.

History

The FAA published an NPRM for Docket No. FAA–2024–2114 in the **Federal Register** (90 FR 8920; February 4, 2025) proposing to amend the Class E airspace at Marysville, OH. Interested parties were invited to participate in

this rulemaking effort by submitting written comments on the proposal to the FAA. Three (3) comments were received:

1. Carson Benedict stated: “Extending the Marysville (Union County) class echo airspace will provide greater coverage for pilots (FAA,2025). This is beneficial for IFR pilots as Union County has two RNAV approaches, so the expansion of the airspace would offer pilots under IFR plans additional protection. This extension also protects those pilots who are transitioning from the airport to NAVIDS, such as a VOR or GPS waypoint (Martin, 2023). Along with this action, the decommissioning of the Marysville NDB is a much-needed process as the aviation industry leads the world in modernized navigation utilizing GPS and similar navigation sources. As a pilot training for my instrument rating, GPS approaches are considered more accurate than any other approach, making this extension in controlled airspace especially valuable for IFR pilots.”

2. Spencer Raver states: “The amendment to the Class E airspace surrounding Marysville, OH, is crucial due to the discontinuation of the Marysville NDB. The western extension of class E airspace provides a smooth transition to and from en route flight for aviators operating under instrument flight rules.” The commenter further stated that, with removal of NDBs expected to be removed from the NAS, this “calls for an expansion of airspace around airports like KMRT, who are losing their local NDB, to accommodate local traffic that would otherwise be using the NDB's approach procedure.”

“Furthermore, the expansion of the airspace may attract more pilots operating under instrument flight rules due to the added efficiency to enter and exit the airport, meaning there would be more traffic to the airport. If this influx of traffic is to occur, there may be issues with the adjacent airports of KDLZ and KOSU to the east and southeast with their departing and arriving traffic, especially during MVFR and IFR conditions when visibility and clouds are low.”

3. Hayden Damrow submitted a comment that was unrelated to the proposal. FAA notes the two comments in support of the proposal as well as extraneous information submitted that does not substantively bear upon the proposal.

Incorporation by Reference

Class E airspace designations are published in paragraph 6005 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 amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11J lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile (increased from a 6.3-mile) radius of Union County Airport, Marysville, OH; removes the Marysville NDB and associated extension from the legal descriptions; adds an extension 2 miles each side of the 263° bearing from the airport extending from the 6.7-mile radius of the airport to 9.8 miles west of the airport; removes exclusionary language as it is no longer required; and removes the city associated with the airport in the airspace legal description to comply with changes to FAA Order JO 7400.2P, Procedures for Handling Airspace Matters; and updates the typographical error in the geographic coordinates to (lat 40°13'28"N) vs (lat 40°13'2847"N), of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review conducted as part of the decommissioning of the Marysville NDB and to support IFR operations at this airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL OH E5 Marysville, OH [Amended]

Union County Airport, OH
(Lat. 40°13'28" N, long. 83°21'06" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Union County Airport; and within 2 miles each side of the 263° bearing from the airport extending from the 6.7-mile radius to 9.8 miles west of the airport.

* * * * *

Issued in Fort Worth, Texas, on April 11, 2025.

Wayne L. Eckenrode,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2025–06457 Filed 4–15–25; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2024–0433; FRL–12248–02–R10]

Air Plan Approval; Washington; Spokane Regional Clean Air Agency, General Air Quality Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) in coordination with the Spokane Regional Clean Air Agency (SRCAA). In 2021, the EPA approved a comprehensive update to the SRCAA general air quality regulations in the SIP, which include new source review permitting requirements as well as other general requirements for sources regulated under SRCAA's jurisdiction. In this action, the EPA is approving additional updates to the SRCAA general air quality regulations promulgated since our comprehensive approval in 2021.

DATES: This final rule is effective May 16, 2025.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2024–0433. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–0256 or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we" or "our" is used, it means the EPA.

I. Background

On November 14, 2024, the EPA proposed to approve minor revisions to the Spokane Regional Clean Air Agency

general air quality regulations (89 FR 89942). The reasons for our proposed action are included in the proposal and will not be restated here. The public comment period closed on December 16, 2024. We received no comments on our proposed approval.

II. Final Action

A. Revisions to the Incorporation by Reference Section of the SIP

The EPA is approving and incorporating by reference into the Washington SIP at 40 CFR 52.2470(c)—*Table 9—Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction*, the following updated sections of Spokane Regional Clean Air Agency Regulation I, State effective July 15, 2023:

- 1.01, *Policy*, establishing the policy of the agency;
- 1.04, *Definitions*, establishing definitions used throughout Regulation I;
- 2.08, *Falsification of Statements or Documents, and Treatment of Documents*, establishing enforceable standards for the treatment of documents;
- 2.13, *Federal and State Regulation Reference Date*, adopting certain Federal and State regulatory provisions by reference;
- 4.04, *Stationary Sources and Source Categories Subject to Registration*, establishing which facilities are subject to permitting or other agency requirements;
- 5.02, *New Source Review—Applicability and when Required*, establishing when a permit is necessary for construction or modification of a source;
- 5.04, *Information Required*, establishing what information is necessary in applying for permits or other agency actions;
- 5.05, *Public Involvement*, establishing public involvement procedures for agency actions;
- 5.07, *Processing NOC Applications for Stationary Sources*, establishing agency procedures under the new source review program;
- 5.08, *Portable Sources*, establishing requirements and agency procedures for movable sources;
- 5.10, *Changes to an Order of Approval or Permission to Operate*, establishing requirements and procedures for permit modifications;
- 5.13, *Order of Approval Construction Time Limits*, establishing time limits and procedures for construction or modification of a stationary source;

- 6.04, *Emission of Air Contaminant: Detriment to Person or Property*, establishing emissions standards for public protection;

- 8.01, *Purpose*, establishing the purpose of Article VIII to address emissions from solid fuel burning devices;
- 8.02, *Applicability*, establishing the applicability of Article VIII provisions;
- 8.03, *Definitions*, establishing additional definitions used in Article VIII;
- 8.04, *Emission Performance Standards*, establishing standards for solid fuel burning devices;
- 8.05, *Opacity Standards*, establishing opacity standards for solid fuel burning devices;
- 8.06, *Prohibited Fuel Types*, standards to prevent the burning of refuse or other prohibited items in a solid fuel burning device;
- 8.07, *Curtailment*, establishing requirements and procedures for when solid fuel burning devices can be used;
- 8.08, *Exemptions*, providing exemptions to certain Article VIII requirements;
- 8.09, *Procedure to Geographically Limit Solid Fuel Burning Devices*, additional contingency measures should the Spokane area experience air quality violations; and
- 8.10, *Restrictions on Installation of Solid Fuel Burning Devices*, provisions banning the installation or sale of uncertified solid fuel burning devices.

B. Approved But Not Incorporated by Reference Regulations

In addition to the regulations approved and incorporated by reference in section II.A. of this preamble, the EPA reviews and approves State and local air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference so as to avoid potential conflict with the EPA's independent authorities. Therefore, we are approving but not incorporating by reference the submitted revisions, effective July 15, 2023, to SRCAA Regulation I, sections 2.01, 2.03, 2.04, 2.05, 2.11, 2.12, and 8.11 in 40 CFR 52.2470(e), *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures*.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation

by reference of SRCAA Regulation I revisions, State effective July 15, 2023, as described in section II of this preamble and set forth in the amendments to 40 CFR part 52 in this document. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

¹ 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, this action is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal Governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by June 16, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 4, 2025.

Emma Pokon,

Regional Administrator, Region 10.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

■ 2. In § 52.2470:

■ a. Amend paragraph (c), table 9, under the heading “Spokane Regional Clean Air Agency Regulation I”, by revising the entries “1.01”, “1.04”, “2.08”, “2.13”, “4.04”, “5.02”, “5.04”, “5.05”, “5.07”, “5.08”, “5.10”, “5.13”, “6.04”, and revising all the entries under the heading “Article VIII—Solid Fuel Burning Device Standards”; and

■ b. Amend paragraph (e), table 1, under the heading “Spokane Regional Clean Air Agency Regulations”, by revising the entries “2.01”, “2.03”, “2.04”, “2.05”, “2.11”, “2.12”, and “8.11”.

The revisions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology’s direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Spokane Regional Clean Air Agency Regulation I				
Article I—Policy, Short Title, and Definitions				
1.01	Policy	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Subsections (A) and (B) replace WAC 173–400–010.
*	*	*	*	*
1.04	General Definitions	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsections (17), (41), (52), (60), (74), (101), (112), (119), and (122). Section 1.04 replaces WAC 173–400–030 except the following WAC 173–400–030 definitions adopted by reference in subsection 2.14(A)(1): Adverse Impact on Visibility; Capacity Factor; Class I Area; Dispersion Technique; Emission Threshold; Excess Stack Height; Existing Stationary Facility; Federal Class I Area; Federal Land Manager; Fossil Fuel-fired Steam Generator; General Process Unit; Greenhouse Gases; Industrial Furnace; Mandatory Class I Federal Area; Natural Conditions; Projected Width; Reasonably Attributable; Sulfuric Acid Plant; and Wood Waste.

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
JURISDICTION—Continued

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
*	*	*	*	*
Article II—General Provisions				
2.08	Falsification of Statements or Documents, and Treatment of Documents.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Subsection (E) replaces WAC 173–400–105(6). Subsection (F) replaces WAC 173–400–105(8).
*	*	*	*	*
2.13	Federal and State Regulation Reference Date.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Subsection (A) replaces WAC 173–400–025.
*	*	*	*	*
Article IV—Registration				
*	*	*	*	*
4.04	Stationary Sources and Source Categories Subject to Registration.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsection (A)(5)(b) and any other provision as it relates to the regulation of toxic air pollutants or odors.
*	*	*	*	*
Article V—New Source Review for Stationary Sources and Portable Sources				
5.02	New Source Review—Applicability and when Required.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsections (C)(5), (I)(1)(a), and any other provision as they relates to the regulation of toxic air pollutants or odors. Section 5.02 replaces WAC 173–400–110. Subsection (F) replaces WAC 173–400–111(2).
*	*	*	*	*
5.04	Information Required	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsection (A)(8). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.05	Public Involvement	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsection (C)(15). Section 5.05 replaces WAC 173–400–171.
*	*	*	*	*
5.07	Processing NOC Applications for Stationary Sources.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsections (A)(1)(g) and (B). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111, and subsection 5.07(A)(7) replaces WAC 173–400–110(2)(a).
5.08	Portable Sources	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsection (A)(6). Section 5.08 replaces WAC 173–400–036.
*	*	*	*	*
5.10	Changes to an Order of Approval or Permission to Operate.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
*	*	*	*	*
5.13	Order of Approval Construction Time Limits.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
JURISDICTION—Continued

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
*	*	*	*	*
Article VI—Emissions Prohibited				
6.04	Emission of Air Contaminant: Detriment to Person or Property.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Subsections (A), (B), (C), and (H) only and excepting provisions in RCW 70A.15.4530 (incorporated by reference) that relate to odor. Subsection (C) replaces WAC 173–400–040(6).
*	*	*	*	*
Article VIII—Solid Fuel Burning Device Standards				
8.01	Purpose	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
8.02	Applicability	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
8.03	Definitions	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsection (A)(6).
8.04	Emission Performance Standards.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except the incorporation by reference of WAC 173–433–130, 173–433–170, and 173–433–200.
8.05	Opacity Standards	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
8.06	Prohibited Fuel Types ...	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
8.07	Curtailment	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
8.08	Exemptions	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Except subsection (A)(4).
8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
8.10	Restrictions on Installation of Solid Fuel Burning Devices.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
*	*	*	*	*

* * * * * (e) * * *

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
*	*	*	*	*
Spokane Regional Clean Air Agency Regulations				

2.01	Powers and Duties of the Board.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
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TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
2.02	Control Officer's Duties and Powers.	9/1/20	5/10/21, 86 FR 24718	Section 2.02(E) replaces WAC 173–400–105(3).
2.03	Confidential or Proprietary Information.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
2.04	Violations	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Replaces WAC 173–400–230(1)&(6).
2.05	Orders and Hearings	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
2.06	Appeal of Board Orders	9/1/20	5/10/21, 86 FR 24718	Replaces WAC 173–400–250.
2.10	Severability	9/1/20	5/10/21, 86 FR 24718.	
2.11	Penalties, Civil Penalties, and Additional Means for Enforcement.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Replaces WAC 173–400–230(2)&(3).
2.12	Restraining Orders—Injunctions.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Replaces WAC 173–400–230(4).
8.11	Regulatory Actions and Penalties.	7/15/23	4/16/25, 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	
*	*	*	*	*

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[FR Doc. 2025–06247 Filed 4–15–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR**Office of the Secretary****43 CFR Part 8**

[Docket No. DOI–2024–0017; 256D0102DM, DS6CS00000, DLSN00000.000000, DX6CS25]

RIN 1093–AA29

Joint Policies of the Departments of the Interior and of the Army Relative to Reservoir Project Lands; Delay of Effective Date**AGENCY:** Office of the Secretary, Interior.**ACTION:** Direct final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2025, from President Donald J. Trump, entitled “Regulatory Freeze Pending Review,” this action delays the effective date of the direct final rule published on January 16, 2025, to May 16, 2025.

DATES: As of April 16, 2025 the effective date of the rule published at 90 FR 4669 on January 16, 2025, is delayed to a new effective date of May 16, 2025.

FOR FURTHER INFORMATION CONTACT: Jeremiah Williamson, Senior Attorney, telephone: (208) 334–1915, email: jeremiah.williamson@sol.doi.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 direct final rule, “Joint Policies of the Departments of the Interior and of the Army Relative to Reservoir Project Lands,” published on January 16, 2025, at 90 FR 4669, included a 60-day public comment period that ended on March 17, 2025. The effective date of the direct final rule is April 16, 2025. The Department of the Interior is taking this action in response to Memorandum M–25–10, “Implementation of Regulatory Freeze,” of January 20, 2025, from the Executive Office of the President, Office of Management and Budget, regarding the postponement of effective dates of certain published regulations. The memorandum directed the heads of executive departments and agencies to consider postponing for 60 days from the date of the memorandum the effective date for any rules that have been published in the **Federal Register**, or any rules that have been issued in any manner but have not taken effect, for the purpose of reviewing any questions of fact, law, and policy that the rule may raise. The Department of the Interior is delaying the effective date

of the direct final rule published at 90 FR 4669 to May 16, 2025.

The Department is delaying the effective date of the direct final rule without opportunity for public comment and making the delay effective immediately, based on the good cause exemptions in 5 U.S.C. 553(b)(B) and 553(d)(3). The Department concluded that seeking public comment on the delay is impracticable, unnecessary, and contrary to the public interest. The delay in effective date until May 16, 2025, is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the memorandum of the President, dated January 20, 2025. Given the imminence of the effective date of the direct final rule, seeking prior public comment on this delay is impractical, and contrary to the public interest in the orderly promulgation and implementation of regulations. For the foregoing reasons, the good cause exception in 5 U.S.C. 553(d)(3) also applies to the Department’s decision to make this action effective immediately.

Tyler Hassen,

Senior Advisor to the Secretary, Exercising the Delegated Authority of the Assistant Secretary for Policy, Management and Budget

[FR Doc. 2025–06480 Filed 4–15–25; 8:45 am]

BILLING CODE 4334–CC–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 250410–0063; RTID 0648–XE484]

**Atlantic Highly Migratory Species;
2025 Atlantic Shark Commercial
Fishing Year**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary final rule.

SUMMARY: In this action, NMFS adjusts the base annual commercial quotas for the 2025 Atlantic shark commercial fishing year as allowable based on underharvests from the 2024 fishing year. The 2025 Atlantic shark commercial fishing year opened on January 1, 2025 under the base annual commercial quotas and default commercial retention limits. This action is necessary to provide additional fishing opportunities for commercial shark fishermen to harvest optimum yield from the Atlantic shark fisheries.

DATES: This temporary final rule is effective April 16, 2025 through December 31, 2025.

ADDRESSES: Electronic copies of this temporary final rule and supporting documents (including the annual Atlantic Highly Migratory Species (HMS) Stock Assessment and Fishery Evaluation Report) are available from the HMS Management Division website at: <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Ann Williamson at ann.williamson@noaa.gov or 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Ann Williamson (ann.williamson@noaa.gov), Guy DuBeck (guy.dubeck@noaa.gov), or Karyl Brewster-Geisz (karyl.brewster-geisz@noaa.gov) at 301–427–8503.

SUPPLEMENTARY INFORMATION:**Background**

NMFS, on behalf of the Secretary of Commerce, is responsible for managing Federal HMS fisheries (*i.e.*, tunas, swordfish, sharks, and billfish) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). HMS are defined at 16 U.S.C. 1802 and the provisions for their management are at 16 U.S.C. 1854. The Atlantic

Tunas Convention Act is the implementing statute for binding recommendations of the International Commission for the Conservation of Atlantic Tunas. NMFS manages HMS fisheries under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments. HMS implementing regulations are at 50 CFR part 635.

For the Atlantic shark commercial fisheries, the HMS FMP and its amendments established commercial quotas for shark species and management groups (§ 635.27(b)) and adjustment procedures for underharvests and overharvests (§ 635.27(b)(2)). The Atlantic shark commercial fishing year automatically opens on January 1 of each year under base quotas (§ 635.27(b)(2)).

Previously, NMFS adjusted quotas and retention limits and established the opening date for the upcoming fishing year for the Atlantic shark commercial fisheries (80 FR 50074, August 18, 2015). Under the process established in 2015, NMFS proposed and finalized adjustments to quota levels for the various shark stocks and management groups, along with proposing and finalizing the fishery opening dates and retention limits for directed shark permit holders. These measures were set prior to the start of the upcoming fishing year, based on incomplete data available from the previous fishing year. In 2023, NMFS changed the management measures for the 2024 and future fishing years to automatically open the commercial fishing year on January 1 of each year under the base quotas and default retention limits (88 FR 77039, November 8, 2023). Now with the Atlantic shark commercial fishery automatically opening on January 1, NMFS can then make an in-season adjustment to the base quotas, as required or allowable per existing regulations on underharvest/overharvest carryover at § 635.27(b)(2), based on complete data from the previous fishing year. NMFS would continue to propose and finalize any changes to the base quotas and/or changes to the formula used to calculate any annual quota adjustments as it did in Amendment 9 to the HMS FMP (80 FR 73128, November 24, 2015). The Atlantic shark fishery in-season quota adjustment process is consistent with the in-season quota adjustment process for other HMS fisheries with set opening dates, including those for Atlantic bluefin tuna, North Atlantic albacore tuna, and South Atlantic swordfish (see 89 FR 77029, September 20, 2024 and 88 FR 64831, September 20, 2023).

The 2025 Atlantic shark commercial fishing year opened on January 1, 2025 under the base annual commercial quotas. In this action, NMFS adjusts those base annual commercial quotas based on commercial landings estimates from 2024.

On January 20, 2025, President Trump issued Executive Order (E.O.) 14172 (Restoring Names that Honor American Greatness). As part of the order, the Gulf of Mexico is renamed as the Gulf of America. Consistent with the order, this action uses Gulf of America for all references to the area known as the Gulf of Mexico in the specific regulations at 50 CFR part 635.

Statutory Authority

The Magnuson-Stevens Act provides NMFS the authority to take this regulatory action as 16 U.S.C. 1855(d) provides for the promulgation of such regulations as may be necessary to implement a fishery management plan and its amendments such as the HMS FMP. The Magnuson-Stevens Act among other things, requires FMP and FMP implementing measures necessary for the conservation and management of the fishery to be consistent with the ten National Standards set forth in 16 U.S.C. 1851(a). While all of the National Standards are relevant, specific to the objectives of this action, the National Standards state that measures must: prevent overfishing while achieving optimum yield from the fishery (National Standard 1); be based on the best scientific information available (National Standard 2); and take into account and allow for variations among fisheries, fishery resources, and catches (National Standard 6). Furthermore, the Magnuson-Stevens Act allows NMFS to implement annual specifications at a level such that overfishing does not occur in the fishery, including measures to ensure accountability (16 U.S.C. 1853(a)(15)). The Magnuson-Stevens Act also allows management actions to establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors) (16 U.S.C. 1853(b)(3)(A)). This action is necessary to implement HMS FMP measures responsive to these Magnuson-Stevens Act requirements and provisions in relation to commercial shark quota adjustments.

**2025 Commercial Atlantic Shark
Quotas**

In this action, NMFS adjusts the quotas for the various shark stocks and management groups for the 2025

Atlantic shark commercial fishing year (*i.e.*, January 1 through December 31, 2025) based on underharvests that occurred during the 2024 fishing year, consistent with existing regulations at § 635.27(b). NMFS generally accounts for over- and underharvests in the same region, sub-region, or fishery in which they occurred the following year. NMFS may only carryover unharvested quota to the next fishing year for shark species and management groups comprised of stocks that NMFS has determined are not overfished and not experiencing overfishing (§ 635.27(b)(2)(ii)). NMFS may not carry more than 50 percent of a base annual quota over from a previous fishing year. NMFS may further adjust these adjusted quotas in a future action by transferring quotas between regions or sub-regions throughout the year after considering the certain criteria (§ 635.27(b)(2)(iii)).

Based on 2024 harvests (January 1, 2024 through December 31, 2024), and after considering catch rates and landings from previous years, NMFS adjusts the 2025 quotas for certain management groups as shown in Table 1.

As described above, NMFS can carry over 2024 underharvests to the 2025 fishing year for the following management groups because the stocks or management groups are not

overfished and overfishing is not occurring: Gulf of America blacktip shark, Atlantic smoothhound sharks, and Gulf of America smoothhound sharks. There were no overharvests to account for in these management groups in 2024. Thus, available underharvest (up to 50 percent of the base quota) from the 2024 fishing year for these management groups may be added to their respective 2025 base quotas. NMFS accounts for any underharvest of Gulf of America blacktip sharks by dividing underharvest between the eastern and western Gulf of America sub-regional quotas based on the sub-regional quota split percentage (§ 635.27(b)(1)(ii)(C)).

NMFS cannot carry over 2024 underharvests to the 2025 fishing year for the following management groups because the stocks or management groups are overfished, are experiencing overfishing, or have an unknown status:

- Aggregated large coastal sharks (LCS), given the unknown status of some species in the aggregated LCS complex;
- Hammerhead sharks, given the overfished status of the scalloped hammerhead shark;
- Non-blacknose small coastal sharks (SCS), given the unknown status of bonnethead sharks within Atlantic and Gulf of America non-blacknose SCS management groups;

• Blacknose shark, given the overfished status of the blacknose shark;

• Blue, porbeagle, and pelagic sharks (other than porbeagle or blue sharks), given that all of these pelagic species are overfished, have overfishing occurring, or have an unknown status; and

• Sandbar shark and research LCS, given sandbar sharks and scalloped hammerhead sharks are either overfished or overfishing is occurring.

For the management groups listed above, there were no overharvests in 2024. Thus, for these management groups, the 2025 commercial quotas reflect the codified base annual commercial quotas, without adjustment for over- or underharvest.

See Table 1 for the 2024 commercial quotas, landings, and quota utilization by species and management group and the 2025 commercial quotas by species and management group. As mentioned above, NMFS may carryover unharvested quota (up to 50 percent of the base quota) to the next fishing year for shark species and management groups comprised of stocks that NMFS has determined are not overfished and not experiencing overfishing. All quotas and landings are in dressed weight (dw) metric tons (mt). Table 1 includes landings data from January 1, 2024 through December 31, 2024.

TABLE 1—2025 QUOTAS FOR THE ATLANTIC SHARK MANAGEMENT GROUPS

Region or sub-region	Management group	2024			2025		
		Adjusted quota	Landings	Quota utilization %	Base annual quota	Adjustments	Adjusted quota
		(A)	(B)	(C)	(D)	(E)	(F)
Western Gulf of America.	Blacktip Sharks	347.2 mt (765,392 lb).	82.7 mt (182,333 lb).	24	231.5 mt (510,261 lb).	115.7 mt (225,131 lb).	347.2 mt (765,392 lb)
	Aggregate Large Coastal Sharks.	72.0 mt (158,724 lb).	29.8 mt (65,721 lb).	41	72.0 mt (158,724 lb).	.....	72.0 mt (158,724 lb)
	Hammerhead Sharks.	11.9 mt (26,301 lb).	0 mt (0 lb)	0	11.9 mt (26,301 lb).	.....	11.9 mt (26,301 lb)
Eastern Gulf of America.	Blacktip Sharks	37.7 mt (83,158 lb).	22.1 mt (48,652 lb).	59	25.1 mt (55,439 lb).	12.6 mt (27,719 lb).	37.7 mt (83,158 lb)
	Aggregate Large Coastal Sharks.	85.5 mt (188,593 lb).	23.7 mt (52,144 lb).	28	85.5 mt (188,593 lb).	.....	85.5 mt (188,593 lb)
	Hammerhead Sharks.	13.4 mt (29,421 lb).	<6 mt (<13,228 lb)	<45	13.4 mt (29,421 lb).	.....	13.4 mt (29,421 lb)
Gulf of America	Non Blacknose Small Coastal Sharks.	112.6 mt (248,215 lb).	53.9 mt (118,841 lb).	48	112.6 mt (248,215 lb).	.....	112.6 mt (248,215 lb)
	Smoothhound Sharks.	504.6 mt (1,112,441 lb).	<1 mt (<2,205 lb)	<1	336.4 mt (741,627 lb).	168.2 mt (370,814 lb).	504.6 mt (1,112,441 lb)
Atlantic	Aggregate Large Coastal Sharks.	168.9 mt (372,552 lb).	84.2 mt (185,731 lb).	50	168.9 mt (372,552 lb).	.....	168.9 mt (372,552 lb)
	Hammerhead Sharks.	27.1 mt (59,736 lb).	17.8 mt (39,191 lb).	66	27.1 mt (59,736 lb).	.....	27.1 mt (59,736 lb)
	Non-Blacknose Small Coastal Sharks.	264.1 mt (582,333 lb).	77.7 mt (171,377 lb).	29	264.1 mt (582,333 lb).	.....	264.1 mt (582,333 lb)
	Blacknose Sharks (South of 34° N. lat. Only).	17.2 mt (37,921 lb).	5.4 mt (11,852 lb)	31	17.2 mt (37,921 lb).	.....	17.2 mt (37,921 lb)
	Smoothhound Sharks.	1,802.6 mt (3,973,902 lb).	333.8 mt (735,890 lb).	19	1,201.7 mt (2,649,268 lb).	600.9 mt (1,324,634 lb).	1,802.6 mt (3,973,902 lb)
No Regional Quotas	Non-Sandbar LCS Research.	50.0 mt (110,230 lb).	9.1 mt (20,06 lb) ..	18	50.0 mt (110,230 lb).	.....	50.0 mt (110,230 lb)

TABLE 1—2025 QUOTAS FOR THE ATLANTIC SHARK MANAGEMENT GROUPS—Continued

Region or sub-region	Management group	2024			2025		
		Adjusted quota (A)	Landings (B)	Quota utilization % (C)	Base annual quota (D)	Adjustments (E)	Adjusted quota (F)
	Sandbar Shark Research.	90.7 mt (199,943 lb).	56 mt (123,059 lb)	62	90.7 mt (199,943 lb).	.....	90.7 mt (199,943 lb)
	Blue Sharks	273.0 mt (601,856 lb).	<1 mt (<2,205 lb)	<1	273.0 mt (601,856 lb).	.....	273.0 mt (601,856 lb)
	Porbeagle Sharks	1.7 mt (3,748 lb) ..	<1 mt (<2,205 lb)	<30	1.7 mt (3,748 lb) ..	.....	1.7 mt (3,748 lb)
	Pelagic Sharks	488.0 mt	16.3 mt (35,963 lb).	3	488.0 mt	.....	488.0 mt
	Other Than Porbeagle or Blue.	(1,075,856 lb).			(1,075,856 lb).		(1,075,856 lb)

NMFS can only apply underharvest adjustments to stocks or management groups that are declared not overfished and have no overfishing occurring. The underharvest adjustments cannot exceed 50 percent of the base quota. NMFS calculated the adjusted quotas (Column F) are by adding the underharvest amount, up to the carryover limit (Column E), to the base annual commercial quota (Column D).

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson-Stevens Act. The reason for using this regulatory authority is: in a previous action taken pursuant to section 304(c), NMFS designed the HMS FMP to authorize the Department of Commerce to take this action pursuant to the Magnuson-Stevens Act section 305(d). The NMFS Assistant Administrator has determined that this temporary final rule is consistent with the HMS FMP, its amendments, and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable, unnecessary, and contrary to the public interest. The rulemaking processes for Amendment 2 to the HMS FMP (73 FR 35778, June 24, 2008; corrected 73 FR 40658, July 15, 2008), Amendment 5a to the HMS FMP (78 FR 40318, July 3, 2013), Amendment 6 to the HMS FMP (80 FR 50073, August 18, 2015), Amendment 9 to the HMS FMP (80 FR 73128, November 24, 2015), and the 2024 Atlantic shark commercial fishing year rule (88 FR 77039, November 8, 2023) specifically provided prior notice of, and accepted public comment on, the base quotas that are being adjusted and the formulaic quota adjustment processes to carry over overharvests and underharvests for the commercial Atlantic shark fishery. These processes have not changed, and the application of these formulas to the relevant quotas in this temporary final rule is a routine action that does not have discretionary aspects requiring additional consideration. There are no new base annual quotas for the relevant species for 2025. Additionally, similar actions to adjust the quotas based on the previous year's underharvest occur annually. NMFS has carried over underharvested quota from the previous

fishing year to the maximum extent allowed since 2020. Thus, it is unnecessary to provide prior notice and an additional opportunity for public comment on this rule.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. This rule is an annual, routine action that the regulated community does not need time to prepare for. The 2025 Atlantic shark commercial fishery opened on January 1, 2025. NMFS monitors Atlantic shark annual catch and uses the previous year's catch data to calculate the legally allowable quotas for the current year. However, these adjustments to the 2025 quotas could not occur earlier in the year because the final 2024 landings data were not available until early 2025. Given that these fisheries are currently open and permit-holders are actively fishing, delaying the effective date of this rule's quota adjustments could in turn lead to premature closure of one or more affected fisheries if the unadjusted quota limit is reached within the next 30 days. Such an event would negatively affect the regulated fisheries' reasonable opportunity to catch the available quotas, contrary to Magnuson-Stevens Act requirements and overall purpose of sound conservation and management of fisheries—including Atlantic sharks—in a manner that achieves optimum yield.

This temporary final rule is exempt from review under E.O. 12866. This temporary final rule is not a regulatory action under E.O. 14192.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not

required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 is not required and has not been prepared.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Dated: April 10, 2025.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

[FR Doc. 2025–06472 Filed 4–15–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240314–0080; RTID 0648–XE842]

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; 2025 Closure of the Northern Gulf of Maine Scallop Management Area to the Limited Access General Category Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the closure of the Northern Gulf of Maine (NGOM)

Scallop Management Area for the remainder of the 2025 fishing year. After reviewing final harvest information, the area may be reopened by Framework 39, if approved, for Limited Access General Category vessels. Subject to specific enumerated exceptions, possession, retention, or landing of scallops is prohibited in the NGOM Scallop Management Area once the Regional Administrator publishes a notification in the **Federal Register** that the NGOM Set-Aside has been reached. This action is intended to prevent the overharvest of the 2025 NGOM Set-Aside.

DATES: Effective 1800 hour local time, April 16, 2025, through March 31, 2026.

FOR FURTHER INFORMATION CONTACT: Ashley Trudeau, Fishery Resource Management Specialist, (978) 281-9252.

SUPPLEMENTARY INFORMATION: The regulations governing fishing activity in the NGOM Scallop Management Area are located in 50 CFR 648.54 and 648.62. These regulations authorize vessels issued a valid Federal scallop permit to fish in the NGOM Scallop Management Area under specific conditions, including the NGOM Set-Aside for the 2025 fishing year, and a State Waters Exemption Program for the State of Maine and Commonwealth of Massachusetts. Section 648.62(b)(2) requires the NGOM Scallop Management Area to be closed to scallop vessels issued Federal Limited Access General Category (LAGC) scallop permits, except as provided below, once the NMFS Greater Atlantic Regional Administrator provides notice that 100 percent of the NGOM Set-Aside has been harvested. Any vessel that holds a Federal NGOM (LAGC B) or Individual Fishing Quota (IFQ) (LAGC A) permit may continue to fish in the Maine or Massachusetts state waters portion of the NGOM Scallop Management Area under the State Waters Exemption Program found in § 648.54 provided it has a valid Maine or Massachusetts state scallop permit and fishes only in that state's respective waters.

Based on trip declarations by federally permitted LAGC scallop vessels fishing in the NGOM Scallop Management Area and analysis of fishing effort, NMFS projects that the default 2025 NGOM Set-Aside has been harvested. Thus, in accordance with § 648.62(b)(2), the NGOM Scallop Management Area is closed to all federally permitted LAGC scallop vessels as of the effective date and time of this action, the quickest date NMFS was able to close. As of this date, no vessel issued a Federal LAGC scallop permit may fish for, possess, or land scallops in or from the NGOM Scallop

Management Area after the effective date and time of this action, unless the vessel is fishing exclusively in state waters and is participating in an approved state waters exemption program as specified in § 648.54. Any federally permitted LAGC scallop vessel that has declared into the NGOM Scallop Management Area, complied with all trip notification and observer requirements, and crossed the vessel monitoring system demarcation line on the way to the area before the effective date and time of this action, may complete its trip and land scallops. This closure is in effect until the end of the 2025 scallop fishing year, through March 31, 2026, or until replaced by Framework 39, if approved and appropriate.

The proposed rule for Framework Adjustment 39 to the Atlantic Sea Scallop Fishery Management Plan (90 FR 12510) published on March 18, 2025, and the public comment period ended on April 2, 2025. Framework 39 would increase the NGOM set-aside from the current default allocation of 315,449 lb (143 mt) to 675,563 lb (306 mt). If Framework 39 is approved, the final rule implementing final 2025 scallop fishery specification would subtract NGOM harvest made under the default specifications from the Framework 39 2025 NGOM Set-Aside amount and reopen the NGOM Management Area, if appropriate given the landings already accrued, with the remaining NGOM Set-Aside for the remainder of fishing year 2025.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. NMFS also finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period. Exigent circumstances necessitate this closure action and any delay would harm the public interest. The NGOM Scallop Management Area opened for the 2025 fishing year on April 1, 2025, under default measures implemented under Framework Adjustment 38 (89 FR 20341, March 22, 2024). Applicable regulations at § 648.60(b)(2) require this closure to ensure that federally permitted scallop vessels do not harvest more than the allocated NGOM Set-Aside. However, NMFS can only make projections for the NGOM closure date as trips into the area occur on a real-

time basis and as activity trends appear. As a result, accurate projections are only available shortly before the set-aside is harvested. Since the April 1, 2025, opening, scallops have been harvested at an average rate of 33,800 lb (1533 kg) per day with a resulting estimated harvest of 198,000 lb (89,811 kg), 63 percent of the NGOM Set-Aside. The rapid harvest rate that has occurred does not allow for projections far enough in advance that would allow for notice of a proposed rule, a comment period, or a delay in rule effectiveness. Accordingly, earlier rule publication was not possible. Allowing federally permitted LAGC scallop vessels to continue taking trips in the NGOM Scallop Management Area during the period necessary to publish and receive comments on a proposed rule, or delay rule effectiveness, would result in vessels harvesting more than the 2025 NGOM Set-Aside for the NGOM Scallop Management Area. This would result in excessive fishing effort in the area thereby undermining conservation and management objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures to make up for the excessive harvest. Applicable regulations at § 648.62(b)(3) require that overages of the NGOM set-aside are subject to pound-for-pound payback in a subsequent fishing year. In addition, reductions in NGOM scallop biomass associated with excessive harvest would result in lower NGOM total allowable landings in future years. As such, delaying this closure action to afford the public with a comment period or a delay in effectiveness would harm the public. The public had prior notice and full opportunity to comment on this closure process during notice and comment rulemaking for Framework 38. Stakeholders are also aware that NMFS closes the NGOM Scallop Management Area when it projects the NGOM Set-Aside is fully harvested. This process occurs annually dating back to the adoption of Amendment 11 to the Scallop FMP in 2007. As stated above, any scallop vessel that has declared into the NGOM Scallop Management Area, complied with all trip notification and observer requirements, and crossed the vessel monitoring system demarcation line on the way to the area before the effective date of this closure, may complete its trip and land scallops. Therefore, those affected by this regulation are given the reasonable opportunity to complete a trip in progress and those who have not begun any such trip do not need 30 days in which to comply with the effective date

of this closure, because the rule prohibits them from taking action they have not yet taken.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 11, 2025.

Kelly Denit,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2025–06444 Filed 4–11–25; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 241022–0278]

RIN 0648–BN72

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2025–2026 Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial and recreational groundfish fisheries. This action is intended to allow commercial and recreational fishing vessels to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective April 16, 2025.

FOR FURTHER INFORMATION CONTACT: Christopher Biegel, 503–231–6291, christopher.biegel@noaa.gov.

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the Pacific Fishery Management Council's website at <https://www.pcouncil.org/>.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR),

part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for 2-year periods (*i.e.*, a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2025–2026 biennium for most species managed under the PCGFMP on December 16, 2024 (89 FR 101514). In general, the management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

At its March 4–11, 2025 meeting, the Council recommended two inseason actions for the Pacific Coast groundfish fishery. The first involves the recreational groundfish limit in the long-leader fishery off Oregon and the second involves the trip limit of incidental halibut caught in the sablefish fishery.

Long-Leader Fishery

During the 2025–26 biennial process, the Council adopted a five-fish sub-bag limit for canary rockfish in the Oregon recreational long-leader fishery. Since the completion of the biennial process, Oregon Department of Fish and Wildlife (ODFW) staff examined data through 2023 and most of 2024. Based on catch rates of canary rockfish in the long-leader gear fishery, the sub-bag limit needs to be decreased to reduce the chance of the Oregon recreational share of canary rockfish being exceeded. In December 2024, the Oregon Fish and Wildlife Commission adopted a one-fish sub-bag limit for canary rockfish in the recreational long-leader gear fishery off Oregon beginning January 1, 2025. The ODFW requested conforming Federal action to reduce the sub-bag limit from five fish to one fish for canary rockfish, as effort in the long-leader gear fishery occurs primarily in Federal waters.

The Council moved, and NMFS is implementing, a decrease in the sub-bag limit for canary rockfish from five fish to one fish in the recreational Oregon long-leader gear fishery as recommended by ODFW.

Incidental Halibut

At the March Council meeting, the Groundfish Advisory Subpanel (GAP)

recommended the Pacific halibut incidental landing limit for the primary sablefish fishery north of Point Chehalis be 75 pounds of halibut per 1,000 pounds of dressed sablefish plus two halibut. This is a reduction from the 150 pounds of halibut per 1,000 pounds of dressed sablefish in 2024. The reduction was recommended due to the large increase in sablefish harvest limits of about 238 percent. The 2025 allotment of Pacific halibut for this sector is 70,000 pounds which could be quickly harvested by just a few top primary tier vessels if a reduction in incidental halibut is not implemented. Lowering the halibut limit will allow more vessels to participate in the fishery and for the fishery to continue throughout the year without exceeding the halibut allocation. Therefore, the Council moved and NMFS is implementing a trip limit of 75 pounds of Pacific halibut per 1,000 pounds of sablefish plus two additional Pacific halibut for the primary fixed gear sablefish fishery north of Point Chehalis, Washington, as recommended in the supplementary GAP Report 1, March 2025.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best scientific information available, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection by contacting Christopher Biegel in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT** section above), or view at the NMFS West Coast Groundfish website: <https://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html>.

Pursuant to 5 U.S.C. 553(b), NMFS finds good cause to waive prior public notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The adjustments to management measures in this document are designed to keep catch within allocations established by the 2025–2026 harvest specifications. No aspect of this action is controversial, and changes of this nature were anticipated in the final rule for the 2025–2026 harvest specifications and management measures, which published on December 16, 2024 (89 FR 101514).

The Council recommended, and NMFS is implementing, a decrease to

the recreational long-leader sub-bag limit for canary rockfish off of the Oregon coast from five fish to one fish to be consistent with the ODFW bag limit. Additionally, the Council recommended and NMFS is implementing a trip limit of 75 pounds of Pacific halibut per 1,000 pounds of sablefish plus two additional Pacific halibut for the primary fixed gear sablefish fishery north of Point Chehalis, Washington.

These inseason changes are in response to new information about the fishery, and to conservation issues that need to be addressed for the 2025 fishing year. Delaying implementation to allow for public comment would impact NMFS's ability to keep the fishery within catch targets set for sustainable fishing. For these same reasons, NMFS finds reason to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(1) so that this final rule may become effective upon publication in the **Federal Register**. These adjustments were requested by the Council's advisory bodies, as well as members of industry during the Council's March 2025 meeting, and recommended unanimously by the Council. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures for 2025–2026 (89 FR 101514) which were established through a notice and comment rulemaking.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: April 10, 2025.

Kelly Denit,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.231, revise paragraph (b)(3)(iv) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(iv) Incidental Pacific halibut retention north of Pt. Chehalis, WA (lat. 46°53.30' N). Pacific halibut may be retained north of Pt. Chehalis by vessels participating in the sablefish primary fishery with the requisite Pacific halibut commercial fishery permit. Pacific halibut incidentally caught in the primary sablefish fishery when using bottom longline gear may be retained from April 1 through the Pacific halibut commercial fishing closure date set by the International Pacific Halibut Commission. Vessels permitted as

described in this section may possess and land up to 75 lb (34 kg) dressed weight of Pacific halibut for every 1,000 lb (454 kg) dressed weight of sablefish landed, plus two additional Pacific halibut. Pacific halibut retained as described in this section may not be possessed or landed south of Pt. Chehalis.

* * * * *

■ 3. In § 660.360, revise paragraph (c)(2)(iii)(A) to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(A) *Marine fish*. The bag limit is 10 marine fish per day, which includes rockfish, kelp greenling, cabezon, and other groundfish species; except the daily bag limit in the long-leader gear fishery is 12 fish per day with a sub-bag limit of 1 fish per day for canary rockfish. The bag limit of marine fish excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species, and baitfish (*e.g.*, herring, smelt, anchovies, and sardines). The minimum size for cabezon retained in the Oregon recreational fishery is 16 in (41 cm) total length.

* * * * *

[FR Doc. 2025–06443 Filed 4–15–25; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 90, No. 72

Wednesday, April 16, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-0624; Project Identifier MCAI-2024-00628-T]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320-211, -212, -214, -216, -231, -232, and -233 airplanes; and Model A321-211, -212, -213, -231, and -232 airplanes. This proposed AD was prompted by a report that cracks were found following fatigue tests for the new lower wing cover material on airplanes equipped with sharklets. This proposed AD would require repetitive inspections for discrepancies, and corrective action, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by June 2, 2025.

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

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

- **Fax:** 202-493-2251.

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

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2025-0624; 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 EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2025-0624.

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

FOR FURTHER INFORMATION CONTACT:

Nathan Weigand, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3531; email: nathan.p.weigand@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 to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2025-0624; Project Identifier MCAI-2024-00628-T” 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](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each

substantive verbal contact received about this 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 Nathan Weigand, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3531; email: nathan.p.weigand@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024-0201R1, dated December 2, 2024 (EASA AD 2024-0201R1) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320-211, -212, -214, -215, -216, -231, -232, and -233 airplanes; and Model A321-211, -212, -213, -231, and -232 airplanes. Model A320-215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states that cracks were found following fatigue tests for the new lower wing cover material on airplanes equipped with sharklets. This condition, if not detected and corrected, could reduce the structural integrity of the outer wing.

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

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–0624.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0201R1 specifies procedures for repetitive special detailed inspections (SDIs) for discrepancies (cracking) of the bottom wing surface area between rib 19 and rib 21, forward of stringer 8, both left-hand (LH) and right-hand (RH) sides, and, depending on findings, accomplishment of applicable corrective action (contacting Airbus for repair instructions). 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

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described

in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2024–0201R1 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD. This proposed AD would also require inspection reports.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2024–0201R1 by

reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024–0201R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024–0201R1 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2024–0201R1. Material required by EASA AD 2024–0201R1 for compliance will be available at *regulations.gov* under Docket No. FAA–2025–0624 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,924 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
7 work-hours × \$85 per hour = \$595	None	\$595	\$1,144,780

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including

suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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:

Airbus SAS: Docket No. FAA–2025–0624; Project Identifier MCAI–2024–00628–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 2, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model airplanes, certificated in any category, as identified in paragraphs (c)(1) through (3) of this AD.

(1) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(2) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(3) Model A321–211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report that cracks were found following fatigue tests for the new lower wing cover material on airplanes equipped with sharklets. The FAA is issuing this AD to address cracking in the lower wing cover material. The unsafe condition, if not addressed, could reduce the structural integrity of the outer wing.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024–0201R1, dated December 2, 2024 (EASA AD 2024–0201R1).

(h) Exceptions to EASA AD 2024–0201R1

(1) Where EASA AD 2024–0201R1 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2024–0201R1 refers to “04 November 2024 [the effective date of the original issue of this AD],” this AD requires using the effective date of this AD.

(3) This AD does not adopt the “Remarks” section of EASA AD 2024–0201R1.

(4) Where any service information referenced in EASA AD 2024–0201R1 specifies reporting, this AD requires reporting all inspection results at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(5) Where paragraph (3) of EASA AD 2024–0201R1 specifies if “any discrepancies are detected, as identified in the AOT, before next flight, contact Airbus for approved repair instructions and within the compliance time(s) specified therein, accomplish those instructions accordingly,” this AD requires replacing that text with “any discrepancy is detected, as identified in the AOT, the discrepancy must be repaired before further flight using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.”

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraphs (h)(4) and (i)(2) of this AD, if any material referenced in EASA AD 2024–0201R1 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using

accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Nathan Weigand, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3531; email: nathan.p.weigand@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0201R1, dated December 2, 2024.

(ii) [Reserved]

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

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

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

Issued on April 11, 2025.

Peter A. White,

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

[FR Doc. 2025–06446 Filed 4–15–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2025–0273; Airspace Docket No. 23–ASO–43]

RIN 2120–AA66

Establishment of Restricted Areas R–5305A, R–5305B, and R–5305C; Camp Lejeune, NC; and Restricted Areas R–5307A, R–5307B, and R–5307C; Cherry Point, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This action extends the comment period for a notice of proposed rulemaking (NPRM) that was published on March 20, 2025. In that document, the FAA proposed to establish restricted areas R-5305A, R-5305B, and R-5305C at Camp Lejeune, NC; and restricted areas R-5307A, R-5307B, and R-5307C at Cherry Point, NC. This extension is a result of a planned outage of the eRulemaking General Services Administration (GSA) Cloud Migration website necessitating an extension to the comment period.

DATES: The comment period for the NPRM published on March 20, 2025 (90 FR 13112), scheduled to close on May 5, 2025, is extended until May 9, 2025.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2025-0273 and Airspace Docket No. 23-ASO-43 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.

FOR FURTHER INFORMATION CONTACT: Brian Vidis, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

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 Office (see **ADDRESSES** section for address, phone number, and hours of operation). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, GA 30337.

Background

Subsequent to publication of the NPRM, the FAA was advised that there is a planned outage of the **Federal Register** comment submission website. The planned outage is scheduled from April 25, 2025, through April 28, 2025. The FAA published a NPRM for Docket

No. FAA 2025-0273 in the **Federal Register** (90 FR 13112; March 20, 2025), proposing to establish restricted areas R-5305A, R-5305B, and R-5305C at Camp Lejeune, NC; and restricted areas R-5307A, R-5307B, and R-5307C at Cherry Point, NC. The NPRM for Docket No. FAA 2025-0273 specified that comments must be received on or before May 5, 2025. The planned outage is near the end of the comment submission timeframe; therefore it is deemed appropriate for the comment period to be extended to compensate for the outage and to allow proportionate time for comments to be submitted.

Extension of Comment Period

The FAA has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action. Therefore, pursuant to the authority delegated to me, the comment period for Docket No. FAA-2025-0273; Airspace Docket No. 23-ASO-43 published in the **Federal Register** on March 20, 2025 (90 FR 13112), FR Doc. 2025-04392, is extended until May 9, 2025.

Issued in Washington, DC, on April 10, 2025.

Brian Eric Konie,

Manager (A), Rules and Regulations Group.

[FR Doc. 2025-06416 Filed 4-15-25; 8:45 am]

BILLING CODE 4910-13-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102-3

[Notice-MA-2025-06; Docket No. 2025-0002; Sequence 4]

Federal Management Regulation; Federal Advisory Committee Management; Planned Revision

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notification of upcoming revision of FMR Case 2022-01.

SUMMARY: GSA plans to issue a final rule revising the Federal Management Regulation (FMR) Case 2022-01, "Federal Advisory Committee Management," published on April 18, 2024.

DATES: April 16, 2025.

ADDRESSES: Those interested can view FMR Case 2022-01 at <https://www.regulations.gov/document/GSA-FMR-2022-0015-0001>.

FOR FURTHER INFORMATION CONTACT: Ms. Lorelei Kowalski, Director, Committee

Management Secretariat, Office of Asset and Transportation Management, Office of Government-wide Policy, at 202–208–6035 or email at lorelei.kowalski@gsa.gov. Please cite Notice of Revision of FMR Case 2022–01.

SUPPLEMENTARY INFORMATION: GSA plans to revise FMR Case 2022–01 (FR Doc. 2024–08215 (89 FR 27673, April 18, 2024)) consistent with Executive Order (E.O.) 14148 of January 20, 2025, titled “Initial Rescissions of Harmful Executive Orders and Actions,” E.O. 14192 of January 31, 2025, titled “Unleashing Prosperity Through Deregulation,” and E.O. 14219 on February 19, 2025, titled “Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative.” GSA will amend the FMR to apply these revisions to the Federal Advisory Committee Management regulation in order to align the regulation with current Administration priorities, improve Federal advisory committee management policies and processes, remove unnecessary language and information, and reduce (or eliminate where possible) unnecessary administrative burdens on executive branch agencies and departments.

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06180 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–5, 102–36, 102–38, 102–40, 102–41, and 102–42

[Notice-MA–2025–07; Docket No. 2025–0002; Sequence 5]

Federal Management Regulation; Updating the Federal Management Regulation (FMR) With Diversity, Equity, Inclusion, and Accessibility Language; Planned Rescission

AGENCY: Office of Government-wide Policy (OGP); General Services Administration (GSA).

ACTION: Notification of partial planned rescission of FMR Case 2024–01.

SUMMARY: GSA will be issuing a final rule partly rescinding the Federal Management Regulation (FMR) Case 2024–01, “Updating the Federal Management Regulation (FMR) with Diversity, Equity, Inclusion, and Accessibility Language,” published on August 22, 2024.

DATES: April 16, 2025.

ADDRESSES: Those interested may view FMR Case 2024–01 at <https://www.regulations.gov/document/GSA-FMR-2024-0015-0001>.

FOR FURTHER INFORMATION CONTACT: Mr. William Garrett, Director, Personal Property Policy Division, Office of Asset and Transportation Management, Office of Government-wide Policy, at 202–368–8163 or email at william.garrett@gsa.gov. Please cite Notice of Partial Rescission of FMR Case 2024–01.

SUPPLEMENTARY INFORMATION: GSA plans to rescind portions of FMR Case 2024–01 (FR Doc. 2024–18460 (89 FR 67865, August 22, 2024)) consistent with Executive Order (E.O.) 14148 of January 20, 2025 entitled “Initial Rescissions of Harmful Executive Orders and Actions” and E.O. 14168 of January 20, 2025 entitled “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”. GSA will amend FMR parts 102–5 and 102–33 through 102–42 to replace non-gendered pronouns with gendered pronouns and to remove diversity, equity, and inclusion language inserted by the previous administration.

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06277 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 300–3, 301–10, 301–31, 301–50, 301–51, 301–70 Through 301–76, Chapter 301, 302–1 Through 302–9, 302–11, 302–12, 302–14 Through 302–17, 303–70, 304–2, 304–3, and 304–5

[Notice MA–2025–09; Docket No. GSA–FTR–2025–0002, Sequence No. 7]

Federal Travel Regulation: Updating the FTR With Diversity, Equity, Inclusion, and Accessibility Language; Planned Rescission

AGENCY: Office of Government-wide Policy (OGP); General Services Administration, (GSA).

ACTION: Notification of upcoming rescission of FTR Case 2022–05.

SUMMARY: GSA plans to issue a final rule that rescinds Federal Travel Regulation (FTR) Case 2022–05, titled “Updating the FTR With Diversity, Equity, Inclusion, and Accessibility Language,” published on February 16, 2024.

DATES: April 16, 2025.

ADDRESSES: Those interested can view FTR Case 2022–05 at <https://www.regulations.gov/document/GSA-FTR-2022-0011-0001>.

www.regulations.gov/document/GSA-FTR-2024-0005-0001.

FOR FURTHER INFORMATION CONTACT: For clarification of content please contact Mr. Sean Lambert, OGP, Office of Asset and Transportation Management, at 771–233–2475, or by email at travelpolicy@gsa.gov. Please cite Notice of Intent to Rescind FTR Case 2022–05.

SUPPLEMENTARY INFORMATION: GSA plans to rescind FTR Case 2022–05 (FR Doc. 2024–02852 (89 FR 12250, February 16, 2024)) in line with two Executive orders (E.O.(s) or Orders), both signed on January 20, 2025: *Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government* (E.O. 14168) and *Initial Rescissions Of Harmful Executive Orders And Actions* (E.O. 14148). These Orders, respectively, require Federal agencies to recognize only two sexes, male and female, and take immediate action to effectuate the revocation of certain E.O.s which are not in line with the current Administration’s priorities. Therefore, GSA will be reverting language in the FTR that was changed pursuant to FTR Case 2022–05, to sex-specific pronouns such as he, she, his, or her.

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06275 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–74

[Notice-MA–2025–11; Docket No. 2025–0002; Sequence 9]

Federal Management Regulation; Soliciting Union Memberships Among Contractors in GSA-Controlled Buildings; Planned Rescission

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notification of upcoming rescission of FMR Case 2022–02.

SUMMARY: GSA plans to issue a final rule rescinding the Federal Management Regulation (FMR) Case 2022–02, “Soliciting Union Memberships Among Contractors in GSA-Controlled Buildings,” published on September 2, 2022.

DATES: April 16, 2025.

ADDRESSES: Those interested can view FMR Case 2022–02 at <https://www.regulations.gov/document/GSA-FMR-2022-0011-0001>.

FOR FURTHER INFORMATION CONTACT: For clarification of content please contact Alexander Kurien, Office of Government-wide Policy, at (202) 208–7642, or by email at realpropertypolicy@gsa.gov. Please cite Notice for Rescission of FMR Case 2022–02.

SUPPLEMENTARY INFORMATION: GSA plans to rescind FMR Case 2022–02 (FR Doc. 2022–17949 (87 FR 54166, September 2, 2022)) in line with Executive Order 14192, *Unleashing Prosperity Through Deregulation*. GSA will amend the FMR to apply these changes to the soliciting, vending, and debt collection policy. This upcoming rule will clarify that activities related to worker organizing and collective bargaining among contractors' employees working in Federal Government facilities are covered or restricted by the general prohibition on soliciting, posting, and distributing materials in or on Federal property under the jurisdiction, custody, or control of GSA (GSA-controlled property).

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06181 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–77

[Notice–MA–2025–11; Docket No. 2025–0002; Sequence 9]

Federal Management Regulation; Art in Architecture; Planned Rescission

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notification of upcoming rescission of FMR Case 2021–02.

SUMMARY: GSA plans to issue a final rule rescinding the Federal Management Regulation (FMR) Case 2021–02, “Art in Architecture,” published on February 2, 2022.

DATES: April 16, 2025.

ADDRESSES: Those interested can view FMR Case 2021–02 at <https://www.regulations.gov/document/GSA-FMR-2021-0024-0001>.

FOR FURTHER INFORMATION CONTACT: For clarification of content please contact Alexander Kurien, Office of Government-wide Policy, at (202) 208–7642, or by email at realpropertypolicy@gsa.gov. Please cite Notice for Rescission of FMR Case 2021–02.

SUPPLEMENTARY INFORMATION: GSA plans to rescind FMR Case 2021–02 (FR Doc.

2022–02158 (87 FR 5711, February 2, 2022)) in line with Executive Order (E.O.) 14148, *Initial Rescissions of Harmful Executive Orders and Actions*, and E.O. 14151, *Ending Radical and Wasteful Government DEI Programs and Preferencing*. GSA will amend the FMR to update certain provisions of the Art in Architecture program to remove diversity, equity, and inclusion (DEI) language, preferential treatments, and DEI data collections.

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06280 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 102–83

[Notice–MA–2025–16; Docket No. 2025–0002; Sequence 14]

Federal Management Regulation; Designation of Authority and Sustainable Siting; Planned Revision

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notification of upcoming revision of FMR Case 2023–102–1.

SUMMARY: GSA plans to issue a final rule revising the Federal Management Regulation (FMR) Case 2023–102–1, “Designation of Authority and Sustainable Siting” published on April 22, 2024.

DATES: April 16, 2025.

ADDRESSES: Those interested can view FMR Case 2023–102–1 at <https://www.regulations.gov/document/GSA-FMR-2023-0012-0001>.

FOR FURTHER INFORMATION CONTACT: For clarification of content please contact Alexander Kurien, Office of Government-wide Policy, at (202) 208–7642, or by email at realpropertypolicy@gsa.gov. Please cite Notice of Revision of FMR Case 2023–102–1.

SUPPLEMENTARY INFORMATION: GSA plans to revise FMR Case 2023–102–1 (FR Doc. 2024–08452 (89 FR 29261)) in line with Executive Order (E.O.) 14148, *Initial Rescissions of Harmful Executive Orders and Actions*. GSA will amend the Federal Management Regulation Location of Space to remove

sustainability and diversity, equity, and inclusion language.

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06278 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–117

[Notice–MA–2025–09; Docket No. 2025–0002; Sequence 7]

Federal Management Regulation; Updating Transportation Management, With Diversity, Equity, Inclusion, and Accessibility Language; Planned Rescission

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notification of upcoming rescission of FMR Case 2024–03.

SUMMARY: GSA plans to issue a final rule rescinding Federal Management Regulation (FMR) Case 2024–03, “Federal Management Regulation; Updating Transportation Management, With Diversity, Equity, Inclusion, and Accessibility Language,” published on November 26, 2024.

DATES: April 16, 2025.

ADDRESSES: Those interested can view FMR Case 2024–03 at <https://www.regulations.gov/document/GSA-FMR-2024-0015-0001>.

FOR FURTHER INFORMATION CONTACT: For clarification of content please contact Mr. Sean Lambert, Office of Government-wide Policy, Office of Asset and Transportation Management, at 771–233–2475, or by email at gsa-ogp-transportationpolicy@gsa.gov. Please cite Notice of Rescission of FMR Case 2024–03.

SUPPLEMENTARY INFORMATION: GSA plans to rescind FMR Case 2024–03 (FR Doc. 2024–27565 (89 FR 93198, November 26, 2024)) consistent with Executive Order (E.O.) 14148 of January 20, 2025, “Initial Rescissions of Harmful Executive Orders and Actions,” and E.O. 14168 of January 20, 2025, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.” GSA will amend the FMR to ensure compliance with the current Administration’s priorities, to remove

unnecessary language, and to revert language back to sex-specific pronouns.

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06279 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 302–4 and 302–9

[Notice–MA–2025–10; Docket No. 2025–0002; Sequence 8]

Federal Travel Regulation; Alternative Fuel Vehicle Usage During Relocations; Planned Rescission

AGENCY: Office of Government-wide Policy (OGP); General Services Administration, (GSA).

ACTION: Notification of upcoming rescission of FTR Case 2022–03.

SUMMARY: GSA plans to issue a final rule rescinding Federal Travel Regulation (FTR) Case 2022–03, “Alternative Fuel Vehicle Usage During Relocations,” published on March 26, 2024.

DATES: April 16, 2025.

ADDRESSES: Those interested can view FTR Case 2022–03 at <https://www.regulations.gov/document/GSA-FTR-2022-0013-0006>.

FOR FURTHER INFORMATION CONTACT: For clarification of content please contact Mr. Sean Lambert, OGP, Office of Asset and Transportation Management, at 771–233–2475, or by email at travelpolicy@gsa.gov. Please cite Notice of Intent to Rescind FTR Case 2022–03.

SUPPLEMENTARY INFORMATION: GSA plans to rescind FTR Case 2022–03 (FR Doc.

2024–06352 (89 FR 20857, published on March 26, 2024)) in line with Executive Order (E.O.) 14148, *Initial Rescissions of Harmful Executive Orders and Actions*, and E.O. 14154, *Unleashing American Energy*. GSA intends to revert the language in the FTR that was changed pursuant to FTR Case 2022–03 to the language that applied immediately prior to such changes; such predecessor language was agnostic as to the type of privately-owned vehicle owned or leased by a relocating employee.

Larry Allen,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2025–06276 Filed 4–15–25; 8:45 am]

BILLING CODE 6820–14–P

Notices

Federal Register

Vol. 90, No. 72

Wednesday, April 16, 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

Foreign Agricultural Service

Notice of Invocation of Special Agricultural Safeguard Measures Pursuant to the Uruguay Round Agreements Act

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notification of invocation of special agricultural safeguard duty on imports of articles containing over 65 percent by dry weight of sugars described in additional U.S. note 2 to chapter 17.

SUMMARY: After reviewing the volume of articles containing over 65 percent by dry weight of sugars described in the Harmonized Tariff Schedule of the United States (HTS), the Administrator of the Foreign Agricultural Service has determined that the yearly special safeguard trigger level has been met and a special safeguard duty on articles containing over 65 percent by dry weight of sugars will be imposed.

DATES: The additional safeguard duty will be imposed from April 16, 2025 through September 30, 2025.

ADDRESSES: Multilateral Affairs Division, Trade Policy and Geographic Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1070, 1400 Independence Avenue SW, Washington, DC 20250-1070

FOR FURTHER INFORMATION CONTACT: Sonya Wahi-Miller, sonya.wahi-miller@usda.gov, 202-649-3870.

SUPPLEMENTARY INFORMATION: U.S. Notes 1 and 2 to Subchapter IV, Chapter 99, of the Harmonized Tariff Schedule of the United States (HTS) contain safeguard measures established pursuant to Article 5 of the World Trade Organization (WTO) Agreement on Agriculture, as approved pursuant to Section 101 of the Uruguay Round Agreements Act (Pub. L. 103-465). These safeguard measures include the

imposition of additional duties based upon the volume of articles containing over 65 percent by dry weight of sugars described in additional U.S. note 2 to chapter 17 imported into the United States. Subheadings 9904.17.39 through 9904.17.48 of the HTS provide for the imposition of additional safeguard duties for articles containing over 65 percent by dry weight of sugars described in additional U.S. note 2 to chapter 17 upon notification in the **Federal Register** by the Secretary of Agriculture or the Secretary's delegatee that a specific volume of imports has been exceeded. The trigger level for the period October 1, 2024–September 30, 2025 for articles containing over 65 percent by dry weight of sugars described in additional U.S. note 2 to chapter 17 is 1,252 metric tons (89 FR 55217, July 3, 2024). Specifically, HTS subheadings 9904.17.39 through 9904.17.48 provide for additional duties, ranging from 7.9¢/kg + 2.8% to 23.5¢/kg + 2.8%.

Section 405(a) of the Uruguay Round Agreements Act requires, among other things, that the President shall determine and cause to be published in the **Federal Register** the list of special safeguard agricultural goods and the applicable trigger prices and, on an annual basis, quantity trigger levels. Section 405(b) of that Act provides, in relevant part, that if the President determines with respect to a special safeguard agricultural good that it is appropriate to impose the volume-based safeguard, then the President shall determine the amount of the duty to be imposed, the period such duty shall be in effect, and any other terms and conditions applicable to the duty.

Further to the application of such special agricultural safeguard duties, the President proclaimed on December 23, 1994 (Presidential Proclamation No. 6763) the provisions of U.S. Notes 1 and 2 to Subchapter IV, Chapter 99, of the HTS as well as the automatically applicable safeguard duties set forth in such subchapter upon satisfaction of the requisite conditions. Such U.S. Notes 1 and 2 set forth the other terms and conditions for application of any such duty.

As also provided in Presidential Proclamation 6763, the President delegated to the Secretary of Agriculture the authority to make the determinations and effect the

publications described in section 405(a) of the Uruguay Round Agreements Act. The Secretary of Agriculture has further delegated this authority to the Under Secretary for Trade and Foreign Agricultural Affairs (7 CFR 2.15(a)(1)(xlii)), who has in turn further delegated the authority to determine the quantity trigger levels to the Administrator of the Foreign Agricultural Service (7 CFR 2.601(a)(42)). The Administrator determined that the October 1, 2024–September 30, 2025 trigger level for articles containing over 65 percent by dry weight of sugars described in additional U.S. note 2 to chapter 17 is 1,252 metric tons (89 FR 55217, July 3, 2024).

Notice

The Administrator has determined that the amount of articles containing over 65 percent by dry weight of sugars described in additional U.S. note 2 to chapter 17 imported during the October 1, 2024–September 30, 2025 period has exceeded the trigger level of 1,252 metric tons. In accordance with U.S. Notes 1 and 2, Subchapter IV, Chapter 99 of the HTS and HTS subheadings 9904.17.39, 9904.17.40, 9904.17.41, 9904.17.42, 9904.17.43, 9904.17.44, 9904.17.45, 9904.17.46, 9904.17.47, and 9904.17.48, additional duties of 11.3 cents per kilogram plus 1.7 percent; 13.3 cents per kilogram plus 3.5 percent; 11.2 cents per kilogram; 10.2 cents per kilogram plus 2.8 percent; 12.4 cents per kilogram plus 2 percent; 14.1 cents per kilogram plus 2.8 percent; 7.9 cents per kilogram plus 2.8%; 10.2 cents per kilogram plus 2.8 percent; 23.5 cents per kilogram plus 2.8 percent; and 9.6 cents per kilogram plus 2.8 percent shall apply to articles containing over 65 percent by dry weight of sugars described in additional U.S. note 2 to chapter 17 imported under HTS subheadings 1701.91.48 and 1702.90.68, 1704.90.68, 1806.10.28 and 1806.10.55, 1806.20.73, 1806.90.49, 1901.20.25 and 1901.20.60, 1901.90.54, 2101.12.48 and 2101.20.48, 2106.90.76, and 2106.90.94, respectively, from the date of publication of this notice through September 30, 2025.

As provided in U.S. Note 1 to Subchapter IV, Chapter 99 of the HTS, goods of Canada, Mexico, Jordan, Singapore, Chile, Australia, Morocco, El Salvador, Honduras, Nicaragua,

Guatemala, Bahrain, Dominican Republic, Costa Rica, Peru, Oman, Korea, Colombia, and Panama imported into the United States are not subject to such duty. As provided in U.S. Note 2, this duty shall not apply to any goods enroute on the basis of a contract settled before the date of publication of this notice.

Issued at Washington, DC, this 11th day of April 2025.

Daniel Whitley,

Administrator, Foreign Agricultural Services.

[FR Doc. 2025–06478 Filed 4–15–25; 8:45 am]

BILLING CODE 3410–10–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oregon Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Oregon Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via ZoomGov on Monday, April 28, 2025, from 12 p.m.–1:00 p.m. PT. The purpose of the meeting is to discuss potential topics for the Committee's first project.

DATES: The meeting will take place on Monday, April 28, 2025, from 12 p.m.–1 p.m. PT.

ADDRESSES:

Webinar Zoom Registration Link (Audio/Visual): <https://www.zoomgov.com/j/1603371221>.

Join by Phone (Audio only): (833) 435–1820 USA Toll Free; Webinar ID: 160 337 1221.

FOR FURTHER INFORMATION CONTACT:

Kayla Fajota, Designated Federal Officer (DFO) at kfajota@usccr.gov or by phone at (434) 515–2395.

SUPPLEMENTARY INFORMATION:

Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines,

according to their wireless plan. The Commission will not refund any incurred charges. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist, atrevino@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments can be sent via email to Kayla Fajota (DFO) at kfajota@usccr.gov.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, Oregon Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at atrevino@usccr.gov.

Agenda

- I. Welcome and Roll Call
- II. Chair Remarks
- III. Discussion: Concept Stage
- IV. Next Steps
- V. Public Comment
- VI. Adjournment

Dated: April 10, 2025.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2025–06405 Filed 4–15–25; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 250414–0066]

XRIN 0694–XC121

Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Semiconductors and Semiconductor Manufacturing Equipment

AGENCY: Bureau of Industry and Security, Office of Strategic Industries and Economic Security, U.S. Department of Commerce.

ACTION: Notice of request for public comments.

SUMMARY: The Secretary of Commerce initiated an investigation to determine the effects on the national security of imports of semiconductors and semiconductor manufacturing equipment (SME), and their derivative products. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended. Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce's (Department) Bureau of Industry and Security (BIS), Office of Strategic Industries and Economic Security. This notice identifies issues on which the Department is especially interested in obtaining the public's views.

DATES: Comments may be submitted at any time but must be received by May 7, 2025.

ADDRESSES: Comments on this notice may be submitted to the Federal rulemaking portal at: www.regulations.gov. The www.regulations.gov ID for this notice is BIS–2025–0021 Please refer to XRIN 0694–XC121 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC.” Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. The corresponding non-confidential version of those comments must be clearly marked “PUBLIC.” The file name of the non-confidential version should begin with the character “P.” Any submissions with file names that do not begin with either a “BC” or a “P” will be assumed to be public and will be made publicly available at: <https://www.regulations.gov>. Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential

version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT:

Stephen Astle, Director, Defense Industrial Base Division, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482-2533, semiconductors232@bis.doc.gov. For more information about the section 232 program, including the regulations and the text of previous investigations, see www.bis.doc.gov/232.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2025, the Secretary of Commerce initiated an investigation under section 232 of the Trade Expansion Act (19 U.S.C. 1862) to determine the effects on national security of imports of semiconductors, semiconductor manufacturing equipment, and their derivative products. This includes, among other things, semiconductor substrates and bare wafers, legacy chips, leading-edge chips, microelectronics, and SME components. Derivative products include downstream products that contain semiconductors, such as those that make up the electronics supply chain.

Request for Public Comments

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 through 709) (“NSIBR”). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to BIS’s Office of Strategic Industries and Economic Security no later than May 7, 2025. The Department is particularly interested in comments and information directed at the criteria listed in § 705.4 of the regulations as they affect national security, including the following:

- (i) the current and projected demand for semiconductors (including as embedded in downstream products) and SME in the United States, differentiated by product type and node size;
- (ii) the extent to which domestic production of semiconductors can or is expected to be able to meet domestic demand at each node size for each product type, and similarly the extent to which domestic production of SME can or is expected to be able to meet domestic demand;
- (iii) the role of foreign fabrication and assembly, test and packaging facilities

in meeting United States semiconductors demand, and similarly the role of foreign supply of SME in meeting domestic demand;

(iv) the concentration of United States semiconductors imports (including as embedded in downstream products) from a small number of fabrication facilities and the associated risks, and similarly the concentration of United States SME imports from a small number of foreign sources;

(v) the impact of foreign government subsidies and predatory trade practices on United States semiconductor and SME industry competitiveness;

(vi) the economic or financial impact of artificially suppressed semiconductor and SME prices due to foreign unfair trade practices and state-sponsored overcapacity;

(vii) the potential for export restrictions by foreign nations, including the ability of foreign nations to weaponize their control over semiconductors and SME supply chains;

(viii) the feasibility of increasing domestic semiconductors capacity (in different product types and node sizes) to reduce import reliance, and similarly the feasibility of increasing domestic SME capacity to reduce import reliance;

(ix) the impact of current trade and other policies on domestic semiconductor and SME production and capacity, and whether additional measures, including tariffs or quotas, are necessary to protect national security;

(x) what product types and node sizes could be built only using SME from U.S. companies;

(xi) what SME is manufactured abroad and faces limited competition from U.S.-made products;

(xii) what SME parts or components are only available outside the United States;

(xiii) where the U.S. workforce faces a talent gap in production of semiconductors, SME or SME components; and

(xiv) any other relevant factors. Material submitted by members of the public that contains business confidential information will be exempted from public disclosure as provided for by § 705.6 of the regulations (see the **ADDRESSES** section of this notice). Communications from agencies of the United States Government will not be made available for public inspection. The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau’s web page, which can be found at: <https://efoia.bis.doc.gov/> (see “Electronic FOIA” heading). If

requesters cannot access the website, they may call (202) 482-0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published at 15 CFR 4.1 through 4.11.

Eric Longnecker,

Deputy Assistant Secretary for Technology Security.

[FR Doc. 2025-06591 Filed 4-14-25; 4:15 pm]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 250414-0065]

XRIN 0694-XC120

Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Pharmaceuticals and Pharmaceutical Ingredients

AGENCY: Bureau of Industry and Security, Office of Strategic Industries and Economic Security, U.S. Department of Commerce.

ACTION: Notice of request for public comments.

SUMMARY: The Secretary of Commerce initiated an investigation to determine the effects on the national security of imports of pharmaceuticals and pharmaceutical ingredients, including finished drug products, medical countermeasures, critical inputs such as active pharmaceutical ingredients, and key starting materials, and derivative products of those items. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended. Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce’s (Department) Bureau of Industry and Security (BIS), Office of Strategic Industries and Economic Security. This notice identifies issues on which the Department is especially interested in obtaining the public’s views.

DATES: Comments may be submitted at any time but must be received by May 7, 2025.

ADDRESSES: Comments on this notice may be submitted to the Federal rulemaking portal at: www.regulations.gov. The www.regulations.gov ID for this notice is BIS-2025-0022. Please refer to XRIN 0694-XC120 in all comments.

All filers using the portal should use the name of the person or entity

submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC." Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page. The corresponding non-confidential version of those comments must be clearly marked "PUBLIC." The file name of the non-confidential version should begin with the character "P." Any submissions with file names that do not begin with either a "BC" or a "P" will be assumed to be public and will be made publicly available at: <https://www.regulations.gov>. Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: Stephen Astle, Director, Defense Industrial Base Division, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482-2533, pharma232@bis.doc.gov. For more information about the section 232 program, including the regulations and the text of previous investigations, see www.bis.doc.gov/232.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2025, the Secretary of Commerce initiated an investigation under section 232 of the Trade Expansion Act (19 U.S.C. 1862) to determine the effects on national security of imports of pharmaceuticals and pharmaceutical ingredients, and their derivative products. This includes both finished generic and non-generic drug products, medical countermeasures, critical inputs such as active pharmaceutical ingredients and key starting materials, and derivative products of those items.

Request for Public Comments

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 through 709) ("NSIBR"). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to BIS's Office of Strategic Industries and Economic Security no later than May 7, 2025. The Department is particularly interested in comments and information directed at the criteria listed in § 705.4 of the regulations as they affect national security, including the following:

(i) the current and projected demand for pharmaceuticals and pharmaceutical ingredients in the United States;

(ii) the extent to which domestic production of pharmaceuticals and pharmaceutical ingredients can meet domestic demand;

(iii) the role of foreign supply chains, particularly of major exporters, in meeting United States demand for pharmaceuticals and pharmaceutical ingredients;

(iv) the concentration of United States imports of pharmaceuticals and pharmaceutical ingredients from a small number of suppliers and the associated risks;

(v) the impact of foreign government subsidies and predatory trade practices on United States pharmaceuticals industry competitiveness;

(vi) the economic impact of artificially suppressed prices of pharmaceuticals and pharmaceutical ingredients due to foreign unfair trade practices and state-sponsored overproduction;

(vii) the potential for export restrictions by foreign nations, including the ability of foreign nations to weaponize their control over pharmaceutical supplies;

(viii) the feasibility of increasing domestic capacity for pharmaceuticals and pharmaceutical ingredients to reduce import reliance;

(ix) the impact of current trade policies on domestic production of pharmaceuticals and pharmaceutical ingredients, and whether additional measures, including tariffs or quotas, are necessary to protect national security; and

(x) any other relevant factors.

Material submitted by members of the public that is business confidential information will be exempted from public disclosure as provided for by § 705.6 of the regulations (see the ADDRESSES section of this notice). Communications from agencies of the United States Government will not be made available for public inspection.

The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau's web page, which can be found at: <https://efoia.bis.doc.gov/> (see "Electronic FOIA" heading). If requesters cannot access the website, they may call (202) 482-0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published at 15 CFR 4.1 through 4.11.

Eric Longnecker,

Deputy Assistant Secretary for Technology Security.

[FR Doc. 2025-06587 Filed 4-14-25; 4:15 pm]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-433-813, A-427-830]

Strontium Chromate From Austria and France: Continuation of Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) orders on strontium chromate from Austria and France would likely lead to the continuation or recurrence of dumping, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD orders.

DATES: Applicable April 10, 2025.

FOR FURTHER INFORMATION CONTACT: Ann Heilman-Dahl, AD/CVD Operations, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0705.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 2019, Commerce published in the **Federal Register** the AD orders on strontium chromate from Austria and France.¹ On October 1, 2024, the ITC instituted,² and

¹ See *Strontium Chromate From Austria and France: Antidumping Duty Orders*, 84 FR 65349 (November 27, 2019) (*Orders*).

² See *Strontium Chromate From Austria and France: Institution of Five-Year Reviews*, 89 FR 79947 (October 1, 2024).

Commerce initiated,³ the first sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping, and therefore, notified the ITC of the magnitude of the margins of dumping likely to prevail should the *Orders* be revoked.⁴

On April 10, 2025, the ITC published its determination, pursuant to sections 751(c) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the Orders

The merchandise covered by these *Orders* is strontium chromate, regardless of form (including but not limited to, powder sometimes known as granular), dispersions (sometimes known as paste), or in any solution). The chemical formula for strontium chromate is SrCrO₄ and the Chemical Abstracts Service (CAS) registry number is 7789-06-2.

Strontium chromate that has been blended with another product or products is included in the scope if the resulting mix contains 15 percent or more of strontium chromate by total formula weight. Products with which strontium chromate may be blended include, but are not limited to, water and solvents such as Aromatic 100 Methyl Amyl Ketone (MAK)/2-Heptanone, Acetone, Glycol Ether EB, Naphtha Leicht, and Xylene. Subject merchandise includes strontium chromate that has been processed in a third country into a product that otherwise would be within the scope of these *Orders* if processed in the country of manufacture of the in-scope strontium chromate.

The merchandise subject to these *Orders* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 2841.50.9100. Subject merchandise may also enter under HTSUS subheading 3212.90.0050. While the HTSUS subheadings and CAS registry number are provided for

convenience and customs purposes, the written description of the scope is these *Orders* is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be April 10, 2025.⁶ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction 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 the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: April 10, 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. 2025-06447 Filed 4-15-25; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-133]

Certain Metal Lockers and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that Xingyi Metalworking Technology (Zhejiang) Co., Ltd. (XMT) and Hangzhou Evernew Machinery & Equipment Company Limited (Hangzhou Evernew) sold certain metal lockers and parts thereof (metal lockers) from the People's Republic of China (China) at less than normal value during the period of review (POR), August 1, 2022, through July 31, 2023.

DATES: Applicable April 16, 2025.

FOR FURTHER INFORMATION CONTACT: Deborah Cohen or Matthew Palmer, 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) 482-4521 or (202) 482-1678, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 2024, Commerce published the *Preliminary Results* in the **Federal Register**.¹ On December 9, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days.² The deadline for the final results of this administrative review is now April 11, 2025. For a complete description of the events that followed the *Preliminary Results*, see the Issues and Decision Memorandum.³

¹ See *Certain Metal Lockers and Parts Thereof from the People's Republic of China: Preliminary Results, Preliminary Determination of No Shipments, and Partial Rescission of Antidumping Duty Administrative*, 89 FR 74901 (September 13, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

³ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Metal Lockers and Parts Thereof from the People's Republic of China; 2022–2023," dated concurrently with this notice (Issues and Decision Memorandum).

³ See *Initiation of Five-Year (Sunset) Reviews*, 89 FR 79892 (October 1, 2024).

⁴ See *Strontium Chromate From Austria and France: Final Results of the First Expedited Sunset Reviews of the Antidumping Duty Orders*, 90 FR 8182 (January 27, 2025), and accompanying Issues and Decision Memorandum (IDM).

⁵ See *Strontium Chromate from Austria and France*, 90 FR 15366 (April 10, 2025) (*ITC Final Determination*).

⁶ See *ITC Final Determination*.

Scope of the Order ⁴

The products covered by the *Order* are metal lockers from China. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached as the 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>.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results*, we made certain changes to the margin calculations for XMT. Further, due to Hangzhou Evernew's refusal to allow verification of its information in this segment of the proceeding,⁵ we determine that Hangzhou Evernew's submitted data cannot be verified pursuant to section 776(a)(2)(D) of the Tariff Act of 1930, as amended, (the Act). Further, due to the company's failure to cooperate by not acting to the best of its ability to comply with a request for information, we find that the application facts available with an adverse inference (AFA) is warranted pursuant to sections 776(a) and (b) of the Act. Accordingly, as Commerce determines that Hangzhou Evernew's responses in this proceeding are unverifiable and application of AFA appropriate, we conclude that the respondent did not demonstrate eligibility to qualify for a separate rate in this review and, thus, is considered a part of the China-wide entity for the final results of this review.⁶

⁴ See *Certain Metal Lockers and Parts Thereof from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 46826 (August 20, 2021) (*Order*).

⁵ See Memorandum, "Notification of Intent to Verify Hangzhou Evernew," dated October 2, 2024; see also Hangzhou Evernew's Letter, "Response to the Department's Intent to Verify," dated October 15, 2024.

⁶ For a full description of these changes, see the Issues and Decision Memorandum.

The China-Wide Entity

Commerce's policy regarding the conditional review of the China-wide entity applies to this administrative review.⁷ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, we did not review the entity in this segment of the proceeding. Thus, the China-wide entity's rate (*i.e.*, 322.25 percent) did not change. Pursuant to the aforementioned finding that Hangzhou Evernew is not eligible for a separate rate and is therefore part of the China-wide entity, the 322.25 percent China-wide rate is the final weighted-average dumping margin applicable to Hangzhou Evernew.

Final Determination of No Shipments

In the *Preliminary Results*, Commerce determined that Zhejiang Xingyi Metal Products Co., Ltd. (ZXM) and Wanlong Special Containers Co., Ltd. (Wanlong Special Containers) did not have shipments of subject merchandise during the POR.⁸ As we received no information to contradict our preliminary determination with respect to those companies, we continue to find that they made no shipments of subject merchandise to the United States during the POR.

Final Results of Review

Commerce determines that the following estimated weighted-average dumping margin exists for the period August 1, 2022, through July 31, 2023:

Exporter	Weighted-average dumping margin (percent)
Xingyi Metalworking Technology (Zhejiang) Co., Ltd	78.07

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results to interested parties within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

⁷ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

⁸ *Id.*

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce 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. Pursuant to 19 CFR 351.212(b)(1), where XMT reported the entered values of its U.S. sales, we calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. Where XMT did not report entered value, we calculated a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also calculated an importer-specific *ad valorem* ratio based on estimated entered values. Where either a respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Pursuant to a refinement in our non-market economy practice, for sales that were not reported in the U.S. sales data submitted by XMT during this review, we will instruct CBP to liquidate entries associated with those sales at the rate for the China-wide entity.⁹

For ZXM and Wanlong Special Containers, which Commerce determined had no shipments of subject merchandise during the POR, we will instruct CBP to assess any suspended entries of subject merchandise that entered under those exporters' CBP case numbers during the POR at the rate for the China-wide entity.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results. 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

⁹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65695 (October 24, 2011) for a full discussion of this practice.

statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on, or after, the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the companies identified above in the “Final Results of Review” section will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for a previously investigated or reviewed exporter of subject merchandise not listed in the final results of review that has a separate rate, the cash deposit rate will continue to be the exporter’s existing cash deposit rate; (3) for all Chinese exporters of subject merchandise that do not have a separate rate, the cash deposit rate will be the cash deposit rate established for the China-wide entity, *i.e.*, 322.25 percent;¹⁰ and (4) for all exporters of subject merchandise that are not located in China and that are not eligible for a separate rate, the cash deposit rate will be the rate applicable to the China exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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 and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order

This notice also serves as the final reminder to parties subject to an administrative protective order (APO) of

their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: April 9, 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.

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes from the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Whether Commerce Should Apply AFA to Hangzhou Evernew
 - Comment 2: Whether Commerce Should Use KKB Engineering Berhad’s Financial Statements
 - Comment 3: Whether Commerce Should Utilize Siraga IEM Sdn Bhd.’s Updated Financial Ratios
 - Comment 4: Whether Commerce Should Revise Certain Plastic Packing Surrogate Values
 - Comment 5: Whether Commerce Should Correct Programming for Certain Freight Charges
 - Comment 6: Whether Commerce Should Use Alternative Rivet Surrogate Value Data
 - Comment 7: Whether Commerce Should Rescind the Review for Safewell Based on No Shipments
- VI. Recommendation

[FR Doc. 2025–06448 Filed 4–15–25; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that

certain producers and exporters of stainless steel sheet and strip in coils (SSSS in coils) from the Republic of Korea (Korea) received countervailable subsidies during the period of review (POR) January 1, 2022, through December 31, 2022.

DATES: Applicable April 16, 2025.

FOR FURTHER INFORMATION CONTACT: Patrick Barton, 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) 482–0012.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 2024, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** and invited interested parties to comment.¹ On December 9, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days.² The deadline for these final results is now April 11, 2025. For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.³

Scope of the Order⁴

The product covered by this *Order* is SSSS in coils. For a complete description of the scope of this *Order*, see the Issues and Decision Memorandum.

Rescission of Administrative Review, in Part

As noted in the *Preliminary Results*, based on our analysis of U.S. Customs and Border Protection (CBP) data, we determine that Samsung STS Co., Ltd. (Samsung STS) had no reviewable shipments, sales, or entries of subject

¹ See *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Preliminary Results and Intent to Rescind, in Part, of Countervailing Duty Administrative Review; 2022*, 89 FR 74915 (September 13, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated December 9, 2024.

³ See Memorandum, “Issues and Decision Memorandum for the Final Results and Partial Rescission of the Administrative Review of the Countervailing Duty Order on Stainless Steel Sheet and Strip in Coils from the Republic of Korea; 2022,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See *Amended Final Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea*, 64 FR 42923 (August 6, 1999) (*Order*).

¹⁰ See *Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Notice of Court Decision Not in Harmony With the Final Determination of Antidumping Duty Investigation; Notice of Amended Final Determination*, 88 FR 70644 (October 12, 2023).

merchandise during the POR.⁵ We received no comments or additional information from any interested parties regarding this company. Therefore, absent evidence of suspended entries during the POR on the record, we are rescinding the administrative review of Samsung STS, pursuant to 19 CFR 351.213(d)(3).

Analysis of Subsidy Programs and Comments Received

A list of topics discussed in the Issues and Decision Memorandum is included 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>.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we made no modifications to our calculations for these final results of review.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ The subsidy programs under review, and the issues raised in case and rebuttal briefs submitted by the interested parties, are discussed in the Issues and Decision Memorandum.

Final Results of Administrative Review

We determine the following net countervailable subsidy rates for the period January 1, 2022, through December 31, 2022:

Producer/exporter	Subsidy rate (percent <i>ad valorem</i>)
Hyundai BNG Steel Co., Ltd	0.57
Hyundai Steel Company ⁷	2.47
Geumok Tech. Co., Ltd. ⁸	17.04

Disclosure

Because Commerce has not modified its analysis or calculations from the *Preliminary Results*, there are no new calculations to disclose for these final results of review.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and CBP shall assess, countervailing duties on all appropriate entries of subject merchandise covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**.

For the company for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2022, through December 31, 2022. Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of the notice of rescission 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

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the companies subject to this review for shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-

continue to find Hyundai ISC to be cross-owned with Hyundai Steel.

⁸This rate is based upon adverse facts available (AFA). See Preliminary Decision Memorandum at 6–11; see also Memorandum, "Post-Preliminary Results Application of Adverse Facts Available," dated October 31, 2024. No parties commented on this determination; thus, we continue to apply AFA to Geumok Tech. Co., Ltd.

reviewed companies, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposits, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notice to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4) and 19 CFR 351.221(b)(5).

Dated: April 10, 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. Subsidies Valuation Information
- V. Analysis of Programs
- VI. Discussion of the Issues
 - Comment 1: Whether the Provision of Electricity Was Consistent with Market Principles During the POR
 - Comment 2: Whether the Provision of Electricity for Less Than Adequate Remuneration (LTAR) Program Is Specific
 - Comment 3: Whether Commerce Should Revise its Analysis of the Largest Electricity Consuming Industries
 - Comment 4: Whether to Modify the Benefit Calculation for the Provision of Electricity for LTAR Program
 - Comment 5: Whether the Provision of Korean Allocation Units (KAUs) Constitutes a Financial Contribution
 - Comment 6: Whether the Provision of KAUs Confers a Countervailable Benefit
 - Comment 7: Whether the Korea Emissions Trading System (K-ETS) Program Is Specific
- VII. Recommendation

[FR Doc. 2025–06468 Filed 4–15–25; 8:45 am]

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⁵ See *Preliminary Results*, 89 FR at 74915.

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ In the *Preliminary Results*, Commerce preliminarily found Hyundai ISC to be cross-owned with Hyundai Steel Company (Hyundai Steel). See *Preliminary Results* PDM at 14. No parties commented on this determination; thus, we

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XE846]

Atlantic Highly Migratory Species; Meeting of the Atlantic Highly Migratory Species Advisory Panel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public webinar/conference call.

SUMMARY: NMFS will hold a 3-day Atlantic Highly Migratory Species (HMS) Advisory Panel (AP) meeting via webinar in May 2025. The intent of the meeting is to consider options for the conservation and management of Atlantic HMS. The meeting is open to the public.

DATES: The AP meeting and webinar will be held on Tuesday, May 6, from 9:30 a.m. to 5 p.m. ET; Wednesday, May 7, from 9:30 a.m. to 5 p.m. ET; and Thursday, May 8, from 9 a.m. to 12 p.m. ET.

ADDRESSES: The meeting will be accessible via WebEx conference call and webinar. Conference call and webinar access information are available at: <https://www.fisheries.noaa.gov/event/may-2025-hms-advisory-panel-meeting>.

Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show the presentations via webinar and allow public comment during identified times on the agenda.

FOR FURTHER INFORMATION CONTACT:

Peter Cooper (peter.cooper@noaa.gov) or Anna Quintrell (anna.quintrell@noaa.gov) at 301-427-8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries (tunas, swordfish, sharks, and billfish) are managed under the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments pursuant to the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635.

The Magnuson-Stevens Act requires the establishment of APs and requires NMFS to consult with and consider the comments and views of AP members during the preparation and implementation of FMPs or FMP amendments (16 U.S.C. 1854(g)(1)(A)–

(B)). NMFS meets with the HMS AP approximately twice each year to consider potential alternatives for the conservation and management of Atlantic tunas, swordfish, billfish, and shark fisheries, consistent with the Magnuson-Stevens Act. Generally, AP meetings are held in-person, but because of current restrictions on travel this AP meeting will be conducted via webinar.

Some of the discussion topics are:

- HMS rulemaking updates;
- Outcomes of the 2024 International Commission for the Conservation of Atlantic Tunas Annual Meeting; and
- Atlantic bluefin tuna fishery update.

We anticipate inviting other NMFS offices and the U.S. Coast Guard to provide updates, if available, on their activities relevant to HMS fisheries. Additional information on the meeting and a copy of the draft agenda will be posted prior to the meeting (see **ADDRESSES**).

Requests for sign language interpretation or other auxiliary aids should be directed to Peter Cooper at 301-427-8503, at least 7 days prior to the meeting.

Dated: April 11, 2025.

Kelly Denit,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2025-06442 Filed 4-15-25; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XE698]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the City of Ketchikan's Berth III Mooring Dolphins Project in Ketchikan, Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the City of Ketchikan (COK), Alaska, for authorization to take marine mammals incidental to the Berth III Mooring Dolphins Project in the Port of Ketchikan in the Tongass Narrows, Alaska. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to issue an

incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS also requests comments on a possible one-time, 1-year renewal that could be issued under certain circumstances, and, if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments before making any final decision on issuing the requested MMPA authorization, and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 16, 2025.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to ITP.Graham@noaa.gov. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

Krista Graham, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who

engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking would have a negligible impact on the species or stock(s) and would not have an unmitigable adverse effect on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below. They can be found in section 3 of the MMPA (16 U.S.C. 1362) and NMFS regulations at 50 CFR 216.103.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) concerning potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On July 17, 2024, NMFS received a request from the applicant (COK) for an IHA to take marine mammals incidental to construction activities associated with the project. Following NMFS’ application review, COK submitted a revised version on October 16, 2024.

Following additional NMFS questions and COK’s subsequent responses, COK submitted a final revised application on February 7, 2025. The application was deemed adequate and complete on February 24, 2025. The COK requests to take 13 species (16 stocks) of marine mammals by Level B harassment, and a limited number of individuals from 8 of those stocks by Level A harassment. Neither COK nor NMFS expects serious injury or mortality from this activity; therefore, an IHA is appropriate.

This proposed IHA would be the fourth IHA issued to COK for the Berth III Mooring Dolphins Project. NMFS initially issued an IHA to COK for the Berth III Mooring Dolphins Project on March 3, 2021 (86 FR 12411), effective from October 1, 2021, through September 30, 2022. The reissued IHA (September 10, 2021, 86 FR 50704) was effective from October 1, 2022, through September 30, 2023. The third IHA (December 8, 2022, 87 FR 75233) was effective from October 1, 2023, through September 30, 2024. Due to COVID–19 pandemic-related tourism and funding delays, COK did not start construction, and no work was conducted under any of the three previous IHAs. For this fourth proposed IHA, project details have been revised slightly, new sound source information is available, and additional species not previously included have been added. The effective dates of this proposed IHA would be from October 1, 2025, through September 30, 2026.

Description of Proposed Activity

Overview

The purpose of the COK’s Berth III construction expansion project is to accommodate a new fleet of large cruise ships (*i.e.*, Bliss class) and to meet the needs of the growing cruise ship industry and its vessels in Southeast Alaska. To safely moor a Bliss class vessel, additional tie-up locations are needed at the north and south ends of the berth. Without the proposed improvements, vessels may be unable to safely moor at Berth III, located on the east side of Tongass Narrows, which consists of an 11-mile-long, narrow body of water.

Construction activities would include erecting temporary weather structures and templates, vibratory pile driving and removal, impact pile driving, down-the-hole (DTH) pile driving, pile splicing, pile-to-dolphin cap welding, and setting a catwalk. The underwater sound generated by these in-water activities may result in Level A and Level B harassment of marine mammal species.

Dates and Duration

Construction is expected to occur between October 1, 2025, and May 1, 2026. In-water work is estimated to take approximately 166 days (5.5 months or approximately 24 weeks) between October 1, 2025, and March 15, 2026. Above-water work is required to install prefabricated steel dolphin caps and an approximately 66-ft prefabricated grated catwalk. The daily duration of construction activities would vary based on the daylight hours available. In the winter, shorter 7- to 10-hour workdays in available daylight are anticipated; in the early fall and early spring, longer daylight workdays of up to 12-hours are expected (however, 14 hours of noise-generating activity is used in the application for conservative isopleth calculations). While COK may work these hours, not all activity in a workday would generate in-water noise. Work may not begin without sufficient daylight to conduct pre-activity monitoring and may extend into twilight hours as needed to embed the pile far enough to leave piles in place until installation can resume safely.

Specific Geographic Region

COK is located in Southeast Alaska on the western coast of Revillagigedo Island, near the southernmost boundary of Alaska. Ketchikan encompasses approximately 3 square miles (sq mi) of land (7.8 square kilometers (km²)) and 1 sq mi of water (2.6 km²). The site is located on the east side of Tongass Narrows, a marine channel between Revillagigedo and Gravina Islands, consisting of a long, narrow water body approximately 11 miles (17.7 km) (see figure 1). The berth is part of the Port of Ketchikan, an active marine commercial and industrial area.

At the project site where piles would be driven, water depths range between approximately 60 feet (ft) (18.3 meters (m)) to 160 ft (48.8 m) (Peratovich and Nottingham Engineers, Inc. (PND) 2006). Tidal currents generally range from 0.3 miles (0.5 km) to 1.6 miles (2.6 km) per hour during flood and ebb tides (PND 2006). The tide range in Ketchikan is significant, with the highest observed tides of 21.4 ft (6.5 m) and the lowest observed tides of –5.2 ft (–1.6 m), based on a mean lower low water (MLLW) elevation of 0.0 ft (0 m). Water depths in Tongass Narrows that would be ensonified are generally 160 ft (48.8 m) or shallower, but they get deeper past the southern end of Pennock Island, reaching depths up to 625 ft (190.5 m) (NOAA 2015).

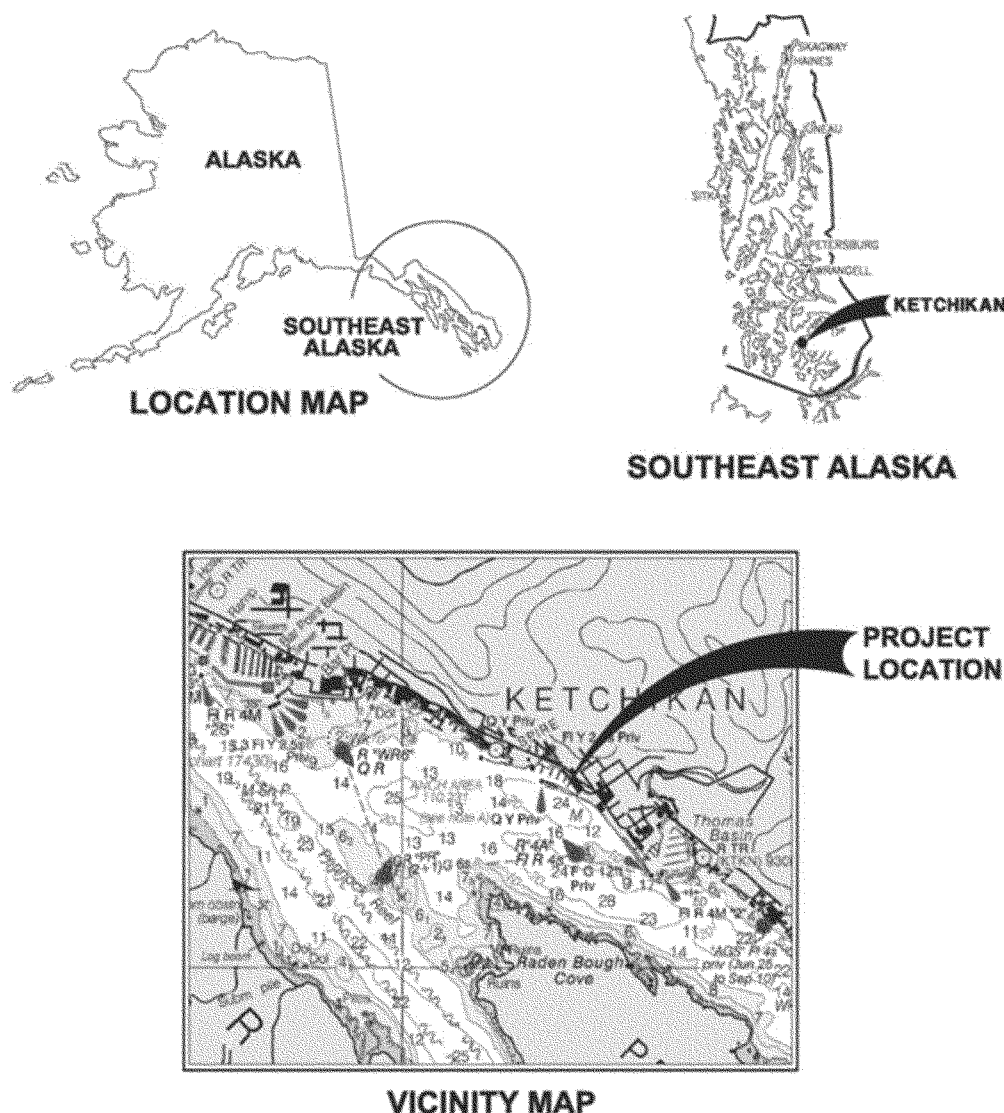


Figure 1 -- City of Ketchikan Berth III Mooring Dolphin Project Area

Detailed Description of the Specified Activity

The proposed project would install three new mooring dolphins (MD), with one at the north end of Berth III (MD#2) and two at the south end (MD#3 & MD#4), as shown in figure 2 in COK's

IHA application (available online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>). A total of 28 piles would be installed. Sixteen are temporary template piles and would be removed, as shown in table 1. Pile

driving would be conducted from an anchored barge, using vibratory and impact hammers to install and remove piles. Due to limited overburden, DTH pile installation would be used to install rock sockets and tension anchors. A maximum of one pile per day would be installed.

TABLE 1—PROJECT PILE TYPES AND QUANTITIES

Location	Item	Size and type	Qty	Duration per pile	Strikes per pile (impact)	Piles per day (range)	Days of activity
MD#2	Dolphin and Fender Piles	48-in (1.22 m) steel pipe piles	6	Up to 14 hours (840 minutes)	0–1,500	1	70 days.
	Temporary Template Piles	Up to 30-in (0.76 m) steel pipe piles.	8		0–1,500	1	
MD#3	Dolphin Piles	36-in (0.9 m) steel pipe piles	3	Up to 14 hours (840 minutes)	0–1,500	1	95 days.
	Temporary Template Piles	Up to 30-in (0.76 m) steel pipe piles.	4		0–1,500	1	
MD#4	Dolphin Piles	36-in (0.9 m) steel pipe piles	3	Up to 14 hours (840 minutes)	0–1,500	1	

TABLE 1—PROJECT PILE TYPES AND QUANTITIES—Continued

Location	Item	Size and type	Qty	Duration per pile	Strikes per pile (impact)	Piles per day (range)	Days of activity
	Temporary Template Piles	Up to 30-in (0.76 m) steel pipe piles.	4		0–1,500	1	

Installation of MD#2 would require six 48-inch diameter steel pipe piles up to 190 ft (57.9 m) in length each. MD#3 and MD#4 each would require three 36-inch diameter steel pipe piles up to 120 ft (36.6 m) in length each. These piles would be installed in water depths ranging between approximately 60 ft (18.3 m) and 160 ft (48.8 m) deep and driven through approximately 10 ft (3.1 m) of loose, overburden substrate.

Due to the nature of deep-water pile installation in loose sediment, various means and methods are required to install a single pile. Each pile would be installed using various installation methods: vibratory, impact, and DTH pile driving installation. COK may alternate between installation methods depending on the conditions encountered. Only one installation method would occur at a time, but all three methods may be used in a single day. COK may also be required to splice on additional lengths of the pile (*i.e.*, weld piles together to make them longer), with up to three splices expected per pile.

COK would initially vibratory drive all permanent piles to first refusal, which occurs when they cannot advance the pile tip further with a vibratory hammer. This would likely happen at bedrock elevation. COK would seat (or secure) the tip of the pile into bedrock with an impact hammer, usually to a depth of 1 to 2 ft (0.3 to 0.6 m) into fractured bedrock. Once the pile has been seated (or secured) into bedrock with the impact hammer, DTH equipment would be employed to create rock sockets. Due to limited overburden, all piles require rock sockets. Sockets up to 20 ft (6.1 m) deep would be hammered through the pile shaft to the width of the associated pile. COK would then socket hammer the pile up to 20 ft (6.1 m) into bedrock. The pile would be drawn into the socket through the hammering action. Finally, a smaller 12-inch diameter DTH device would be used on several piles to drill a rock anchor hole into bedrock 60 ft (18.3 m) past the pile tip. A 16-inch diameter casing would be inserted into the pile, and an approximately 12-inch diameter hole would be drilled up to 60 ft (18.3 m) from the base of the rock socket. Three anchor rods would be inserted inside the casing, extending from the

top of the pile to the bottom of the 12-inch hole. After component installation, the hammered 12-inch hole and pile casing would be filled with grout.

Temporary template piles would be required to install the permanent piles at MD#2, #3, and #4 to aid with construction. The temporary template piles would be removed after the permanent dolphin piles have been installed. At MD#2, temporary template piles would include up to eight 30-in (0.8 m) diameter piles or smaller (Table 1). MD#3 and MD#4 would each have up to four piles of up to 30 inches in diameter or smaller. Between all 3 MDs, there would be 16 temporary template piles. Once installed, each temporary template pile would measure around 150 ft (46 m) in length and would consist of up to three sections that would be spliced together as they are installed. Installation methods for the temporary template piles include vibratory driving piles to first refusal, and then secured into the bedrock with an impact hammer. Removal of the temporary template piles would only involve using a vibratory hammer.

Finally, once all dolphin piles are installed, an off-site prefabricated steel dolphin cap would be set on top of the piles and welded to the cap. No in-water work is associated with this feature. Additionally, one new off-site prefabricated grated catwalk, approximately 66 ft (20.1 m) in length and 264 ft² (24.5 m²), would be set to provide access to the new MD#2. No in-water work is associated with this feature either. As such, we do not expect any effects on marine mammals from installing the dolphin caps and catwalk, and these components would not be considered further.

The proposed mitigation, monitoring, and reporting measures for this project are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding the status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully

considered all this information, and we refer the reader to these descriptions in the application instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 2 lists all species or stocks for which take is expected and proposed to be authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and the Endangered Species Act (ESA) and potential biological removal (PBR), where known. The MMPA defines PBR as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality (M/SI) from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that comprise a given stock, or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Alaska SAR (Young *et al.* 2024). All values presented in table 2 below are the most recent available at the time of publication (including from the final 2023 SAR) and are available online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 2—SPECIES WITH ESTIMATED TAKE FROM THE SPECIFIED ACTIVITIES

Common name ¹	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
<i>Family Eschrichtiidae:</i> Gray whale	<i>Eschrichtius robustus</i>	Eastern North Pacific	-,N	26,960 (0.05, 25,849, 2016) ..	801	131
<i>Family Balaenopteridae</i> (rorquals):						
Fin Whale	<i>Balaenoptera physalus</i>	Northeast Pacific	E, D, Y	UND (UND, UND, 2013) ⁵	UND	0.6
Humpback Whale	<i>Megaptera novaeangliae</i>	Hawaii ⁶	-,N	11,278 (0.56, 7,265, 2020)	127	27.09
		Mexico-North Pacific	T, D, Y	N/A (N/A, N/A, 2006) ⁷	UND	0.57
Minke Whale	<i>Balaenoptera acutorostrata</i>	Alaska	-,N	N/A (N/A, N/A, N/A) ⁸	UND	0
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Delphinidae:</i> Killer Whale	<i>Orcinus orca</i>	Eastern North Pacific Alaska Resident.	-,N	1,920, (N/A, 1,920, 2019) ⁹	19	1.3
		Eastern North Pacific North- ern Resident.	-,N	302 (N/A, 302, 2018)	2.2	0.2
		West Coast Transient	-,N	439 (N/A, 349, 2018)	3.5	0.4
Pacific White-sided Dol- phin.	<i>Lagenorhynchus obliquidens</i>	N Pacific	-,N	26,880 (N/A, N/A, 1990)	UND	0
<i>Family Phocoenidae (por- poises):</i>						
Dall's Porpoise	<i>Phocoenoides dalli</i>	Alaska	-,N	UND (UND, UND, 2015) ¹⁰	UND	37
Harbor Porpoise	<i>Phocoena phocoena</i>	Southern Southeast Alaska Inland Waters ¹¹ .	-,Y	890 (0.37, 610, 2019)	6.1	7.4
Order Carnivora—Pinnipedia						
<i>Family Otariidae (eared seals and sea lions):</i>						
Sea Lion	<i>Zalophus californianus</i>	U.S	-,N	257,606 (N/A, 233,515, 2014)	14,011	>321
Northern Fur Seal	<i>Callorhinus ursinus</i>	Eastern Pacific	-,D,Y	626,618 (0.2, 530,376, 2019) ¹² .	11,403	373
Steller Sea Lion	<i>Eumetopias jubatus</i>	Eastern	-,N	36,308 (N/A, 36,308, 2022) ¹³	2,178	93.2
<i>Family Phocidae (earless seals):</i>						
Harbor Seal	<i>Phoca vitulina</i>	Clarence Strait	-,N	27,659 (N/A, 24,854, 2015) ...	746	40
Northern Elephant Seal	<i>Mirounga angustirostris</i>	CA Breeding	-,N	187,386 (N/A, 85,369, 2013)	5,122	13.7

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

² Endangered Species Act (ESA) status: Endangered (E), Threatened (T); MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at www.nmfs.noaa.gov/pr/sars/. CV is the coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, a CV is not applicable. N/A indicates data are unknown. UND (undetermined) PBR indicates data are available to calculate a PBR level but a determination has been made that calculating a PBR level using those data is inappropriate (see the SAR for details).

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strikes). Annual M/SI often cannot be determined precisely and is sometimes presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

⁵ The best available abundance estimate for this stock is not considered representative of the entire stock as surveys were limited to a small portion of the stock's range. Based upon this estimate and the N_{min}, the PBR value is likely negatively biased for the entire stock.

⁶ New SAR in 2022 following North Pacific humpback whale stock structure changes.

⁷ Abundance estimates are based upon data collected more than 8 years ago and, therefore, current estimates are considered unknown.

⁸ Reliable population estimates are not available for this stock. Please see Friday *et al.* (2013) and Zerbini *et al.* (2006) for additional information on numbers of minke whales in Alaska.

⁹ N_{est}, or the best estimate of abundance, is based upon counts of individuals identified from photo-ID catalogs.

¹⁰ The best available abundance estimate is likely an underestimate for the entire stock because it is based upon a survey that covered only a small portion of the stock's range.

¹¹ New stock split from Southeast Alaska stock.

¹² Survey years = Sea Lion Rock—2014; St. Paul and St. George Is.—2014, 2016, 2018; Bogoslof Is.—2015, 2019.

¹³ N_{est} is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the U.S. only.

As indicated above, all 13 species with 16 managed stocks in table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur.

For all species except humpback whales, there are no known biologically important areas (BIA) near the project site that COK's proposed activity would impact. For humpback whales, the inland waters of Southeast Alaska are a

seasonal feeding BIA from May through September (Wild *et al.* 2023). However, due to development and human presence, Tongass Narrows and Clarence Strait are not essential portions of this habitat. Tongass Narrows is also a small passageway representing a tiny portion of the available habitat for humpback whales.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals can hear. Not all marine mammal species have equal hearing capabilities

(*e.g.*, Richardson *et al.* 1995; Wartzok and Ketten 1999; Au and Hastings 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential

techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Generalized hearing ranges were chosen based on the ~65 decibel (dB) threshold from composite audiograms, previous analyses in NMFS (2024), and/or data from Southall *et al.*

(2007) and Southall *et al.* (2019). We note that the names of two hearing groups and the generalized hearing ranges of all marine mammal hearing groups have been recently updated (NMFS 2024), as reflected below in table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS
[NMFS 2024]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 36 kHz.
High-frequency (HF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
Very High-frequency (VHF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	200 Hz to 165 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	40 Hz to 90 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 68 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges may not be as broad. The generalized hearing range was chosen based on a ~65 dB threshold from a composite audiogram, previous analysis in NMFS 2018, and/or data from Southall *et al.* (2007) and Southall *et al.* (2019). Additionally, animals can detect very loud sounds above and below that "generalized" hearing range.

For a review of available information on these groups and associated frequency ranges, please see NMFS (2024).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section discusses how components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation section to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Acoustic effects on marine mammals during the specified activity can occur from impact pile driving, vibratory driving and removal, and DTH. The effects of underwater noise from COK's proposed activity have the potential to result in Level A and Level B harassment of marine mammals in the action area.

Description of Sound Sources

The marine soundscape is composed of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of

sound from many sources, both near and far. The sound level of an area is defined by the total acoustical energy generated by known and unknown sources. These sources may include physical (*e.g.*, waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which are composed of "ambient" or "background" sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation depends on the spatially and temporally varying properties of the water column and sea floor and is frequency-dependent. As a result of the dependence on many varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include vibratory pile driving and pile removal, impact pile driving, and DTH pile installation. The sounds produced

by these activities fall into one of two general sound types: impulsive and non-impulsive. Impulsive sounds (*e.g.*, explosions, gunshots, sonic booms, and impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure with rapid rise time and rapid decay (American National Standards Institute (ANSI) 1986; National Institute for Occupational Safety and Health (NIOSH) 1998; ANSI 2005; NMFS 2024). Non-impulsive sounds (*e.g.*, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have high peak sound pressure with rapid rise/decay time that impulsive sounds do (ANSI 1995; NIOSH 1998; NMFS 2024). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly regarding hearing (*e.g.*, Ward 1997 in Southall *et al.* 2007).

Three types of hammers would be used in this project: impact, vibratory, and DTH. Impact hammers repeatedly drop a heavy piston onto a pile to drive the pile into the substrate. The sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the hammer's weight to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak sound pressure levels (SPLs) may be 180 dB or greater but are

generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over more time (Nedwell and Edwards 2002; Carlson *et al.* 2005).

A DTH hammer is used to place hollow steel piles or casings by drilling. A DTH hammer is a drill bit that drills through the bedrock using a pulse mechanism that functions at the bottom of the hole. This pulsing bit breaks up the rock to allow for the removal of debris and insertion of the pile. The head extends so that the drilling takes place below the pile. The sounds produced by DTH hammers were previously thought to be continuous. However, recent sound source verification (SSV) monitoring has shown that a DTH hammer can create an impulsive sound (Denes *et al.* 2019). Since sound from DTH activities has both impulsive and continuous components, NMFS characterizes sound from DTH pile installation as being impulsive when evaluating potential Level A harassment (*i.e.*, injury) impacts and as being non-impulsive when assessing potential Level B harassment (*i.e.*, behavior) effects.

COK's proposed activity could impact marine mammals through non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment, vessels, and personnel; however, any impacts on marine mammals are expected to be primarily acoustic. Acoustic stressors include the effects of heavy equipment operation during pile installation and removal.

Acoustic Impacts

Introducing anthropogenic noise into the aquatic environment from pile driving and removal is the primary way COK's specified activity may harass marine mammals. In general, animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.* 2007). In general, exposure to pile driving and removal noise can result in auditory threshold shifts and behavioral disturbance (*e.g.*, avoidance, temporary cessation of foraging and vocalizing, and changes in dive behavior). Exposure to anthropogenic noise can also lead to non-observable physiological responses, such as increased stress hormones. Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and

predator and prey detection. The effects of pile driving and removal noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.*, impulsive vs. non-impulsive), the species, age and sex class (*e.g.*, adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.* 2003; Southall *et al.* 2007). Here, we discuss physical auditory effects (threshold shifts) followed by behavioral effects and potential impacts on habitat.

NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2024). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2024), there are numerous factors to consider when examining the consequences of TS, including, but not limited to, the signal temporal pattern (*e.g.*, impulsive or non-impulsive), the likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.*, spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.*, how an animal uses sound within the frequency band of the signal; *e.g.*, Kastelein *et al.* 2014), and the overlap between the animal and the source (*e.g.*, spatial, temporal, and spectral).

Permanent Threshold Shift (PTS)—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2024). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.* 1958, 1959; Ward 1960; Kryter *et al.* 1966; Miller 1974; Ahroon *et al.* 1996; Henderson *et al.* 2008). PTS levels for marine mammals are estimates. Other than the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.* 2008), there is no empirical data measuring PTS in marine mammals, mainly because, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS 2024).

Temporary Threshold Shift (TTS)—This is a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2024). Based on data from cetacean TTS measurements (see Southall *et al.* 2007), a TTS of 6 dB is considered the minimum threshold shift larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.* 2000; Finneran *et al.* 2000, 2002). As described in Finneran (2015), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SEL_{cum}) in an accelerating fashion: At low exposures with lower SEL_{cum}, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SEL_{cum}, the growth curves become steeper and approach linear relationships with the noise sound exposure level (SEL).

Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and not as many competing sounds are present. Alternatively, a larger amount and longer duration of TTS sustained when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, humans, and other taxa (Southall *et al.* 2007). Therefore, we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaticaorientalis*)) and five species of pinnipeds exposed to a limited number of sound sources (*i.e.*, primarily tones and octave-band noise) in laboratory settings (Finneran 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et*

al. 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. No data on noise-induced hearing loss for mysticetes is available. For summaries of data on TTS in marine mammals or further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and table 5 in NMFS (2024).

Installing piles for the project requires a combination of impact pile driving, vibratory pile driving, and DTH hammering. These activities would not occur simultaneously for the project, and there would likely be pauses in activities that produce the sound each day. Given these pauses and the fact that many marine mammals are likely moving through the action area and not remaining for extended periods, the potential for TS declines.

Behavioral Harassment—Exposure to noise from DTH and pile driving and removal can also potentially disturb marine mammals behaviorally. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict precisely how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and Bejder 2007; Weilgart 2007; and National Research Council (NRC) 2005).

Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); and avoidance of areas where sound sources are located. Pinnipeds may increase their haul-out time to avoid in-water disturbance (Thorson and Reyff 2006). Behavioral responses to sound are highly variable and context-specific. Any reactions depend on numerous intrinsic and extrinsic factors (*e.g.*, species, state of maturity, experience,

current activity, reproductive state, auditory sensitivity, and time of day), as well as the interplay between factors (*e.g.*, Richardson *et al.* 1995; Wartzok *et al.* 2003; Southall *et al.* 2007; Weilgart 2007; Archer *et al.* 2010). Behavioral reactions can vary among individuals and within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.* 2012). They can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than cetaceans and generally seem less responsive to exposure to industrial sound than most cetaceans. Please see Appendices B and C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

The disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.*, bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.*, Croll *et al.* 2001; Nowacek *et al.* 2004; Madsen *et al.* 2006; Yazvenko *et al.* 2007). Whether foraging disruptions are more likely to incur fitness consequences may be informed by information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

In 2016, the Alaska Department of Transportation and Public Facilities (ADOT&PF) documented observations of marine mammals during construction activities (*i.e.*, pile driving and DTH drilling) at the Kodiak Ferry Dock (see 80 FR 60636, October 7, 2015). In that project's marine mammal monitoring report (Alaska Biological Research, Inc. (ABR) 2016), 1,281 Steller sea lions were observed within the Level B disturbance zone during pile driving or drilling (*i.e.*, documented as Level B harassment take). Of these, 19 individuals demonstrated alert behavior, 7 fled, and 19 swam away from the project site. All other animals (98 percent) were engaged in milling, foraging, or fighting activities and did

not change their behavior. In addition, two sea lions approached within 65 ft (20 m) of active vibratory pile-driving activities, and three harbor seals were observed within the disturbance zone during pile-driving activities; none displayed disturbance behaviors. Fifteen killer whales and three harbor porpoises were also observed within the Level B harassment zone during pile driving. The killer whales were traveling or milling while all harbor porpoises were traveling. No signs of disturbance were noted for either of these species. Given the similarities in species, activities, and habitat, we expect similar behavioral responses of marine mammals to COK's specified activity. That is, disturbance, if any, is likely to be temporary and localized (*e.g.*, small area movements).

Stress responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle 1950; Moberg 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not significantly affect an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. All stress-related neuroendocrine functions—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.*, Moberg 1987; Blecha 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.* 2004).

The primary distinction between stress (which is adaptive and does not usually place an animal at risk) and "distress" is the cost of the response. During a stress response, an animal uses glycogen stores that can quickly replenish once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other

functions. This state of distress would last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (e.g., Holberton *et al.* 1996; Hood *et al.* 1998; Jessop *et al.* 2003; Krausman *et al.* 2004; Lankford *et al.* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.* 2002b) and, more rarely, studied in wild populations (e.g., Romano *et al.* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals would experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as “distress.” In addition, any animal experiencing TTS would likely also experience stress responses (NRC 2003); however, distress is an unlikely result of this project based on observations of marine mammals during previous similar projects in the area.

Masking—Sound can disrupt behavior through masking or interfering with an animal’s ability to detect, recognize, or discriminate between acoustic signals of interest (e.g., those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and similar or higher intensity. Masking may occur whether the sound is natural (e.g., snapping shrimp, wind, waves, and precipitation) or anthropogenic (e.g., pile driving, shipping, sonar, and seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (e.g., signal-to-noise ratio, temporal variability, direction) in relation to each other and to an animal’s hearing abilities (e.g., sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age, or TTS hearing loss), and existing ambient noise and propagation conditions. The masking of natural sounds can result when human activities produce high background

sound levels at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (e.g., on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as possible under quieter conditions and would be masked. The Ketchikan area contains active commercial shipping, cruise ships, ferry operations, and numerous recreational and other commercial vessels; therefore, background sound levels in the region are already elevated.

Airborne Acoustic Effects—Pinnipeds near the project site could be exposed to airborne sounds associated with DTH and pile driving and removal. Depending on their distance from pile-driving activities, these sounds can cause behavioral harassment. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment, as defined under the MMPA.

Airborne noise would primarily be an issue for swimming or hauled-out pinnipeds near the project site, within the range of noise levels above the acoustic thresholds. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above about underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduced vocalizations, or cause them to abandon the area and move further from the source temporarily. However, these animals would previously have been “taken” because of exposure to underwater sound above the behavioral harassment thresholds, which are generally larger than those associated with airborne sound. Additionally, there are no haul outs near the project site. Thus, the behavioral harassment of these animals is already accounted for in underwater estimates of potential take. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not further discussed.

Marine Mammal Habitat Effects

COK’s construction activities could have localized, temporary impacts on marine mammal habitat and their prey by increasing in-water sound pressure levels and slightly decreasing water quality. Increased noise levels may affect the acoustic habitat (see masking discussion above) and adversely affect

marine mammal prey near the project area (see discussion below). During DTH, impact, and vibratory pile driving or removal, elevated underwater noise levels would ensonify the project area where fish and mammals occur and could affect foraging success. Additionally, marine mammals may avoid the area during construction. However, displacement due to noise is expected to be temporary and not result in long-term effects on the individuals or populations.

In-Water Construction Effects on Potential Foraging Habitat

As previously mentioned, the project area does not contain habitat of known importance other than being designated as a feeding BIA for humpback whales between May and September. While the entirety of southeast Alaska is considered a feeding BIA for humpback whales, Tongass Narrows represents only a tiny segment. Additionally, the project area is highly influenced by anthropogenic activities.

The total seafloor area affected by pile installation and removal is small compared to the vast foraging area available to marine mammals in the area. At best, the impact area provides marginal foraging habitat for marine mammals and fish. Furthermore, pile driving and removal at the project site would not obstruct the movement or migration of marine mammals.

A temporary and localized increase in turbidity near the seafloor would occur in the immediate area surrounding the area where piles are installed or removed. In general, turbidity associated with pile installation is localized to about a 25-ft (7.6-m) radius around the pile (Everitt *et al.* 1980). The sediments of the project site would settle out rapidly when disturbed. Cetaceans are not expected to be close enough to the pile-driving areas to experience the effects of turbidity, and any pinnipeds could avoid localized turbid areas. Depending on the tidal stage, local strong currents are anticipated to disburse any additional suspended sediments produced by project activities at moderate to rapid rates. Therefore, we expect the impact from increased turbidity levels to be discountable to marine mammals and do not discuss it further.

The potential for prey (*i.e.*, fish) to temporarily avoid the immediate area is also possible. The duration of fish avoidance in this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. Any behavioral avoidance by fish in disturbed areas would still leave significantly large

areas of fish and marine mammal foraging habitats nearby.

In-Water Construction Effects on Potential Prey

Sound may affect marine mammals by impacting the abundance, behavior, or distribution of prey species (e.g., crustaceans, cephalopods, fish, and zooplankton). Marine mammal prey varies by species, season, and location. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fish use the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (e.g., Zelick and Mann 1999; Fay 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fish hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.* 2008). The potential effects of noise on fish depend on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts on fish may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to sounds that are powerful and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short-duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on the physiological state of the fish, past exposures, motivation (e.g., feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented the effects of pile driving on fish, although several are based on studies supporting large, multiyear bridge construction projects (e.g., Scholik and Yan 2001, 2002; Popper and Hastings 2009). Several studies have demonstrated that impulse sounds might affect the distribution and behavior of some fish, potentially impacting foraging opportunities or increasing energetic costs (e.g., Fewtrell and McCauley 2012; Pearson *et al.* 1992; Skalski *et al.* 1992; Santulli *et al.* 1999; Paxton *et al.* 2017). However, some studies have shown no or slight reaction to impulse sounds (e.g., Pena *et al.* 2013;

Wardle *et al.* 2001; Jorgenson and Gyselman 2009; Popper *et al.* 2005).

SPLs of sufficient strength have been known to cause injury to fish and fish mortality. However, in most fish species, hair cells in the ear continuously regenerate, and loss of auditory function is likely restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012a) showed that a 4–6 dB TTS was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. Injury caused by barotrauma can range from slight to severe, can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.* 2012b; Casper *et al.* 2013).

The most likely impact on fish from DTH and pile driving and removal activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance in this area after pile driving stops is unknown, but a rapid return to regular recruitment, distribution, and behavior is anticipated.

There are times of known seasonal marine mammal foraging in Tongass Narrows around fish processing/hatchery infrastructure (PND 2024) or when fish are congregating, but the affected areas of Tongass Narrows are a small portion of the total foraging habitat available in the region. In general, effects on marine mammal prey species are expected to be minor and temporary due to the short timeframe of the project and the small project footprint.

Increased turbidity from construction activities can adversely affect forage fish and juvenile salmonid out-migratory routes in the project area. Both herring and salmon form a significant prey base for Steller sea lions, whereas herring is the primary prey species of humpback whales; both herring and salmon are components of the diet of many other marine mammal species that occur in the project area. Increased turbidity is expected to happen near construction activities. However, suspended sediments and particulates are expected to dissipate quickly within a single tidal cycle. Given the limited area affected and high tidal dilution rates, any effects on forage fish and salmon are expected to be minor or negligible. In addition, best management practices would be in effect, limiting the extent of turbidity to the immediate project area. Finally, exposure to turbid waters from construction activities is not expected to

differ from the current exposure; fish and marine mammals in the Tongass Narrows region are routinely exposed to substantial levels of suspended sediment from glacial sources.

In summary, given the temporary nature of the construction project and relatively small areas being affected, the DTH and pile driving and removal activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat or populations of fish species. Any behavioral avoidance by fish in disturbed areas would still leave significantly large areas of fish and marine mammal foraging habitats nearby. Thus, we conclude that the impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts on marine mammal habitats are not expected to result in significant or long-term consequences for individual marine mammals or to contribute to the adverse effects on their populations.

Estimated Take of Marine Mammals

This section estimates the number of incidental takes proposed for authorization through the IHA. This information will inform NMFS' consideration of "small numbers," negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except for certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by disrupting behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would predominantly be by Level B harassment, as using acoustic sources (i.e., vibratory or impact pile driving and DTH) can potentially disrupt behavioral patterns for individual marine mammals. There is also some potential for auditory injury (AUD INJ) (Level A harassment) to result for 7 species (8 stocks). However, the proposed mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or

proposed to be authorized for this activity. Below, we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering (1) acoustic criteria above which NMFS believes the best available science indicates that marine mammals would likely be behaviorally harassed or incur some degree of AUD INJ; (2) the area or volume of water that would be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. While these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (e.g., previous monitoring results or average group size). Below, we describe the factors considered in more detail and present the proposed take estimates.

Acoustic Criteria

NMFS recommends using acoustic criteria to identify the received level of underwater sound above which exposed marine mammals would reasonably expect to be behaviorally harassed (equated to Level B harassment) or incur AUD INJ of some degree (equated to Level A harassment). We note that the criteria for AUD INJ and the names of two hearing groups have been recently updated (NMFS 2024), as reflected below in the Level A Harassment section.

Level B Harassment—Though significantly driven by the received level, the onset of behavioral

disturbance from anthropogenic noise exposure is also informed by varying degrees by other factors related to the source or exposure context (e.g., frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (e.g., bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be complex to predict (e.g., Southall *et al.* 2007, 2021; Ellison *et al.* 2012). Based on what the available science indicates and the practical need to use a threshold based on a predictable and measurable metric for most activities, NMFS typically uses a generalized acoustic threshold based on the received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous (e.g., vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by TTS. In most cases, the likelihood of TTS occurring at distances from the source is less than at which behavioral harassment is probable. TTS of a sufficient degree can

manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect essential signals (conspecific communication, predators, and prey) may result in changes in behavior patterns that would not otherwise occur.

COK's proposed activity includes continuous (vibratory pile driving, DTH drilling) and impulsive (impact pile driving, DTH hammering) sources; therefore, the RMS SPL thresholds of 120 and 160 dB re 1 μ Pa are applicable.

Level A harassment—NMFS' Updated Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0) (NMFS 2024) identifies dual criteria to assess AUD INJ (Level A harassment) to five different underwater marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). COK's proposed activity includes using impulsive (impact pile driving, DTH pile installation) and non-impulsive (vibratory pile driving/removal, DTH pile installation) sources.

The 2024 Updated Technical Guidance criteria include updated thresholds and weighting functions for each hearing group, provided in table 4 below. The references, analysis, and methodology used to develop the criteria are described in NMFS' 2024 Updated Technical Guidance, which may be accessed at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools>.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF AUDITORY INJURY

Hearing group	AUD INJ onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 222 dB; $L_{E,LF,24h}$: 183 dB	Cell 2: $L_{E,LF,24h}$: 197 dB.
High-Frequency (HF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_{E,HF,24h}$: 193 dB	Cell 4: $L_{E,HF,24h}$: 201 dB.
Very High-Frequency (VHF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_{E,VHF,24h}$: 159 dB	Cell 6: $L_{E,VHF,24h}$: 181 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 223 dB; $L_{E,PW,24h}$: 183 dB	Cell 8: $L_{E,PW,24h}$: 195 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 230 dB; $L_{E,OW,24h}$: 185 dB	Cell 10: $L_{E,OW,24h}$: 199 dB.

* Dual metric criteria for impulsive sounds: Use whichever criteria results in the larger isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level criteria associated with impulsive sounds, the PK SPL criteria are recommended for consideration for non-impulsive sources.

Note: Peak sound pressure level ($L_{p,0-pk}$) has a reference value of 1 μ Pa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1 μ Pa²s. In this table, the criteria are abbreviated to be more reflective of the International Organization for Standardization (ISO) standards (ISO 2017; ISO 2020). The subscript "flat" is included to indicate peak sound pressure is flat-weighted or unweighted within the underwater generalized hearing range of marine mammals (i.e., 7 Hz to 165 kHz). The subscript associated with cumulative sound exposure level criteria indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level criteria could be exceeded in many ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these criteria will be exceeded.

Ensonified Area

Here, we describe the operational and environmental parameters of the activity used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.*, vibratory pile driving, vibratory pile removal, impact pile driving, and DTH pile installation).

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, bottom composition, and topography. The general formula for underwater TL is: $TL = B * \text{Log}_{10} (R_1/R_2)$,

Where

TL = transmission loss in dB
B = transmission loss coefficient; for practical spreading equals 15
 R_1 = the distance of the modeled SPL from the driven pile, and
 R_2 = the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source depends on various factors, most notably the water bathymetry and the presence or absence of reflective or absorptive conditions, including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source ($20 * \log[\text{range}]$). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for

each doubling of distance from the source ($10 * \log[\text{range}]$). A practical spreading value of 15 is often used under conditions such as the project site, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity occurs. To calculate the distances to the Level A harassment and the Level B harassment sound thresholds for the methods and piles being used in this project, NMFS used acoustic monitoring data from other locations to develop proxy source levels for the various pile types, sizes, and methods. The project includes vibratory and impact pile installation of steel pipe piles, vibratory removal of steel pipe piles, and DTH. Source levels for each pile size and driving method are presented in table 5.

TABLE 5—PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS

Method and pile size	Sound source level at 10 meters			Literature source
	dB RMS re 1μPa	dB peak re 1μPa	dB SEL re 1μPa ² sec	
Vibratory Hammer				
30-inch	166	.....	.....	Denes <i>et al.</i> 2016
36-inch	166	.....	.....	Austin <i>et al.</i> 2016
48-inch	171	.....	.....	Austin <i>et al.</i> 2016
Impact Hammer				
30-inch	190	210	177	Denes <i>et al.</i> 2016, Caltrans 2015
36-inch	193	210	183	Austin <i>et al.</i> 2016, Caltrans 2015
48-inch	192	213	179	Caltrans 2020
DTH Pile Installation				
DTH Sockets (30-inch)	174	194	164	Reyff & Heyvaert (2019), Reyff (2020), Denes <i>et al.</i> (2016), Denes <i>et al.</i> (2019)
DTH Sockets (36-inch)	174	194	164	Reyff & Heyvaert (2019), Reyff (2020), Denes <i>et al.</i> (2016), Denes <i>et al.</i> (2019)
DTH Sockets (48-inch)	178	.....	168	Extrapolated from DTH SSV studies listed below; Denes <i>et al.</i> (2016)
DTH Anchors (12-inch)	167	146	172	Guan and Miner (2020)

SS SEL = single strike sound exposure level; dB peak = peak sound level; rms = root mean square.

Using the practical spreading model, NMFS determined underwater noise would fall below the behavioral effects threshold of 120 dB rms for marine mammals at a maximum radial distance of 11,659.1 m for vibratory pile driving of 30- and 36-inch diameter piles, and 25,118.9 m for vibratory pile driving of 48-inch diameter piles. Other activities, including rock anchoring and impact pile driving, have smaller Level B

harassment zones. All Level B harassment isopleths are reported in table 7 below. It should be noted that based on the geography of Tongass Narrows and the surrounding islands, the sound would not reach the entire distance of the Level B harassment isopleths. Land masses would truncate the largest Level B Harassment isopleth at approximately 12,500 m to the southeast and approximately 3,590 m

northwest of the project area. Constraining land masses include Revillagigedo Island, Gravina Island, Pennock Island, and Spire Island.

Level A Harassment Zones

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional

User Spreadsheet tool to accompany the 2024 Updated Technical Guidance that can predict an isopleth distance in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates would typically be

overestimates of some degree, which may result in an overestimation of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as impact or vibratory pile driving and removal, the optional User Spreadsheet tool predicts

the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur AUD INJ. Inputs used in the optional User Spreadsheet tool (table 6), the resulting estimated isopleths, and the calculated Level A and Level B harassment isopleths (table 7), are reported below.

TABLE 6—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS

Equipment type	Vibratory pile driving		Impact pile driving			DTH Sockets			DTH Anchor
	30-, 36-in steel piles	48-in steel piles	30-in steel piles	36-in steel piles	48-in steel piles	30-in	36-in	48-in	12-in rock anchor
Spreadsheet Tab Used.	A.1) Vibratory Pile Driving		E.1) Impact Pile Driving			E.2) DTH Systems.			
Source Level (dB re: 1 µPa).	166 RMS	171 RMS	177 SEL/190 RMS.	183 SEL/193 RMS.	180 SEL/192 RMS.	164 SEL	164 SEL	168 SEL	146 SEL.
Weighting Factor Adjustment (kHz).	2.5		2			2			2.5.
Activity Duration within 24 hours ¹ .	Up to 8 hrs OR Up to 14 hrs		10 minutes/20 minutes/30 minutes			Up to 4 hrs OR Up to 8 hrs.	Up to 3 hrs OR Up to 4 hrs.	Up to 4 hrs OR Up to 8 hrs.	Up to 4 hrs.
Strike per second						5.8.			
Number of strikes per pile.			Up to 500 strikes/501–1,000 strikes/1,001–1,500 strikes.						
Number of piles per day.	1		1			1.			
Propagation (xLogR)	15		15			15.			
Distance of sound pressure level measurement (m).	10		10			10.			

¹ The application states that in order to calculate Level A isopleths, a maximum duration of 14 hours of noise-generating activity is used. Actual daily durations would not exceed 12 hours, and may be less than 12 hours.

TABLE 7—CALCULATED LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS

Source	Daily duration ¹	AUD INJ onset isopleth (m)					Level B harassment isopleth (m)
		Cetaceans			Pinnipeds		
		Low-frequency	High-frequency	Very high-frequency	Phocid	Otariid	
30- and 36-inch Vibratory (Installation or Removal)	8 hours	79.5	30.5	64.9	102.3	34.4	11,659.1
	14 hours	115.4	44.3	94.3	148.6	50.0	.....
48-inch Vibratory	8 hours	171.2	65.8	139.9	220.4	74.2	25,118.9
	14 hours	248.7	95.5	203.1	320.1	107.7	.....
30-inch Impact	10 minutes	249.5	31.8	386.2	221.7	82.6	1,000.0
	20 minutes	396.1	50.5	613.0	351.9	131.2	.....
	30 minutes	519.1	66.2	803.3	461.1	171.9	.....
36-inch Impact	10 minutes	626.8	80.0	970.0	556.8	207.6	1,584.9
	20 minutes	995.0	127.0	1,539.8	883.9	329.5	.....
	30 minutes	1,303.8	166.4	2,017.7	1,158.3	431.8	.....
48-inch Impact	10 minutes	395.5	50.5	612.0	351.3	131.0	1,359.4
	20 minutes	627.8	80.1	971.5	557.7	207.9	.....
	30 minutes	822.7	105.0	1,273.1	730.8	272.4	.....
30- and 36-inch Down-the-Hole	4 hours	1,028.9	131.3	1,592.1	914.0	340.7	39,810.7
	8 hours	1,633.2	208.4	2,527.4	1,450.9	540.8	.....
48-inch Down-the-Hole	4 hours	1,901.2	242.6	2,942.0	1,688.9	629.6	73,564.2
	8 hours	3,017.9	385.1	4,670.2	2,681.0	999.4	.....
12-inch Rock Anchor	Up to 4 hours	64.3	9.8	179.5	60.9	27.9	13,593.6

¹ In order to calculate Level A isopleths, a maximum duration of 14 hours of noise-generating activity was used. Actual daily durations would not exceed 12 hours, and may be less than 12 hours.

Marine Mammal Occurrence

This section provides information about the marine mammals that are anticipated or could potentially occur in the action area during the project construction. For ease, this information has been summarized in table 8 and includes the frequency, average group size, expected occurrence, and source reference of each marine mammal species. It is based on historical data of occurrence, seasonality, and group size in the Tongass Narrows and around the Ketchikan area specifically, where

possible. This information is based on consultation with previous IHAs, monitoring reports, information from the application, and references cited. For more detailed information, Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. This occurrence information then informs the take calculation in the next section (please see Take Estimation and table 9).

To accurately describe species occurrence near the action area, marine mammals were described as either common (confirmed and regular/daily sightings), frequent (confirmed and with some consistency during most monitoring efforts in the project vicinity; assumes weekly occurrence), infrequent (confirmed but irregular sightings during most monitoring efforts in the project vicinity; assumes monthly or every other month occurrence), or rare (a few sightings annually).

TABLE 8—ESTIMATED OCCURRENCE OF GROUP SIGHTINGS OF MARINE MAMMAL SPECIES

Species	Frequency	Average group size	Expected occurrence	Reference
Humpback whale	Frequent	2	2x/week	Dalheim <i>et al.</i> (2009), PND (2024).
Minke whale	Rare	1	Annually	Dalheim <i>et al.</i> (2009), PND (2024).
Fin whale	Rare	2	2x/year	Crance <i>et al.</i> (2023), PND (2024), 88 FR 46746.
Gray whale	Infrequent	1	Monthly	Dalheim <i>et al.</i> (2009), PND (2024).
Killer whale	Infrequent	10	Monthly	Dalheim <i>et al.</i> (2009), PND 2024.
Pacific white-sided dolphin	Frequent	20	Weekly	Dalheim <i>et al.</i> (2009), PND (2024), 84 FR 36891.
Harbor porpoise	Infrequent	5	2x/month	PND (2024), Sitkiewicz (2020).
Dall's porpoise	Infrequent	15	Monthly	Dalheim <i>et al.</i> (2009), PND (2024), 84 FR 36891.
Steller sea lion	Common	10 (Sept–Feb), 20 (Mar–Aug).	Daily	PND (2024).
California sea lion	Rare	1	Every 2 months	Maniscalco <i>et al.</i> (2004), PND (2024).
Northern fur seal	Rare	2	Annually	PND (2024).
Harbor seal	Common	3	3x/daily	PND (2024), Sitkiewicz (2020).
Northern Elephant Seal	Frequent	1	Weekly	PND (2024).

Take Estimation

Here, we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and is proposed for authorization. Once again, NMFS carefully considered all information and analyses the applicant presented as well as information in recent IHAs and monitoring reports for projects in the nearby area. Since reliable densities are not available, the applicant requests take based on the maximum number of animals that may occur in the area in a specified measure of time multiplied by the total duration of the activity.

The number of marine mammals that may be exposed to harassment thresholds was calculated by estimating the likelihood of a marine mammal being present within a harassment zone during the associated activities (table 9). That is, group size was multiplied by the frequency (e.g., 3x/day for harbor seals, 2x/month for harbor porpoises, 0.5x/month for California sea lions) multiplied by the project duration, either 166 days, or 23.7 weeks, or 5.5

months. Calculations were then rounded up to a whole number.

The calculations were modified for humpback whales and Steller sea lions. For humpback whales, group size (2) is multiplied by frequency (2x/week, which is 23.7 weeks $\times$ 2) multiplied by 0.976 percent, which is the apportionment of whales for the Hawai'i stock (Lizewski *et al.* 2021). This equates to 93 total proposed takes for the Hawai'i stock of humpback whales. For the Mexico-North Pacific stock, 0.024 percent of whales are apportioned (Lizewski *et al.* 2021), which equates to 3 total proposed takes. For Steller sea lions, 0.75 percent of estimated takes are apportioned to the group size of 10 individuals that are anticipated to occur daily from September to February, and 0.25 percent of estimated takes are apportioned to the group size of 20 individuals that are anticipated to occur daily from March to August. This equates to 1,810 total proposed takes of the Eastern U.S. stock of Steller sea lions. All numbers were then rounded up to the nearest whole number.

As table 9 shows, we calculated Level B takes for all 13 species (16 stocks). However, several species were calculated as having just one Level A take. Therefore, we considered the size of the animal, the frequency of the animal in the project area, as well as the shutdown zone sizes for each species. No Level A takes are proposed for authorization for minke, fin, gray, and killer whales, and northern fur seal and California sea lion. The proposed Level A takes for two other species were rounded up based on average group size. Since Pacific white-sided dolphins have an average group size of 20 animals, we increased the proposed Level A takes for Pacific white-sided dolphins to 20. Similarly for Dall's porpoise, because the average group size is 15, we increased the proposed Level A takes to 15.

Table 9 summarizes the proposed authorized take by Level A and Level B harassment, the total proposed take, and the proposed take as a percentage of stock abundance.

TABLE 9—PROPOSED AUTHORIZED TAKE BY LEVEL A AND LEVEL B HARASSMENT AND AS A PERCENTAGE OF STOCK ABUNDANCE

Common name	Stock	Stock abundance ¹	Authorized take			Percent of stock
			Level A	Level B	Total proposed take	
Humpback whale	Hawai'i	11,278	10	² 83	93	0.8
	Mexico-North Pacific	³ N/A	1	2	3	N/A
Minke whale	Alaska	N/A	0	1	1	N/A
Fin whale	Northeast Pacific	⁴ UND	0	3	3	N/A
Gray whale	Eastern North Pacific	26,960	0	5	5	0.02
Killer Whale	Eastern North Pacific	1,920	0	55	55	2.9
	Alaska Resident.					
	Eastern North Pacific	302				18.2
	Northern Resident.					
	West Coast Transient	349				15.8
Pacific white-sided dolphin	North Pacific	26,880	20	473	493	1.8
Harbor porpoise	Southern Southeast Alaska Inland Waters.	890	10	46	56	6.3
Dall's porpoise	Alaska	UND	15	69	84	N/A
Steller sea lion	Eastern U.S.	36,308	30	1,780	1,810	5.0
California sea lion	U.S.	257,606	0	2	2	0.0008
Northern fur seal	Eastern Pacific	626,618	0	1	1	0.0002
Harbor seal	Clarence Strait	27,659	129	1,365	1,494	5.4
Northern elephant seal	California	187,386	3	21	24	.01

¹ Stock size is N_{best} (i.e., the statistical estimate of the overall population size) according to NMFS 2023 Final Stock Assessment Reports.

² For MMPA take apportionment and ESA section 7 consultation purposes, 2.4 percent are designated to the Mexico-North Pacific stock, and the remaining are designated to the Hawai'i stock.

³ N/A indicates data are not available/unknown.

⁴ UND (undetermined) indicates data are unavailable to calculate stock abundance data (see the SAR for details).

Proposed Mitigation

To issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity and other means of effecting the least practicable impact on the species or stock and its habitat. NMFS pays particular attention to rookeries, mating grounds, and areas of similar significance, as well as the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) How and the degree to which the successful implementation of the measure(s) is expected to reduce impacts on marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the

potential adverse effects being mitigated (likelihood, scope, range). It further considers the likelihood that the measure would be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability of implementation as planned), and

(2) The practicability of the measures for applicant implementation, which may consider cost and impact on operations.

In addition to the measures described later in the Proposed Monitoring and Reporting section and all mitigation measures described in COK's Marine Mammal Monitoring Plan, the following mitigation measures would also apply to COK's in-water construction activities.

- **Implementation/Coordination**—Qualified, trained Protected Species Observers (PSOs) would implement mitigation measures. PSOs would be located on-site before, during, and after permitted activities to monitor protected species within (and approaching) mitigation zones. PSOs would be in constant contact with the construction personnel to implement appropriate mitigation measures.

An employee of the construction contractor would be identified as the monitoring coordinator for PSOs at the start of each construction day. PSOs would report directly to the monitoring

coordinator when a shutdown is deemed necessary. Briefings must be conducted between construction supervisors and crews and the marine mammal monitoring team before the start of all pile driving activity and when new personnel join the work to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

- **PSOs**—COK must employ PSOs who would monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. The number, placement, and qualifications of PSOs during all pile driving and removal activities (described in detail in the Monitoring and Reporting section) would ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone may not be visible (e.g., fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone can be detected.

- **Pre-activity Monitoring**—Before starting daily in-water construction activity, or whenever a break in pile driving/removal of 30 minutes or longer occurs, PSOs would observe the shutdown and monitoring zones for 30 minutes. The shutdown zone would be

considered cleared when a marine mammal has not been observed within the zone for those 30 minutes. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. When a marine mammal for which take is authorized is present in the harassment zone, activities may begin. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones would commence.

- **Soft Start**—Soft-start procedures are believed to provide additional protection to marine mammals by warning and/or giving marine mammals a chance to leave the area before the hammer operates at full capacity. For impact pile driving, COK must provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period. This procedure would be conducted three times before impact pile driving begins. Soft start would be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for 30 minutes or longer.

- **Installation**—Vibratory installation would be used as the primary method of pile installation to minimize impacts on marine mammals and their prey. Impact driving would be minimized and used only as needed to seat the pile in its final position or penetrate material too dense for a vibratory hammer.

- **Scheduling**—Pile driving or removal activities must occur during daylight hours. Actual daily durations would not exceed 12 hours of in-water work. As only one pile would be driven per day, it is extremely unlikely that any work would extend into the night. This would only occur if there is a safety risk to leaving any structure as-is until the following day when the sun has risen. If poor environmental conditions

restrict visibility of the shutdown zones (e.g., from excessive wind or fog, high Beaufort sea state), pile installation may not be initiated. Work begun with a fully cleared Level B harassment zone may continue during inclement weather (e.g., fog, heavy rain) or periods of limited visibility.

- **Establishment of Shutdown Zones**—Shutdown zones for all pile driving and removal activities have been established and can be found in table 10. A shutdown zone generally defines an area where the activity would shut down upon sighting a marine mammal (or anticipating an animal to enter the defined area). Shutdown zones would vary based on the activity type and marine mammal hearing group (table 3). Although only one pile would be installed per day, due to sediment characteristics and variation in pile sizes, COK does not know how much time would be required for vibratory driving/removal and DTH installation at each pile or how many strikes would be required for impact installation. Given this uncertainty and concerns related to ESA-listed humpback whales and fin whales, COK would use a tiered system to identify and monitor appropriate shutdown zones based on activity duration or the number of strikes required for pile installation or removal. During vibratory driving/removal and DTH pile installation, the shutdown zone size initially would be set at the largest tier or maximum scenario for the day (according to the defined duration intervals in tables 7 and 10). This will determine the appropriate Level A harassment isopleths and associated shutdown zones for that day. Therefore, the start of each day will assume a shutdown zone size for 14 hours of vibratory driving/removal and 8 hours of DTH installation. Shutdown zones would be reduced to the smaller zone (i.e., the shutdown zone size for 8 hours

of vibratory driving/removal and 4 hours of DTH installation) if conditions indicate that less time for installation/removal is necessary. Similarly, for impact driving, the shutdown zone initially would be set to the largest tier or maximum scenario at the start of the day (i.e., the shutdown zone size for 1,001–1,500 strikes). If, as the activity progresses, fewer than 1,000 strikes are expected, the shutdown zone could decrease to either Tier 2 (the shutdown zone size from 501–1,000 strikes) or Tier 1 (the shutdown zone size from 0–500 strikes).

- If a marine mammal enters or is observed within an established shutdown zone, pile driving must be halted or delayed. Pile driving may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone, or 15 minutes have passed without subsequent detections.

- All personnel, including construction supervisors and crews, PSOs, and relevant staff, must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease, and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction.

- For those marine mammals for which take has not been authorized, in-water pile installation and removal would shut down immediately if such species are observed within or entering the Level A or Level B harassment zone.

- If take reaches the authorized limit for an authorized species, pile installation and removal would be stopped as these species approach the Level A or Level B harassment zone to avoid additional take.

TABLE 10—SHUTDOWN AND MONITORING ZONES FOR EACH DRIVING/REMOVAL ACTIVITY

Pile size	Low frequency cetacean shutdown area (m)	High frequency cetacean shutdown area (m)	Very high frequency cetacean shutdown area (m)	Phocid pinniped shutdown area (m)	Otariid pinniped shutdown area (m)	Level B harassment zone (m)
Vibratory Pile Driving/Removal						
30-, 36-inch piles up to 8 hrs	80	40	70	110	40	11,660
30-, 36-inch piles up to 14 hrs	120	50	100	150	50	
48-inch piles up to 8 hrs	180	70	140	230	80	¹ 12,500
48-inch piles up to 14 hrs	250	100	210	300	110	
Impact Pile Driving						
30-inch piles 1–500 strikes (10 min)	250	40	300	230	90	1,000
30-inch piles 501–1,000 strikes (20 min)	400	60	300	300	140	
30-inch piles 1,001–1,500 strikes (30 min)	520	70	300	300	180	

TABLE 10—SHUTDOWN AND MONITORING ZONES FOR EACH DRIVING/REMOVAL ACTIVITY—Continued

Pile size	Low frequency cetacean shutdown area (m)	High frequency cetacean shutdown area (m)	Very high frequency cetacean shutdown area (m)	Phocid pinniped shutdown area (m)	Otariid pinniped shutdown area (m)	Level B harassment zone (m)
36-inch piles 1–500 strikes (10 min)	630	80	300	300	210	1,590
36-inch piles 501–1,000 strikes (20 min)	1,000	130	300	300	300	
36-inch piles 1,001–1,500 strikes (30 min)	1,310	170	300	300	300	
48-inch piles 1–500 strikes (10 min)	400	60	300	300	140	1,360
48-inch piles 501–1,000 strikes (20 min)	630	90	300	300	210	
48-inch piles 1,001–1,500 strikes (30 min)	830	110	300	300	280	
DTH Socket						
30-, 36-inch piles up to 4 hrs	1,030	140	300	300	300	12,500
30-, 36-inch piles up to 8 hrs	1,640	210	300	300	300	12,500
48-inch piles up to 4 hrs	1,910	250	300	300	300	
48-inch piles up to 8 hrs	² 2,000	390	300	300	300	
DTH Anchor						
12-inch up to 4 hrs	70	10	180	70	30	12,500

¹ Represents the largest Level B Harassment isopleth. Note that land masses truncate the isopleth at 12,500 m.

² 2,000 m (2 km) is the maximum realistic expectation for sighting large mysticetes.

NMFS notes that sighting ranges for species depend on the species' size and activity level in combination with observer positioning. For example, a realistic expectation for sighting large mysticetes is a maximum of approximately 2 km. Similarly, it would be difficult for PSOs to see small or cryptic species at ranges over approximately 300 m (*e.g.*, harbor seals and harbor porpoises). Shutdown zones for these species are therefore smaller than the calculated Level A harassment isopleths, and Level A take for these species has been proposed. Additionally, NMFS notes that shutdown zones are rounded up to the nearest 10 m from the AUD INJ onset isopleth.

NMFS and the applicant considered the use of a bubble curtain as a mitigation measure. Bubble curtains are used to reduce the extent of the ensonified areas as well as reduce the sound levels within the ensonified areas. However, the applicant has not proposed a bubble curtain as a mitigation measure because sound transmission would be truncated by land masses, thereby obstructing sound transmission and confining the action area. These land masses are Revillagigedo Island, Gravina Island, Pennock Island, and Spire Island, at approximately 12.5 km to the southeast and approximately 3.59 km northwest of the project area. Given the proposed locations of PSOs and the relatively narrow channels, NMFS concurs that use of a bubble curtain is not necessary

to effect the least practicable adverse impact on marine mammals.

In summary, based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

To issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical to compliance and ensuring the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);

- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic) through better understanding of the: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving, or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either (1) long-term fitness and survival of individual marine mammals or (2) populations, species, or stocks;

- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,

- Mitigation and monitoring effectiveness.

Visual Monitoring

Qualified, NMFS-approved PSOs must conduct monitoring in accordance with COK's Marine Mammal Monitoring Plan and Section 5 of the IHA. PSOs would be present during all pile installation and removal activities, including vibratory, impact, and DTH methods, in accordance with the following:

- Observer training must be provided before the project starts and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors, and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

- All PSOs must have no other project-related tasks while conducting monitoring.

- PSOs shall be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

- Monitoring would be conducted 30 minutes before, during, and 30 minutes after pile driving/removal activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with the distance from piles being driven or removed. Pile driving/removal activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

- At least three PSOs would be on duty during all vibratory installation/removal, impact installation, and DTH. PSOs would be stationed along Tongass Narrows at locations that provide optimal visual coverage for shutdown and monitoring zones (see figure 3 in COK's Marine Mammal Monitoring Plan). PSOs would monitor for marine mammals entering the Level B harassment zones; the position(s) may vary based on the construction activity and the location of piles or equipment. To maximize the visual coverage of shutdown and monitoring zones, observers would use elevated platforms at observation points to the extent practicable. Observers would contact each other via two-way radio and a cellular phone used as backup communication.

- PSOs would scan the waters using binoculars and/or spotting scopes and a handheld range-finder device to verify the distance to each sighting from the project site.

PSO Qualifications

- COK would adhere to the following PSO qualifications: (i) Independent observers (*i.e.*, not construction personnel) are required; (ii) One PSO would be designated as the lead PSO or monitoring coordinator, and that observer must have prior experience working as an observer; (iii) Other observers may substitute education (degree in biological science or related field) or training for experience; and (iv) COK must submit observer curricula vitae for approval by NMFS.

- Additional standard observer qualifications include: (i) Ability to conduct field observations and collect data according to assigned protocols; (ii) Experience or training in the field identification of marine mammals, including the identification of behaviors; (iii) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations; (iv) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and (v) Ability to communicate orally, by radio, or in person with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Reporting

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of pile driving and removal activities or 60 days before the requested date of issuance of any future IHAs for projects at the exact location, whichever comes first. The report would include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (beginning and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.*, impact, vibratory, or DTH);
- PSO locations during marine mammal monitoring; and
- Environmental conditions during monitoring periods (at the beginning

and end of a PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions, including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance. Upon observation of a marine mammal, the following information is required:

- The name of the PSO who sighted the animal(s), the PSO's location, and activity at the time of the sighting;
- The time of the sighting;
- Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), the PSO's confidence in identification, and the composition of the group if there is a mix of species;
- The distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at the time of sighting);
- The estimated number of animals (min/max/best estimate);
- The estimated number of animals by cohort (adults, juveniles, neonates, group composition, sex class, *etc.*);
- The animal's closest point of approach and estimated time spent within the harassment zone;
- A description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- The number of marine mammals detected within the harassment zones by species (differentiated by month as appropriate); and
- Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and the resulting changes in the behavior of the animal(s), if any.

Finally, COK must also submit all PSO datasheets and/or raw sighting data in an electronic tabular format with the draft report, as specified in Section 6 of the IHA. If no comments are received from NMFS within 30 days, the draft report would constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the unanticipated event that the specified activity causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury,

serious injury, or mortality, COK must immediately cease the specified activities and report the incident to the NMFS Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov*), and the NMFS Alaska 24-hour Regional Stranding Hotline (877) 925-7773 or (877) 9-AKR-PRD. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Activities would not resume until NMFS can review the circumstances surrounding the prohibited take. NMFS would work with COK to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. COK cannot resume their activities until NMFS has notified them via letter, email, or telephone.

If COK discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition as described in the next paragraph), then COK would immediately report the incident to the NMFS Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov*), and the NMFS Alaska 24-hour Regional Stranding Hotline at (877) 925-7773 or (877) 9-AKR-PRD. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with COK to determine whether modifications in the activities are appropriate.

Finally, in the event that COK discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), COK would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional

Stranding Coordinator, within 24 hours of the discovery. COK would provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (e.g., intensity, duration), the context of any impacts or responses (e.g., critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’ implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all the species listed in table 8, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or the severity of the impacts or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

Pile driving, removal, and DTH activities associated with the project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take in the form of Level A harassment and Level B harassment from underwater sounds generated from

pile driving and removal. Potential takes could occur if individuals of these species are present in zones ensounded above the thresholds for Level A or Level B harassment identified above when these activities are underway.

Given the nature of the activity, NMFS does not anticipate serious injury or mortality due to COK’s planned project, even in the absence of required mitigation. The Level A harassment zones identified in table 7 are based upon an animal exposed to vibratory pile driving, impact pile driving, and DTH pile installation for periods ranging from up to 30 minutes for impact driving, up to 14 hours for vibratory driving/removal (although actual daily durations would not exceed 12 hours, and may be less than 12 hours), and up to 8 hours for DTH. Exposures of this length are, however, unlikely for vibratory driving/removal and DTH pile installation scenarios, given marine mammal movement throughout the area. Even during impact driving scenarios, an animal exposed to the accumulated sound energy would likely only experience limited AUD INJ at the lower frequencies where pile driving energy is concentrated.

As stated in the Proposed Mitigation section, COK would implement shutdown zones that equal or exceed many of the Level A harassment isopleths shown in table 7. Take by Level A harassment is authorized for 7 marine mammal species (8 stocks). This is precautionary to account for the potential that an animal could enter and remain within the area between a Level A harassment zone and the shutdown zone for long enough to be taken by Level A harassment. Additionally, in some cases, this precaution would account for the possibility that an animal could enter a shutdown zone without detection, given the various obstructions along the shoreline, and remain in the Level A harassment zone for a duration long enough to be taken by Level A harassment before being observed and a shutdown occurring. That said, any take by Level A harassment is expected to arise from, at most, a small degree of AUD INJ because animals would need to be exposed to higher levels and/or longer duration than are expected to occur here to incur any more than a small degree of AUD INJ. Additionally, and as noted previously, some subset of the individuals that are behaviorally harassed could also simultaneously incur some small degree of TTS for a short duration of time. Because of the small degree anticipated, any AUD INJ or TTS potentially incurred here is not expected to adversely impact individual

fitness, let alone annual rates of recruitment or survival.

For all species and stocks, take is expected to occur within a limited, confined area (adjacent to the project site) of the stock's range. The intensity and duration of take by Level A and Level B harassment would be minimized through the mitigation measures described herein. Further, the amount of take authorized is small compared to the stock abundance.

Behavioral responses of marine mammals to pile driving, pile removal, and DTH at the project site, if any, are expected to be mild, short-term, and temporary. Given that the installation of 12 permanent piles and 16 temporary piles would occur over 8 months, any harassment would be temporary and intermittent. Effects on individuals that are taken by Level B harassment, based on reports in the literature as well as monitoring from other similar activities, would likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (e.g., Thorson and Reyff 2006; Henningson, Durham, and Richardson, Inc. (HDR) 2012; ABR 2016). Most likely, for pile driving, individuals would move away from the sound source and be temporarily displaced from the areas of pile driving. However, this reaction has been observed primarily associated with impact pile driving. While vibratory driving associated with the proposed project may produce sound at distances of many kilometers from the project site, thus overlapping with some likely less-disturbed habitat, the project site itself is located in a busy harbor, and the majority of sound fields produced by the specified activities are close to the harbor. Animals disturbed by project sounds would be expected to avoid the area and use nearby higher-quality habitats.

The potential for harassment is minimized by implementing the proposed mitigation measures. During all impact driving, implementation of soft start procedures and monitoring of established shutdown zones shall be required, significantly reducing any possibility of injury. Given sufficient notice through soft start (for impact driving), marine mammals are expected to move away from an irritating sound source before it becomes potentially injurious. To reduce the severity of in-water noise, vibratory pile driving would be the primary installation method for the project, and impact hammers would only be used to seat pile tips into fractured bedrock ahead of the hammering operations or if the

material is too dense to penetrate with a vibratory hammer.

Any effects on marine mammal prey during in-water construction would have a short-term impact on individual marine mammals' foraging and likely no effect on the populations of marine mammals. Indirect effects on marine mammal prey during the construction are expected to be minor, and these effects are unlikely to cause substantial effects on marine mammals at the individual level, with no expected impact on annual rates of recruitment or survival.

The area likely impacted by the project is relatively small compared to the available habitat in the surrounding waters of Southeast Alaska and Tongass Narrows. Although Tongass Narrows is part of an identified BIA for feeding humpback whales (NOAA 2023, Wild *et al.* 2023), the timing of the BIA (May through September) only overlaps with the proposed timing of the in-water construction (October through May) for one month (May). Additionally, humpback foraging efforts within Tongass Narrows are likely comparatively low due to the lower value of the habitat in the immediate area (Wild *et al.* 2023), as evidenced by the typically low occurrence of humpback whales in the area. Finally, there is no ESA-designated critical habitat in the area for humpback or fin whales.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or proposed for authorization;
- Any Level A harassment exposures are anticipated to result in slight AUD INJ (*i.e.*, of a few decibels) within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment would consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The area affected by the specified activity is very small relative to the overall habitat ranges of all species, does not include any rookeries, does not include ESA-designated critical habitat, and only temporally overlaps with the southeast Alaska humpback whale feeding BIA for one month (May) of the planned eight months of activity;
- The project area is located in an industrialized and commercial marina; and

- The proposed mitigation measures, such as employing vibratory driving to the maximum extent practicable, soft-starts, and shutdowns, are expected to reduce the effects of the specified activity to the least practicable adverse impact level.

In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities would have only minor, short-term effects on individuals. The specified activities are not expected to affect the reproduction or survival of any individual marine mammal and, therefore, would not affect the recruitment or survival rates for any species or stock.

Based on the analysis of the likely effects of the specified activity on marine mammals and their habitat and considering the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total number of marine mammals taken from the proposed activity would have a negligible impact on all affected species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers, and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is less than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 7 demonstrates the number of animals that could be exposed to the received noise levels that could cause Level A and Level B harassment for the proposed work in the Port of Ketchikan. Our analysis shows that less than one-third of each affected stock could be taken by harassment. The number of animals proposed to be taken for these stocks would be considered small relative to the relevant stock's abundances, even if each estimated taking occurred to a new individual—an extremely unlikely scenario.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity would not have an “unmitigable adverse impact” on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined “unmitigable adverse impact” in 50 CFR 216.103 as an impact resulting from the specified activity: (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters, and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Alaska Native hunters in the Ketchikan vicinity do not traditionally harvest cetaceans (Muto *et al.* 2019). Harbor seals are the most commonly targeted marine mammal, and Alaska Native subsistence hunters hunt them within the Ketchikan area. In 2012, an estimated 595 harbor seals were taken for subsistence uses, with 22 occurring in Ketchikan (Wolfe *et al.* 2013). This is the most recent data available. The harbor seal harvest per capita was low, at 0.02 for the Ketchikan community. As for Steller sea lions, subsistence data for Southeast Alaska shows that from 1995 through 2008, plus 2012 through 2015, a total of 20 to 29 Steller sea lions were harvested by Alaska Native hunters, with typical harvest years ranging from 0 to 6 animals (Alaska Department of Fish & Game n.d.). In 2012, it was estimated that nine Steller sea lions were taken in Southeast Alaska, and only from Hoonah and Sitka (Wolfe *et al.* 2013).

Based on the available information, there are no known haul-out locations for either species in the project area. The harbor seal and the Steller sea lion may be temporarily displaced from the project area. However, neither the local population nor individual pinnipeds are likely to be adversely impacted by the proposed action beyond noise-induced

harassment or slight injury, nor is the activity expected to impact subsistence hunting of pinnipeds or other marine mammals. Accordingly, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from the COK activities.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for issuing IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case, with the NMFS Alaska Regional Office.

NMFS is proposing to authorize the take of fin whales and the Mexico-North Pacific stock of humpback whales, listed as endangered and threatened, respectively, under the ESA.

The Permits and Conservation Division has requested the initiation of ESA section 7 consultation with the Alaska Region for the issuance of this IHA. NMFS would conclude the ESA consultation before reaching a determination regarding the proposed authorization issuance.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the City of Ketchikan for conducting the in-water construction activities as part of the Berth III New Mooring Dolphins Project in Ketchikan between October 1, 2025, and September 30, 2026, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Request for Public Comments

We request comments on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed Berth III New Mooring Dolphins Project. We also request comments on the potential renewal of this proposed IHA, as described in the paragraph below. Please include any supporting data or literature citations with your comments

to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned, or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days before the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from the expiration of the initial IHA).

- The request for renewal must include the following:

- (1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

- (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures would remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: April 10, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025–06437 Filed 4–15–25; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2024–0045]

Agency Information Collection Activities; Proposed Collection; Bathtub Slip Resistance Study

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of information collection; request for comment.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for approval of a new information collection for a bathtub slip resistance study to support work on a voluntary Safety Standard for Bathtub and Shower Structure. On January 6, 2025, CPSC published a notice in the *Federal Register* seeking comments on the information collection request. The Commission received nine public comments. By publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for approval of that collection of information.

DATES: Submit comments on the collection of information by May 16, 2025.

ADDRESSES: Submit comments about this request by email: OIRA_submission@omb.eop.gov. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. Written comments that are sent to OMB also should be submitted electronically at <http://www.regulations.gov> under Docket No. CPSC–2024–0045.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: pra@cpsc.gov.

SUPPLEMENTARY INFORMATION: CPSC seeks approval for the following collection of information:¹

Title: Bathtub Slip Resistance Study.

OMB Number: New.

Type of Request: New information collection.

Type of Review Requested: Regular.

Requested Expiration Date of

Approval: Three years from date of approval.

Summary of the Collection of Information: The objective of this study is to conduct human slip research on three bathtubs on the market and to measure the friction demand of participants stepping into and out of the bathtubs when dry and wet. CPSC contracted with Arizona State University (ASU) to conduct this study. Participants will be recruited from the Phoenix, Arizona metro area. The experiments will be conducted at ASU's Locomotion Research Laboratory. The study will involve a total of three sessions to test three bathtub surfaces, where participants will walk into the tub and step out while wearing fall arresting harness systems for safety. During these sessions, resistance forces under the foot and motion of the foot movements will be measured. The study will quantify the minimum frictional performance required for a bathing surface to reduce slips and falls. CPSC will publish the study and will share the results of the study with the ASTM F15.03 Subcommittee on Safety Standards for Bathtub and Shower Structures working on replacing ASTM F462.

Description of the Need for the Information and Proposed Use of the Information: Falls are the leading cause of injury and death for older adults 65 and older.² Information collected as part of the bathtub slip resistance study is needed initially to support CPSC staff in efforts to work with the ASTM F15.03 Subcommittee on Safety Standards for Bathtub and Shower Structures to replace the obsolete ASTM F462 standard for bathing surface friction that ASTM withdrew in 2016. This study will be used to inform CPSC of major requirements needed to achieve an efficient and effective slip-resistance standard.

Affected Public: Adults between ages 18 and 95 years old.

Estimated Number of Respondents: We expect up to 200 respondents annually. Over the full authorized period of the study, which is three years, up to 600 respondents may participate.

Frequency: One.

Total Estimated Annual Burden: Although response times will vary, on average, it will take 2.5 hours for respondents to fully participate in the study. Therefore, the annual estimated response burden is 500 hours (200 responses × 2.5 hours per response).

² Chowdhury et al., U.S. Consumer Prod. Safety Comm'n., *Consumer Product-related Injuries and Deaths Among Adults 65 Years of Age and Older*, 67–68 (2021), available at <https://tinyurl.com/2t88v33m>.

Total Estimated Annual Burden Cost: There are no costs to respondents and no respondent recordkeeping requirements associated with the study. There are no operating, maintenance, or capital costs associated with the collection. Participants will receive \$100 for participation in the study.

Response to Public Comments:

Most commenters expressed support for the proposed information collection with some commenters offering suggestions that were out of scope. Other comments included discussing the sample size, requesting clarity about the development of the standard, suggesting ways to measure data, and seeking information about the equipment that will be used to measure friction data.

An engineering consultant, a biomedical consultant, and an anonymous commenter opined that the proposed research includes a small sample size of bathtubs. The bathtubs in the study are representative of three types of bathtub surfaces. Staff assessed that this is adequate for gathering preliminary data on whether a minimum frictional performance for reducing slips and falls exists.

The engineering consultant further commented seeking clarity on how the results will be used to develop a standard. As stated in the *Summary of the Collection of Information*, during the three sessions where participants will step into and out of the bathtubs, the resistance forces under the foot and motion of the foot movements will be measured to quantify the minimum frictional performance required for a bathing surface to reduce slips and falls to support ASTM's work in developing the standard.

The Tile Council of North America (TCNA) commented that transition from dry to wet surfaces should be considered, as unexpected changes in traction can cause slip incidents. Staff notes that the study will include transitions from dry to wet surfaces. TCNA also requested clarification on how friction data will be collected. Friction data will be collected using a force plate³ to quantify human gait and balance.

Another engineering consultant commented that CPSC's proposed collection of information does not have practical utility because it will not provide useful information to replace ASTM F462, and they pointed to other research that should be considered.

³ A force plate is a mechanical sensing system "designed to measure the ground reaction forces and moments involved in human movements." More information available at: <https://www.science-direct.com/topics/engineering/force-plate>.

¹ On April 8, 2025, the Commission voted (5–0) to publish this notice.

Practical utility is defined as “the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion.” 44 U.S.C. 3502(11). As stated in the *Description of the Need for the Information and Proposed Use of the Information*, the study will quantify the minimum frictional performance required for a bathing surface to reduce slips and falls. Staff intends to work with the ASTM F15.03 Subcommittee on Safety Standards for Bathtub and Shower Structures to replace the obsolete ASTM F462 standard for bathing surface friction that ASTM withdrew in 2016. This study will be used to inform CPSC of major requirements needed to achieve an efficient and effective slip-resistance standard. With this information, the Commission details its need and ability to process and use this information collection.

The National Floor Safety Institute (NFSI) also submitted comments to suggest that CPSC should not conduct their own research and instead rely on NFSI’s research and standard. As stated in the *Description of the Need for the Information and Proposed Use of the Information*, the Commission describes the need for this study to support CPSC’s efforts to work with the ASTM F15.03 Subcommittee on Safety Standard for Bathtub and Shower Structures to replace the withdrawn ASTM F462 standard.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2025–06432 Filed 4–15–25; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; Recordkeeping for National Service Criminal History Checks

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (operating as AmeriCorps) is proposing to renew an information collection.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by June 16, 2025.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) Electronically through www.regulations.gov (preferred method).

(2) *By mail sent to:* AmeriCorps, Attention Elizabeth Appel, 250 E Street SW, Washington, DC 20525.

(3) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (2) above, between 9 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

Comments submitted in response to this notice may be made available to the public through regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, 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. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, 202–606–3614, or by email at EAppel@americorps.gov.

SUPPLEMENTARY INFORMATION:

Title of Collection: Recordkeeping for National Service Criminal History Checks.

OMB Control Number: 3045–0150.

Type of Review: Renewal.

Respondents/Affected Public: Businesses and Organizations and State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 337,071.

Total Estimated Number of Annual Burden Hours: 758,410.

Abstract: The National and Community Service Act of 1990, as amended by the Serve America Act of 2009, requires AmeriCorps grantees and subgrantees to conduct a National Service Criminal History Check on individuals in covered positions before they begin service and to maintain documentation that the individuals were screened according to statutory requirements and are not prohibited from serving in the covered position. AmeriCorps and its grantees must ensure that national service beneficiaries are protected from harm, and the recordkeeping requirements of

the final rule are critical to that responsibility. AmeriCorps also seeks to continue using the currently approved information collection until the revised information collection is approved by OMB. The currently approved information collection is due to expire on 8/31/2025.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on regulations.gov.

Elizabeth Appel,

Acting Deputy General Counsel.

[FR Doc. 2025–06481 Filed 4–15–25; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps Member Application, Enrollment, and Exit Forms

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled AmeriCorps Member Application, Enrollment, and Exit Forms for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 16, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling AmeriCorps, Elizabeth Appel, at 202–967–5070 or by email at EAppel@americorps.gov.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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

A 60-day Notice requesting public comment was published in the **Federal Register** on December 30, 2024 at 89 FR 106447. The comment period ended February 28, 2025; no public comments were received from that notice. AmeriCorps reached out to several individuals for their input and made minor edits to the forms in response.

Title of Collection: Enrollment, Exit, and Member Application Form.

OMB Control Number: 3054–0054.

Type of Review: Revision.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 521,000.

Total Estimated Number of Annual Burden Hours: 390,750.

Abstract: This collection of information includes AmeriCorps’ member application, enrollment, and exit forms. The application form is used by applicants interested in serving as AmeriCorps members. The enrollment form is used by AmeriCorps members to enroll in the National Service Trust to earn Eli Segal Education Awards. The exit form is used to document the completion of a member’s term of service with AmeriCorps. AmeriCorps seeks to revise the exit form to add options for granting AmeriCorps permission to share the outgoing member’s name and email address with other Federal partners to help the outgoing member stay engaged in service. AmeriCorps also seeks to continue using the currently approved information collection until the revised information collection is approved by OMB. The currently approved information collection is due to expire on April 30, 2025.

Carly Bruder,

Acting Chief Program Officer.

[FR Doc. 2025–06467 Filed 4–15–25; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent for Naval Air Station Pensacola Land Exchange

AGENCY: Department of the Navy (DoN), Department of Defense (DoD).

ACTION: Notice.

SUMMARY: This notice provides information on the proposed conveyance of approximately 5.2 acres of underutilized land at Naval Air Station (NAS) Pensacola, Special Area Bronson Field, Florida, to Escambia County, a political subdivision of the State of Florida, in exchange for a restrictive easement over approximately 31.15 acres of Escambia County owned land within portions of NAS Pensacola’s Accident Potential Zones 1 and 2, which will limit encroachment and constraints on military training, testing, and operations.

DATES: Written objection must be filed no later than May 1, 2025.

ADDRESSES: Submit written objection to NAVFAC Southeast, Real Estate Contracting Officer, Box 30, Bldg. 903, Jacksonville, FL 32212–0030.

FOR FURTHER INFORMATION CONTACT: Mr. Heath Adams, 904–735–8930, Naval Facilities Engineering Systems Command Southeast, Box 30, Bldg. 903, Jacksonville, FL 32212–0030.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 10 U.S.C. 2684a, the United States of America and its assigns, acting by and through the Department of the Navy, and Escambia County, a political subdivision of the State of Florida, entered into a Multi-Year Agreement (MYA) to acquire long-term real property interests in the vicinity of NAS Pensacola, Florida. The purpose of the MYA is the identification and acquisition of long-term, real property interests to achieve conservation objectives, prevent encroachment and limit incompatible development in the vicinity of NAS Pensacola, including all Navy owned facilities located within the legal jurisdiction of Escambia County, Florida.

10 U.S.C. 2869 provides authority for the Department of the Navy to convey real property to carry out a land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property, *i.e.* a restrictive easement, under an agreement entered into under section 10 U.S.C. 2684a to limit encroachments and constraints on military training, testing, and operations. The Navy intends to convey approximately 5.2 acres of underutilized Navy owned property, Tax Parcel ID# 27–2S–31–2202–000–000, to Escambia County in exchange for a restrictive easement interest over approximately 31.15 acres of Escambia County owned property, Tax Parcel ID# 19–3S–31–1400–000–000, located within Accident Potential Zones 1 and 2 of NAS Pensacola, Florida. The Department of the Navy will convey the approximately 5.2 acres to Escambia County via Quitclaim Deed. Escambia County will convey the restrictive easement interest over the approximately 31.15 acres via a restrictive easement, which will limit the type and amount of development, as well as the activities that may be conducted on the land. Both the Quitclaim Deed and the Restrictive Easement will be recorded in the Public Records of Escambia County, Florida.

Authority: 10 U.S.C. 2869.

Dated: April 11, 2024.

R.A. Kennedy,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2025-06470 Filed 4-15-25; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2025-SCC-0017]

Agency Information Collection Activities; Comment Request; Application for Client Assistance Program

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 16, 2025.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <https://www.regulations.gov> by searching the Docket ID number ED-2025-SCC-0017. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <https://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](https://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the State Monitoring and Program Improvement Division, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4B104, Washington, DC 20202-1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact April Trice, (202) 245-6421.

SUPPLEMENTARY INFORMATION: The Department, 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 Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: Application for Client Assistance Program.

OMB Control Number: 1820-0520.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 9.

Abstract: The purpose of Client Assistance Program (CAP) is to advise and inform applicants and individuals eligible for services and benefits available under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), and title I of the Americans with Disabilities Act of 1990 (ADA), including students with disabilities under section 113 and individuals with disabilities employed at subminimum wage under section 511 of the Rehabilitation Act. In addition, applicants and eligible individuals may be provided advocacy and representation to ensure their rights in their relationship with projects, programs, and services to protect their rights provided under the Rehabilitation Act. In addition to providing assistance and advocacy under the Rehabilitation Act, a CAP agency may provide information on the assistance and benefits on title I of the ADA, especially

those who have traditionally been unserved or underserved by the vocational rehabilitation program, with respect to services that are directly related to facilitating the employment for applicants or eligible individuals.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2025-06456 Filed 4-15-25; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, May 15, 2025; 5:30–7 p.m. CDT.

ADDRESSES: West Kentucky Community and Technical College (WKCTC), Emerging Technology Center, Room 215, 5100 Alben Barkley Drive, Paducah, Kentucky 42001. This meeting will be held in-person at the WKCTC Emerging Technology Center, Room 215 and virtually. The meeting will be streamed on YouTube at <https://www.youtube.com/@pppoadvisoryboards8584>; no registration is necessary.

FOR FURTHER INFORMATION CONTACT:

Robert "Buz" Smith, Federal Coordinator, by Phone: (270) 441-6821 or Email: Robert.Smith@pppo.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on other EM program components. The Board also provides an avenue to fulfill public participation requirements outlined in the National Environmental Policy Act (NEPA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), Federal Facility Agreements, Consent Orders,

Consent Decrees and Settlement Agreements.

Tentative Agenda: (agenda topics are subject to change; please contact Robert “Buz” Smith for the most current agenda).

- Administrative Activities
- Public Comment Period

Public Participation: The meeting is open to the public and public comment can be given orally or in writing. Fifteen minutes are allocated during the meeting for public comment and those wishing to make oral comment will be given a minimum of two minutes to speak. Written comments received at least two working days prior to the meeting will be provided to the members and included in the meeting minutes. Written comments received within two working days after the meeting will be included in the minutes. For additional information on public comment and to submit written comment, please contact Zachary Boyarski at Zachary.Boyarski@pppo.gov. The EM SSAB, Paducah, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Robert “Buz” Smith at least seven days in advance of the meeting.

Meeting conduct: The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Questioning of board members or presenters by the public is not permitted.

Minutes: Minutes will be available at the following website: <https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials>.

Signing Authority: This document of the Department of Energy was signed on April 11, 2025, by Alyssa Petit, Deputy Committee Management 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 April 11, 2025.

Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2025–06475 Filed 4–15–25; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77–318]

Notice of Reasonable Period of Time For Water Quality Certification Application; Pacific Gas and Electric Company

On March 21, 2025, California State Water Resources Control Board submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Pacific Gas and Electric Company in conjunction with the above captioned project on February 20, 2025. Pursuant to the Commission’s regulations,¹ we hereby notify the California State Water Resources Control Board of the following:

Date of Receipt of the Certification Request: February 20, 2025.

Reasonable Period of Time to Act on the Certification Request: One year, February 20, 2026.

If California State Water Resources Control Board fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: April 10, 2025.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2025–06434 Filed 4–15–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–166–000]

Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline; WBI Energy Transmission, Inc.

Take notice that on March 31, 2025, WBI Energy Transmission, Inc. (WBI Energy), 1250 West Century Avenue,

¹ 18 CFR 4.201(e).

Bismarck, North Dakota 58503, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.216(b) of the Commission’s regulations under the Natural Gas Act (NGA), and WBI Energy’s blanket certificate issued in Docket No. CP82–487–000, for authorization to abandon six natural gas storage wells, approximately 4.07 miles of associated three-inch, four-inch and twelve-inch-diameter natural gas storage pipeline and appurtenant facilities. All of the above facilities are located in WBI Energy’s Baker Storage Field in Fallon County, Montana (2025 Baker Storage Well Abandonment Project). WBI Energy concludes that the abandonment will limit integrity risk in alignment with the guidance of the Pipeline and Hazardous Materials Safety Administration Storage Final Rule. The estimated cost for the project is \$7,600,000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

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.

Any questions concerning this request should be directed to Andrew Bates, Manager, Regulatory Affairs, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, by phone (701) 530–1576, or by email Andrew.bates@wbienenergy.com.

Public Participation

There are three ways to become involved in the Commission’s review of this project: you can file a protest to the project, you can file a motion to

intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on June 9, 2025. How to file protests, motions to intervene, and comments is explained below.

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.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is June 9, 2025. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and

Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is June 9, 2025. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before June 9, 2025. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP25-166-000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. 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; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP25-166-000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail at: Andrew Bates, Manager, Regulatory Affairs, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, or by email Andrew.bates@wbienergy.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be 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 as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

Dated: April 10, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025-06433 Filed 4-15-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. Project No. 15368-001]

Orcas Power & Light Cooperative; Notice of Intent To File License Application, Filing of Draft Application, Request for Waivers of Integrated Licensing Process Regulations Necessary for Expedited Processing of a Hydrokinetic Pilot Project License Application, and Soliciting Comments

a. *Type of Filing:* Notice of Intent to File a License Application for an Original License for a Hydrokinetic Pilot Project.

b. *Project No.:* 15368-001.

c. *Date Filed:* March 26, 2025.

d. *Submitted By:* Orcas Power & Light Cooperative (OPALCO).

e. *Name of Project:* Rosario Strait Tidal Energy Project.

f. *Location:* On Rosario Strait in the Salish Sea, east of Blakely Island (approximately 48.5611° N, 122.7679° W) in San Juan County, Washington.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Russell Guerry, Orcas Power & Light Cooperative (OPALCO), 183 Mount Baker Road, Eastsound, Washington 98245; (360) 376-3500; Rguerry@opalco.com.

i. *FERC Contact:* Golbahar Mirhosseini at golbahar.mirhosseini@ferc.gov.

j. *OPALCO has filed with the Commission:* (1) a notice of intent (NOI) to file an application for an original license for a hydrokinetic pilot project and a draft license application with monitoring plans; (2) a request for waivers of the integrated licensing process regulations necessary for expedited processing of a hydrokinetic pilot project license application; (3) a proposed process plan and schedule; (4) a request to be designated as the non-federal representative for section 7 of the Endangered Species Act (ESA) consultation; and (5) a request to be designated as the non-federal representative for section 106 consultation under the National Historic Preservation Act (collectively the pre-filing materials).

k. With this notice, we are soliciting comments on the pre-filing materials listed in paragraph j above, including

the draft license application and monitoring plans. All comments should be sent to the address above in paragraph h. In addition, all comments must be filed with the Commission. The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCOnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. 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. All filings must clearly identify the project name and docket number on the first page: Rosario Strait Tidal Energy Project (P-15368-001). Any individual or entity interested in submitting comments on the pre-filing materials must do so by September 30, 2025.

l. With this notice, we are approving OPALCO's request to be designated as the non-federal representative for section 7 of the ESA and its request to initiate consultation under section 106 of the National Historic Preservation Act; and recommending that it begin informal consultation with: (a) the U.S. Fish and Wildlife Service and NOAA Fisheries as required by section 7 of ESA; and (b) the Alaska State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

m. With this notice, we also are asking federal, state, local, and tribal agencies with jurisdiction and/or expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph "k" above.

n. This notice does not constitute the Commission's approval of OPALCO's request to use the Pilot Project Licensing

Procedures. Upon its review of the project's overall characteristics relative to the pilot project criteria, the draft license application contents, and any comments filed, the Commission will determine whether there is adequate information to conclude the pre-filing process.

o. *The Rosario Strait Tidal Energy Project would consist of:* (1) one Orbital Marine O2-X Floating Tidal device (Orbital O2-X) with two turbine rotors for a total rated capacity of 2.4 megawatts (MW); (2) one mooring and anchor system with four mooring lines and four anchors; (3) one new 3.3-mile subsea cable from the Orbital O2-X to an existing shoreline conduit and facility on Blakely Island; (4) a shore station containing all needed supervisory control and data acquisition (SCADA) and electrical interconnection equipment; and (6) appurtenant facilities. The project would have a total estimated average annual generation of 4,200,000 kilowatt hours per year.

p. A copy of the draft license application and all pre-filing materials are available for review on the Commission's website (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits of the sub-docket in the docket number field, to access documents. For assistance, contact FERC Online Support. A copy is also available via the contact in paragraph h.

q. Pre-filing Process Schedule. The pre-filing process will be conducted pursuant to the following tentative schedule. Revisions to the schedule below may be made based on staff's review of the draft application and any comments received.

Milestone	Date
Comments on pre-filing materials due.	September 30, 2025.
Issuance of meeting notice (if needed).	October 15, 2025.
Public meeting/technical conference (if needed).	November 14, 2025.

r. 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 at OPP@ferc.gov.

Dated: April 10, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025-06435 Filed 4-15-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 17, 2025, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE, Washington, DC 20426. Open to the public.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* *Note*—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Debbie-Anne A. Reese, Secretary, Telephone (202) 502-8400.

For a recorded message listing items Stricken from or added to the meeting, call (202) 502-8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed online at the Commission's website at <https://elibrary.ferc.gov/eLibrary/search> using the eLibrary link.

1124TH—MEETING OPEN

[April 17, 2025, 10:00 a.m.]

Item No.	Docket No.	Company
A-1	AD25-1-000	Agency Administrative Matters.
A-2	AD25-2-000	Customer Matters, Reliability, Security and Market Operations.
A-3	AD25-9-000	System Performance Review of the January 2025 Arctic Events.
A-4	AD25-10-000	Large Load Presentation.
Electric		
E-1	ER24-1915-000, ER24-1915-001, ER24-342-000	New York Independent System Operator, Inc.
E-2	ER24-1393-000, ER24-1393-001, ER24-1393-002	Public Service Company of New Mexico.
E-3	ER24-330-001	Arizona Public Service Company.
E-4	ER24-2517-000	Cube Yadkin Transmission LLC.
E-5	EC25-16-000	Tenaska Frontier Partners, Ltd.
E-6	ER22-1349-000, ER21-1303-000	Cleco Power LLC.
E-7	ER25-1423-000	Mustang Mile Solar Energy LLC.
E-8	EC25-12-000, EC16-77-004	BlackRock, Inc.
E-9	ER25-170-000	SunZia Transmission, LLC.
E-10	ER24-1658-003	Southwest Power Pool, Inc.
E-11	ER25-612-000	PJM Interconnection, L.L.C.
E-12	ER25-1466-000	Beecher Solar, LLC and DTE Electric Company.
E-13	ER20-1298-006, ER20-1298-007, ER20-1298-008	Midcontinent Independent System Operator, Inc.
E-14	ER25-1361-000	Ratts 2 Solar LLC.
Hydro		
H-1	P-15332-001	York Energy Storage LLC.
H-2	P-15035-001, P-15306-000	Premium Energy Holdings, LLC.
Certificates		
C-1	CP24-93-000	Venice Gathering System, L.L.C.
C-2	CP25-17-000	Cimarron River Pipeline, LLC.
	CP25-18-000	DCP Operating Company, LP.

A free webcast of this event is available through the Commission's website. Anyone with internet access who desires to view this event can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar. The Federal Energy Regulatory Commission provides technical support for the free webcasts. Please call (202) 502-8680 or email

customer@ferc.gov if you have any questions.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely

at Commission headquarters but will not be telecast.

Dated: April 10, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025-06557 Filed 4-14-25; 11:15 am]

BILLING CODE 6717-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0809; FR ID 289930]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 16, 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, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0809.

Title: Communications Assistance for Law Enforcement Act (CALEA).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 250 respondents; 260 responses.

Estimated Time per Response: 5–80 hours.

Frequency of Response: On occasion reporting requirements, recordkeeping and third-party disclosure requirements.

Obligation to Respond: Mandatory and Voluntary. Statutory authority is contained in sections 105, 107(c), 109(b) and 301 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. 1004, 1006(c), 1008(b), and 229; Public Law 103–414, 108 Stat. 4279 (1994).

Total Annual Burden: 1,810 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Communications Assistance for Law Enforcement Act (CALEA) requires the Commission to create rules that regulate the conduct and recordkeeping of lawful electronic surveillance. CALEA was enacted in October 1994 to respond to rapid advances in telecommunications technology and eliminates obstacles faced by law enforcement personnel in conducting electronic surveillance. Section 105 of CALEA requires telecommunications carriers to protect against the unlawful interception of communications passing through their systems. Law enforcement officials use the information maintained by telecommunications carriers to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

On May 12, 2006, the Commission released a *Second Report and Order and Memorandum Opinion and Order* in ET Docket No. 04–195, FCC 06–56, which became effective August 4, 2006, except for §§ 1.20004 and 1.2005 of the Commission's rules, which became effective on February 12, 2007. The Second Report and Order established new guidelines for filing section 107(c) petitions, section 109(b) petitions, and monitoring reports (FCC Form 445). CALEA section 107(c)(1) permits a petitioner to apply for an extension of time, up to two years from the date that the petition is filed, and to come into compliance with a particular CALEA section 103 capability requirement. CALEA section 109(b) permits a telecommunication carrier covered by CALEA to file a petition with the FCC and an application with the Department

of Justice (DOJ) to request that DOJ pay the costs of the carrier's CALEA compliance (cost-shifting relief) with respect to any equipment, facility or service installed or deployed after January 1, 1995. The Second Report and Order required several different collections of information:

(a) Within 90 days of the effective date of the Second Report and Order, facilities based broadband internet access and interconnected Voice over Interconnected Protocol (VoIP) providers newly identified in the First Report and Order in this proceeding were required to file system security and integrity statements under the Commission's rules. (System security and integrity statements are currently approved under the existing OMB 3060–0809 information collection.)

(b) All telecommunications carriers, including broadband internet access and interconnected VoIP providers, must file updates to their system security and integrity statements on file with the Commission as their information changes.

(c) Petitions filed under section 107(c), request for additional time to comply with CALEA; these provisions apply to all carriers subject to CALEA and are voluntary filings.

(d) Section 109(b), request for reimbursement of CALEA; these provisions apply to all carriers subject to CALEA and are voluntary filings.

(e) As of June 29, 2023, under Section 1.20005(c), any filings required by section 1.20005(a) shall be submitted electronically through the Commission's CALEA Electronic Filing System (CEFS).

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2025–06402 Filed 4–15–25; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than May 16, 2025.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001. Comments can also be sent electronically to KCApplicationComments@kc.frb.org:

1. *Logan Valley Investments, LLC., Oakland, Nebraska*; to become a bank holding company by acquiring Battle Creek State Company, and thereby indirectly acquiring Battle Creek State Bank, both of Battle Creek, Nebraska.

Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,
Deputy Secretary of the Board.

[FR Doc. 2025-06483 Filed 4-15-25; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the

applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than May 1, 2025.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001. Comments can also be sent electronically to KCApplicationComments@kc.frb.org:

1. *Third Tower Holdings Limited Partnership and Douglas M. Crouse, as general partner, both of Basin, Wyoming; and Dylan D. Crouse, Sheridan, Wyoming, Ian H. Crouse, Greybull, Wyoming, and Jordan H. Crouse, Firestone, Colorado, all as general partners; to join the Crouse Family Control Group, a group acting in concert, to acquire voting shares of Financial Security Corporation, and thereby indirectly acquire voting shares of Security State Bank, both of Basin, Wyoming.*

Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,
Deputy Secretary of the Board.

[FR Doc. 2025-06482 Filed 4-15-25; 8:45 am]

BILLING CODE P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of Board Meeting

DATES: April 22, 2025 at 10 a.m. ET.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1-202-599-1426, Code: 466 112 000#; or via web: <https://www.frtib.gov/>.

FOR FURTHER INFORMATION CONTACT: James Kaplan, Director, Office of External Affairs, (202) 864-7150.

SUPPLEMENTARY INFORMATION:

Board Meeting Agenda

Open Session

1. Approval of the March 25, 2025, Board Meeting Minutes
2. Monthly Reports
 - (a) Participant Report
 - (b) Legislative Report
3. Quarterly Reports
 - (c) Investment Report
 - (d) Budget Review
 - (e) Audit Status
4. DOL Annual Audit Presentation
5. Internal Audit Update
6. FEVS Update
7. ORM Office Presentation

Closed Session

4. Information covered under 5 U.S.C. 552b (c)(9)(B) and (c)(10).

Authority: 5 U.S.C. 552b (e)(1).

Dated: April 11, 2025.

Dharmesh Vashee,
General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2025-06430 Filed 4-15-25; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10398 #68]

Medicaid and Children's Health Insurance Program (CHIP) Generic Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: On May 28, 2010, the Office of Management and Budget (OMB) issued Paperwork Reduction Act (PRA) guidance related to the "generic" clearance process. Generally, this is an expedited process by which agencies

may obtain OMB's approval of collection of information requests that are "usually voluntary, low-burden, and uncontroversial collections," do not raise any substantive or policy issues, and do not require policy or methodological review. The process requires the submission of an overarching plan that defines the scope of the individual collections that would fall under its umbrella. This **Federal Register** notice seeks public comment on one or more of our collection of information requests that we believe are generic and fall within the scope of the umbrella. Interested persons are invited to submit 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 April 30, 2025.

ADDRESSES: When commenting, please reference the applicable form number (CMS-10398 #68) and the OMB control number (0938-1148). 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: CMS-10398 #68/OMB control number: 0938-1148, Room C4-26-05, 7500 Security Boulevard, Baltimore, MD 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/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pra-listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at 410-786-4669.

SUPPLEMENTARY INFORMATION: Following is a summary of the use and burden associated with the subject information collection(s). More detailed information can be found in the collection's supporting statement and associated materials (see **ADDRESSES**).

Generic Information Collection

1. *Title of Information Collection:* State Plan Amendment (SPA) Template for Section 1905(a)(29) of the Social Security Act Medication Assisted Treatment (MAT); *Type of Information Collection Request:* Revision of a currently approved collection; *Use:* Under section 1902(a)(10) of the Social Security Act (the Act), States may offer certain Medicaid benefits, at State option, to categorically needy and medically needy Medicaid beneficiaries. In 2018, section 1006(b) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (herein referred to as the SUPPORT Act) established mandatory coverage of medication-assisted treatment (MAT) as a new Medicaid state plan benefit by adding section 1905(a)(29) of the Act for October 1, 2020 through September 30, 2025.

On December 30, 2020, CMS issued State Health Official Letter (SHO) #20-005 entitled, "Mandatory Medicaid State Plan Coverage of Medication-Assisted Treatment" which describes the requirements of the mandatory MAT benefit and opportunities for increasing treatment options for substance use disorders as described at section 1905(a)(29) of the Act and the process for an exemption from the mandatory coverage requirement if there was a documented shortage of qualified providers or facilities providing such treatment in either fee-for-service or managed care arrangements in accordance with section 1905(ee)(2) of the Act.

On March 9, 2024, section 201 of the Consolidated Appropriations Act, 2024 (CAA, 2024) made the mandatory MAT benefit permanent. Section 201 also amended section 1905(ee)(2) of the Act to allow states to request an exemption from the mandatory coverage requirement due to a documented provider shortage if the state re-certifies not less than every five years and to the satisfaction of the Secretary that the provider shortage continues. The process to request an exemption will be conducted every five years and is the same as described in SHO #20-005 except for and, as noted, the reference to the limited timeframe of this provision which has been removed.

On November 19, 2024, CMS issued State Medicaid Director Letter (SMD) #24-004 entitled "Extension of Medicaid Coverage of Substance Use Disorder Treatment and Managed Care Medical Loss Ratio Provisions in the Consolidated Appropriations Act, 2024", providing subregulatory guidance to states regarding these requirements.

The amendments to the Act as a result of the passage of the SUPPORT Act and section 201 of the CAA, 2024, as well as the subregulatory guidance provided in SMD #24-004 provides the authority for States to add this mandatory Medicaid coverage for MAT. In this April 2025 iteration, we propose to update an active SPA template to comport with the statutory updates as described above now that the benefit is permanent.

Form Number: CMS-10398 #68 (OMB control number: 0938-1148); *Frequency:* Once and Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 1,400. (For policy questions regarding this collection contact: Marlana Thieler at 410-786-6274.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025-06400 Filed 4-15-25; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request NIH Electronic Application System for NIH Certificates of Confidentiality (CoC)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, Email your comment or request, including your address to: *NIH-CoC-Coordinator@mail.nih.gov* or contact: Dr. Pamela Reed Kearney, Division of Human Subjects Research, OER, NIH, 6705 Rockledge Dr., Building Rockledge 1, Room 812-C, Bethesda, MD 20817, or call non-toll-free number (301) 402-2512. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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) 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Electronic Application for NIH Certificates of Confidentiality (CoC E-application System), 0925-0689, REVISION, exp., date 04/30/2025. Office of Extramural Research (OER), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this electronic system is to submit and process requests for NIH to issue discretionary Certificates of Confidentiality (CoC) to research organizations requesting CoCs from NIH that align with the NIH research mission. As described in the authorizing legislation (Section 301(d) of the Public Health Service Act, 42 U.S.C. 241(d)), CoCs are issued by the agencies of the Department of Health and Human Services (DHHS), including NIH, to authorize researchers to protect the privacy of human research subjects by prohibiting them from releasing names and identifying characteristics of research participants to anyone not connected with the research, except in limited circumstances specified in the

statute. At NIH, the issuance of CoCs has been delegated to the NIH Office of Extramural Research (OER) in the NIH Office of the Director. The NIH has been using an online CoC system to review requests and issue discretionary CoCs since 2015. The current CoC online request form includes 27 questions to collect information from research organizations and six Institutional Assurance statements to be affirmed by the Institutional Official. The information provided is used to determine eligibility for a discretionary CoC and to determine eligibility for issuance of the CoC to the requesting organization. Eligible requesting organizations that provide legally binding affirmations that they will abide by the terms of the CoC are issued a Certificate of Confidentiality. This system has increased efficiency and reduced burden for both requesters and NIH staff who currently process these requests. NIH received 915 requests for CoCs from January 2023 through December 2023 and expects to receive approximately the same number of requests in subsequent years.

OMB approval is requested for three years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,373.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Individuals	915	1	90/60	1,373
Total .....	.....	915	.....	1,373

Dated: April 10, 2025.

Matthew J. Memoli,
Principal Deputy Director, National Institutes of Health.

[FR Doc. 2025-06441 Filed 4-15-25; 8:45 am]

BILLING CODE 4140-01-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1742
(Preliminary)]

Lattice-Boom Crawler Cranes (LBCCs) From Japan; Institution of Antidumping Duty Investigation and Scheduling of Preliminary Phase Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping duty investigation No. 731-TA-1742 (Preliminary) pursuant to the Tariff Act of 1930 ("the Act") to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of lattice-boom crawler cranes (LBCCs) from Japan, provided for in subheading 8426.49.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of

Commerce ("Commerce") extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigation in 45 days, or in this case by May 27, 2025. The Commission's views must be transmitted to Commerce within five business days thereafter, or by June 3, 2025.

DATES: April 10, 2025.

FOR FURTHER INFORMATION CONTACT: Laurel Schwartz ((202) 205-2398), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office

of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), in response to a petition filed on April 10, 2025, by The Manitowoc Company, Inc., Milwaukee, WI.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of this investigation beginning at 9:30 a.m. on Thursday,

May 1, 2025. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before noon on Tuesday, April 29, 2025. Please provide an email address for each conference participant in the email. Information on conference procedures, format, and participation, including guidance for requests to appear as a witness via videoconference, will be available on the Commission's Public Calendar (Calendar (USITC) | United States International Trade Commission). A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before 5:15 p.m. on May 6, 2025, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than 4:00 p.m. on April 30. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this investigation must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter

will acknowledge that any information that it submits to the Commission during this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: April 11, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–06451 Filed 4–15–25; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Henry-Norbert O. Ndekwe, M.D.; Decision and Order

On July 3, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Henry-Norbert O. Ndekwe, M.D., of Lawton, Oklahoma (Registrant). Request for Final Agency Action (RFAA), at 6, 8. The OSC proposed the revocation of Registrant's Certificate of Registration No. BN5794587, alleging that Registrant's registration should be revoked because Registrant is “currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Oklahoma, the state in which [he is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).¹

The OSC notified Registrant of his right to file a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in

¹ According to Agency records, Registrant's registration expired on October 31, 2024. The fact that a registrant allows his registration to expire during the pendency of an OSC does not impact the Agency's jurisdiction or prerogative under the Controlled Substances Act (CSA) to adjudicate the OSC to finality. *Jeffrey D. Olsen, M.D.*, 84 FR 68474, 68476–79 (2019).

default. *Id.* (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.² “A default, unless excused, shall be deemed to constitute a waiver of the registrant’s/applicant’s right to a hearing and an admission of the factual allegations of the [OSC].” 21 CFR 1301.43(e).

Further, “[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67.” *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant’s default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant’s default, the factual allegations in the OSC are admitted. According to the OSC, Registrant’s Oklahoma medical license expired on June 1, 2023. RFAA, at 7. According to Oklahoma online records, of which the Agency takes official notice,³ Registrant’s Oklahoma medical license remains expired. Oklahoma Board of Medical Licensure and Supervision Licensee Search, <https://www.okmedicalboard.org/search> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice

medicine in Oklahoma, the state in which he is registered with DEA.⁴

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.”

With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) (“The Attorney General can register a physician to dispense controlled substances ‘if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.’ . . . The very definition of a ‘practitioner’ eligible to prescribe includes physicians ‘licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices’ to dispense controlled substances. § 802(21).”). The Agency has applied these principles consistently. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁵

Under Oklahoma law, “dispense” means “to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labelling, or compounding necessary to prepare the substance for such distribution.” Okla. Stat. tit. 63, section 2–101(14) (2024). Further, a “practitioner” includes “a medical doctor or osteopathic physician . . . or any other person, licensed, registered or otherwise permitted to prescribe, distribute, dispense . . . or administer a controlled dangerous substance in the course of professional practice or research in th[e] state.” *Id.* section 2–101(42)(a)(1), (8).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Oklahoma. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Oklahoma. Thus, because Registrant lacks authority to practice medicine in Oklahoma and, therefore, is not authorized to handle controlled substances in Oklahoma, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant’s DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BN5794587 issued to Henry-Norbert O. Ndekwe, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Henry-Norbert O. Ndekwe, M.D., to renew or modify this registration, as well as any other pending application of Henry-Norbert O. Ndekwe, M.D., for additional registration in Oklahoma. This Order is effective May 16, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 10, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the

appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton, M.D.*, 43 FR 27617.

² Based on the Government’s submissions in its RFAA dated November 5, 2024, the Agency finds that service of the OSC on Registrant was adequate. An included declaration from a DEA Diversion Investigator (DI) indicates that on May 17, 2024, Registrant had requested that he be contacted regarding his DEA registration via his registered email address. RFAA, at 10, 13. On July 17, 2024, the DI emailed a copy of the OSC to Registrant’s registered email address, and the email was not returned as undeliverable. *Id.* at 11, 18. On the same date, the DI also mailed a copy of the OSC via certified mail to Registrant’s registered address, but the mailing was returned as undeliverable. *Id.* at 11, 16, 20. Here, the Agency finds that Registrant was successfully served the OSC by email and that the DI’s efforts to serve Registrant by other means were “reasonably calculated, under all the circumstances, to apprise [Registrant] of the pendency of the action.” *Jones v. Flowers*, 547 U.S. 220, 226 (2006) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)); *see also Mohammed S. Aljanaby, M.D.*, 82 FR 34552, 34552 (2017) (finding that service by email satisfies due process where the email is not returned as undeliverable and other methods have been unsuccessful). Therefore, due process notice requirements have been satisfied.

³ Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

⁴ Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” The material fact here is that Registrant, as of the date of this decision, is not licensed to practice medicine in Oklahoma. Accordingly, Registrant may dispute the Agency’s finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

⁵ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner’s registration is the

Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025-06421 Filed 4-15-25; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Moustafa M. Aboshady, M.D.; Decision and Order

On January 18, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Moustafa M. Aboshady, M.D. (Applicant). Request for Final Agency Action (RFAA), Attachment (Attach.) A, at 1, 3. The OSC proposed the denial of Applicant's application for a DEA registration, No. W23147064C, in Salt Lake City, Utah. *Id.* at 1. The OSC alleged that Applicant's application should be denied because he has "been mandatorily excluded from participation in Medicare, Medicaid, and all Federal health care programs pursuant to 42 U.S.C. 1320a-7(a)." *Id.* (citing 21 U.S.C. 824(a)(5)).

The OSC notified Applicant of his right to "file with DEA a written request for a hearing," and that if he failed to file such a request, he would "be deemed to have waived [his] right to a hearing and to be in default." *Id.* at 2 (citing 21 CFR 1301.43). The OSC further notified Applicant that if he requested a hearing but failed to "timely file an answer, plead, or otherwise defend," he would "be deemed to have waived the right to a hearing and to be in default, and DEA may enter an order terminating the proceeding." *Id.* (citing 21 CFR 1301.43(c)(2), (c)(3), (d)). The OSC also notified Applicant that "[d]efault constitutes a waiver of [his] right to a hearing and an admission of the factual allegations of the [OSC]." *Id.* (citing 21 CFR 1301.43(e)).

On February 6, 2024, the OSC was served on Applicant by email. RFAA, at 1. On February 13, 2024, Applicant filed a timely hearing request with the DEA Office of Administrative Law Judges (OALJ) and the matter was assigned to the Chief Administrative Law Judge (Chief ALJ). *Id.* at 2. On the same day, the Chief ALJ issued an Order for

Prehearing Statements and Directing Compliance (Order), noting that Applicant had failed to file an answer to the OSC as required by DEA regulations, and establishing a deadline of February 21, 2024, for filing an answer. RFAA, Attach. B, at 1-2 (citing 21 CFR 1301.37(d), 1316.47(b)).

On February 20, 2024, the day before the Chief ALJ's deadline for filing an answer, Applicant informed OALJ by email that he desired additional time to respond to the Order because he was in the process of hiring a lawyer. RFAA, Attach. C, at 1. That same day, the Chief ALJ denied the request for additional time, explaining that filing an answer could be completed within the allotted time and that "more time could be allowed for preparation if/when he was successful in procuring representation." *Id.* at 1-2. On February 21, 2024, Applicant submitted a Corrective Action Plan, but he did not file an answer. *Id.* at 2.

On February 22, 2024, the day after the answer was due, the Government filed a Motion to Terminate Proceedings (Motion to Terminate), arguing that Applicant had waived his right to a hearing by failing to file an answer and by failing to show good cause for such failure. *Id.* at 2. On the same day, the Chief ALJ issued a Briefing Order directing Applicant to file a response to the Motion to Terminate by February 28, 2024. *Id.* On February 27, 2024, Applicant sent an email to OALJ indicating that he "request[ed] to withdraw[] [his] application." ¹ *Id.* Applicant did not otherwise respond to the Motion to Terminate. On February 28, 2024, the Chief ALJ issued an Order Terminating Proceedings (Termination Order), finding that the Motion to Terminate stood unopposed and that Applicant's withdrawal request demonstrated that he was "no longer seeking a hearing on the matter." *Id.* Applicant has not filed a motion to set aside the Termination Order. 21 CFR 1301.43(c)(3).

"In the event that [an applicant] . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." 21 CFR 1301.43(f)(1). Here, the Government has requested final agency action based on

¹ To the extent that Applicant's email can be construed as a desire to withdraw his application for registration, the Agency has considered the relevant factors and denies Applicant's withdrawal request because it is not in the public interest. See *Edge Pharmacy*, 81 FR 72092, 72102 (2016) (discussing 21 CFR 1301.16(a)).

Applicant's default pursuant to 21 CFR 1301.43(c), (f), because Applicant did not timely file an answer to the OSC, did not "otherwise defend" himself against the Government's Motion to Terminate, has not filed a motion with the Administrator to set aside the Termination Order, has indicated a desire to withdraw his hearing request or application, and has not filed a motion with the Administrator to set aside the default. See also *id.* § 1316.67.

The Agency finds that Applicant is in default based on his failure to "plead . . . or otherwise defend himself," as evidenced by his failure to substantively respond to the Government's Motion to Terminate, his failure to file a motion to set aside the Chief ALJ's termination order, and his request to withdraw his application.² *Id.* § 1301.37(c)(3).

I. Applicable Law

Pursuant to 21 U.S.C. 824(a)(5), the Attorney General is authorized to suspend or revoke a registration upon finding that the registrant "has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a-7(a) of Title 42." *Id.* § 824(a)(5).³ The Agency has consistently held that it may also deny an application upon finding that an applicant has been excluded from a federal health care program. *Arvinder Singh, M.D.*, 81 FR 8247, 8248 n.3 (2016) (quoting *Kwan Bo Jin, M.D.*, 77 FR 35021, 35021 n.2 (2012)) ("[W]here a registration can be revoked under [21 U.S.C.] 824, it can, *a fortiori*, be denied under [21 U.S.C.] 823 since the law would not require an agency to indulge in the useless act of granting a license on one day only to withdraw it on the next."); *Robert Wayne Locklear, M.D.*, 86 FR 33745 (citing *South Corp. v. United States*, 690 F.2d 1369, 1374 (Fed. Cir. 1982)) ("A statutory construction which would impute a useless act to Congress will be viewed as unsound and rejected.").

² Here, the OSC was served on February 6, 2024. The matter was terminated from the hearing stage on February 28, 2024, which was well after the Chief ALJ's established deadline for filing an answer, but before the regulatory deadline set forth in 21 CFR 1301.37(d). Because the Agency already finds Applicant to be in default based on 1301.37(c)(3), it need not consider whether Applicant is in default under 21 CFR 1301.37(c)(2).

³ In its OSC, the Government relies upon grounds Congress provided to support revocation/suspension, not denial of an application. Prior Agency decisions have addressed whether it is appropriate to consider a provision of 21 U.S.C. 824(a) when determining whether or not to grant a practitioner registration application. For over forty-five years, Agency decisions have concluded that it is. *Robert Wayne Locklear, M.D.*, 86 FR 33738, 33744-45 (2021) (collecting cases).

II. Findings of Fact

The Agency finds that, in light of Applicant's default, the factual allegations in the OSC are admitted. 21 CFR 1301.43(e). Accordingly, Applicant is deemed to have admitted that in 2018 he was convicted of one count of conspiracy to make false statements in connection with health care benefits programs in violation of 18 U.S.C. 371 and two counts of making false statements in connection with health care benefits programs or aiding and abetting in violation of 18 U.S.C. 1035.⁴ RFAA, Attach. A, at 2. Applicant further admits that, as a result of his conviction,⁵ the U.S. Department of Health and Human Services, Office of Inspector General (HHS/OIG), mandatorily excluded Applicant from participation in Medicare, Medicaid, and all Federal health care programs pursuant to 42 U.S.C. 1320a–7(a), for a minimum of 15 years. *Id.* The exclusion became effective on August 30, 2019. *Id.*

Accordingly, the Agency finds substantial record evidence that Applicant has been excluded from participation in Medicare, Medicaid, and all Federal health care programs.

III. Discussion

The OSC's sole allegation is that Applicant's application should be denied as a result of his mandatory exclusion "from participation in Medicare, Medicaid, and all Federal health care programs pursuant to 42 U.S.C. 1320a–7(a)." RFAA, Attach. A, at 1 (citing 21 U.S.C. 824(a)(5)). Here, the Agency found above that HHS/OIG mandatorily excluded Applicant from participation in Medicare, Medicaid, and all Federal health care programs pursuant to 42 U.S.C. 1320a–7(a), for a minimum of 15 years. *Id.* at 2. Accordingly, the Agency finds that the Government established a *prima facie* case for denying Applicant's registration, that Applicant did not rebut that *prima facie* case, and that there is substantial record evidence supporting the denial of Applicant's application. 21 U.S.C. 824(a)(5).

III. Sanction

Where, as here, the Government has met its *prima facie* burden of showing

that Applicant's application for a registration should be denied, the burden shifts to the Applicant to show why he can be entrusted with the responsibility carried by a registration. *Morall*, 412 F.3d. at 174; *Jones Total Health Care Pharmacy*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 FR 18882 (2018). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 FR 46968, 46972 (2019); *see also Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that it will not engage in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 833. A registrant's acceptance of responsibility must be unequivocal. *Id.* at 830–31. In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, DEA Administrators have found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 and n.4. DEA Administrators have also considered the need to deter similar acts by the specific registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR 46972–73.

Here, although Applicant initially requested a hearing, he failed to "plead . . . or otherwise defend" and was deemed to be in default. 21 CFR 1301.43(c)(3). To date, Applicant has not filed any motion to set aside the default with the Office of the Administrator. 21 CFR 1301.43(c). Applicant has thus failed to answer the allegations contained in the OSC and has not otherwise availed himself of the opportunity to refute the Government's case. As such, Applicant has made no representations as to his future compliance with the CSA nor made any demonstration that he can be entrusted with registration. Moreover, the evidence presented by the Government shows that Applicant was convicted of charges related to making false statements in connection with health care benefits programs, further indicating that Applicant cannot be entrusted.

Accordingly, the Agency will order the denial of Applicant's application.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny the pending application for a DEA Certificate of Registration, Control No. W23147064C, submitted by Moustafa M. Aboshady, M.D., as well as any other pending application of Moustafa M. Aboshady, M.D., for additional registration in Utah. This Order is effective May 16, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 10, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025–06426 Filed 4–15–25; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Empire Pharmacy Inc.; Skyline Pharmacy Inc.; Decision and Order

I. Introduction

On October 31, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registrations (OSC/ISO) to Empire Pharmacy, Inc., and Skyline Pharmacy, Inc., of Philadelphia, Pennsylvania (collectively, Registrants). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 18. The OSC/ISO informed Registrants of the immediate suspension of their DEA Certificates of Registration, Nos. FE8167733 and FS0903840, pursuant to 21 U.S.C. 824(d), alleging that Registrants' continued registration constitutes "an imminent danger to the public health or safety." *Id.* at 1 (quoting 21 U.S.C. 824(d)). The OSC/ISO also proposed the revocation of Registrants' registrations, alleging that Registrants' continued registration is inconsistent with the

⁴ Applicant further admits that his conviction was upheld on appeal in 2020. RFAA, Attach. A, at 2.

⁵ The underlying conviction forming the basis for mandatory exclusion from participation in federal health care programs need not involve controlled substances to provide the grounds for revocation or denial pursuant to section 824(a)(5). *Jeffrey Stein, M.D.*, 84 FR 46,968, 46,971–46,972 (2019); *see also Narciso Reyes, M.D.*, 83 FR 61678, 61681 (2018); *KK Pharmacy*, 64 FR 49507, 49510 (1999) (collecting cases).

public interest. *Id.* (citing 21 U.S.C. 823(g)(1), 824(a)(4)).¹

Specifically, the OSC/ISO alleged that between February 20, 2019, and August 30, 2023, Registrants failed to maintain accurate records of their purchasing, dispensing, and physical inventory of controlled substances, in violation of federal and Pennsylvania state law. RFAAX 2, at 4–6 (citing 21 CFR 1304.04(a), 1304.11(a)–(c), 1304.21(a); 35 Pa. Cons. Stat. Ann. sections 780–112(a)–(c), and 780–113(a)(21)).

The OSC/ISO notified Registrants of their right to file with DEA a written request for hearing and that if they failed to file such a request, they would be deemed to have waived their right to a hearing and be in default. RFAAX 2, at 7 (citing 21 CFR 1301.43). Here, Registrants did not request a hearing. RFAA, at 2.² “A default, unless excused, shall be deemed to constitute a waiver of the registrant’s/applicant’s right to a hearing and an admission of the factual allegations of the [OSC/ISO].” 21 CFR 1301.43(e).

Further, “[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67.” *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrants’ default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

¹ According to Agency records, Empire Pharmacy’s registration expired on August 31, 2024, and Skyline Pharmacy’s registration expired on February 29, 2024. The fact that a registrant allows its registration to expire during the pendency of an administrative enforcement proceeding does not impact the Agency’s jurisdiction or prerogative under the Controlled Substances Act (CSA) to adjudicate the OSC/ISO to finality. *Jeffrey D. Olsen, M.D.*, 84 FR 68474, 68476–79 (2019).

² Based on the Government’s submissions in its RFAA dated February 9, 2024, the Agency finds that service of the OSC/ISO on Registrants was adequate. Specifically, the included Declaration from a DEA Special Agent asserts that on November 1, 2023, the OSC/ISO was personally served at both of Registrants’ registered addresses during the execution of simultaneous search warrants at both locations. RFAAX 3, at 1–2. The Special Agent noted in the Declaration that an individual who serves as the owner and/or controlling officer at both Empire Pharmacy and Skyline Pharmacy was physically present at the location of Empire Pharmacy during the execution of the search warrant and service of the OSC/ISO. *Id.* at 2. This individual received a copy of the OSC/ISO as well as instructions from DEA personnel. *Id.*

II. Applicable Law

A. The Alleged Statutory and Regulatory Violations

As discussed above, the OSC/ISO alleges that Registrants violated multiple provisions of the Controlled Substances Act (CSA) and its implementing regulations. As the Supreme Court stated in *Gonzales v. Raich*, “the main objectives of the CSA were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances. . . . To effectuate these goals, Congress devised a closed regulatory system making it unlawful to . . . dispense[] or possess any controlled substance except in a manner authorized by the CSA.” 545 U.S. 1, at 12–13 (2005). In maintaining this closed regulatory system, “[t]he CSA and its implementing regulations set forth strict requirements regarding registration, . . . drug security, and recordkeeping.” *Id.* at 14.

Here, the OSC/ISO’s allegations concern the CSA’s “strict requirements regarding registration[,] . . . drug security, and recordkeeping” and, therefore, go to the heart of the CSA’s “closed regulatory system” specifically designed “to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.” *Id.*

B. Improper Dispensing, Recordkeeping, and Unaccounted for Controlled Substances

According to DEA’s implementing regulations, pharmacies must maintain “a complete and accurate record of each controlled substance . . . sold” 21 CFR 1304.21(a). This includes conducting and maintaining an “initial inventory . . . of all stocks of controlled substances on hand on the date [the pharmacy] first engages in the . . . dispensing of controlled substances,” as well as a “biennial inventory . . . of all stocks of controlled substances on hand.” 21 CFR 1304.11(a)–(c). Pharmacies must retain these inventories “for at least 2 years from the date of such inventory or records, for inspection and copying.” 21 CFR 1304.04.

Pennsylvania law also requires pharmacies to keep accurate records and maintain proper inventories regarding the purchase, sale, or dispensing of any controlled substances. 35 Pa. Cons. Stat. Ann. section 780–112(a)–(c). In Pennsylvania, it is unlawful for a pharmacy to fail to “make, keep or furnish any record, notification, order form, statement, invoice or information” relating to the purchasing or dispensing of a controlled substance. *Id.* section 780–113(a)(21).

III. Findings of Fact

The Agency finds that, in light of Registrants’ default, the factual allegations in the OSC/ISO are deemed admitted.³ Registrants are deemed to have admitted that from February 20, 2019, until at least August 30, 2023, Empire Pharmacy failed to maintain accurate records of its purchasing and dispensing of controlled substances. RFAAX 2, at 6. For example, Registrants admit that there were significant discrepancies between the dispensing/order data that Empire submitted to its distributors and the dispensing data that Empire reported to Pennsylvania’s PDMP. *Id.* at 4. Registrants admit that a comparison of Empire’s PDMP data to Empire’s distributor order data from February 20, 2019, through July 14, 2022, revealed discrepancies of: (1) approximately 404,106 dosage units of alprazolam 1 mg, (2) approximately 822,700 dosage units of alprazolam 2 mg, and (3) approximately 1,969 bottles of promethazine with codeine. *Id.* at 5. These discrepancies amounted to an approximately 99% variance between the PDMP data and Empire’s distributor order data. *Id.* Registrant admits that there were also significant discrepancies for Skyline Pharmacy,⁴ and that both pharmacies failed to maintain accurate records of their purchasing and dispensing of controlled substances. *Id.* at 4–6. Registrants further admit that Empire Pharmacy failed to adequately maintain an initial and biennial inventory, and that Skyline Pharmacy failed to maintain an initial inventory of controlled substances. *Id.* at 4.

Accordingly, the Agency finds substantial record evidence that each Registrant failed to maintain accurate records of its purchasing and dispensing

³ Registrants are deemed to have admitted and the Agency finds that Registrants share common management and control. RFAAX 2, at 3. Registrants admit that S.O. is the owner and/or controlling officer of both Empire Pharmacy and Skyline Pharmacy. Given the fact that the same individual exercises management and control over the entities, the misconduct of any entity is relevant to the determination of whether the others can be entrusted with a DEA registration. *See Morning Star Pharmacy & Med. Supply*, 85 FR 51045, 51062 (2020)) (“Due to the commonality of . . . management, and key employees between Respondent Pharmacy and Cedar Hill [Pharmacy], any misconduct related to controlled substances at Cedar Hill is relevant to the determination of whether Respondent pharmacy can be entrusted with a registration.”).

⁴ Registrants admit that when comparing Skyline Pharmacy’s PDMP data to Skyline’s distributor order data from July 18, 2022, through October 18, 2021, there was a discrepancy of approximately 117,600 dosage units of alprazolam 1 mg, 223,500 dosage units of alprazolam 2 mg, and 789 bottles of promethazine with codeine. *Id.* at 6. These discrepancies amounted to an approximately 100% variance between the PDMP data and Skyline’s distributor order data. *Id.*

of controlled substances. The Agency also finds substantial record evidence that each Registrant failed to maintain adequate inventories of all controlled substances on hand.

IV. Discussion

A. The Controlled Substances Act and Implementing Regulations

Under Section 304 of the CSA, “[a] registration . . . to . . . distribute [] or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under . . . [21 U.S.C. 823] inconsistent with the public interest as determined by such section.” 21 U.S.C. 824(a)(4). In the case of a “practitioner,” which is defined in 21 U.S.C. 802(21) to include a “pharmacy,” Congress directed the Attorney General to consider five factors in making the public interest determination. 21 U.S.C. 823(g)(1)(A–E).⁵

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. 243, 292–93 (2006) (Scalia, J., dissenting) (“It is well established that these factors are to be considered in the disjunctive,” citing *In re Arora*, 60 FR 4447, 4448 (1995)); *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *Morall v. Drug Enf’t Admin.*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *Penick Corp. v. Drug Enf’t Admin.*, 491 F.3d 483, 490 (D.C. Cir. 2007); *Morall*, 412 F.3d at 185 n.2; *David H. Gillis, M.D.*, 58 FR 37507, 37508 (1993).

In this matter, while all of the 21 U.S.C. 823(g)(1) factors have been considered, the Agency finds that the Government’s evidence in support of its *prima facie* case is confined to Factors B and D.⁶ See RFAAX 1, at 4. Moreover, the Government has the burden of proof in this proceeding. 21 CFR 1301.44.

Here, the Agency finds that the Government’s evidence satisfies its *prima facie* burden of showing that each Registrant’s continued registration would be “inconsistent with the public interest.” 21 U.S.C. 823(g)(1).

A. Allegation That Registrants’ Registrations Are Inconsistent With the Public Interest

Factors B and/or D—Registrants’ Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

Evidence is considered under Public Interest Factors B and D when it reflects compliance or non-compliance with federal and local laws related to controlled substances and experience dispensing controlled substances. 21 U.S.C. 823(g)(1)(B) and (D); see also *Kareem Hubbard, M.D.*, 87 FR 21156, 21162 (2022). Here, as found above, Registrants are deemed to have admitted and the Agency finds that Registrants failed to maintain accurate records of their purchasing and dispensing of controlled substances. RFAAX 2, at 4–6. Additionally, Registrants are deemed to have admitted and the Agency finds that each pharmacy failed to maintain adequate inventories of all stocks of controlled substances on hand. Therefore, the Agency finds substantial record evidence that Registrants violated federal and state law, namely 21 CFR 1304.04(a), 1304.11(a)–(c), 1304.21(a); and 35 Pa. Cons. Stat. Ann. sections 780–112(a)–(c), 780–113(a)(21).⁷

Accordingly, the Agency finds that Factors B and D weigh in favor of revocation of Registrants’ registrations and thus finds Registrants’ continued registration to be inconsistent with the public interest. The Agency further finds that Registrants failed to provide any evidence to rebut the Government’s *prima facie* case.

V. Sanction

Here, the Government has met its *prima facie* burden of showing that Registrants’ continued registration is inconsistent with the public interest due to their numerous violations pertaining

to controlled substance dispensing and recordkeeping. Accordingly, the burden shifts to Registrants to show why they can be entrusted with registration. *Morall*, 412 F.3d at 174; *Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 FR 18882, 18904 (2018); *supra* sections III and IV. The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 FR 46968, 46972 (2019); see also *Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that he will not engage in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 833; *ALRA Labs, Inc. v. Drug Enf’t Admin.*, 54 F.3d 450, 452 (7th Cir. 1995). A registrant’s acceptance of responsibility must be unequivocal. *Jones Total Health Care Pharmacy*, 881 F.3d at 830–31. In addition, a registrant’s candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 & n.4. The Agency has also considered the need to deter similar acts by the registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR 46972–73.

Here, Registrants did not timely or properly request a hearing and were deemed to be in default. 21 CFR 1301.43(c)(1), (e), (f)(1); RFAA, at 1–2. To date, Registrants have not filed a motion with the Office of the Administrator to excuse the default. 21 CFR 1301.43(c)(1). Registrants have thus failed to answer the allegations contained in the OSC and have not otherwise availed themselves of the opportunity to refute the Government’s case. As such, Registrants have made no representations as to their future compliance with the CSA nor made any demonstration that they can be entrusted with registration. Moreover, the evidence presented by the Government shows that Registrants violated the CSA, further indicating that Registrants cannot be entrusted.

⁵ The five factors of 21 U.S.C. 823(g)(1)(A–E) are:

(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(B) The [registrant’s] experience in dispensing, or conducting research with respect to controlled substances.

(C) The [registrant’s] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(D) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(E) Such other conduct which may threaten the public health and safety.

⁶ The Agency has carefully considered the entire transmitted record, and this Decision/Order is the result of its adjudication of that record in its entirety.

⁷ The OSC/ISO alleges that Registrants violated additional state statutes related to their failure to maintain adequate records and their failure to adequately report their dispensing of controlled substances to the Pennsylvania PDMP. See RFAAX 2, at 2 (citing 35 Pa. Cons. Stat. Ann. sections 872.7(a), (c), 780–113(a)(12)). Neither the OSC/ISO nor the RFAA contains sufficient analysis to allow the Agency to adjudicate these allegations. However, the found violations in this decision are more than sufficient to support the Government’s requested sanction of revocation under these circumstances.

VI. Conclusion

Accordingly, the Agency will order the revocation of Registrants' registrations.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificates of Registration Nos. FE8167733 and FS0903840 issued to Empire Pharmacy Inc. and Skyline Pharmacy Inc. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Empire Pharmacy Inc. and/or Skyline Pharmacy Inc. to renew or modify the named registrations, as well as any other pending application of Empire Pharmacy Inc. and/or Skyline Pharmacy Inc. for additional registration in Pennsylvania. This Order is effective May 16, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 10, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025-06425 Filed 4-15-25; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ajumobi Agu, M.D.; Decision and Order

I. Introduction

On November 14, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Ajumobi Agu, M.D., of Las Vegas, Nevada (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1. The OSC/ISO informed Registrant of the immediate suspension of his DEA

Certification of Registration, Control No. FA4195459, pursuant to 21 U.S.C. 824(d), alleging that Registrant's continued registration constitutes "'an imminent danger to the public health or safety.'" *Id.* (quoting 21 U.S.C. 824(d)). The OSC/ISO also proposed the revocation of Registrant's registration, alleging that Registrant's registration should be revoked because Registrant lacks state authority to handle controlled substances and Registrant's continued registration is inconsistent with the public interest. *Id.* (citing 21 U.S.C. 823(g)(1), 824(a)(3), 824(a)(4)).

Specifically, the OSC/ISO alleged that Registrant continued to dispense controlled substances after his state medical and controlled substances licenses were suspended. *Id.* at 3. The OSC/ISO alleged that Registrant's misconduct violated both the implementing regulations of the Controlled Substances Act (CSA) and Nevada state law. *Id.* at 2.

The OSC/ISO notified Registrant of his right to file a written request for hearing and an answer, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 4–5 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ "A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC/ISO]." 21 CFR 1301.43(e); *see also* RFAAX 1, at 4–5 (providing notice to Registrant).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(a), (c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

II. Lack of State Authority

A. Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC/ISO are admitted. Accordingly, Registrant admits that on

¹ Based on the Government's submissions in its RFAA dated August 22, 2024, the Agency finds that service of the OSC/ISO on Registrant was adequate. Specifically, the included Declaration from a DEA Diversion Investigator indicates that Registrant was personally served with a copy of the OSC/ISO at his residential address on November 17, 2023. RFAAX 2, at 1–2, *see also* RFAAX 3.

July 14, 2023, the Nevada State Board of Pharmacy suspended Registrant's Nevada controlled substance license. RFAAX 1, at 3. Further, on September 19, 2023, the Nevada Board of Medical Examiners suspended Registrant's Nevada medical license. *Id.* at 2–3.

According to Nevada's online records, of which the Agency takes official notice, Registrant's Nevada controlled substance license is now revoked.² Nevada State Board of Pharmacy License Verification, <https://online.nvbop.org/#/verifylicense> (last visited date of signature of this Order). Further, Registrant's Nevada medical license remains suspended. Nevada State Board of Medical Examiners Licensee Search, <https://nsbme.us.thenticcloud.net/webs/nsbme/register/#> (last visited date of signature of this Order).

Accordingly, the Agency finds that Registrant is not licensed to practice medicine nor to handle controlled substances in Nevada, the state in which he is registered with DEA.³

B. Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) ("The Attorney General can register a physician to dispense controlled

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

³ Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." The material fact here is that Registrant, as of the date of this decision, is not licensed to practice medicine and/or handle controlled substances in Nevada. Registrant may dispute these facts by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration, at dea.addo.attorneys@dea.gov.

substances ‘if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.’ . . . The very definition of a ‘practitioner’ eligible to prescribe includes physicians ‘licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices’ to dispense controlled substances. § 802(21).”). The Agency has applied these principles consistently. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁴

According to Nevada statute, “[e]very practitioner or other person who dispenses any controlled substance within th[e] State or who proposes to engage in the dispensing of any controlled substance within th[e] State shall obtain biennially a registration issued by the [Nevada State Board of Pharmacy] in accordance with its regulations.” Nev. Rev. Stat. § 453.226(1) (2024). Further, according to Nevada statute, “dispense” means “to deliver a controlled substance to an ultimate user, patient or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.” *Id.* § 453.056(1).

Here, the undisputed evidence in the record is that Registrant lacks authority to dispense controlled substances in Nevada because his Nevada controlled substance license is now revoked. As discussed above, an individual must hold a Nevada controlled substance license to dispense a controlled substance in Nevada. Thus, because Registrant lacks authority to handle

controlled substances in Nevada, the state in which he is registered with the DEA, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant’s DEA registration be revoked.

III. Public Interest

A. Applicable Law

As discussed above, the OSC/ISO alleges that Registrant violated provisions of the CSA and its implementing regulations. As the Supreme Court stated in *Gonzales v. Raich*, “the main objectives of the CSA were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances. . . . To effectuate these goals, Congress devised a closed regulatory system making it unlawful to . . . dispense[] or possess any controlled substance except in a manner authorized by the CSA.” 545 U.S. 1, at 12–13 (2005). In maintaining this closed regulatory system, “[t]he CSA and its implementing regulations set forth strict requirements regarding registration, . . . drug security, and recordkeeping.” *Id.* at 14. Here, the OSC/ISO’s allegations concern the CSA’s “strict requirements regarding registration . . .” and, therefore, go to the heart of the CSA’s “closed regulatory system” specifically designed “to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.” *Id.*

Dispensing After State Authority Suspended (21 CFR 1306.04(a); Nev. Rev. Stat. §§ 453.226(1), 630.160(1), 630.020)

The OSC/ISO alleges that Registrant continued to dispense controlled substances after his state medical and controlled substances licenses were suspended. RFAAX 1, at 3. Under the CSA, a prescription for a controlled substance is valid only if “issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” 21 CFR 1306.04(a). Similarly, Nevada regulations prohibit the dispensing of controlled substances without a Nevada controlled substance license and prohibit the practice of medicine, which includes prescribing, without a Nevada medical license. Nev. Rev. Stat. §§ 453.226(1), 630.160(1), 630.020 (2024).

B. Findings of Fact

Registrant is deemed to have admitted that following the initial suspension of Registrant’s Nevada medical license on June 30, 2023, Registrant went on to

issue approximately 22 prescriptions for controlled substances, including oxycodone (a Schedule II opioid), alprazolam (a Schedule IV benzodiazepine), and carisoprodol (a Schedule IV muscle relaxant). RFAAX 1, at 3. Registrant prescribed these medications to 14 patients from June 30, 2023, through at least September 11, 2023.⁵ *Id.* As noted in *supra* II.A., Registrant’s Nevada controlled substance license was also suspended beginning on July 14, 2023. *Id.*

Accordingly, the Agency finds substantial record evidence that Registrant issued at least 22 controlled substance prescriptions while his Nevada medical and/or controlled substance license(s) were suspended. *Id.*

C. Discussion

The Controlled Substances Act’s Public Interest Factors

When the CSA’s strict requirements are not met, the Attorney General “may deny, suspend, or revoke [a] registration if . . . the [registrant’s] registration would be ‘inconsistent with the public interest.’” *Gonzales v. Oregon*, 546 U.S. 243, 251 (2006) (quoting 21 U.S.C. 824(a)(4)). In the case of a “practitioner,” Congress directed the Attorney General to consider five factors in making the public interest determination. *Id.*; 21 U.S.C. 823(g)(1)(A–E).⁶

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292–93 (Scalia, J., dissenting) (“It is well established that these factors are to be considered in the disjunctive,” quoting *In re Arora*, 60 FR 4447, 4448 (1995)); *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *David H. Gillis, M.D.*, 58 FR 37507, 37508 (1993); *see Morall v. Drug Enf’t Admin.*,

⁵ Registrant’s Nevada medical license was briefly reinstated on August 10, 2023, but then suspended again on September 19, 2023, based on findings that Registrant engaged in the practice of medicine after the initial June 30, 2023 suspension of his Nevada medical license. RFAAX 1, at 3. There is no evidence that Registrant’s controlled substance license was reinstated after it was suspended on July 14, 2023.

⁶ The five factors are:

(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(B) The [registrant’s] experience in dispensing, or conducting research with respect to controlled substances.

(C) The [registrant’s] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(D) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(E) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(g)(1)(A–E).

⁴ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper, M.D.*, 76 FR at 71371–72; *Sheran Arden Yeats, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton, M.D.*, 43 FR at 27617.

412 F.3d 165, 181 (D.C. Cir. 2005) (describing the Agency's adjudicative process as "applying a multi-factor test through case-by-case adjudication," quoting *LeMoyné-Owen Coll. v. N.L.R.B.*, 357 F.3d 55, 61 (D.C. Cir. 2004)). Any one factor, or combination of factors, may be decisive, *David H. Gillis, M.D.*, 58 FR at 37508, and the Agency "may give each factor the weight . . . deem[ed] appropriate in determining whether a registration should be revoked or an application for registration denied." *Morall*, 412 F.3d at 185 n.2 (Henderson, J., concurring) (quoting *Robert A. Smith, M.D.*, 70 FR 33207, 33208 (2007)); see also *Penick Corp. v. Drug Enf't Admin.*, 491 F.3d 483, 490 (D.C. Cir. 2007).

Moreover, while the Agency is required to consider each of the factors, it "need not make explicit findings as to each one." *MacKay v. Drug Enf't Admin.*, 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman v. U. S. Drug Enf't Admin.*, 567 F.3d 215, 222 (6th Cir. 2009)); *Jones Total Health Care Pharmacy, LLC v. Drug Enf't Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Hoxie v. Drug Enf't Admin.*, 419 F.3d 477, 482 (6th Cir. 2005). "In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct." *Jayam Krishna-Iyer, M.D.*, 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay*, 664 F.3d at 821.

In this matter, while all of the 21 U.S.C. 823(g)(1) factors have been considered,⁷ the Agency finds that the Government's evidence in support of its *prima facie* public interest revocation case regarding Registrant's violations of the CSA's implementing regulations is confined to Factors B and D. See RFAAX 1, at 2–3. Moreover, the Government has the burden of proof in

this proceeding. 5 U.S.C.A. § 556(d); 21 CFR 1301.44.

Here, the Agency finds that the Government's evidence satisfies its *prima facie* burden of showing that Registrant's continued registration would be "inconsistent with the public interest." 21 U.S.C. 823(g)(1).

Factors B and/or D—Registrant Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

Evidence is considered under Public Interest Factors B and D when it reflects compliance or non-compliance with federal and local laws related to controlled substances and experience dispensing controlled substances. 21 U.S.C. 823(g)(1)(B) and (D); see also *Kareem Hubbard, M.D.*, 87 FR 21156, 21162 (2022).

Here, the Registrant's conduct reflects negative experience in prescribing with respect to controlled substances. See *supra* III.B. Moreover, the Agency found substantial record evidence that Registrant issued at least 22 controlled substance prescriptions while his Nevada medical and/or controlled substance license(s) were suspended. *Id.* Accordingly, there is substantial record evidence that Registrant violated 21 CFR 1306.04(a) and Nev. Rev. Stat. §§ 453.226(1), 630.160(1).

The Agency further finds that after balancing the factors of 21 U.S.C. 823(g)(1), Respondent's continued registration would be "inconsistent with the public interest." 21 U.S.C. 824(a)(4). Accordingly, the Government satisfied its *prima facie* burden of showing that Respondent's continued registration would be "inconsistent with the public interest." 21 U.S.C. 824(a)(4). The Agency also finds that there is insufficient mitigating evidence to rebut the Government's *prima facie* case. Thus, the only remaining issue is whether, in spite of the public interest determination, Respondent can be trusted with a registration.

D. Sanction

Here, the Government has met its *prima facie* burden of showing that Registrant's continued registration is inconsistent with the public interest due to his violations pertaining to controlled substance prescribing. Accordingly, the burden shifts to Registrant to show why he can be entrusted with a registration. *Morall*, 412 F.3d at 174; *Jones Total Health Care Pharmacy, LLC v. Drug Enf't Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 FR 18882, 18904 (2018).

The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 FR 46968, 46972 (2019); see also *Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that it will not engage in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 833; *ALRA Labs, Inc. v. Drug Enf't Admin.*, 54 F.3d 450, 452 (7th Cir. 1995). A registrant's acceptance of responsibility must be unequivocal. *Jones Total Health Care Pharmacy*, 881 F.3d at 830–31. In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 & n.4. The Agency has also considered the need to deter similar acts by the registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR at 46972–73.

Here, Registrant failed to answer the allegations contained in the OSC/ISO and did not otherwise avail himself of the opportunity to refute the Government's case. As such, there is no record evidence that Registrant takes responsibility, let alone unequivocal responsibility, for the founded violations, meaning, among other things, that it is not reasonable to believe that Registrant's future controlled substance-related actions will comply with legal requirements. Accordingly, Registrant did not convince the Agency that he can be entrusted with registration.

Further, the interests of specific and general deterrence weigh in favor of revocation. Given the foundational nature of Registrant's violations, a sanction less than revocation would send a message to the existing and prospective registrant community that compliance with the law is not a condition precedent to maintaining a registration.

Accordingly, the Agency will order the revocation of Registrant's registration.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby

⁷ As to Factor A, there is evidence in the record that Registrant's state medical license was suspended on September 19, 2023, after Registrant engaged in the practice of medicine between June 30, 2023 and August 9, 2023 while his state license was suspended. RFAAX 1, at 3. Here, the Government has established that Registrant prescribed controlled substances after his Nevada medical license was suspended on June 30, 2023. See *supra* I. Prescribing is part of the practice of medicine, but does not make up the entire practice of medicine. See Nev. Rev. Stat. § 630.020. Accordingly, the Agency finds that Factor A does not weigh for or against Registrant's continued registration.

revoke DEA Certificate of Registration No. FA4195459 issued to Ajumobi Agu, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Ajumobi Agu, M.D., to renew or modify this registration, as well as any other pending application of Ajumobi Agu, M.D., for additional registration in Nevada. This Order is effective May 16, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 10, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025-06452 Filed 4-15-25; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Lona Bibbs-Walker, D.D.S.; Decision and Order

I. Introduction

On May 13, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registrations (OSC/ISO) to Lona Bibbs-Walker, D.D.S., of Fayetteville, Georgia (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1. The OSC/ISO informed Registrant of the immediate suspension of her DEA Certificates of Registration, Nos. FB3395806 and FB9305891, pursuant to 21 U.S.C. 824(d), alleging that Registrant's continued registration constitutes "an imminent danger to the public health or safety." *Id.* (quoting 21 U.S.C. 824(d)). The OSC/ISO also proposed the revocation of Registrant's registration, alleging that Registrant's continued registration is inconsistent with the public interest. *Id.* (citing 21 U.S.C. 823(g)(1), 824(a)(4)).

The OSC/ISO alleged that from May 19, 2020, through February 16, 2024, Registrant failed to maintain adequate records relating to her handling of controlled substances. *Id.* The OSC/ISO also alleged that Registrant was unable to account for hundreds of dosage units of highly diverted controlled substances. *Id.* Finally, the OSC/ISO alleged that Registrant does not have state authority to practice dentistry since on or about March 5, 2024. *Id.* The OSC/ISO alleged that Registrant's above-described misconduct violated both the implementing regulations of the Controlled Substances Act (CSA) and Georgia state law. *Id.* at 2.

The OSC/ISO notified Registrant of her right to file with DEA a written request for hearing and an answer, and that if she failed to file such a request, she would be deemed to have waived her right to a hearing and be in default. RFAAX 2, at 5 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ "A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC/ISO]." 21 CFR 1301.43(e); *see also* RFAAX 2, at 5 (providing notice to Registrant).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(a), (c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

II. Lack of State Authority

A. Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC/ISO are deemed admitted. Accordingly, Registrant admits that on March 5, 2024, the Georgia Board of Dentistry revoked Registrant's authority to practice

dentistry in Georgia. *Id.* at 4. According to Georgia online records, of which the Agency takes official notice,² Registrant's authority to practice dentistry in Georgia remains revoked. Georgia Department of Community Health License Verification, <https://gadch.mylicense.com/verification> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice dentistry in Georgia, the state in which she is registered with DEA.³

B. Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) ("The Attorney General can register a physician to dispense controlled substances 'if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.' . . . The very definition of a 'practitioner' eligible to prescribe includes physicians 'licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices' to dispense controlled substances. § 802(21)."). The Agency has applied these principles consistently. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

³ Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." The material fact here is that Registrant, as of the date of this decision, is not licensed to practice dentistry in Georgia. Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

¹ Based on the Government's submissions in its RFAA dated August 20, 2024, the Agency finds that service of the OSC/ISO on Registrant was adequate. Specifically, the included Declaration from a DEA Diversion Investigator (DI) indicates that on May 14, 2024, the DI and other DEA personnel traveled to Registrant's registered address and personally served the OSC/ISO on an individual authorized by Registrant's attorney to accept service on Registrant's behalf. RFAAX 2, at 2. Further, on the same date, the DI served a copy of the OSC/ISO via email to Registrant's registered email address, with Registrant's attorney courtesy copied. *Id.*

Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁴

According to Georgia statute, “dispense” means “to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery” Ga. Code Ann. section 16–13–21(9) (2024). Further, a “practitioner” means a “physician . . . or other person licensed, registered, or otherwise authorized under the laws of [Georgia] to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in [Georgia].” *Id.* section 16–13–21(23)(A).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice dentistry in Georgia, *supra* II.A. As discussed, an individual must be a licensed practitioner to dispense a controlled substance in Georgia. Thus, because Registrant lacks authority to practice dentistry in Georgia and, therefore, is not authorized to handle controlled substances in Georgia, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that the Registrant’s registration be revoked.

III. Public Interest

A. Applicable Law

As discussed above, the OSC/ISO alleges that Registrant violated provisions of the Controlled Substances Act (CSA) and its implementing regulations. As the Supreme Court stated in *Gonzales v. Raich*, “the main objectives of the CSA were to conquer drug abuse and to control the legitimate

and illegitimate traffic in controlled substances. . . . To effectuate these goals, Congress devised a closed regulatory system making it unlawful to . . . dispense[] or possess any controlled substance except in a manner authorized by the CSA.” 545 U.S. 1, at 12–13 (2005). In maintaining this closed regulatory system, “[t]he CSA and its implementing regulations set forth strict requirements regarding registration, . . . drug security, and recordkeeping.” *Id.* at 14.

Here, the OSC/ISO’s allegations concern the CSA’s “strict requirements regarding registration . . . drug security, and recordkeeping” and, therefore, go to the heart of the CSA’s “closed regulatory system” specifically designed “to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.” *Id.*

Inadequate Recordkeeping and Missing Controlled Substances (21 CFR 1304.04(a), 1304.11(a)–(c), 1304.21(a) and Ga. Comp. R. & Regs. section 480–28–.04(4), (5)(a)–(b))

The OSC/ISO alleges that from May 19, 2020, through February 16, 2024, Registrant failed to maintain adequate records relating to her handling of controlled substances. RFAAX 1, at 1. The OSC/ISO also alleges that Registrant was unable to account for hundreds of dosage units of highly diverted controlled substances. *Id.*

Under the CSA, registrants are required to keep current and accurate records of all controlled substances handled. 21 CFR 1304.21(a). Further, registrants are required to take a complete and accurate inventory of all controlled substances on hand from the date they first engage in the dispensing of controlled substances and, thereafter, must take biennial inventories; such inventories must be kept for at least two years from the date of their creation. *Id.* §§ 1304.04(a), 1304.11(a)–(c).

Similarly, Georgia regulations require that practitioners maintain prescription records for two years from the date the prescriptions are filled, and such records must be kept available for inspection. Ga. Comp. R. & Regs. section 480–28–.04(4). Further, Georgia regulations require that practitioners maintain records of “all controlled substance drugs received and disposed of” as well as maintain an inventory of all controlled substances, which must be taken biennially. *Id.* section 480–28–.04(5)(a)–(b).

B. Findings of Fact

Registrant is deemed to have admitted that from May 19, 2020, through at least February 16, 2024, she failed to

maintain proper records regarding her inventory, purchasing, and dispensing of controlled substances. RFAAX 1, at 3. Further, Registrant is deemed to have admitted that she failed to adequately maintain an initial or biennial inventory of controlled substances. *Id.* Finally, Registrant is deemed to have admitted that between May 19, 2020, through at least February 16, 2024, she was unable to account for at least the following controlled substances: 200 dosage units of hydrocodone acetaminophen (a Schedule II opioid) 5/325 mg; 100 dosage units of hydrocodone acetaminophen 7.5/325 mg; 500 dosage units of hydrocodone acetaminophen 10/325 mg; 600 dosage units of oxycodone (a Schedule II opioid) 10 mg; 100 dosage units of oxycodone 15 mg; 700 dosage units of oxycodone 30 mg; and 118 bottles of promethazine with Codeine (a Schedule V opioid), with each bottle typically including 473 to 480 ml. *Id.*

Accordingly, the Agency finds substantial record evidence that Registrant failed to maintain proper records regarding her purchasing and dispensing of controlled substances, and her initial or biennial inventory of controlled substances. RFAAX 1, at 3. These failures resulted in Registrant being unable to account for hundreds of dosage units of controlled substances.

C. Discussion

The Controlled Substances Act’s Public Interest Factors

Pursuant to the CSA, “[a] registration . . . to . . . distribute[] or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under . . . [21 U.S.C. 823] inconsistent with the public interest as determined by such section.” 21 U.S.C. 824(a)(4). In the case of a “practitioner,” Congress directed the Attorney General to consider five factors in making the public interest determination. 21 U.S.C. 823(g)(1)(A)–(E).⁵

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. 243, 292–93 (2006) (Scalia, J.,

⁵ The five factors of 21 U.S.C. 823(g)(1)(A)–(E) are: (A) The recommendation of the appropriate State licensing board or professional disciplinary authority. (B) The [registrant’s] experience in dispensing, or conducting research with respect to controlled substances. (C) The [registrant’s] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances. (D) Compliance with applicable State, Federal, or local laws relating to controlled substances. (E) Such other conduct which may threaten the public health and safety.

⁴ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371–72; *Sheran Arden Yeats, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton, M.D.*, 43 FR 27617.

dissenting) (“It is well established that these factors are to be considered in the disjunctive,” citing *In re Arora*, 60 FR 4447, 4448 (1995)); *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *Morall v. Drug Enf’t Admin.*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *Penick Corp. v. Drug Enf’t Admin.*, 491 F.3d 483, 490 (D.C. Cir. 2007); *Morall*, 412 F.3d at 185 n.2; *David H. Gillis, M.D.*, 58 FR 37507, 37508 (1993).

According to Agency decisions, the Agency “may rely on any one or a combination of factors and may give each factor the weight [it] deems appropriate in determining whether” to revoke a registration. *Id.*; see also *Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin.*, 881 F.3d 823, 830 (11th Cir. 2018) (citing *Akhtar-Zaidi v. Drug Enf’t Admin.*, 841 F.3d 707, 711 (6th Cir. 2016)); *MacKay v. Drug Enf’t Admin.*, 664 F.3d 808, 816 (10th Cir. 2011); *Volkman v. U. S. Drug Enf’t Admin.*, 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie v. Drug Enf’t Admin.*, 419 F.3d 477, 482 (6th Cir. 2005).

Moreover, while the Agency is required to consider each of the factors, it “need not make explicit findings as to each one.” *MacKay*, 664 F.3d at 816 (quoting *Volkman*, 567 F.3d at 222); see also *Hoxie*, 419 F.3d at 482. “In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant’s misconduct.” *Jayam Krishna-Iyer, M.D.*, 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay*, 664 F.3d at 821.

In this matter, while all of the 21 U.S.C. 823(g)(1) factors have been considered, the Agency finds that the Government’s evidence in support of its *prima facie* public interest revocation case regarding Registrant’s violations of the CSA’s implementing regulations is confined to Factors B and D. See RFAAX 1, at 3–4. Moreover, the Government has the burden of proof in this proceeding. 5 U.S.C.A. 556(d); 21 CFR 1301.44.

Here, the Agency finds that the Government’s evidence satisfies its *prima facie* burden of showing that Registrant’s continued registration would be “inconsistent with the public interest.”

21 U.S.C. 823(g)(1)

Factors B and/or D—Registrant Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

Evidence is considered under Public Interest Factors B and D when it reflects compliance or non-compliance with federal and local laws related to controlled substances and experience dispensing controlled substances. 21 U.S.C. 823(g)(1)(B) and (D); see also *Kareem Hubbard, M.D.*, 87 FR 21156, 21162 (2022). Here, as found above, Registrant is deemed to have admitted and the Agency finds that from May 19, 2020, through February 16, 2024, Registrant failed to maintain adequate records relating to her handling of controlled substances and was unable to account for hundreds of dosage units of controlled substances. RFAAX 1, at 1.

As such, the Agency finds substantial record evidence that Registrant violated 21 CFR 1304.04(a), 1304.11(a)–(c), 1304.21(a) and Ga. Comp. R. & Regs. section 480–28–.04(4), (5)(a)–(b). After weighing Factors B and D, the Agency further finds that Registrant’s continued registration is inconsistent with the public interest. 21 U.S.C. 823(g)(1). Accordingly, the Agency finds that the Government established a *prima facie* case, that Registrant did not rebut that *prima facie* case, and that there is substantial record evidence supporting the revocation of Registrant’s registration. 21 U.S.C. 823(g)(1).

D. Sanction

Here, the Government has met its *prima facie* burden of showing that Registrant’s continued registration is inconsistent with the public interest due to her numerous violations pertaining to controlled substance dispensing and recordkeeping. Accordingly, the burden shifts to Registrant to show why she can be entrusted with registration. *Morall*, 412 F.3d at 174; *Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 FR 18882, 18904 (2018).

The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 FR 46968, 46972 (2019); see also *Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that he will not engage

in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 833; *ALRA Labs, Inc. v. Drug Enf’t Admin.*, 54 F.3d 450, 452 (7th Cir. 1995). A registrant’s acceptance of responsibility must be unequivocal. *Jones Total Health Care Pharmacy*, 881 F.3d at 830–31. In addition, a registrant’s candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 & n.4. The Agency has also considered the need to deter similar acts by the registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR 46972–73.

Here, Registrant failed to answer the allegations contained in the OSC/ISO and did not otherwise avail herself of the opportunity to refute the Government’s case. As such, there is no record evidence that Registrant takes responsibility, let alone unequivocal responsibility, for the founded violations, meaning, among other things, that it is not reasonable to believe that Registrant’s future controlled substance-related actions will comply with legal requirements. Accordingly, Registrant did not convince the Agency that she can be entrusted with registration.

Further, the interests of specific and general deterrence weigh in favor of revocation. Given the foundational nature of Registrant’s violations, a sanction less than revocation would send a message to the existing and prospective registrant community that compliance with the law is not a condition precedent to maintaining a registration.

E. Conclusion

Accordingly, I shall order the sanction the Government requested, as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificates of Registration Nos. FB3395806 and FB9305891 issued to Lona Bibbs-Walker, D.D.S. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Lona Bibbs-Walker, D.D.S., to renew or modify the named registrations, as well as any other pending application of Lona Bibbs-Walker, D.D.S., for

additional registration in Georgia. This Order is effective May 16, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 10, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025-06427 Filed 4-15-25; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Victor Augusto Silva, M.D.; Order

On February 22, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Victor Augusto Silva, M.D., of Tampa, Florida (Respondent). Request for Final Agency Action (RFAA), at 1; RFAA Exhibit (RFAAX) 1, at 1. The OSC/ISO informed Respondent of the immediate suspension of his DEA Certificate of Registration, No. FS3590266, pursuant to 21 U.S.C. 824(d), alleging that Respondent's continued registration constitutes "an imminent danger to the public health or safety." RFAAX 1, at 1 (quoting 21 U.S.C. 824(d)). The OSC/ISO also proposed the revocation of Respondent's registration, No. FS3590266, alleging that Respondent's registration is inconsistent with the public interest. *Id.*

More specifically, the OSC/ISO alleged that Respondent allowed an unauthorized person to use his registration to prescribe controlled substances in violation of federal regulations and Florida law. RFAAX 1, at 1–3. On April 18, 2024, the Government submitted an RFAA to the Administrator requesting that the Agency issue a default final order revoking Respondent's registration. RFAA, at 1.

As a preliminary matter, this decision addresses whether or not Respondent is in default and finds that he is. Thereafter, the decision makes specific factual findings on the alleged violations as set forth in the OSC. Next, the decision considers whether Respondent's continued registration is inconsistent with the public interest by evaluating the found violations in the context of the public interest factors. Where, as here, the Agency determines that Respondent's continued registration is inconsistent with the public interest, the Respondent is then given an opportunity to argue for mitigation of the sanction by establishing that he can be trusted with a registration. After carefully reviewing the entire record and conducting the analysis as set forth in more detail below, the Agency grants the Government's request for final agency action and revokes Respondent's registration.

I. Default Determination

Under 21 CFR 1301.43, a registrant entitled to a hearing who fails to file a timely hearing request "within 30 days after the date of receipt of the [OSC] . . . shall be deemed to have waived their right to a hearing and to be in default" unless "good cause" is established for the failure. 21 CFR 1301.43(a) & (c)(1). In the absence of a demonstration of good cause, a registrant who fails to timely file an answer also is "deemed to have waived their right to a hearing and to be in default." 21 CFR 1301.43(c)(2). Unless excused, a default constitutes "an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Here, the OSC/ISO notified Respondent of his right to file with DEA a written request for a hearing and informed him that if he failed to file a hearing request or an answer, he would be deemed to have waived his right to a hearing and be in default. RFAAX 1, at 4. Respondent requested a hearing on April 2, 2024.¹ RFAAX 3, at 3. On April 3, 2024, the Government filed proof that it had served the OSC/ISO on Respondent on February 23, 2024. Government's Notice of Service, Exhibit A, at 1. Administrative Law Judge (ALJ) Teresa A. Wallbaum provided a briefing schedule for any Government motions related to the timeliness of Respondent's hearing request with an opportunity for Respondent to file a response addressing his reasons for failing to file the request for a hearing within the time

provided by the OSC/ISO. Briefing Order Regarding Timeliness of Request for Hearing, at 1–2. Respondent's response to any Government motion was due on April 17, 2024. *Id.*, at 3. On April 4, 2024, the ALJ reminded Respondent of the filing deadline for his response. Order Regarding Status Conference, at 2. On April 10, 2024, the Government filed a motion to terminate proceedings.² RFAAX 3, at 1–2; Government's Motion to Terminate Proceedings, at 1. When Respondent failed to file a response by the deadline, the ALJ issued an order on April 18, 2024, granting the Government's motion and terminating the administrative proceedings. RFAAX 3, at 2, 4.

The Government's RFAA to the Administrator requested that the Agency issue a final order revoking Respondent's registration on the basis that his continued registration is inconsistent with the public interest. RFAA, at 1 (citing 21 U.S.C. 824(a)(4)). The Government requested final agency action "pursuant to 21 CFR 1301.43(c) and (f) . . . , because Respondent has neither timely requested a hearing, nor provided answers for the [OSC/ISO]." *Id.*

Under these facts, the Agency finds that the ALJ's termination of the proceedings—where Respondent failed to timely file a request for a hearing and an answer and did not demonstrate good cause for the failures—was appropriate.³ See RFAAX 3, at 3–4 (citing 21 CFR 1301.43(a) & (c)(2)–(f)(1), 1316.47). Thus, the Agency finds that that Respondent is in default and has admitted to the factual allegations in the OSC/ISO.⁴ 21 CFR 1301.43(e).

² The Government submitted the motion after 5:00 p.m. on April 9, 2024; the ALJ deemed it filed the following business day. RFAAX 3, at 2 n.3.

³ Subsequent filings by Respondent, even if viewed as motions to excuse the default, also fail to establish good cause for the default. 21 CFR 1301.43(f)(2). Both the OSC/ISO and the Order for Prehearing Statements provided notice of the requirement to timely file an answer. Order for Prehearing Statements, at 2; RFAAX 1, at 4.

⁴ The Government's RFAA notes that certain facts alleged in the OSC/ISO are incorrect and seeks to correct them. RFAA, at 3 n.2. According to the Government, the timeframe alleged in the OSC of "June 2023 to December 2023" should be corrected to "June 2022, to December 2023." *Id.* Thus, the Government seeks to expand the timeframe of one of the two OSC/ISO paragraphs (paragraph five) containing the details of the allegations of Respondent's unlawful prescribing of controlled substances. RFAAX 1, at 3. Although the Government may propose corrections to an OSC during a hearing process, *Judson J. Somerville, M.D.*, 82 FR 21408, 21408 n.1 (2017) (correcting registration number), a registrant's deemed "admission of the factual allegations" based on a default applies to the facts in the OSC only. 21 CFR 1301.43(e) ("A default, unless excused, shall be deemed to constitute . . . an admission of the factual allegations of the [OSC]."). Accordingly, the

¹ Respondent submitted the hearing request electronically after 5:00 p.m. on April 1, 2024. Briefing Order Regarding Timeliness of Request for Hearing, at 1 & n.1 (citing 21 CFR 1316.45).

II. State and Federal Law Regarding Permitting Unauthorized Use of a DEA Registration

As the Supreme Court stated in *Gonzales v. Raich*, 545 U.S. 1 (2005), “the main objectives of the [Controlled Substances Act (CSA)] were to conquer drug abuse and control the legitimate and illegitimate traffic in controlled substances.” 545 U.S. at 12.

Congress was particularly concerned with the need to prevent the diversion of drugs from legitimate to illicit channels. To effectuate these goals, Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA. . . . The CSA and its implementing regulations set forth strict requirements regarding registration, labeling and packaging, production quotas, drug security, and recordkeeping.

Id. at 12–14.

According to the CSA’s implementing regulations, prescriptions may only be issued by an individual practitioner who is “[a]uthorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession” and has either been issued a DEA registration or is exempted from registration under DEA regulations. 21 CFR 1306.03. Furthermore, a lawful controlled substance order or prescription is one that is “issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” 21 CFR 1306.04(a). A “practitioner must establish and maintain a *bona fide* doctor-patient relationship in order to act ‘in the usual course of . . . professional practice’ and to issue a prescription for a ‘legitimate medical purpose.’” *Dewey C. Mackay, M.D.*, 75 FR 49956, 49973 (2010). When a registrant entrusts his registration to another person, “this Agency has long held that a registrant is strictly liable for [its] misuse.” *Kevin Dennis, M.D.*, 78 FR 52787, 52799 (2013).

Similarly, under Florida law, “[p]rescribing . . . a legend drug, including any controlled substance, other than in the course of the physician’s professional practice” is grounds for disciplinary action. Fla. Stat. section 458.331(1)(q). Moreover, Florida law states that the act of “[a]iding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to [Chapter

458 of Florida Statutes Title XXXII] or to a rule of the [Department of Health] or the [Board of Medicine]” is a basis for disciplinary action of a physician. Fla. Stat. sections 458.305(a)–(b), 458.331(1)(f). The practice of medicine includes “the prescription for any human disease, pain, injury, deformity, or other physical or mental condition.” Fla. Stat. section 458.305(4).

Based on the above, the Agency finds that it is a violation of both Florida and federal law for a registrant to allow a person who is not licensed to practice medicine in Florida (and therefore who is not authorized to prescribe controlled substances in Florida) to issue prescriptions for controlled substances using their DEA registration.

III. Findings of Fact

In light of Respondent’s default, the factual allegations in the OSC—other than paragraph 5, which the Government asserts was incorrect, *supra* n.4—are deemed admitted. 21 CFR 1301.43(e). Accordingly, the Agency deems as admitted that Respondent allowed B.L., the owner of a medical clinic, to prescribe controlled substances using Respondent’s registration in 2023. RFAAX 1, at 3. B.L. was not a licensed medical professional and was not authorized to perform medical examinations, make diagnoses, or prescribe controlled substances. *Id.* The Respondent continued to allow an unauthorized person to access his registration outside the usual course of professional practice as recently as December 2023. *Id.*

Accordingly, the Agency finds substantial record evidence that in the year 2023 Respondent allowed a person who was not licensed to practice medicine, and therefore was not authorized to prescribe controlled substances, to access his DEA registration and use it to prescribe controlled substances.

IV. Public Interest Determination

A. Legal Background on Public Interest Determinations

When the CSA’s strict requirements are not met, the Attorney General “may deny, suspend, or revoke [a] registration if . . . the [registrant’s] registration would be ‘inconsistent with the public interest.’” *Gonzales v. Oregon*, 546 U.S. 243, 251 (2006) (quoting 21 U.S.C. 824(a)(4)). In the case of a “practitioner,” Congress directed the Attorney General to consider five factors in making the public interest determination. *Id.*; 21 U.S.C. 823(g)(1)(A–E).⁵

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292–93 (Scalia, J., dissenting) (“It is well established that these factors are to be considered in the disjunctive,” quoting *In re Arora*, 60 FR 4447, 4448 (1995)); *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *David H. Gillis, M.D.*, 58 FR 37507, 37508 (1993); see *Morall v. Drug Enf’t Admin.*, 412 F.3d 165, 181 (D.C. Cir. 2005) (describing the Agency’s adjudicative process as “applying a multi-factor test through case-by-case adjudication,” quoting *LeMoyné-Owen Coll. v. N.L.R.B.*, 357 F.3d 55, 61 (D.C. Cir. 2004)). Any one factor, or combination of factors, may be decisive, *David H. Gillis, M.D.*, 58 FR 37508, and the Agency “may give each factor the weight . . . deem[ed] appropriate in determining whether a registration should be revoked or an application for registration denied.” *Morall*, 412 F.3d at 185 n.2 (Henderson, J., concurring) (quoting *Robert A. Smith, M.D.*, 70 FR 33207, 33208 (2007)); see also *Penick Corp. v. Drug Enf’t Admin.*, 491 F.3d 483, 490 (D.C. Cir. 2007).

Moreover, while the Agency is required to consider each of the factors, it “need not make explicit findings as to each one.” *MacKay v. Drug Enf’t Admin.*, 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman v. U. S. Drug Enf’t Admin.*, 567 F.3d 215, 222 (6th Cir. 2009)); *Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Hoxie v. Drug Enf’t Admin.*, 419 F.3d 477, 482 (6th Cir. 2005). “In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant’s misconduct.” *Jayam Krishna-Iyer, M.D.*, 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, Agency decisions have explained that findings under a single factor can support the

(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(B) The [registrant’s] experience in dispensing, or conducting research with respect to controlled substances.

(C) The [registrant’s] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(D) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(E) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(g)(1)(A–E).

Agency is unable to deem the modified facts of paragraph five (as proposed by the Government in the RFAA) to be admitted. Nor will the Agency deem the original facts in that paragraph to be admitted where, as here, the Government has asserted that they are incorrect. 21 CFR 1301.43(e).

⁵ The five factors are:

revocation of a registration. *MacKay*, 664 F.3d at 821.

B. Respondent's Continued Registration Is Inconsistent With the Public Interest

While the Agency has considered all the public interest factors of 21 U.S.C. 823(g)(1),⁶ the Government's evidence in support of its *prima facie* case for sanction is confined to Factors B and D. RFAAX 1, at 3. Evidence is considered under Factors B and D when it reflects compliance or non-compliance with laws related to controlled substances and experience dispensing controlled substances. *Kareem Hubbard, M.D.*, 87 FR 21156, 21162 (2022).

Here, the Respondent's conduct reflects negative experience in prescribing with respect to controlled substances. *See supra* Section III. Moreover, the Agency found substantial record evidence that in the year 2023 Respondent allowed a person who was not licensed to practice medicine, and therefore was not authorized to prescribe controlled substances, to access his DEA registration and use it to prescribe controlled substances. Accordingly, there is substantial record evidence in support of the Agency's finding that in 2023 Respondent committed violations of both Florida state law and federal controlled substance regulations, namely 21 CFR 1306.04(a) and Fla. Stat. section 458.331(f).

The Agency further finds that after balancing the factors of 21 U.S.C. 823(g)(1), Respondent's continued registration would be "inconsistent with the public interest." 21 U.S.C. 824(a)(4). Accordingly, the Government satisfied its *prima facie* burden of showing that Respondent's continued registration would be "inconsistent with the public

interest." 21 U.S.C. 824(a)(4). The Agency also finds that there is insufficient mitigating evidence to rebut the Government's *prima facie* case. Thus, the only remaining issue is whether, in spite of the public interest determination, Respondent can be trusted with a registration.

V. Sanction

Where, as here, the Government has met the burden of showing that Respondent's continued registration is inconsistent with the public interest, the burden shifts to Respondent to show why he can be entrusted with a registration. *Morall*, 412 F.3d at 174; *Jones Total Health Care Pharmacy, LLC v. Drug Enf't Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 FR 18882, 18904 (2018). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual respondent. *Jeffrey Stein, M.D.*, 84 FR 46968, 46972 (2019); *see also Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, the Agency requires that a registrant who has committed acts inconsistent with the public interest accept responsibility for those acts and demonstrate that it will not engage in future misconduct. *See Jones Total Health Care Pharmacy*, 881 F.3d at 833; *ALRA Labs, Inc. v. Drug Enf't Admin.*, 54 F.3d 450, 452 (7th Cir. 1995). The Agency requires a registrant's unequivocal acceptance of responsibility. *Janet S. Pettyjohn, D.O.*, 89 FR 82639, 82641 (2024); *Mohammed Asgar, M.D.*, 83 FR 29569, 29573 (2018); *see also Jones Total Health Care Pharmacy*, 881 F.3d at 830–31. In addition, a registrant's action during the investigation and hearing is an important factor in determining acceptance of responsibility and the appropriate sanction. *See Jones Total Health Care Pharmacy*, 881 F.3d at 830–31; *Hoxie*, 419 F.3d at 483–84. Further, the Agency considers the egregiousness and extent of the misconduct as significant factors in determining the appropriate sanction. *See Jones Total Health Care Pharmacy*, 881 F.3d at 834 & n.4. The Agency also considers the need to deter similar acts by the respondent and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR 46972–73.

Here, Respondent filed an untimely hearing request, did not file an answer, and was found to be in default. RFAAX 3, at 3–4. Thus, there is no record evidence that Respondent takes responsibility, let alone unequivocal

responsibility, for the misconduct. Accordingly, he has not convinced the Agency that his future controlled-substance-related actions will comply with the CSA such that he can be entrusted with the responsibilities of a registration.

Further, the interests of specific and general deterrence weigh in favor of revocation. Respondent's conduct in this matter concerns the CSA's "strict requirements regarding registration" and, therefore, goes to the heart of the CSA's "closed regulatory system" specifically designed "to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances." *Gonzales v. Raich*, 545 U.S. 1, 12–14 (2005). To permit Respondent to continue to maintain a registration under these circumstances would send a dangerous message that compliance with the law is not essential to maintaining a registration.

In sum, Respondent has not offered any credible evidence on the record that rebuts the Government's case for revocation of his registration, and Respondent has not demonstrated that he can be entrusted with the responsibility of registration. Accordingly, the Agency will order the revocation of Respondent's registration.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificate of Registration No. FS3590266 issued to Victor Augusto Silva, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any other pending application of Victor Augusto Silva, M.D., for registration in Florida. This Order is effective May 16, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 10, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters

⁶ As to Factor A, there is no record evidence of disciplinary action against Respondent's state medical license. 21 U.S.C. 823(g)(1)(A). State authority to practice medicine is "a necessary, but not a sufficient condition for registration." *Robert A. Leslie, M.D.*, 68 FR 15230. Therefore, "[t]he fact that the record contains no evidence of a recommendation by a state licensing board does not weigh for or against a determination as to whether continuation of the Respondent's DEA certification is consistent with the public interest." *Roni Dreszer, M.D.*, 76 FR 19434, 19444 (2011). As to Factor C, there is no evidence in the record that Respondent has been convicted of any federal or state law offense "relating to the manufacture, distribution, or dispensing of controlled substances." 21 U.S.C. 823(g)(1)(C). However, as Agency cases have noted, "the absence of such a conviction is of considerably less consequence in the public interest inquiry" and is therefore not dispositive. *Dewey C. MacKay, M.D.*, 75 FR 49973. As to Factor E, the Government's evidence fits squarely within the parameters of Factors B and D and does not raise "other conduct which may threaten the public health and safety." 21 U.S.C. 823(g)(1)(E). Accordingly, Factor E does not weigh for or against Respondent.

the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

David Israel, M.D.; Decision and Order

On August 28, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to David Israel, M.D., of Bronx, New York (Registrant).¹ Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 6. The OSC/ISO proposed the revocation of Registrant's DEA Certification of Registration (registration), No. BI8368828, alleging that he is currently without authority to handle controlled substances in the State of New York, the state in which he is registered with DEA. *Id.* at 4–5 (citing 21 U.S.C. 824(a)(3)). The OSC/ISO further proposed the revocation of Registrant's registration on the basis that Registrant has committed such acts as would render his registration inconsistent with the public interest. *Id.* at 3 (citing 21 U.S.C. 823(g)(1), 824(a)(4)).²

Specifically, the OSC/ISO alleges that “between . . . October 9, 2020, until at least . . . June 11, 2023, [Registrant] violated federal and New York state law by issuing prescriptions for controlled substances outside the usual course of professional practice and for other than a legitimate medical purpose, in violation of 21 CFR 1306.04(a) and N.Y. Comp. Codes R. & Regs. Tit. 10, § 80.65.” RFAAX 1, at 3.

The OSC notified Registrant of his right to file with DEA a written request for hearing within 30 days after the date of receipt of the OSC. *Id.* at 5–6 (citing

21 CFR 1301.43(a)). The OSC also notified Registrant that if it failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* (citing 21 CFR 1301.43(c), (d), (e)). Here, Registrant did not request a hearing. RFAA, at 2. “A default, unless excused, shall be deemed to constitute a waiver of the [registrant's] right to a hearing and an admission of the factual allegations of the [OSC/ISO].” 21 CFR 1301.43(e).

Further, “[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67.” *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), because Registrant has not timely requested a hearing nor filed an Answer to the OSC/ISO. *See also id.* § 1316.67.

I. Lack of State Authority

A. Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC/ISO are deemed admitted. According to the OSC/ISO, on August 23, 2023, the New York Department of Health suspended Registrant's medical license. RFAAX 1, at 4. According to New York online records, of which the Agency takes official notice, Registrant's medical license has since been revoked.³ New York Office of the Professions Verification Search, <https://eservices.nysed.gov/professions/verification-search> (last visited date of signature of this Order). Accordingly, the Agency finds substantial record evidence that Registrant is not licensed to practice medicine in New York, the state in which he is registered with DEA.⁴

³ Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

⁴ Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” The material fact here is that Registrant, as of the date of this decision, is not licensed to practice medicine in New York. Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

B. Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) (“The Attorney General can register a physician to dispense controlled substances ‘if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.’ . . . The very definition of a ‘practitioner’ eligible to prescribe includes physicians ‘licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices’ to dispense controlled substances. § 802(21).”). The Agency has applied these principles consistently. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁵

According to New York statute, “dispense” means “to deliver a controlled substance to an ultimate user or research subject by lawful means, . . . and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.” N.Y. Pub. Health Law section

⁵ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton, M.D.*, 43 FR 27617.

¹ Based on the Government's submissions in its RFAA dated April 18, 2024, the Agency finds that service of the OSC/ISO on Registrant was adequate. Specifically, the Declaration from a DEA Diversion Investigator (DI) indicates that Registrant was successfully mailed a copy of the OSC/ISO at both his mail-to address and registered address on December 1, 2023, and December 4, 2023, respectively. RFAAX 2, at 3; *see also* RFAAX 2, Attachment A.

² According to Agency records, Registrant's registration No. BI8368828 expired on November 30, 2023. The fact that a registrant allows his registration to expire during the pendency of an OSC does not impact the Agency's jurisdiction or prerogative under the Controlled Substances Act (hereinafter, CSA) to adjudicate the OSC to finality. *Jeffrey D. Olsen, M.D.*, 84 FR 68474, 68476–79 (2019).

3304(8) (McKinney 2024). Further, a “practitioner” means “[a] physician . . . or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research.” *Id.* section 3302(27).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice medicine in New York. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in New York. Thus, because Registrant currently lacks authority to practice medicine in New York and, therefore, is not authorized to handle controlled substances in New York, Registrant is not eligible to maintain a DEA registration in New York. Accordingly, the Agency will order that Registrant’s DEA registration be revoked.

II. Public Interest

A. Applicable Law

As already discussed, the OSC/ISO alleges that Registrant violated multiple provisions of the Controlled Substances Act (CSA) and its implementing regulations. As the Supreme Court stated in *Gonzales v. Raich*, “the main objectives of the CSA were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances To effectuate these goals, Congress devised a closed regulatory system making it unlawful to . . . dispense[] or possess any controlled substance except in a manner authorized by the CSA.” 545 U.S. 1, at 12–13 (2005). In maintaining this closed regulatory system, “[t]he CSA and its implementing regulations set forth strict requirements regarding registration . . . drug security, and recordkeeping.” *Id.* at 14.

The OSC/ISO’s allegations concern the CSA’s “statutory and regulatory provisions . . . mandating . . . compliance with . . . prescription requirements” and, therefore, go to the heart of the CSA’s “closed regulatory system” specifically designed “to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances,” and “to prevent the diversion of drugs from legitimate to illicit channels.” *Id.* at 12–14, 27.

The Allegation That Registrant Issued Prescriptions Outside the Usual Course of Professional Practice

According to the CSA’s implementing regulations, a lawful prescription for controlled substances is one that is “issued for a legitimate medical purpose

by an individual practitioner acting in the usual course of his professional practice.” 21 CFR 1306.04(a); see *Gonzales v. Oregon*, 546 U.S. 243, 274 (2006), *United States v. Hayes*, 595 F.2d 258 (5th Cir. 1979), *rehearing den.*, 598 F.2d 620 (5th Cir. 1979), *cert. denied*, 444 U.S. 866 (1979); RFAAX 1, at 2. New York regulations similarly require that “[a] prescription, in order to be effective in legalizing the possession of controlled substances, shall be issued for a legitimate medical purpose only.” N.Y. Comp. Codes R. & Regs. tit. 10, section 80.65. New York regulations also state that practitioners may issue controlled substances only “in good faith and in the course of their professional practice.” N.Y. Comp. Codes R. & Regs. tit. 10, section 80.71(a).

DEA’s implementing regulations permit registrants to issue electronic prescriptions for controlled substances in schedules II–V. 21 CFR 1311.100(b); RFAAX 1, at 2. To issue an electronic prescription for a controlled substance, the prescribing practitioner must authenticate the prescription using at least two of the following factors: a password or other knowledge factor, biometric data, and/or a hard token. 21 CFR 1311.115(a), 1311.120(b)(5), (11); RFAAX 1, at 2. The completion of the two-factor authentication process “constitute[s] the signing of the prescription by the practitioner.” 21 CFR 1311.140(a)(5); RFAAX 1, at 2. While DEA regulations permit a non-registered agent to enter data on the prescription, the registrant must sign the prescription himself with the two-factor authentication procedure. 21 CFR 1311.135(a); RFAAX 1, at 2.

DEA regulations make clear that “[t]he practitioner must retain sole possession of the hard token . . . and must not share the password or other knowledge factor, or biometric information, with any other person.” 21 CFR 1311.102(a); RFAAX 1, at 2. The regulation further states that “[t]he practitioner must not allow any other person to use . . . or enter the knowledge factor or other identification means to sign prescriptions for controlled substances,” and that “[f]ailure by the practitioner to secure the . . . knowledge factor, or biometric information may provide a basis for revocation or suspension of registration.” *Id.* The practitioner has the ultimate responsibility for ensuring that electronic prescriptions are accurate and issued in the usual course of professional practice and for a legitimate medical purpose. 21 CFR 1311.102(k); RFAAX 1, at 2.

B. Findings of Fact

The Agency finds that, in light of Registrant’s default, the factual allegations in the OSC are deemed admitted. 21 CFR 1301.43(e). Accordingly, Registrant is deemed to have admitted and the Agency finds that from at least April 2, 2020 through at least June 11, 2023, Registrant issued numerous controlled substance prescriptions outside the usual course of professional practice and for other than a legitimate medical purpose. RFAAX 1, at 3.

Unlawful Prescriptions for T.C.

Registrant admits that from April 2, 2020, through May 13, 2023, Registrant unlawfully provided his secure log-in credentials to T.C. so that T.C. could self-issue controlled substance prescriptions. *Id.* Registrant admits that T.C. self-issued prescriptions for lorazepam (a schedule IV controlled substance), diazepam (a schedule IV controlled substance), and dextroamphetamine-amphetamine (a schedule II controlled substance) using Registrant’s credentials.⁶ *Id.* Registrant admits that these prescriptions were not issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice. *Id.* at 3–4.

Accordingly, the Agency finds substantial record evidence that Registrant unlawfully provided his secure log-in credentials to T.C. and that the controlled substance prescriptions that T.C. self-issued were not issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice.

Unlawful Prescriptions in C.G.’s Name

Registrant admits that on May 5, 2022, he fraudulently issued a prescription for oxycodone 30 mg (a schedule II controlled substance) in the name of individual C.G. RFAAX 1, at 4. Registrant gave this prescription to an individual other than C.G. to settle a personal debt. *Id.* Registrant issued four additional prescriptions for oxycodone 30 mg in C.G.’s name after C.G. died.⁷ *Id.* Registrant admits that the five prescriptions that he issued to C.G. were not issued for a legitimate medical

⁶ The OSC/ISO notes that between April 2, 2020 through October 31, 2021, Registrant requested that T.C. provide him with portions of T.C.’s self-issued controlled substance prescriptions for Registrant’s personal use in violation of 21 CFR 1306.04(a) and New York Administrative Code sections 80.65, 80.71. RFAAX 1, at 4. The correlation between this allegation and the OSC’s cited legal authorities is unclear and, therefore, the Agency will not make findings on it.

⁷ Individual C.G. died on December 6, 2022. RFAAX 1, at 4.

purpose by a practitioner acting in the usual course of professional practice. *Id.*

Accordingly, the Agency finds substantial record evidence that the five controlled substance prescriptions that Registrant issued to C.G. were not issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice.

Unlawful Prescriptions for C.R.

Registrant admits that on May 5, 2022, he issued a prescription for oxycodone 30 mg in the name of individual C.R. *Id.* Registrant gave this prescription to an individual other than C.R. in settlement of a personal debt. *Id.* Registrant admits that this prescription was not issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice. *Id.*

Accordingly, the Agency finds substantial record evidence that the oxycodone prescription that Registrant issued to C.R. was not issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice.

C. Discussion

i. The Five Public Interest Factors

Under Section 304 of the CSA, “[a] registration . . . to . . . distribute[] or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under . . . [21 U.S.C. 823] inconsistent with the public interest as determined by such section.” 21 U.S.C. 824(a)(4). In the case of a “practitioner,” Congress directed the Attorney General to consider five factors in making the public interest determination. 21 U.S.C. 823(g)(1)(A–E).⁸ The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292–93 (2006) (Scalia, J., dissenting) (“It is well established that these factors are to be considered in the disjunctive,” citing *In re Arora*, 60 FR 4447, 4448 (1995)); *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *Morall v. Drug Enf’t Admin.*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *Penick Corp. v.*

Drug Enf’t Admin., 491 F.3d 483, 490 (D.C. Cir. 2007); *Morall*, 412 F.3d. at n.2; *David H. Gillis, M.D.*, 58 FR 37507, 37508 (1993).

In this matter, while all of the 21 U.S.C. 823(g)(1) factors have been considered, the Agency finds that the Government’s evidence in support of its *prima facie* case is confined to Factors B and D. *See* RFAAX 1, at 4. Moreover, the Government has the burden of proof in this proceeding.⁹ 21 CFR 1301.44.

Here, the Agency finds that the Government’s evidence satisfies its *prima facie* burden of showing that Registrant’s registration would be “inconsistent with the public interest.” 21 U.S.C. 823(g)(1).

ii. Allegation That Registrant’s Registration Is Inconsistent With the Public Interest

Factors B and/or D—Registrant Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

Evidence is considered under Public Interest Factors B and D when it reflects compliance or non-compliance with federal and local laws related to controlled substances and experience dispensing controlled substances. 21 U.S.C. 823(g)(1)(B) and (D); *see also Kareem Hubbard, M.D.*, 87 FR 21156, 21162 (2022). Here, as found above, Registrant is deemed to have admitted and the Agency finds that Registrant unlawfully provided his secure log-in credentials to individual T.C. and allowed T.C. to self-issue controlled substance prescriptions utilizing his credentials. Accordingly, the Agency finds substantial record evidence that Registrant violated 21 CFR 1311.102(a), 1311.135(a), and 1306.04(a). *See also Neeraj B. Shah, M.D.*, 89 FR 84195, 84196–97 & n.11 (2024); *Allan Alexander Rashford, M.D.*, 87 FR 77637, 77637–38 (2022); RFAAX 1, at 3.

Additionally, as found above, Registrant is deemed to have admitted and the Agency finds that Registrant issued numerous prescriptions to T.C., C.R., and C.G. that lacked a legitimate medical purpose and were issued outside the usual course of professional practice. Accordingly, the Agency finds substantial record evidence that Registrant violated 21 CFR 1306.04(a) and N.Y. Comp. Codes R. & Regs. tit. 10 sections 80.65, 80.71(a).

The Agency further finds that Factors B and D weigh in favor of revocation of

Registrant’s registration and that Registrant’s registration would be inconsistent with the public interest in balancing the factors of 21 U.S.C. 823(g)(1). Accordingly, the Agency finds that the Government established a *prima facie* case, that Registrant did not rebut that *prima facie* case, and that there is substantial record evidence supporting the revocation of Registrant’s registration. 21 U.S.C. 823(g)(1).

D. Sanction

Where, as here, the Government has met its *prima facie* burden of showing that Registrant’s registration is inconsistent with the public interest due to its numerous violations pertaining to controlled substances, the burden shifts to Registrant to show why he can be entrusted with a registration. *Morall*, 412 F.3d. at 174; *Jones Total Health Care Pharmacy*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 FR 18882 (2018). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 FR 46968, 46972 (2019); *see also Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that it will not engage in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 833. A registrant’s acceptance of responsibility must be unequivocal. *Id.* at 830–31. In addition, a registrant’s candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, DEA Administrators have found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 and n.4. DEA Administrators have also considered the need to deter similar acts by the specific registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR 46972–73.

Here, Registrant did not timely or properly request a hearing and was deemed to be in default. 21 CFR 1301.43(c)(1), (e), (f)(1); RFAA, at 1–9. To date, Registrant has not filed a motion with the Office of the Administrator to excuse the default. 21 CFR 1301.43(c)(1). Registrant has thus failed to answer the allegations contained in the OSC and has not otherwise availed himself of the

⁸ The five factors of 21 U.S.C. 823(g)(1)(A–E) are: (a) The recommendation of the appropriate State licensing board or professional disciplinary authority. (b) The [registrant’s] experience in dispensing, or conducting research with respect to controlled substances. (c) The [registrant’s] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances. (d) Compliance with applicable State, Federal, or local laws relating to controlled substances. (e) Such other conduct which may threaten the public health and safety.

⁹ The Agency need not adjudicate the criminal violations alleged in the instant OSC. *Ruan v. United States*, 597 U.S. 450 (2022) (decided in the context of criminal proceedings).

opportunity to refute the Government's case. As such, Registrant has made no representations as to its future compliance with the CSA nor made any demonstration that it can be entrusted with registration. Moreover, the evidence presented by the Government shows that Registrant violated the CSA, further indicating that Registrant cannot be entrusted.

Accordingly, the Agency will order the revocation of Registrant's registration.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BI8368828 issued to David Israel, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of David Israel, M.D., to renew or modify this registration, as well as any other pending application of David Israel, M.D., for additional registration in New York. This Order is effective May 16, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 10, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025-06424 Filed 4-15-25; 8:45 am]

BILLING CODE 4410-09-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-266 and 50-301; NRC-2020-0277; SEIS-429-00-000-1730167609]

**NextEra Energy Point Beach, LLC;
Point Beach Nuclear Plant, Units 1 and 2; Second Draft Supplemental Environmental Impact Statement**

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment; public comment meeting; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) is issuing for public comment Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal (SLR) for Point Beach Nuclear Plant, Units 1 and 2 (Point Beach), Second Draft Report for Comment (second draft report). This second draft report concerns the NRC staff's review of the environmental impacts of the proposed renewal of Renewed Facility Operating License Nos. DPR-24 and DPR-27 for Point Beach, Units 1 and 2, respectively, for an additional 20 years. Point Beach is located on the western shore of Lake Michigan in Manitowoc County, Wisconsin, approximately 15 miles north-northeast of Manitowoc, Wisconsin. Possible alternatives to the proposed action of SLR include the no-action alternative and reasonable replacement power alternatives. A new notice of opportunity to request a hearing and petition for leave to intervene—limited to contentions based on new information in the second draft report—is also being issued.

DATES: The NRC staff will hold a public meeting through online webinar on the second draft report, including a presentation on the preliminary recommendation in the second draft report and a transcribed public comment session. The meeting will be held on May 15, 2025, at 3 p.m. central time, 4 p.m. eastern time (ET). The public meeting details can be found on the NRC's Public Meeting Schedule at <https://www.nrc.gov/pmnsmtg>. Members of the public are invited to submit comments by June 2, 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 petitions for leave to intervene must be filed by June 16, 2025.

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-2020-0277. 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 listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email:* Comments may be submitted to the NRC electronically using the email address PointBeach-SLRSEIS@nrc.gov.

- *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: Kevin Folk, Senior Environmental Project Manager, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6944; email: Kevin.Folk@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2020-0277 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action using any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0277.
- *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. Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant, Units 1 and 2, Second Draft Report for Comment is available in ADAMS under Accession No. ML25069A710. In addition, for the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- *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. ET, Monday through Friday, except Federal holidays.

- *Public Library*: A copy of Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant, Units 1 and 2, Second Draft Report for Comment will be available for public review at the Lester Public Library, 1001 Adams Street, Two Rivers, WI 54241.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2020-0277 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. Discussion

The NRC is issuing for public comment Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant, Units 1 and 2, Second Draft Report for Comment (second draft report). The second draft report updates Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant, Units 1 and 2, Draft Report for Comment, issued in November 2021 (first draft report). Specifically, the second draft report includes the NRC staff's evaluation of new information obtained since the issuance of the November 2021 first draft report. This new information includes the NRC's publication of a final rule on August 6, 2024 (89 FR 64166), which revised the NRC's environmental protection regulation, part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions." This final rule updated the potential environmental impacts associated with the renewal of an operating license for a nuclear power plant for up to an additional 20 years, which could either be an initial license renewal or an SLR. The technical basis for the final rule is provided by Revision 2 of NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (LR GEIS), which was revised as part of the rulemaking as an update to the 2013 LR GEIS, Revision 1.

The final rule also involved the issuance of Revision 2 of NUREG-1555, Supplement 1, "Standard Review Plans for Environmental Reviews for Nuclear Power Plants: Supplement 1: Operating License Renewal, Final Report," and Revision 2 of Regulatory Guide 4.2, Supplement 1, "Preparation of Environmental Reports for Nuclear Power Plant License Renewal Applications." The NRC staff also considered additional information provided by NextEra Energy Point Beach, LLC (NextEra). The NRC staff prepared the second draft report in accordance with 10 CFR 51.72, "Supplement to draft environmental impact statement," and Commission Legal Issuance (CLI)-22-02 and CLI-22-03, both dated February 24, 2022.

In the second draft report and in the November 2021 first draft report, the NRC staff's preliminary recommendation is that the adverse environmental impacts of SLR for Point Beach are not so great that preserving the option of SLR for energy-planning decisionmakers would be unreasonable. The NRC staff based this preliminary recommendation on the analysis and findings in NUREG-1437, the environmental report submitted by NextEra, as supplemented, the NRC staff's consultations with Federal, State, Tribal, and local government agencies, the NRC staff's independent environmental review, which is documented in the second draft report and in the November 2021 first draft report, and the NRC staff's consideration of public comments received during scoping.

III. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document description	Adams accession No.
Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant, Units 1 and 2, Second Draft Report for Comment, dated April 2025.	ML25069A710.
Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant, Units 1 and 2, Draft Report for Comment, dated November 2021.	ML21306A226.
NUREG-1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Volumes 1-3, Revision 2, dated August 2024.	ML24087A133 (Package).
NUREG-1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Volumes 1-3, Revision 1, dated June 2013.	ML13107A023 (Package).
NUREG-1555, Supplement 1, Revision 2, Standard Review Plans for Environmental Reviews for Nuclear Power Plants, Supplement 1: Operating License Renewal, dated August 2024.	ML23201A227.
Regulatory Guide 4.2, Supplement 1, Revision 2, Preparation of Environmental Reports for Nuclear Power Plant License Renewal Applications, dated August 2024.	ML23201A144.
U.S. Nuclear Regulatory Commission Memorandum and Order CLI-22-02, dated February 24, 2022	ML22055A496.
U.S. Nuclear Regulatory Commission Memorandum and Order CLI-22-03, dated February 24, 2022	ML22055A521.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

As directed in CLI-22-03, with the completion of the second draft report, a new notice of opportunity to request a hearing and petition for leave to intervene—limited to contentions based on new information in the second draft report—is being issued.

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 hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or 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 at <https://www.nrc.gov/aboutnrc/regulatory/adjudicatory/hearing.html#participate>.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must

be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056) and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore,

applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/esubmittals.html>, by email to MSHD.Resource@nrc.gov, or by a tollfree call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets 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.

Dated: April 11, 2025.

For the Nuclear Regulatory Commission.

John Moses,

Deputy Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Materials Safety, and Safeguards.

[FR Doc. 2025-06438 Filed 4-15-25; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461; NRC-2024-0046]

Constellation Energy Generation; Clinton Power Station, Unit 1; Draft Supplemental Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission

ACTION: Public meeting and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft Supplement 63, to the Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants, NUREG-1437, regarding the proposed renewal of Facility Operating License No. NPF-62 for an additional 20 years of operation for Clinton Power Station, Unit 1 (CPS). CPS is located in DeWitt County, Illinois, approximately 20 miles north of Decatur, Illinois. Possible alternatives to the proposed action of license renewal include no action and reasonable replacement power alternatives.

DATES: The NRC will hold a virtual public meeting on May 6, 2025, at 3 p.m. eastern time (ET). The public meeting details can be found on the NRC's Public Meeting Schedule at <https://www.nrc.gov/pmns/mtg>. Members of the public are invited to submit comments by June 2, 2025. Comments received after that 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 that 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-2024-0046. 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 listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email:* Comments may be submitted to the NRC electronically using the email address:

ClintonEnvironmental.Resource@nrc.gov.

- *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:

Ashley Waldron, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-7317; email: Ashley.Waldron@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2024-0046 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this action using any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-0046.

- *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. Draft Supplement 63, to the GEIS for License Renewal of Nuclear Plants, NUREG-1437, is available in ADAMS under Accession No. ML25072A105.

- *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. ET, Monday through Friday, except Federal holidays.

- *Public Library:* A copy of the Draft Supplement 63, to the GEIS for License

Renewal of Nuclear Plants, NUREG-1437, regarding the proposed renewal of Facility Operating License No. NPF-62, for an additional 20 years of operation for CPS, will be available for public review at the Vespasian Warner Public Library, 310 N Quincy Street, Clinton, IL 61727.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2024-0046 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. Discussion

The NRC is issuing for public comment, draft Supplement 63, to the GEIS for License Renewal of Nuclear Plants, NUREG-1437, regarding the proposed renewal of Facility Operating License No. NPF-62, for an additional 20 years of operation for CPS. Draft Supplement 63, to the GEIS includes the preliminary analysis that evaluates the environmental impacts of the proposed action and alternatives to the proposed action. The NRC staff's preliminary recommendation is that the adverse environmental impacts of license renewal for CPS are not so great that preserving the option of license renewal for energy-planning decisionmakers would be unreasonable.

Dated: April 11, 2025.

For the Nuclear Regulatory Commission.

John Moses,

Deputy Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 2025-06439 Filed 4-15-25; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Alternative Annuity Election, RI 20–80

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Office of Personnel Management (OPM), Retirement Services offers the general public and other federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR), Alternative Annuity Election, RI 20–80.

DATES: Comments are encouraged and will be accepted until June 16, 2025.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

—*Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or via electronic mail at RSPublicationsTeam@opm.gov or via telephone at (202) 936–0401.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13) as amended (44 U.S.C. chapter 35), OPM is soliciting comments for this collection (OMB No. 3206–0168). The Office of Personnel Management is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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 submissions of responses.

RI 20–80 is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum. OPM is also specifically seeking comments regarding the burden estimates below.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Alternative Annuity Election.

OMB Number: 3206–0168.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 200.

Estimated Time per Respondent: 20 minutes.

Total Burden Hours: 67.

U.S. Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2025–06401 Filed 4–15–25; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket No. R2025–1; Order No. 8785]

Market Dominant Price Adjustment

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recently filed Postal Service notice of inflation-based rate adjustments affecting market dominant domestic and international products and services, along with proposed classification changes. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 9, 2025.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by

telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Overview of the Postal Service's Filing
- III. Initial Administrative Actions
- IV. Ordering Paragraphs

I. Introduction

On April 9, 2025, the Postal Service filed a notice of price adjustments affecting Market Dominant domestic and international products and services, along with proposed classification changes to the Mail Classification Schedule (MCS).¹ The intended effective date for the planned price adjustments is July 13, 2025. Notice at 5. The Notice, which was filed pursuant to 39 CFR part 3030, triggers a notice-and-comment proceeding. 39 CFR 3030.125.

II. Overview of the Postal Service's Filing

The Postal Service's filing consists of the Notice, which the Postal Service represents addresses data and information required under 39 CFR 3030.122 and 39 CFR 3030.123; three attachments (Attachments A, B, and C) to the Notice; one set of appended workpapers; and six public library references and three non-public library references.

Attachment A presents the planned price and related product description changes to the MCS. Notice, Attachment A. Attachment B presents the price cap calculation. *Id.* Attachment B. Attachment C presents alternative planned price and related product description changes to the MCS.² The set of appended workpapers present

¹ United States Postal Service Notice of Market-Dominant Price Change, April 9, 2025 (Notice).

² *Id.* at 8, 53, Attachment C; see Docket Nos. MC2025–948 and MC2025–958, Order Concerning Planned Upcoming Market Dominant Rate Adjustments and Reply Comments, March 25, 2025, at 6–7 (Order No. 8753). In Order No. 8753, the Commission directed the Postal Service to file in its anticipated April notice of rate adjustment the proposed rates and associated MCS changes that reflect the status quo with regard to issues in Docket Nos. MC2025–948 and MC2025–958, including that Bound Printed Matter Flats and Bound Printed Matter Parcels remain Market Dominant products. Order No. 8753 at 6. The Commission allowed the Postal Service the option to file an alternative set of rates and MCS changes that show the proposed rate and MCS changes that the Postal Service would opt to make if the Commission were to issue a final order approving the requests in these dockets prior to the conclusion of the rate adjustment proceeding. *Id.* at 6–7.

consolidated projections related to the proposed continuation of the First-Class Mail and Marketing Mail Growth Incentives. Notice at 38.

The first five public library references provide supporting documentation for the five classes of mail, and the sixth public library reference shows the banked rate adjustment authority for each class of mail over the last 5 years.³ The Postal Service also filed three library references under seal and applied for non-public treatment of those materials.⁴ The first non-public library reference pertains to the two international mail products within First-Class Mail (Outbound Single-Piece First-Class Mail International and Inbound Letter Post); the second non-public library reference pertains to mailer-specific volume and revenue data; and the third non-public library reference pertains to First-Class Mail and Marketing Mail Growth Incentive projections. Notice of Non-Public Library References at 3.

The Postal Service's planned percentage changes by class are, on average, as follows:

Market dominant class	Planned price adjustment (%)
First-Class Mail	7.385
USPS Marketing Mail	7.385
Periodicals	9.385
Package Services	7.385
Special Services	7.835

Notice at 9. Price adjustments for products within classes vary from the average. *See, e.g., id.* at 11, 16 (Table 4 showing range for First-Class Mail products and Table 10 showing range for USPS Marketing Mail products).

The Postal Service identifies the effect of its proposed price and classification changes on the MCS in Attachment A. *Id.* at 61; *id.* Attachment A. The Postal Service also seeks approval for the following seven promotions for the indicated periods:

- Informed Delivery Add-On/Upgrade Promotion (January 1–December 31, 2026);
- Sustainability Add-On/Upgrade Promotion (January 1–December 31, 2026);
- Tactile, Sensory, and Interactive Mailpiece Engagement Base/Primary Promotion (January 1–June 30, 2026);
- Integrated Technology Base/Primary Promotion (mailers will select a

start date for a six-month promotion period within calendar year 2026);

- First-Class Mail Advertising Base/Primary Promotion (September 1–December 31, 2026);

• Continuous Contact Base/Primary Promotion (April 1–December 31, 2026); and

- Catalog Insights and Continuous Contact Base/Primary Promotion (October 1, 2025–June 30, 2026).

Notice at 48–51. Additionally, the Postal Service proposes to continue other previously approved incentives within First-Class Mail and USPS Marketing Mail with certain changes. *Id.* at 35. Specifically, for the First-Class Mail and Marketing Mail Growth Incentives, the Postal Service proposes revising the base period for measuring growth from the previous fiscal year to the previous calendar year. *Id.* Additionally, the Postal Service proposes making the First-Class Mail and Marketing Mail Growth Incentives a permanent part of First-Class Mail and USPS Marketing Mail price structures, which it states will eliminate the need for the Commission to reapprove them each year. *Id.*

III. Initial Administrative Actions

Pursuant to 39 CFR 3030.124(a), the Commission establishes Docket No. R2025–1 to consider the planned price adjustments for Market Dominant postal products and services, as well as the related classification changes, identified in the Notice. The Commission invites comments from interested persons on whether the Postal Service's planned price adjustments are consistent with applicable statutory and regulatory requirements. 39 CFR 3030.125. The applicable statutory and regulatory requirements the Commission considers in its review are the requirements of 39 CFR part 3030, Commission directives and orders, and 39 U.S.C. 3626, 3627, and 3629. 39 CFR 3030.126(b). Comments are due no later than May 9, 2025. 39 CFR 3030.124(f). The Commission will not accept late-filed comments as it is not practicable due to the expedited timeline for this proceeding. *See* 39 CFR 3030.126(b). The Commission notes that its review in this proceeding is limited to ensuring that the proposed prices comply with the requirements of 39 CFR part 3030, Commission directives and orders, and 39 U.S.C. 3626, 3627, and 3629. The Commission has opened a separate proceeding that requests comments on the broader aspects of the Market Dominant ratemaking system.⁵

The public portions of the Postal Service's filing are available for review on the Commission's website (<https://www.prc.gov>). Comments and other material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on non-public materials (including access to documents filed under seal) appear in 39 CFR part 3011.

Pursuant to 39 U.S.C. 505, the Commission appoints Mallory L. Smith to represent the interests of the general public (Public Representative) in this proceeding. The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2025–1 to consider the planned price adjustments for Market Dominant postal products and services, as well as the related classification changes, identified in the Postal Service's April 9, 2025 Notice.

2. Comments on the planned price adjustments and related classification changes are due no later than May 9, 2025.

3. Pursuant to 39 U.S.C. 505, Mallory L. Smith is appointed to serve as an officer of the Commission to represent the interests of the general public (Public Representative) in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2025–06423 Filed 4–15–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2025–1304 and K2025–1305; MC2025–1305 and K2025–1306; MC2025–1306 and K2025–1307]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the

the System for Regulating Rates and Classes for Market Dominant Products, April 5, 2024, at 23–24 (Order No. 7032).

³ USPS Notice of Filing Public Library References, April 9, 2025, at 1.

⁴ Notice of United States Postal Service of Filing of Library References and Application for Non-Public Treatment, April 9, 2025, at 1–2, Attachment 1 (Notice of Non-Public Library References).

⁵ Docket No. RM2024–4, *et al.*, Advance Notice of Proposed Rulemaking on the Statutory Review of

Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 18, 2025.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<https://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s)

identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s):* MC2025–1304 and K2025–1305; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 699 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 10, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* April 18, 2025.

2. *Docket No(s):* MC2025–1305 and K2025–1306; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 700 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 10, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Annette Morin; *Comments Due:* April 18, 2025.

3. *Docket No(s):* MC2025–1306 and K2025–1307; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 701 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 10, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* April 18, 2025.

III. Summary Proceeding(s)

None. *See* Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2025–06460 Filed 4–15–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: April 15, 2025.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 7, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 65 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2025–1296 and K2025–1295.

Colleen Hibbert-Kapler,
Attorney, Ethics and Legal Compliance.

[FR Doc. 2025–06431 Filed 4–15–25; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: Friday, April 11, 2025, at 10:00 a.m. EST.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW.

STATUS: Closed.

MATTERS CONSIDERED: On April 11, 2025, the members of the Board of Governors of the United States Postal Service voted

¹ *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

unanimously to hold and to close to public observation a special meeting in Washington, DC. The Board determined that no earlier public notice was practicable. The Board considered the below matters.

1. Administrative Matters.
2. Executive Session.
3. Personnel Matters.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Lucy C. Trout, Acting Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260-1000. Telephone: (202) 268-4800.

Lucy C. Trout,
Acting Secretary.

[FR Doc. 2025-06554 Filed 4-14-25; 11:15 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102814; File No. SR-ICC-2025-005]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to ICC's Treasury Operations Policies & Procedures

April 10, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 2, 2025, ICE Clear Credit LLC ("ICC" or "ICE Clear Credit") 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 primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Treasury Operations Policies & Procedures (the "Treasury Policy"). These revisions do not require any changes to the ICC Clearing Rules (the "Rules").³

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Credit is proposing to amend its Treasury Policy. The purpose of the Treasury Policy is to articulate the policies and procedures used to support the ICC Treasury Department (the "Treasury Department"), which is responsible for daily cash and collateral management of margin and guaranty fund assets. The proposed changes formalize ICC's intraday margin call procedures in the Treasury Policy to formally document ICC's intraday margin call procedures consistent with the requirements of Rule 17Ad-22(e)(6)(ii).⁴ Such changes would not modify ICC's intraday margin call practices but instead promote transparency by formally documenting a description of such intraday margin call practices. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes to formalize its current intraday margin call procedures by adding a description of such procedures as 'Appendix 6: Intraday Margin Call Procedures' ("Appendix 6") to the Treasury Policy. Appendix 6 contains a description of the three types of intraday margins calls recognized by ICC,⁵ specifically Non-routine Intraday

Margin Calls, Selective Intraday Margin Call, and Discretionary Margin Calls.

With respect to Non-routine Intraday Margin Calls, proposed Appendix 6 contains a description of this category of intraday margin calls and details procedures followed by the ICC Risk Department in the event of a Non-routine Intraday Margin Call. Non-routine Margin Calls are considered if the market suddenly becomes highly volatile and the observed price/spread level changes increase the risk exposure of ICC to certain Clearing Participants. Non-routine Intraday Margin Calls are triggered if a certain percentage of the value of collateral on deposit has eroded due to the observed intraday unrealized losses. Procedures relevant to Non-routine Margin Calls included in Appendix 6 are summarized below:

- ICC utilizes its intraday system to capture intraday prices and re-value Clearing Participant portfolios to estimate the unrealized profit/loss.
- Compare the unrealized profit/loss to collected Initial Margin ("IM") requirement, excluding funds attributed to the concentration charges.

- If any Clearing Participant's IM erodes by a specified early warning percentage, the ICC Risk Department will begin the initial warning process to (i) notify the relevant ICC departments, and (ii) notify the affected Clearing Participant(s) that their unrealized losses are approaching the IM erosion threshold that could trigger an intraday margin call (described below). In such initial warning to affected Clearing Participant(s), the ICC Risk Department has the option of communicating the current level of IM erosion to such Clearing Participant(s).

- Following such initial warning process, the ICC Risk Department will identify the risk factors associated with the affected Clearing Participant's greatest unrealized losses and will confirm the viability of all adverse price changes in such Clearing Participant portfolios. Following confirmation of price viability, the ICC Risk Department will begin/continue continuous intraday monitoring.

- If any Clearing Participant's IM erodes by a specified IM erosion threshold and such erosion lasts for more than a specified period of time, ICC will initiate the intraday margin call process (subject to the qualification described below) which is described in further detail below.

- Notwithstanding the erosion of a Clearing Participant's IM beyond the IM erosion threshold, should such triggering event occur later in the day, the ICC chief risk officer ("CRO") (or his or her designee) has the discretion on

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms used but not defined herein have the meanings specified in the Treasury Policy

or, if not defined therein, the ICE Clear Credit Rules (the "Rules").

⁴ 17 CFR 240.17-22ad(e)(6)(ii) [SIC].

⁵ Appendix 6 also includes a description of a fourth category of intraday margin calls—"Routine Margin Calls" which are not utilized by ICC.

whether or not such intraday margin call will be made, based on various market condition considerations. Should the CRO forgo initiating an intraday margin call in such circumstances, the decision will be communicated to ICC senior management and documented in writing that describes the reasons for not proceeding with the intraday margin call.

With respect to Selective Intraday Margin Calls, proposed Appendix 6 describes this category as intraday margin calls driven by intraday changes in Clearing Participant position sizes that can lead to an insufficient level of collateralization. If such a case is observed, the ICC Risk Department will determine the increased IM amount by estimating the IM requirements for the new positions using the intraday system to capture intraday prices and re-value Clearing Participant portfolios to estimate unrealized profit/loss and compare such unrealized profit/loss to the collected IM requirements (excluding concentration charges).

With respect to Discretionary Margin Calls, proposed Appendix 6 describes this category as intraday margin calls to Clearing Participants who's [sic] previously posted margin, in the CRO's judgement, does not provide proper risk protection. Such Discretionary Margin Calls are expected to be executed in the event there is a fast deterioration of the credit worthiness of a Clearing Participant and/or by adverse market conditions that could lead to significant losses that may result in the default of a Clearing Participant.

In the event an intraday margin call is made for any of the three categories of intraday margin calls described above, such process will be initiated by the CRO (or his or her designee) who will direct the Treasury Department to execute an intraday margin call.

- Such instruction will include the applicable Clearing Participant names and the amount of the intraday margin call. ICC senior management, as well as the ICC Compliance Department and the ICC Client Services Department will be copied on the instruction.

- With respect to Non-routine Intraday Margin Calls, the amount of the call will be consistent with the level of IM erosion and the remaining time until the end-of-day price discovery process.

- The Treasury Department will enter the amount of the intraday margin call in its system which may result (depending on current funds on deposit for the affected Clearing Participant(s)) in the issuance of a direct debit message instructing the Clearing Participants' designated bank to direct debit any

margin payable. Clearing Participants will have up to one hour to pay the intraday margin call after the issuance of the direct debit message.

In connection with the addition of proposed Appendix 6 to the Treasury Policy, ICC also proposes to add language to Section IV.A.4. of the Treasury Policy to generally reference ICC's process for monitoring the adequacy of collected IM on an intraday basis, and to note that ICC may issue intraday margin calls to Clearing Participant(s) whose margin on deposit does not provide prior risk protection. Such additional language also provides a cross-reference to the intraday margin call procedures set forth in new Appendix 6.

Lastly, ICC proposes to update Section X. 'Revision History' to include the proposed changes.

(b) Statutory Basis

ICE Clear Credit believes that the proposed amendments to the Treasury Policy are consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 (the "Act")⁶ and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act⁷ requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest.

As discussed herein, the proposed amendments are designed to formalize ICC's intraday margin call procedures. The changes will not modify ICC's current intraday margin call practices but instead promote transparency by formally documenting a description of such intraday margin call practices. In ICC's view, formalization of such intraday margin call procedures, which include details on the categories of intraday margin calls utilized by ICC and describe the procedures followed by ICC in the event of intraday margin calls, increase transparency and clarity on important ICC processes. ICC therefore believes the proposed amendments is consistent with the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts and transactions, contribute to the safeguarding of securities and funds

which are in the custody or control of ICC or for which it is responsible, and generally promote the protection of investors and the public interest in the operation of clearing services, within the meaning of Section 17A(b)(3)(F) of the Act.⁸

The amendments also comply with relevant provisions of Rule 17Ad-22.⁹ In particular, Rule 17Ad-22(e)(6)(ii) provides, in part, that "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable [. . .] [c]over, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum: [. . .] (B) Monitors intraday exposures on an ongoing basis; (C) Includes the authority and operational capacity to make intraday margin calls, as frequently as circumstances warrant, including the following circumstances: (1) When risk thresholds specified by the covered clearing agency are breached; or (2) When the products cleared or markets served display elevated volatility; and (D) Documents when the covered clearing agency determines not to make an intraday call pursuant to its written policies and procedures. . . ." ¹⁰ The proposed amendments formalize ICC's intraday margin call processes, and details the categories of intraday margin calls recognized by ICC. Such intraday margin categories recognized by ICC include, without limitation, when risk thresholds specified by ICC are breached and when markets cleared by ICC experience elevated volatility. In addition, the amendments describing ICC's intraday margin call processes include a description of the procedures followed by ICC in the event it determines not to make an intraday margin call when specified risk thresholds are breached. ICC believes that formalizing its intraday margin call processes in its Treasury Policy is consistent with the requirements under Rule 17Ad-22(e)(6)(ii).¹¹

Rule 17Ad-22(e)(4)(i) provides that "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable [. . .] identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by: (i)

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 17 CFR 240.17ad-22.

¹⁰ 17 CFR 240.17-22ad(e)(6)(ii) [SIC].

¹¹ *Id.*

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

[m]aintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence . . .”¹² The proposed amendments describe ICC’s intraday margin call processes which will be implemented with respect to Clearing Participants whose margin on deposit does not provide proper risk protection. Therefore, such proposed amendments to ICC’s Treasury Policy help ensure that it maintains sufficient financial resources to cover its credit exposure to its Clearing Participants, consistent with the requirements of Rule 17Ad–22(e)(4)(i).¹³

Rule 17Ad–22(e)(2)(i) and (v)¹⁴ requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. The proposed changes strengthen the governance procedures related to ICC’s intraday margin call processes by memorializing associated governance procedures in the Treasury Policy. Proposed Appendix 6 to the Treasury Policy details governance procedures associated with monitoring intraday margin call risk triggers, initial warning procedures, and the issuance and collection of intraday margin calls. Furthermore, the proposed amendments document ICC’s governance followed when an intraday margin call is triggered but ICC determines not to issue such intraday margin call. In addition, such proposed amendments specify lines of responsibility within ICC for the decision making for the issuance of intraday margin calls, the communication related to such intraday margin calls, and the execution of such intraday margin calls. As such, in ICC’s view, the proposed rule change continues to ensure that ICC maintains policies and procedures that are reasonably designed to provide for clear and transparent governance arrangements and specify clear and direct lines of responsibility, consistent with Rule 17Ad–22(e)(2)(i) and (v).¹⁵

(B) Clearing Agency’s Statement on Burden on Competition

ICE Clear Credit does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments formalize ICC’s current

intraday margin call practices in the Treasury Policy. These changes do not amend ICC’s methodology and would apply uniformly across all Clearing Participants. Accordingly, ICC does not believe the amendments would affect the rights and obligations of Clearing Participants or the costs of clearing, the ability of market participants to access clearing, or the market for clearing services generally. Therefore, ICE Clear Credit does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–ICC–2025–005 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–ICC–2025–005. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit’s website at <https://www.ice.com/clear-credit/regulation>.

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 materials that is obscene or subject to copyright protection. All submissions should refer to file number SR–ICC–2025–005 and should be submitted on or before May 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025–06417 Filed 4–15–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102813; File No. SR–NYSEARCA–2025–27]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

April 10, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,²

¹⁶ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

¹² 17 CFR 240.17ad–22(e)(4)(i).

¹³ 17 CFR 240.17ad–22(e)(4)(i).

¹⁴ 17 CFR 240.17ad–22(e)(2)(i) and (v).

¹⁵ *Id.*

notice is hereby given that on March 31, 2025, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") 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 the NYSE Arca Equities Fees and Charges ("Fee Schedule") to adopt fees for orders routed pursuant to the Midpoint Ping routing strategy. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 Fee Schedule to adopt fees for orders routed pursuant to the Midpoint Ping routing strategy, as defined in Rule 7.37-E(b)(9)(A). The Exchange proposes to implement the fee change effective March 31, 2025.

Background

The Exchange operates in a highly competitive market. The Securities and Exchange Commission ("Commission") has repeatedly expressed its 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."³

While Regulation NMS has enhanced competition, it has also fostered a "fragmented" market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that "such competition can lead to the fragmentation of order flow in that stock."⁴ Indeed, cash equity trading is currently dispersed across 16 exchanges,⁵ numerous alternative trading systems,⁶ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 20% market share.⁷ Therefore, no exchange possesses significant pricing power in the execution of cash equity order flow. More specifically, the Exchange currently has less than 12% market share of executed volume of equities trading in Tape A, B, and C securities combined.⁸

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. Accordingly, competitive forces constrain exchange transaction fees because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7-10-04) (Final Rule) ("Regulation NMS").

⁴ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

⁵ See Cboe U.S. Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

⁶ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssuueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atstlist.htm>.

⁷ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁸ See *id.*

Proposed Rule Change

The Exchange has amended its rules to provide for the optional Midpoint Ping routing strategy, which is available for MPL-IOC Orders.⁹ An MPL-IOC Order designated with the Midpoint Ping routing strategy would first check the NYSE Arca Book for available shares. Any remaining quantity of the order would then route as an MPL-IOC Order to one or more other NYSE Group equity exchanges sequentially, in accordance with the Exchange's routing table (as described in Rule 7.37-E(b)(9) and published on the Exchange's website). At each routing destination, the order would check the book for available shares, and any further unexecuted quantity would then route to the next destination on the routing table, as applicable. Any shares that remain unexecuted after the order has been routed to each destination on the routing table (to the extent that there were shares remaining to be routed) will be cancelled.

In connection with the upcoming availability of the Midpoint Ping routing strategy on March 31, 2025,¹⁰ the Exchange proposes to amend the Fee Schedule to adopt a routing fee that will apply to orders routed pursuant to the Midpoint Ping routing strategy. Under Section VI, Other Standard Rates—Routing (Per Share Price \$1.00 or Above), the Exchange proposes a new bullet providing as follows:¹¹

- \$0.0030 per share for securities priced at or above \$1.00 or 0.30% of Dollar Value for securities priced below \$1.00, for orders routed pursuant to the Midpoint Ping routing strategy (as described in Rule 7.37-E(b)(9)(A)).

The Exchange believes that this routing functionality would offer ETP Holders the opportunity to access midpoint liquidity on other trading venues (and, specifically, on the Exchange's affiliated equity exchanges).

⁹ See Rule 7.37-E(b)(9)(A); see also Securities Exchange Act Release No. 102566 (March 11, 2025), 90 FR 12423 (March 17, 2025) (SR-NYSEARCA-2025-22).

¹⁰ See <https://www.nyse.com/trader-update/history#110000947845>.

¹¹ The Exchange also proposes certain non-substantive conforming changes. The Exchange proposes to delete the parenthetical from the title of Section VI providing that the fees set forth in this section apply only to securities with a per share price \$1.00 or above. The Exchange next proposes to add text in the first bullet under Section VI to specify that the fee for Directed Orders routed to OneChronos LLC applies to orders in securities priced at or above \$1.00. These proposed changes would facilitate the addition of the proposed fee for orders routed pursuant to the Midpoint Ping routing strategy to the Fee Schedule and ensure that the Fee Schedule continues to accurately reflect the fee applicable to Directed Orders routed to OneChronos LLC.

This routing functionality is completely optional, and ETP Holders can readily select from among various providers of routing services, including other exchanges and non-exchange venues. ETP Holders that choose not to utilize this routing strategy would continue to be able to trade on the Exchange as they currently do.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹³ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As discussed above, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its 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.”¹⁴ While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”¹⁵

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 or reduce use of certain categories of products, in response to fee changes. Accordingly, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Midpoint Ping routing strategy is intended to provide ETP Holders with the option to, after interacting with

interest on the NYSE Arca Book, route remaining quantities of MPL–IOC Orders to other NYSE Group equity exchanges. This routing functionality is provided by the Exchange on a voluntary basis, and no rule or regulation requires that the Exchange offer it. Nor does any rule or regulation require market participants to route orders in this manner. As noted above, the Exchange operates in a highly competitive market in which market participants can readily select between various providers of routing services with different product offerings and different pricing. The Exchange believes the proposed fees are reasonable, as they are within the range of other routing fees the Exchange currently charges.

The Exchange believes its proposal equitably allocates its fees among market participants. The Exchange believes that the proposal represents an equitable allocation of fees because it would apply uniformly to all ETP Holders, in that all ETP Holders will have the ability to utilize the Midpoint Ping routing strategy, and each such member organization would be charged the proposed fee when utilizing the functionality. Without having a view of ETP Holders’ activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would serve as a disincentive to utilize the order type. However, the Exchange believes that a number of ETP Holders would seek to utilize the functionality, which would facilitate access to midpoint liquidity on other trading venues.

The Exchange reiterates that the routing functionality offered by the Exchange is completely optional and that the Exchange operates in a highly competitive market in which market participants can readily select between various providers of routing services with different product offerings and different pricing. The Exchange believes that the proposed fee structure for orders routed pursuant to the Midpoint Ping routing strategy is a fair and equitable approach to pricing.

The Exchange believes that the proposal is not unfairly discriminatory. The Exchange believes it is not unfairly discriminatory as the proposal to charge a fee would be assessed on an equal basis to all ETP Holders that use the Midpoint Ping routing strategy. Moreover, this proposed rule change neither targets, nor will it have a disparate impact on, any particular category of market participant. The Exchange believes that this proposal does not permit unfair discrimination because the changes described in this

proposal would be applied to all similarly situated ETP Holders. Accordingly, no member organization already operating on the Exchange would be disadvantaged by the proposed allocation of fees. The Exchange further believes that the proposed rule change would not permit unfair discrimination among ETP Holders because the Midpoint Ping routing strategy would remain available to all ETP Holders on an equal basis, and each such participant would be charged the same fee for using the functionality.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange’s statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization’s Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁶ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change furthers the Commission’s goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes “more efficient pricing of individual stocks for all types of orders, large and small.”¹⁷ The Exchange does not believe that the proposed fee change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange’s competitors. ETP Holders may opt to disfavor the Exchange’s pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of ETP Holders or competing venues to maintain their competitive standing in the financial markets.

Intramarket Competition. The Exchange believes the proposed amendment to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Midpoint Ping routing strategy is available to all ETP Holders, and all ETP

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ See *supra* note 4.

¹⁵ See *supra* note 5.

¹⁶ 15 U.S.C. 78f(b)(8).

¹⁷ See *supra* note 4.

Holders that use the functionality to route their orders would be charged the proposed fee. This routing functionality is provided by the Exchange on a voluntary basis, and no rule or regulation requires that the Exchange offer it. ETP Holders have the choice whether or not to use the Midpoint Ping routing strategy, and those that choose not to utilize it will not be impacted by the proposed rule change. The Exchange also does not believe the proposed rule change would impact intramarket competition, as the proposed fee would apply equally to all ETP Holders that choose to utilize the Midpoint Ping routing strategy, and therefore the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which 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 noted above, the Exchange's market share of intraday trading (*i.e.*, excluding auctions) is currently less than 12%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on 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 solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁸ and Rule 19b-4(f)(2) thereunder¹⁹ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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-NYSEARCA-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-NYSEARCA-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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-NYSEARCA-2025-27 and should be submitted on or before May 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-06414 Filed 4-15-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35533; File No. 812-15714]

Optimize Growth Equity Fund, Optimize Premium Yield Fund and Optimize Wealth Management Inc.

April 10, 2025.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order under sections 6(c) and 23(c)(3) of the Investment Company Act of 1940 (the "Act") for an exemption from rule 23c-3 under the Act.

SUMMARY OF APPLICATION: Applicants request an order under sections 6(c) and 23(c)(3) of the Act for an exemption from certain provisions of rule 23c-3 to permit certain registered closed-end investment companies to make repurchase offers on a monthly basis.

APPLICANTS: Optimize Growth Equity Fund, Optimize Premium Yield Fund and Optimize Wealth Management Inc.

FILING DATES: The application was filed on March 4, 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 May 6, 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.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁹ 17 CFR 240.19b-4.

²⁰ 17 CFR 200.30-3(a)(12).

Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Matthew J. McGrath, 205 Yonge Street, Toronto, Ontario, Canada M5B 0C4, *matthew.j.mcgrath@optimize.ca*, with copies to Gregory C. Davis, Esq., Ropes & Gray LLP, Three Embarcadero Center, San Francisco, California 94111, *gregory.davis@ropesgray.com*, and Chelsea M. Childs, Esq., Ropes & Gray LLP, Three Embarcadero Center, San Francisco, California 94111, *chelsea.childs@ropesgray.com*.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551-6883 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated March 4, 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>. 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. 2025-06419 Filed 4-15-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102807; File No. SR-NASDAQ-2025-031]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove Obsolete Provisions From Annual Listing Fees and Failure To Meet Listing Standards.

April 10, 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 April 1, 2025, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission

("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to remove obsolete language from the Nasdaq Rules regarding company listing fees and failure to meet listing standards.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

Nasdaq proposes to modify Rules 5815(a)(1)(B)(ii)(c)(1)-(2) and 5815(c)(1)(H) to remove obsolete language that describes certain deficiencies where a timely request for a hearing will not stay the suspension of the subject company's securities from trading pending the issuance of a written Panel Decision based on Staff Delisting Determination (as defined in Nasdaq Rule 5805(h)) letters issued before October 7, 2024.

Nasdaq also proposes to modify Rule 5910(a)(1)(A)(i) to remove obsolete language that describes entry fees for the listing of a class of securities on the Nasdaq Global Market for company applications submitted prior to January 1, 2024 that result in listing on the Nasdaq Global Market prior to February 15, 2024.

Nasdaq also proposes to modify Rules, 5910(b)(2)(A)-(D) and (F),

5920(b)(2)(A)-(D) and (G), and 5930(b)(1) to remove obsolete language that describes all-inclusive annual listing fees applicable until December 31, 2024 for listings on the Nasdaq Global Market (including the Nasdaq Global Select Market), the Nasdaq Capital Market, and for SEEDS and certain other securities, respectively.

Nasdaq is also proposing conforming adjustments, including renumbering Rule 5815(a)(1)(B)(ii)(c)(2) as Rule 5815(a)(1)(B)(ii)(c)(1) [sic].

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³ in general, and furthers the objectives of Sections 6(b)(1)⁴ and 6(b)(5) of the Act,⁵ in particular, in that it is designed to promote compliance and to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed change will eliminate obsolete language from the rules, thereby enhancing the readability of Nasdaq's rules and preventing confusion about the applicability of those rules, without making any substantive change to Nasdaq's rules.

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. Nasdaq does not believe the proposed rule change, which merely eliminates obsolete provisions and does not make any substantive change to Nasdaq's rules, will impose any burden, nor have any impact, on 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

Pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(6)⁷ thereunder, the Exchange has designated this proposal as one that effects a change

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(1).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.⁸

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing, which in turn, will allow the Exchange to immediately update its rulebook to remove the above-mentioned obsolete provisions. This filing does not raise any novel regulatory issues or any other substantive issues with regard to the Exchange's rulebook; it simply removes provisions linked to references dates that have already passed. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹⁰

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-NASDAQ-2025-031 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NASDAQ-2025-031. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-NASDAQ-2025-031 and should be submitted on or before May 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-06418 Filed 4-15-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102812; File No. SR-NASDAQ-2025-030]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of a Proposed Rule Change To List and Trade Shares of Grayscale Avalanche Trust (AVAX) Under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)

April 10, 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 March 27, 2025 The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of Grayscale Avalanche Trust (AVAX) (the "Trust") under Nasdaq Rule 5711(d) ("Commodity-Based Trust Shares"). The shares of the Trust are referred to herein as the "Shares."

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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.

⁸ In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

⁹ 17 CFR 240.19b-4(f)(6)(iii).

¹⁰ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under Nasdaq Rule 5711(d), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.³ The sponsors of the Trust are Grayscale Operating, LLC and Grayscale Investments Sponsors, LLC (each, a "Sponsor" and, collectively, the "Sponsors"), each a Delaware limited liability company.⁴ The Sponsors are indirect wholly owned subsidiaries of Digital Currency Group, Inc. ("Digital Currency Group"). The trustee for the Trust is CSC Delaware Trust Company ("Trustee"). The custodian for the Trust is Coinbase Custody Trust Company, LLC ("Custodian"). The administrator and transfer agent of the Trust is expected to be BNY Mellon Asset Servicing, a division of The Bank of New York Mellon (the "Transfer Agent"). The distribution and marketing agent for the Trust is expected to be Foreside Fund Services, LLC (the "Marketing Agent"). The index provider for the Trust is CoinDesk Indices, Inc. (the "Index Provider").

The Trust is a Delaware statutory trust that operates pursuant to a trust agreement between the Sponsor and the Trustee ("Trust Agreement").

Operation of the Trust

According to the prospectus the Trust intends to file (the "Prospectus"), the Trust's assets consist solely of AVAX, the native token of the Avalanche Network (as defined below) ("AVAX").

Each Share represents a proportional interest, based on the total number of Shares outstanding, in the Trust's assets as determined by reference to the Index Price,⁵ less the Trust's expenses and other liabilities (which include accrued but unpaid fees and expenses). The Sponsors expect that the market price of the Shares will fluctuate over time in response to the market prices of AVAX. In addition, because the Shares reflect

the estimated accrued but unpaid expenses of the Trust, the number of AVAX represented by a Share will gradually decrease over time as the Trust's AVAX are used to pay the Trust's expenses.

The activities of the Trust are limited to (i) issuing "Baskets" (as defined below) in exchange for AVAX transferred to the Trust as consideration in connection with creations, (ii) transferring or selling AVAX as necessary to cover the "Sponsor's Fee"⁶ and/or certain Trust expenses, (iii) transferring AVAX in exchange for Baskets surrendered for redemption (subject to obtaining regulatory approval from the Commission and approval of the Sponsor), (iv) causing the Sponsor to sell AVAX on the termination of the Trust, and (v) engaging in all administrative and security procedures necessary to accomplish such activities in accordance with the provisions of the Trust Agreement, the Custodian Agreement, the Index License Agreement, and the Participant Agreements (each as defined below).

The Trust will not be actively managed. It will not engage in any activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the market prices of AVAX.

The Trust is not a registered investment company under the Investment Company Act and the Sponsors believe that the Trust is not required to register under the Investment Company Act.

Investment Objective

According to the Prospectus, and as further described below, the Trust's investment objective is for the value of the Shares (based on AVAX per Share) to reflect the value of the AVAX held by the Trust, determined by reference to the Index Price, less the Trust's expenses and other liabilities. While an investment in the Shares is not a direct investment in AVAX, the Shares are designed to provide investors with a cost-effective and convenient way to gain investment exposure to AVAX. Generally speaking, a substantial direct investment in AVAX may require

expensive and sometimes complicated arrangements in connection with the acquisition, security and safekeeping of the AVAX and may involve the payment of substantial fees to acquire such AVAX from third-party facilitators through cash payments of U.S. dollars. Because the value of the Shares is correlated with the value of AVAX held by the Trust, it is important to understand the investment attributes of, and the market for, AVAX.

The Trust uses the Index Price to calculate its "NAV," which is the aggregate value, expressed in U.S. dollars, of the Trust's assets (other than U.S. dollars or other fiat currency), less the U.S. dollar value of the Trust's expenses and other liabilities calculated in the manner set forth under "Valuation of AVAX and Determination of NAV." "NAV per Share" is calculated by dividing NAV by the number of Shares then outstanding.

Valuation of AVAX and Determination of NAV

The following is a description of the material terms of the Trust Agreement as they relate to valuation of the Trust's AVAX and the NAV calculations.

On each business day at 4:00 p.m., New York time, or as soon thereafter as practicable (the "Evaluation Time"), the Sponsor will evaluate the AVAX held by the Trust and calculate and publish the NAV of the Trust. To calculate the NAV, the Sponsor will:

1. Determine the Index Price as of such business day.
2. Multiply the Index Price by the Trust's aggregate number of AVAX owned by the Trust as of 4:00 p.m., New York time, on the immediately preceding day, less the aggregate number of AVAX payable as the accrued and unpaid Sponsor's Fee as of 4:00 p.m., New York time, on the immediately preceding day.
3. Add the U.S. dollar value of AVAX, calculated using the Index Price, receivable under pending creation orders, if any, determined by multiplying the number of the Baskets represented by such creation orders by the Basket Amount and then multiplying such product by the Index Price.⁷
4. Subtract the U.S. dollar amount of accrued and unpaid Additional Trust Expenses, if any.⁸

⁷ "Baskets" and "Basket Amount" have the meanings set forth in "Creation and Redemption of Shares" below.

⁸ A "Digital Asset Market" is a "Brokered Market," "Dealer Market," "Principal-to-Principal Market" or "Exchange Market," as each such term is defined in the Financial Accounting Standards

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³ The Commission approved Nasdaq Rule 5711 in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR-NASDAQ-2012-013).

⁴ As of May 3, 2025, Grayscale Operating, LLC will cease to act as Sponsor of the Trust and Grayscale Investment Sponsors, LLC will be sole Sponsor of the Trust.

⁵ The "Index Price" means the U.S. dollar value of AVAX derived from the Digital Asset Trading Platforms (as defined below) that are reflected in the CoinDesk AVAX CCIXber Reference Rate (the "Index"), calculated at 4:00 p.m., New York time, on each business day.

⁶ The Sponsor's Fee means a fee, payable in AVAX, which will daily in U.S. dollars at an annual rate of a to-be-determined percentage of the NAV Fee Basis Amount of the Trust as of 4:00 p.m., New York time, on each day, provided that for a day that is not a business day, the calculation of the Sponsor's Fee will be based on the NAV Fee Basis Amount from the most recent business day, reduced by the accrued and unpaid Sponsor's Fee for such most recent business day and for each day after such most recent business day and prior to the relevant calculation date. The "NAV Fee Basis Amount" is calculated in the manner set forth under "Valuation of AVAX and Determination of NAV" below.

5. Subtract the U.S. dollar value of the AVAX, calculated using the Index Price, to be distributed under pending redemption orders, if any, determined by multiplying the number of Baskets to be redeemed represented by such redemption orders by the Basket Amount and then multiplying such product by the Index Price (the amount derived from steps 1 through 5 above, the “NAV Fee Basis Amount”).

6. Subtract the U.S. dollar amount of the Sponsor’s Fee that accrues for such business day, as calculated based on the NAV Fee Basis Amount for such business day.

In the event that the Sponsor determines that the primary methodology used to determine the Index Price is not an appropriate basis for valuation of the Trust’s AVAX, the Sponsor will utilize the cascading set of rules as described in “Determination of the Index Price When Index Price is Unavailable” below.

AVAX and the Avalanche Network

AVAX is a digital asset that is created and transmitted through the operations of the peer-to-peer Avalanche Network, a decentralized network of computers that operates on cryptographic protocols. No single entity owns or operates the Avalanche Network, the infrastructure of which is collectively maintained by a decentralized user base. The Avalanche Network allows people to exchange tokens of value, called AVAX, which are recorded on a public transaction ledger known as a blockchain. AVAX can be used to pay for goods and services, including computational power on the Avalanche Network, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on Digital Asset Trading Platforms or in individual end-user-to-end-user transactions under a barter system. Furthermore, the Avalanche Network was designed to allow users to write and implement smart contracts—that is, general-purpose code that executes on every computer in the network and can instruct the transmission of information and value based on a sophisticated set of logical conditions. Using smart contracts, users can create markets, store registries of debts or promises, represent

the ownership of property, move funds in accordance with conditional instructions and create digital assets other than AVAX on the Avalanche Network. Smart contract operations are executed on the Avalanche blockchain in exchange for payment of AVAX. Like the Ethereum network, the Avalanche Network is one of a number of projects intended to expand blockchain use beyond just a peer-to-peer money system.

The Avalanche Network primarily uses a proof-of-stake consensus mechanism to incentivize AVAX holders to validate transactions. Unlike proof-of-work, in which miners expend computational resources to compete to validate transactions and are rewarded coins in proportion to the amount of computational resources expended, in proof-of-stake, validators risk or “stake” coins to compete to be randomly selected to validate transactions and are rewarded coins in proportion to the amount of coins staked. Proof-of-stake is viewed as more energy efficient and scalable than proof-of-work and is sometimes referred to as “virtual mining”.

Unlike with the Bitcoin blockchain, whereby every node validates every transaction, each Avalanche validator is only required to validate the “Primary Network,” which is comprised of three blockchains—the Exchange (X) Chain, the Platform (P) Chain, and the Contract (C) Chain—which each have a specific use. On the Exchange (X) Chain, AVAX and other assets exist and are traded. The Platform (P) Chain coordinates validators and creates subnets (as defined below). Finally, the Contract (C) Chain executes smart contracts.

Whereas all validators are required to validate the Primary Network and the three blockchains described above, active validators of the Primary Network may additionally elect to validate certain non-core blockchains (*i.e.*, blockchains that are not fundamental to or necessary for the Avalanche Network to operate) of the Avalanche Network. Avalanche Network users can create tokens and transact on these non-core blockchains (each such blockchain, a “subnet”) for specific applications and use cases. Transactions on these subnets are intended to be faster and less expensive than if they occurred on one single blockchain. The Primary Network then coordinates activities among the subnets. For example, a single dApp might utilize a subnet to facilitate its core transactions and functionalities, while being able to interact with other Avalanche dApps and subnets via the Primary Network.

These efficiencies can be achieved because the Avalanche Network uses a subset of validators to validate subnets, reducing the resources required to validate transactions across the entire ecosystem. Consequently, the Avalanche Network is reportedly one of the fastest networks when measured by transaction time-to-finality at relatively low transaction costs.

Components of the Avalanche protocol were first conceived in a 2018 document by the pseudonymous “Team Rocket.” Development of the Avalanche Network is overseen by Ava Labs Inc. (“Ava Labs”), a Delaware corporation headquartered in New York, which was founded by Cornell University Professor Emin Gun Sirer and graduate student Maofan Yin to formalize the Avalanche Protocol. Ava Labs administered the original network launch and token distribution.

Although Ava Labs and the associated Avalanche Foundation Limited (“Avalanche Foundation”) continue to exert significant influence over the direction of the development of Avalanche, the Avalanche Network, like the Ethereum network, is decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of AVAX.

At the time of initial distribution, Ava Labs represented the largest owner, holding approximately 72 million AVAX, or 10% of the total supply of AVAX, most in unreleased supply yet to be distributed and held in treasury, and Avalanche Foundation held approximately 67 million AVAX, or 9.25% of the total supply of AVAX.⁹ As of March 20, 2025, approximately 414 million AVAX, or 58% of the total supply of AVAX was in circulation distributed across multiple wallets.

Custody of the Trust’s AVAX

Digital assets and digital asset transactions are recorded and validated on blockchains, the public transaction ledgers of a digital asset network. Each digital asset blockchain serves as a record of ownership for all of the units of such digital asset, even in the case of certain privacy-preserving digital assets, where the transactions themselves are not publicly viewable. All digital assets recorded on a blockchain are associated with a public blockchain address, also referred to as a digital wallet. Digital assets held at a particular public

Board Accounting Standards Codification Master Glossary. The “Digital Asset Trading Platform Market” is the global trading platform market for the trading of AVAX, which consists of transactions on electronic Digital Asset Trading Platforms. A “Digital Asset Trading Platform” is an electronic marketplace where trading participants may trade, buy and sell AVAX based on bid-ask trading. The largest Digital Asset Trading Platforms are online and typically trade on a 24-hour basis, publishing transaction price and volume data.

⁹ SEQ, Why Avalanche (AVAX) has the potential to be an incredible store of value, Medium: Avalanche Hub (Oct. 18, 2020), <https://medium.com/avalanche-hub/why-avalanche-avax-has-the-potential-to-be-an-incredible-store-of-value-8ef6e68cbb60>.

blockchain address may be accessed and transferred using a corresponding private key.

Key Generation

Public addresses and their corresponding private keys are generated by the Custodian in secret key generation ceremonies at secure locations inside faraday cages, which are enclosures used to block electromagnetic fields and thus mitigate against attacks. The Custodian uses quantum random number generators to generate the public and private key pairs.

Once generated, private keys are encrypted, separated into “shards,” and then further encrypted. After the key generation ceremony, all materials used to generate private keys, including computers, are destroyed. All key generation ceremonies are performed offline. No party other than the Custodian (including the Trust itself) has access to the private key shards of the Trust.

Key Storage

Private key shards are distributed geographically in secure vaults around the world, including in the United States. The locations of the secure vaults may change regularly and are kept confidential by the Custodian for security purposes.

The “Digital Asset Account” is a segregated custody account controlled and secured by the Custodian to store private keys, which allows for the transfer of ownership or control of the Trust’s AVAX on the Trust’s behalf. The Digital Asset Account uses offline storage, or “cold,” mechanisms to secure the Trust’s private keys. The term cold storage refers to a safeguarding method by which the private keys corresponding to digital assets are disconnected and/or deleted entirely from the internet. Cold storage of private keys may involve keeping such keys on a non-networked (or “air-gapped”) computer or electronic device or storing the private keys on a storage device (for example, a USB thumb drive) or printed medium (for example, papyrus, paper, or a metallic object). A digital wallet may receive deposits of digital assets but may not send digital assets without use of the digital assets’ corresponding private keys. In order to send digital assets from a digital wallet in which the private keys are kept in cold storage, either the private keys must be retrieved from cold storage and entered into an online, or “hot,” digital asset software program to sign the transaction, or the unsigned transaction must be transferred to the cold server in which

the private keys are held for signature by the private keys and then transferred back to the online digital asset software program. At that point, the user of the digital wallet can transfer its digital assets.

Security Procedures

The Custodian is the custodian of the Trust’s private keys (which, as noted above, facilitate the transfer of ownership or control of the Trust’s AVAX) in accordance with the terms and provisions of the custodian agreement by and between the Custodian, the Sponsor and the Trust (the “Custodian Agreement”). Transfers from the Digital Asset Account require certain security procedures, including, but not limited to, multiple encrypted private key shards, usernames, passwords and 2-step verification. Multiple private key shards held by the Custodian must be combined to reconstitute the private key to sign any transaction in order to transfer the Trust’s assets. Private key shards are distributed geographically in secure vaults around the world, including in the United States.

As a result, if any one secure vault is ever compromised, this event will have no impact on the ability of the Trust to access its assets, other than a possible delay in operations, while one or more of the other secure vaults is used instead. These security procedures are intended to remove single points of failure in the protection of the Trust’s assets.

Transfers of AVAX to the Digital Asset Account will be available to the Trust once processed on the Blockchain.

Subject to obtaining regulatory approval to operate a redemption program and authorization of the Sponsor, the process of accessing and withdrawing AVAX from the Trust to redeem a Basket by an Authorized Participant will follow the same general procedure as transferring AVAX to the Trust to create a Basket by an Authorized Participant, only in reverse.

The Sponsor will maintain ownership and control of the Trust’s AVAX in a manner consistent with good delivery requirements for spot commodity transactions.

AVAX Value

Digital Asset Trading Platform Valuation

The value of AVAX is determined by the value that various market participants place on AVAX through their transactions. The most common means of determining the value of an AVAX is by surveying one or more

Digital Asset Trading Platforms where AVAX is traded publicly and transparently.

Digital Asset Trading Platform Public Market Data

On each online Digital Asset Trading Platform, AVAX is traded with publicly disclosed valuations for each executed trade, measured by one or more fiat currencies such as the U.S. dollar or euro, or stablecoins such as U.S. Dollar Coin (“USDC”). Over-the-counter dealers or market makers do not typically disclose their trade data.

As of December 31, 2024, the Digital Asset Trading Platforms included in the Index were Bitstamp, Bullish, Bybit, *Crypto.com*, Gemini, Kraken, and OKX. As further described below, the Sponsor and the Trust reasonably believe each of these Digital Asset Trading Platforms are in material compliance with applicable licensing requirements based on the Trading Platform Category and Jurisdiction, as detailed below, and maintain practices and policies designed to comply with anti-money laundering (“AML”) and know-your-customer (“KYC”) regulations.

- *Bitstamp*: A U.K.-based trading platform registered as a money services business (“MSB”) with the Financial Crimes Enforcement Network (“FinCEN”) and licensed as a virtual currency business under the New York State Department of Financial Services (“NYDFS”) BitLicense as well as a money transmitter in various U.S. states.

- *Bullish*: A Gibraltar-based trading platform registered as an MSB with FinCEN. Bullish is not available to U.S. based customers. Bullish is categorized by the Index Provider as a “Category 2” trading platform which meets the Inclusion Criteria outlined below but is non-U.S. licensed.

- *Bybit*: A United Arab Emirates based trading platform. Bybit does not hold any licenses or registrations in the U.S. and is not available to U.S. based customers. Bybit is categorized by the Index Provider as a “Category 2” trading platform which meets the Inclusion Criteria outlined below but is non-U.S. licensed.

- *Crypto.com*: A Singapore-based trading platform registered as an MSB with FinCEN and licensed as a money transmitter in various U.S. states. *Crypto.com* does not hold a BitLicense.

- *Gemini*: A U.S.-based trading platform registered as an MSB with FinCEN and licensed as money transmitter in various U.S. states. Gemini is exempt from applying for a BitLicense under the framework established by NYDFS because of their trust charter under NY Banking Law.

• *Kraken*: A U.S.-based trading platform registered as an MSB with FinCEN and licensed as a money transmitter in various U.S. states. Kraken does not hold a BitLicense.

• *OKX*: A Seychelles based trading platform. OKX does not hold any licenses or registrations in the U.S. and is not available to U.S. based customers. OKX is categorized by the Index Provider as a “Category 2” trading platform which meets the Inclusion

Criteria outlined below but is non-U.S. licensed.

Currently, there are several Digital Asset Trading Platforms operating worldwide and online Digital Asset Trading Platforms represent a substantial percentage of AVAX buying and selling activity and provide the most data with respect to prevailing valuations of AVAX. These trading platforms include established trading platforms such as trading platforms

included in the Index which provide a number of options for buying and selling AVAX. The below table reflects the trading volume in AVAX and market share of the AVAX–U.S. dollar and AVAX–USDC trading pairs of each of the Digital Asset Trading Platforms included in the Index as of December 31, 2024 (collectively, “Constituent Trading Platforms”), using data since January 1, 2024:

AVAX trading platforms included in the index as of December 31, 2024	Volume (AVAX)	Market share ¹ (%)
Kraken	42,568,182	11.43
Crypto.com	20,093,962	5.40
Bitstamp	7,807,791	2.10
Gemini	2,293,338	0.62
Total U.S. Dollar-AVAX trading pair	72,763,273	19.55
Bullish	32,307,111	28.34
Bybit	18,651,429	16.36
OKX	6,236,624	5.47
Kraken	24,905	0.02
Total USDC–AVAX trading pair	57,220,069	50.19

¹ Market share is calculated using trading volume (in AVAX) for certain Digital Asset Trading Platforms including, Kraken, Crypto.com, Bitstamp, Gemini, Bullish, Bybit and OKX, as well as certain other large U.S.-dollar and USDC denominated Digital Asset Trading Platforms that were not included in the Index as of December 31, 2024, including Coinbase Bitfinex, Binance, Kucoin and MEXC.

The Index and the Index Price

The Index is a U.S. dollar-denominated composite reference rate for the price of AVAX. The Index is designed to (1) mitigate the effects of fraud, manipulation and other anomalous trading activity from impacting the AVAX reference rate, (2) provide a real-time, volume-weighted fair value of AVAX and (3) appropriately handle and adjust for non-market related events.

The Index Price is determined by the Index Provider through a process in which trade data is cleansed and compiled in such a manner as to algorithmically reduce the impact of anomalous or manipulative trading. This is accomplished by the (a) real-time introduction and capture of new trades on a trade-by-trade basis where prior trade data becomes immediately less relevant with new trades, (b) utilization of an Outlier Detection Factor¹⁰ for excluding a price or price(s) deemed to be an outlier relative to the most recently calculated Index price, and (c) utilization of a time penalty factor for penalizing inactivity for any of the Constituent Trading Platforms.

¹⁰ Outlier Detection Factor means a factor used for penalizing a price deemed to be an outlier in accordance with the Index Provider’s methodology.

Constituent Trading Platform Selection

According to the Memorandum, the Digital Asset Trading Platforms that are included in the Index are selected by the Index Provider utilizing a methodology that is guided by the International Organization of Securities Commissions (“IOSCO”) principles for financial benchmarks. For a trading platform to become a Constituent Trading Platform, it must satisfy each of the criteria listed below (the “Inclusion Criteria”):

- No evidence in the past 12 months of trading restrictions on individuals or entities that would otherwise meet the trading platform’s eligibility requirements to trade;
- No evidence in the past 12 months of undisclosed restrictions on deposits or withdrawals from user accounts;
- Real-time price discovery;
- Limited or no capital controls;¹¹
- Transparent ownership including a publicly-known ownership entity;
- Publicly available language and policies addressing legal and regulatory compliance in the U.S., including KYC, AML and other policies designed to comply with relevant regulations that might apply to it; and

¹¹ “Capital controls” in this context means governmental sanctions that would limit the movement of capital into, or out of, the jurisdiction in which such Digital Asset Trading Platforms operate.

- Offer programmatic spot trading of the trading pair¹² and reliably publish trade prices and volumes on a real-time basis through Rest and Websocket APIs.

All trading platforms that meet these Inclusion Criteria will be assigned to one Exchange Category as defined by the additional criteria below:

- Category 1
 - Licensed and/or able to serve investors, retail or professional, in the U.S.; and
 - Maintain sufficient USD or USDC liquidity relative to the size of the listed assets.
- Category 2
 - Licensed (including in-principal licensure) and/or able to serve investors, retail or professional, in one or more of the following jurisdictions:
 - United Kingdom
 - European Union¹³
 - Hong Kong
 - Singapore; and
 - Maintain sufficient USD or USDC liquidity relative to the size of the listed assets.

A Digital Asset Trading Platform is removed as a Constituent Trading

¹² Trading platforms with programmatic trading offer traders an application programming interface that permits trading by sending programmed commands to the trading platform.

¹³ In the event an exchange is only licensed or able to serve investors in select European Union countries and none of the other listed jurisdictions, the Index Provider reserves the right to evaluate its eligibility on a case-by-case basis.

Platform when it no longer satisfies the Inclusion Criteria. The Index Provider does not currently include data from over-the-counter markets or derivatives platforms among the Constituent Trading Platforms. According to the Memorandum, over-the-counter data is not currently included because of the potential for trades to include a significant premium or discount paid for larger liquidity, which creates an uneven comparison relative to more active markets. There is also a higher potential for over-the-counter transactions to not be arms-length, and thus not be representative of a true market price.

The Index Provider and the Sponsor have entered into the index license agreement, dated as of February 1, 2022 (as amended, the “Index License Agreement”), governing the Sponsor’s use of the Index Price.¹⁴ Pursuant to the terms of the Index License Agreement, the Index Provider may adjust the calculation methodology for the Index Price without notice to, or consent of, the Trust or its shareholders. The Index Provider may decide to change the calculation methodology to maintain the integrity of the Index Price calculation should it identify or become aware of previously unknown variables or issues with the existing methodology that it believes could materially impact its performance and/or reliability. The Index Provider has sole discretion over the determination of Index Price and may change the methodologies for determining the Index Price from time to time. Shareholders will be notified of any material changes to the calculation methodology or the Index Price in the Trust’s current reports and will be notified of all other changes that the Sponsor considers significant in the Trust’s periodic or current reports. The Sponsor will determine the materiality of any changes to the Index Price on a case-by-case basis, in consultation with external counsel.

The Index Provider may change the trading venues that are used to calculate the Index or otherwise change the way in which the Index is calculated at any time. For example, the Index Provider has scheduled quarterly reviews in which it may add or remove Constituent Trading Platforms that satisfy or fail the Inclusion Criteria. The Index Provider does not have any obligation to consider the interests of the Sponsor, the Trust, the shareholders, or anyone else in connection with such changes. While

the Index Provider is not required to publicize or explain the changes or to alert the Sponsor to such changes, it has historically notified the Trust (and other subscribers to the Index) of any material changes to the Constituent Trading Platforms, including any additions or removals, contemporaneous with its issuance of press releases in connection with the same. The Sponsor will notify investors of any such material event by filing a current report on Form 8-K. Although the Index methodology is designed to operate without any manual intervention, rare events would justify manual intervention. Intervention of this kind would be in response to non-market-related events, such as the halting of deposits or withdrawals of funds on a Digital Asset Trading Platform, the unannounced closure of operations on a Digital Asset Trading Platform, insolvency or the compromise of user funds. In the event that such an intervention is necessary, the Index Provider would issue a public announcement through its website, API or other established communication channels with its clients.

Determination of the Index Price

The Index applies an algorithm to the price of AVAX on the Constituent Trading Platforms calculated every 5 seconds over a 24-hour period. The Index’s algorithm is expected to *reflect* a five-pronged methodology to calculate the Index Price from the Constituent Trading Platforms:

- **Volume Weighting:** Constituent Trading Platforms with greater liquidity receive a higher weighting in the Index, increasing the ability to execute against (*i.e.*, replicate) the Index in the underlying spot markets. The Index Price methodology is a volume-weighted real-time price where each Constituent Trading Platform is weighted based on its trailing 24-hour volume.

- **FX Conversion:** The Index Price algorithm utilizes a volume-weighted real-time FX conversion rate for any trading activity for the relevant Stablecoin-USD pair. This normalizes all trading activity to USD denomination.

- **Outlier Detection Factor:** The Index Price algorithm excludes trade data and price(s) deemed to be an outlier relative to the most recently calculated Index Price.

- **Inactivity Adjustment:** The Index Price algorithm penalizes stale activity from any given Constituent Trading Platform. When a Constituent Trading Platform does not have recent trading data, the outdated prices and their contribution to the Index Price

calculation is gradually reduced until it is de-weighted to 0.1%. Similarly, once trading activity at a Constituent Trading Platform resumes, the corresponding weighting for that Constituent Trading Platform will no longer be penalized.

- **Manipulation Resistance:** In order to mitigate the effects of wash trading and order book spoofing, and in an effort to prioritize the most significant Constituent Trading Platforms for a given asset—the Index utilizes a Constituent Trading Platform Selection and Review process, which seeks to identify the highest-ranking Constituent Trading Platforms based on both qualitative and quantitative factors. The Qualitative Review includes legal and regulation, data provision, security, trade monitoring, market quality, and negative events policy, among others. The Quantitative Review includes review of trading activity for the asset on the given Constituent Trading Platform.

The Index Provider re-evaluates the weighting algorithm on a periodic basis, but maintains discretion to change the way in which an Index Price is calculated based on its periodic review or in extreme circumstances and does not make the exact methodology to calculate the Index Price publicly available. Nonetheless, the Sponsors believe that the Index is designed to limit exposure to trading or price distortion of any individual Digital Asset Trading Platform that experiences periods of unusual activity or limited liquidity by discounting, in real-time, anomalous price movements at individual Digital Asset Trading Platforms.

The Sponsors believe the Index Provider’s selection process for Constituent Trading Platforms as well as the methodology of the Index Price’s algorithm provides a more accurate picture of AVAX price movements than a simple average of Digital Asset Trading Platform spot prices, and that the weighting of AVAX prices on the Constituent Trading Platforms limits the inclusion of data that is influenced by temporary price dislocations that may result from technical problems, limited liquidity or fraudulent activity elsewhere in the AVAX spot market. By referencing multiple trading venues and weighting them based on trade activity, the Sponsors believe that the impact of any potential fraud, manipulation or anomalous trading activity occurring on any single venue is reduced.

If the Index Price becomes unavailable, or if the Sponsor determines in good faith that such Index Price does not reflect an accurate price for AVAX, then the Sponsor will, on a

¹⁴ Upon entering into the Index License Agreement, the Sponsor and the Index Provider terminated the license agreement between the parties dated as of February 28, 2019.

best efforts basis, contact the Index Provider to obtain the Index Price directly from the Index Provider. If after such contact such Index Price remains unavailable or the Sponsor continues to believe in good faith that such Index Price does not reflect an accurate price for AVAX, then the Sponsor will employ a cascading set of rules to determine the Index Price, as described below in “Determination of the Index Price When Index Price is Unavailable.”

The Trust values its AVAX for operational purposes by reference to the Index Price. The Index Price is the value of AVAX as represented by the Index, calculated at 4:00 p.m., New York time, on each business day.

Illustrative Example

For the purposes of illustration, outlined below are examples of how the attributes that impact weighting and adjustments in the aforementioned methodology may be utilized to generate the Index Price for a digital asset. For example, Constituent Trading Platforms used to calculate the Index Price of the digital asset may include trading platforms such as Bitstamp, Kraken, LMAX Digital, and *Crypto.com*.

The Index Price algorithm, as described above, is designed to account for manipulation at the outset by only including data from executed trades on Constituent Trading Platforms that charge trading fees. Then, the below-listed elements may impact the weighting of the Constituent Trading Platforms on the Index Price as follows:

- **Volume Weighting:** Each Constituent Trading Platform will be weighted to appropriately reflect the trading volume share of the Constituent Trading Platform relative to all the Constituent Trading Platforms during this same period. For example, an average hourly weighting of 67.06%, 14.57%, 11.88%, and 6.49% for Bitstamp, Kraken, LMAX Digital, and *Crypto.com*, respectively, would represent each Constituent Trading Platform's share of trading volume during the same period.

- **Inactivity Adjustment:** Assume that a Constituent Trading Platform represented a 14% weighting on the Index Price of the digital asset, which is based on the per-second calculations of its trading volume and price-variance relative to the cohort of Constituent Trading Platforms included in such Index, and then went offline for approximately two hours. The index algorithm would automatically recognize inactivity and start de-weighting the Constituent Trading Platform at the 5-minute mark and continue to do so with each additional

5-minute period of inactivity until its influence was effectively zero, 25 minutes after becoming inactive. As soon as trading activity resumed at the Constituent Trading Platform, the index algorithm would re-weight it to the appropriate weighting based on trading volume and price-variance relative to the cohort of Constituent Trading Platforms included in the Index.

- **Price Outlier Detection:** New traded prices from Constituent Trading Platforms are compared to the latest calculated Index Price. In the event the new traded price deviates by $\pm 5\%$ from the latest calculated Index Price it will be considered an outlier and not used in the calculation of the Index Price until such time as a majority of the Constituent Trading Platforms are similarly considered outlier prices. In that case, the new prices will be used to calculate the Index Price. For example, if the Index Price is \$10 and a new trade price of \$11 from Constituent Trading Platform X, the price of \$11 will be considered an outlier and not used. However, if the most recent prices on a majority of the Constituent Trading Platforms are aligned with the price of \$11, then these prices will no longer be considered outliers and will be used to calculate the new Index Price.

Determination of the Index Price When Index Price Is Unavailable

The Sponsor uses the following cascading set of rules to calculate the Index Price when the Index Price is unavailable.¹⁵ For the avoidance of doubt, the Sponsor will employ the below rules sequentially and in the order as presented below, should one or more specific rule(s) fail:

1. Index Price = The price set by the Index as of 4:00 p.m., New York time, on the valuation date.¹⁶ If the Index becomes unavailable, or if the Sponsor determines in good faith that the Index does not reflect an accurate price, then the Sponsor will, on a best efforts basis, contact the Index Provider to obtain the Index Price directly from the Index Provider. If after such contact the Index remains unavailable or the Sponsor continues to believe in good faith that the Index does not reflect an accurate price, then the Sponsor will employ the next rule to determine the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

¹⁵ The Sponsor updated these rules on January 11, 2022.

¹⁶ The valuation date is any day for which the value of the AVAX in the Trust may be calculated utilizing the Index Price.

2. Index Price = The price set by Coin Metrics Real-Time Rate (the “Secondary Index”) as of 4:00 p.m., New York time, on the valuation date (the “Secondary Index Price”). The Secondary Index Price is a real-time reference rate price, calculated using trade data from constituent markets selected by Coin Metrics, Inc. (the “Secondary Index Provider”). The Secondary Index Price is calculated by applying weighted-median techniques to such trade data where half the weight is derived from the trading volume on each constituent market and half is derived from inverse price variance, where a constituent market with high price variance as a result of outliers or market anomalies compared to other constituent markets is assigned a smaller weight. The Secondary Index Provider and the Sponsor have entered into the master services agreement, dated as of August 4, 2020, and order forms thereunder, pursuant to which the Sponsor may obtain and use the Secondary Index and the Secondary Index Price from the Secondary Index Provider. If the Secondary Index becomes unavailable, or if the Sponsor determines in good faith that the Secondary Index does not reflect an accurate price, then the Sponsor will, on a best efforts basis, contact the Secondary Index Provider to obtain the Secondary Index Price directly from the Secondary Index Provider. If after such contact the Secondary Index remains unavailable or the Sponsor continues to believe in good faith that the Secondary Index does not reflect an accurate price, then the Sponsor will employ the next rule to determine the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

3. Index Price = The price set by the Trust's principal market (as defined in the Memorandum) (the “Tertiary Pricing Option”) as of 4:00 p.m., New York time, on the valuation date. The Tertiary Pricing Option is a spot price derived from the principal market's public data feed that is believed to be consistently publishing pricing information as of 4:00 p.m., New York time, and is provided to the Sponsor via an application programming interface. If the Tertiary Pricing Option becomes unavailable, or if the Sponsor determines in good faith that the Tertiary Pricing Option does not reflect an accurate price, then the Sponsor will, on a best efforts basis, contact the Tertiary Pricing Provider to obtain the Tertiary Pricing Option directly from the Tertiary Pricing Provider. If after such contact the Tertiary Pricing Option

remains unavailable after such contact or the Sponsor continues to believe in good faith that the Tertiary Pricing Option does not reflect an accurate price, then the Sponsor will employ the next rule to determine the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

4. Index Price = The Sponsor will use its best judgment to determine a good faith estimate of the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

In the event of a fork, the Index Provider may calculate the Index Price based on a digital asset that the Sponsor does not believe to be an appropriate asset of the Trust (*i.e.*, a digital asset other than AVAX).¹⁷ In this event, the Sponsor has full discretion to use a different index provider or calculate the Index Price itself using its best judgment. In such an event, the Exchange will submit a proposed rule filing to contemplate the assets that would subsequently be held by the Trust.

The Sponsor may, in its sole discretion, select a different index provider, select a different index price provided by the Index Provider, calculate the Index Price by using the cascading set of rules set forth above, or change the cascading set of rules set forth above at any time.¹⁸

Creation and Redemption of Shares

Authorized Participants may submit orders to create or redeem Shares under procedures for “Cash Orders.”

The Authorized Participants will deliver only cash to create Shares and will receive only cash when redeeming

Shares. Further, Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive AVAX as part of the creation or redemption process or otherwise direct the Trust or a third party with respect to purchasing, holding, delivering, or receiving AVAX as part of the creation or redemption process.

The Trust will create Shares by receiving AVAX from a third party that is not the Authorized Participant, and the Trust, or an affiliate of the Trust (and in any event not the Authorized Participant), is responsible for selecting the third party to deliver the AVAX. Further, the third party will not be acting as an agent of the Authorized Participant with respect to the delivery of the AVAX to the Trust nor acting at the direction of the Authorized Participant with respect to the delivery of the AVAX to the Trust. The Trust will redeem Shares by delivering AVAX to a third party that is not the Authorized Participant, and the Trust, or an affiliate of the Trust (and in any event not the Authorized Participant), is responsible for selecting the third party to receive the AVAX. Further, the third party will not be acting as an agent of the Authorized Participant with respect to the receipt of the AVAX from the Trust nor acting at the direction of the Authorized Participant with respect to the receipt of the AVAX from the Trust.

Cash Orders are made through the participation of a Liquidity Provider¹⁹ who obtains or receives AVAX in exchange for cash, and are facilitated by the Transfer Agent and Grayscale Investments Sponsors, LLC, acting in its capacity as the Liquidity Engager. Liquidity Providers are not party to the Participant Agreements (as defined below) and are engaged separately by the Liquidity Engager.

According to the Registration Statement, the Trust creates Baskets (as described below) of Shares only upon receipt of AVAX and redeems Shares only by distributing AVAX.

“Authorized Participants” are the only persons that may place orders to create and redeem Baskets. Each Authorized Participant must (i) be a registered broker-dealer and (ii) enter into an agreement with the Sponsor and Transfer Agent that provides the procedures for the creation and redemption of Baskets and for the delivery of AVAX required for the creation and redemption of Baskets via a Liquidity Provider (each, a “Participant Agreement”). An Authorized Participant may act for its own account or as agent for broker-dealers, custodians and other securities market participants that wish to create or redeem Baskets. Shareholders who are not Authorized Participants will only be able to create or redeem their Shares through an Authorized Participant.

The Trust issues Shares to and redeems Shares from Authorized Participants on an ongoing basis, but only in one or more “Baskets” (with a Basket being a block of 10,000 Shares). The Trust will not issue fractions of a Basket.

The creation and redemption of Baskets will be made only in exchange for the delivery to the Trust, or the distribution by the Trust, of the number of whole and fractional AVAX represented by each Basket being created or redeemed, which is determined by dividing (x) the number of AVAX owned by the Trust at 4:00 p.m., New York time, on the trade date of a creation or redemption order, after deducting the number of AVAX representing the U.S. dollar value of accrued but unpaid fees and expenses of the Trust (converted using the Index Price at such time, and carried to the eighth decimal place), by (y) the number of Shares outstanding at such time (with the quotient so obtained calculated to one one-hundred-millionth of one AVAX (*i.e.*, carried to the eighth decimal place)), and multiplying such quotient by 10,000 (the “Basket Amount”). The U.S. dollar value of a Basket is calculated by multiplying the Basket Amount by the Index Price as of the trade date (the “Basket NAV”). The Basket NAV multiplied by the number of Baskets being created or redeemed is referred to as the “Total Basket NAV.” All questions as to the calculation of the Basket Amount will be conclusively determined by the Sponsor and will be final and binding on all persons interested in the Trust. The number of

¹⁷ According to the Prospectus, the Avalanche Network operates using open-source protocols, meaning that any user can download the software, modify it and then propose that the users and validators of AVAX adopt the modification. When a modification is introduced and a substantial majority of users and validators’ consent to the modification, the change is implemented and the network remains uninterrupted. However, if less than a substantial majority of users and validators’ consent to the proposed modification, and the modification is not compatible with the software prior to its modification, the consequence would be what is known as a “hard fork” of the Avalanche Network, with one group running the pre-modified software and the other running the modified software. The effect of such a fork would be the existence of two versions of AVAX running in parallel, yet lacking interchangeability. Forks may also occur as a network community’s response to a significant security breach.

¹⁸ The Sponsor will provide notice of any such changes in the Trust’s periodic or current reports and, if the Sponsor makes such a change other than on an ad hoc or temporary basis, will file a proposed rule change with the Commission.

¹⁹ A “Liquidity Provider” means one or more eligible companies that facilitate the purchase and sale of AVAX in connection with creations or redemptions pursuant to Cash Orders. The Liquidity Providers with which Grayscale Investments Sponsors, LLC, acting other than in its capacity as the Sponsor (in such other capacity, the “Liquidity Engager”) will engage in AVAX transactions are third parties that are not affiliated with the Sponsor or the Trust and are not acting as agents of the Trust, the Sponsor, or any Authorized Participant, and all transactions will be done on an arms-length basis. Except for the contractual relationships between each Liquidity Provider and Grayscale Investments Sponsors, LLC in its capacity as the Liquidity Engager, there is no contractual relationship between each Liquidity Provider and the Trust, the Sponsor, or any Authorized Participant. When seeking to buy AVAX in connection with creations or sell AVAX in connection with redemptions, the Liquidity Engager will seek to obtain commercially reasonable prices and terms from the approved Liquidity Providers. Once agreed upon, the transaction will generally occur on an “over-the-counter” basis.

AVAX represented by a Share will gradually decrease over time as the Trust's AVAX are used to pay the Trust's expenses.

The creation of Baskets requires the delivery by the Authorized Participant of a cash amount equivalent to the Total Basket Amount and the redemption of Baskets requires the distribution to the Authorized Participant of a cash amount equivalent to the Total Basket Amount.

Although the Trust creates Baskets only upon the receipt of AVAX, and redeems Baskets only by distributing AVAX, an Authorized Participant will submit Cash Orders, pursuant to which the Authorized Participant will deposit cash with, or accept cash from, the Transfer Agent in connection with the creation and redemption of Baskets.

Cash Orders will be facilitated by the Transfer Agent and Liquidity Engager, acting other than in its capacity as Sponsor. On an order-by-order basis, the Liquidity Engager will engage one or more Liquidity Providers to obtain or receive AVAX in exchange for cash in connection with such order, as described in more detail below.

Unless the Sponsor requires that a Cash Order be effected at actual execution prices (an "Actual Execution Cash Order"),²⁰ each Authorized Participant that submits a Cash Order to create or redeem Baskets (a "Variable Fee Cash Order")²¹ will pay a fee (the

"Variable Fee") based on the Total Basket NAV, and any price differential of AVAX between the trade date and the settlement date will be borne solely by the Liquidity Provider until such AVAX have been received or liquidated by the Trust. The Variable Fee is intended to cover all of a Liquidity Provider's expenses in connection with the creation or redemption order, including any AVAX trading platform fees that the Liquidity Provider incurs in connection with buying or selling AVAX. The amount may be changed by the Sponsor in its sole discretion at any time, and Liquidity Providers will communicate to the Sponsor in advance the Variable Fee they would be willing to accept in connection with a Variable Fee Cash Order, based on market conditions and other factors existing at the time of such Variable Fee Cash Order.

Alternatively, the Sponsor may require that a Cash Order be effected as an Actual Execution Cash Order, in its sole discretion based on market conditions and other factors existing at the time of such Cash Order, and under such circumstances, any price differential of AVAX between the trade date and the settlement date will be borne solely by the Authorized Participant until such AVAX have been received or liquidated by the Trust.

In the case of creations, to transfer the Total Basket Amount to the Trust's Digital Asset Account, the Liquidity Provider will transfer AVAX to one of the public key addresses associated with the Digital Asset Account and as provided by the Sponsor. In the case of redemptions, the same procedure is conducted, but in reverse, using the public key addresses associated with the wallet of the Liquidity Provider and as provided by such party. All such transactions will be conducted on the Avalanche Blockchain and parties acknowledge and agree that such transfers may be irreversible if done incorrectly.

Authorized Participants do not pay a transaction fee to the Trust in connection with the creation or redemption of Baskets, but there may be transaction fees associated with the validation of the transfer of AVAX by the Avalanche Network, which will be paid by the Custodian in the case of

AVAX between the trade date and the settlement date will be borne solely by the Liquidity Provider until such AVAX have been received by the Trust.

redemptions and the Authorized Participant or the Liquidity Provider in the case of creations. Service providers may charge Authorized Participants administrative fees for order placement and other services related to creation of Baskets. As discussed above, Authorized Participants will also pay the Variable Fee in connection with Variable Fee Cash Orders. Under certain circumstances, Authorized Participants may also be required to deposit additional cash in the Cash Account, or be entitled to receive excess cash from the Cash Account, in connection with creations and redemptions pursuant to Actual Execution Cash Orders. Authorized Participants will receive no fees, commissions or other form of compensation or inducement of any kind from either the Sponsor or the Trust and no such person has any obligation or responsibility to the Sponsor or the Trust to effect any sale or resale of Shares.

The following is a summary of the procedures for the creation and redemption of Baskets.

Creation Procedures

On any business day, an Authorized Participant may place an order with the Transfer Agent to create one or more Baskets.

Cash Orders for creation must be placed with the Transfer Agent no later than 1:59:59 p.m., New York time.

The Sponsor may in its sole discretion limit the number of Shares created pursuant to Cash Orders on any specified day without notice to the Authorized Participants and may direct the Marketing Agent to reject any Cash Orders in excess of such capped amount. In exercising its discretion to limit the number of Shares created pursuant to Cash Orders, the Sponsor expects to take into consideration a number of factors, including the availability of Liquidity Providers to facilitate Cash Orders and the cost of processing Cash Orders.

Creations under Cash Orders will take place as follows, where "T" is the trade date and each day in the sequence must be a business day. Before a creation order is placed, the Sponsor determines if such creation order will be a Variable Fee Cash Order or an Actual Execution Cash Order, which determination is communicated to the Authorized Participant.

²⁰ With respect to a creation or redemption pursuant to an Actual Execution Cash Order, as between the Trust and an Authorized Participant, the Authorized Participant is responsible for the dollar cost of the difference between the AVAX price utilized in calculating Total Basket NAV on the trade date and the price at which the Trust acquires or disposes of the AVAX on the settlement date. If the price realized in acquiring or disposing of the corresponding Total Basket Amount is higher than the Total Basket NAV, the Authorized Participant will bear the dollar cost of such difference, in the case of a creation, by delivering cash in the amount of such shortfall (the "Additional Creation Cash") to the Cash Account or, in the case of a redemption, with the amount of cash to be delivered to the Authorized Participant being reduced by the amount of such difference (the "Redemption Cash Shortfall"). If the price realized in acquiring the corresponding Total Basket Amount is lower than the Total Basket NAV, the Authorized Participant will benefit from such difference, with the Trust promptly returning cash in the amount of such excess (the "Excess Creation Cash") to the Authorized Participant.

²¹ Unless the Sponsor determines otherwise in its sole discretion based on market conditions and other factors existing at the time of such Cash Order, all creations and redemptions pursuant to Cash Orders are expected to be executed as Variable Fee Cash Orders, and any price differential of

Trade date (T)	Settlement date (T+1, or T+2, as established at the time of order placement)
- The Authorized Participant places a creation order with the Transfer Agent. - The Marketing Agent accepts (or rejects) the creation order, which is communicated to the Authorized Participant by the Transfer Agent. - The Sponsor notifies the Liquidity Provider of the creation order. - The Sponsor determines the Total Basket NAV and any Variable Fee and Additional Creation Cash as soon as practicable after 4:00 p.m., New York time.	- The Authorized Participant delivers to the Cash Account:¹ (x) in the case of a Variable Fee Cash Order, the Total Basket NAV, plus any Variable Fee; or (y) in the case of an Actual Execution Cash Order, the Total Basket NAV, plus any Additional Creation Cash, less any Excess Creation Cash, if applicable (such amount, as applicable, the "Required Creation Cash"). - The Liquidity Provider transfers the Total Basket Amount to the Trust's Digital Asset Account. - Once the Trust is in simultaneous possession of (x) the Total Basket Amount and (y) the Required Creation Cash, the Trust issues the aggregate number of Shares corresponding to the Baskets ordered by the Authorized Participant, which the Transfer Agent holds for the benefit of the Authorized Participant. - Cash equal to the Required Creation Cash is delivered to the Liquidity Provider from the Cash Account. - The Transfer Agent delivers Shares to the Authorized Participant by crediting the number of Baskets created to the Authorized Participant's DTC account.

¹ The "Cash Account" means the account maintained by the Transfer Agent for purposes of receiving cash from, and distributing cash to, Authorized Participants in connection with creations and redemptions pursuant to Cash Orders. For the avoidance of doubt, the Trust shall have no interest (beneficial, equitable or otherwise) in the Cash Account or any cash held therein.

Redemption Procedures

The procedures by which an Authorized Participant can redeem one or more Baskets mirror the procedures for the creation of Baskets. On any business day, an Authorized Participant may place a redemption order specifying the number of Baskets to be redeemed.

The redemption of Shares pursuant to Cash Orders will only take place if approved by the Sponsor in writing, in

its sole discretion and on a case-by-case basis. In exercising its discretion to approve the redemption of Shares pursuant to Cash Orders, the Sponsor expects to take into consideration a number of factors, including the availability of Liquidity Providers to facilitate Cash Orders and the cost of processing Cash Orders.

Cash Orders for redemption must be placed no later than 1:59:59 p.m., New York time on each business day. The Authorized Participants may only

redeem Baskets and cannot redeem any Shares in an amount less than a Basket.

Redemptions under Cash Orders will take place as follows, where "T" is the trade date and each day in the sequence must be a business day. Before a redemption order is placed, the Sponsor determines if such redemption order will be a Variable Fee Cash Order or an Actual Execution Cash Order, which determination is communicated to the Authorized Participant.

Trade date (T)	Settlement date (T+1 (or T+2 on case by case basis, as approved by Sponsor))
- The Authorized Participant places a redemption order with the Transfer Agent. - The Marketing Agent accepts (or rejects) the redemption order, which is communicated to the Authorized Participant by the Transfer Agent. - The Sponsor notifies the Liquidity Provider of the redemption order. - The Sponsor determines the Total Basket NAV and, in the case of a Variable Fee Cash Order, any Variable Fee, as soon as practicable after 4:00 p.m., New York time.	- The Authorized Participant delivers Baskets to be redeemed from its DTC account to the Transfer Agent. - The Liquidity Provider delivers to the Cash Account: (x) in the case of a Variable Fee Cash Order, the Total Basket NAV less any Variable Fee; or (y) in the case of an Actual Execution Cash Order, the actual proceeds to the Trust from the liquidation of the Total Basket Amount (such amount, as applicable, the "Required Redemption Cash"). - Once the Trust is in simultaneous possession of (x) the Total Basket Amount and (y) the Required Redemption Cash, the Transfer Agent cancels the Shares comprising the number of Baskets redeemed by the Authorized Participant. - The Custodian sends the Liquidity Provider the Total Basket Amount, and cash equal to the Required Redemption Cash is delivered to the Authorized Participant from the Cash Account.

Suspension or Rejection of Orders and Total Basket Amount

The creation or redemption of Shares may be suspended generally, or refused

with respect to particular requested creations or redemptions, during any period when the transfer books of the Transfer Agent are closed or if circumstances outside the control of the

Sponsor or its delegates make it for all practicable purposes not feasible to process creation orders or redemption orders or for any other reason at any

time or from time to time.²² The Transfer Agent may reject an order or, after accepting an order, may cancel such order if: (i) such order is not presented in proper form as described in the Participant Agreement, (ii) the transfer of the Total Basket Amount comes from an account other than a AVAX wallet address that is known to the Custodian as belonging to a Liquidity Provider or (iii) the fulfillment of the order, in the opinion of counsel, might be unlawful, among other reasons. None of the Sponsor or its delegates will be liable for the suspension, rejection or acceptance of any creation order or redemption order.

Availability of Information and Intraday Indicative Value

In addition to the price transparency of the Index, the Trust will provide information regarding the Trust's AVAX holdings as well as additional data regarding the Trust. The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) the prior business day's NAV per Share; (b) the prior business day's Nasdaq official closing price; (c) calculation of the premium or discount of such Exchange official closing price against such NAV per Share; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Exchange's official closing price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (e) the prospectus; and (f) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. Quotation and last sale information regarding the Shares will be disseminated through the facilities of the relevant securities information processor.

The intraday indicative value ("IIV") will be calculated by using the prior day's closing NAV per Share as a base and updating that value during the Exchange's regular market session of 9:30 a.m. to 4:00 p.m. ET (the "Regular Market Session") to reflect changes in

the value of the Trust's AVAX holdings during the trading day. The IIV disseminated during the Regular Market Session should not be viewed as an actual real-time update of the NAV, because NAV per Share is calculated only once at the end of each trading day based upon the relevant end-of-day values of the Trust's investments. The IIV will be widely disseminated on a per-Share basis every 15 seconds during the Regular Market Session through the facilities of the relevant securities information processor by market data vendors. In addition, the IIV will be available through online information services, such as Bloomberg and Reuters.

Quotation and last sale information for AVAX is disseminated through a variety of major market data vendors. Information related to trading, including price and volume information, in AVAX is available from major market data vendors and from the trading platforms on which AVAX are traded. The normal trading hours for AVAX trading platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's Nasdaq official closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Applicable Standard

The Commission has historically approved or disapproved exchange filings to list and trade series of Trust Issued Receipts, including spot-based Commodity-Based Trust Shares, on the basis of whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size related to the underlying commodity to be held.²³ The Commission has also

consistently recognized, however, that this is not the *exclusive* means by which an ETP listing exchange can meet this statutory obligation.²⁴ A listing exchange could, alternatively, demonstrate that "other means to prevent fraudulent and manipulative acts and practices will be sufficient" to justify dispensing with a surveillance-sharing agreement with a regulated market of significant size.

The Commission has issued orders granting approval for proposals to list bitcoin- and ether-based commodity trust shares and bitcoin- and ether-based trust issued receipts (these proposed funds are nearly identical to the Trust, but proposed to hold bitcoin and ether, respectively, instead of AVAX) ("Spot Bitcoin ETPs" and "Spot ETH ETPs"). In both the Spot Bitcoin ETP Approval Order and Spot ETH ETP Approval Order, the Commission found that sufficient "other means" of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement with a market of significant size. Specifically, the Commission found that while the Chicago Mercantile Exchange ("CME") futures market for both bitcoin and ether were not of "significant size" with respect to the spot market, the

that formed the basis for approving the series of Currency and Commodity-Based Trust Shares, including gold, silver, platinum, palladium, copper, and other commodities and currencies. The Commission specifically noted in the Winklevoss Order that the approval order issued related to the first spot gold ETP "was based on an assumption that the currency market and the spot gold market were largely unregulated." See Winklevoss Order at 37592. As such, the regulated market of significant size test does not require that the spot market be regulated in order for the Commission to approve this proposal, and precedent makes clear that an underlying market for a spot commodity or currency being a regulated market would actually be an exception to the norm. These largely unregulated currency and commodity markets do not provide the same protections as the markets that are subject to the Commission's oversight, but the Commission has consistently looked to surveillance sharing agreements with the underlying futures market in order to determine whether such products were consistent with the Act. See Securities Exchange Act No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the "Spot Bitcoin ETP Approval Order"); 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products) (the "Spot ETH ETP Approval Order").

²⁴ See Winklevoss Order, 83 FR at 37580; see Spot Bitcoin ETP Approval Order, 89 FR at 3009; see Spot ETH ETP Approval Order 89 FR at 46938.

²² Extenuating circumstances outside of the control of the Sponsor and its delegates or that could cause the transfer books of the Transfer Agent to be closed are outlined in the Participant Agreement and include, for example, public service or utility problems, power outages resulting in telephone, telecopy and computer failures, acts of God such as fires, floods or extreme weather conditions, market conditions or activities causing trading halts, systems failures involving computer or other information systems, including any failures or outages of the Avalanche Network, affecting the Authorized Participant, the Sponsor, the Trust, the Transfer Agent, the Marketing Agent and the Custodian and similar extraordinary events.

²³ See Securities Exchange Act Release Nos. 78262 (July 8, 2016), 81 FR 78262 (July 14, 2016) (the "Winklevoss Proposal"). The Winklevoss Proposal was subsequently disapproved by the Commission. See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the "Winklevoss Order"). Prior orders from the Commission have pointed out that in every prior approval order for Commodity-Based Trust Shares, there has been a derivatives market that represents the regulated market of significant size, generally a Commodity Futures Trading Commission (the "CFTC") regulated futures market. Further to this point, the Commission's prior orders have noted that the spot commodities and currency markets for which it has previously approved spot ETPs are generally unregulated and that the Commission relied on the underlying futures market as the regulated market of significant size

Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals.

As further discussed below, both the Exchange and the Sponsor believe that this proposal and the analysis to be included are sufficient to establish that there are sufficient “other means” of preventing fraud and manipulation that warrant dispensing of the surveillance-sharing agreement with a regulated market of significant size, as was done with both Spot Bitcoin ETPs and Spot ETH ETPs, and that this proposal should be approved.

The Commission has approved numerous series of Trust Issued Receipts,²⁵ including Commodity-Based Trust Shares,²⁶ to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange’s rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Commission has recognized that the “regulated market of significant size” standard is not the only means for satisfying Section 6(b)(5) of the Act, specifically providing that a listing exchange could demonstrate that “other means to prevent fraudulent and manipulative acts and practices” are

sufficient to justify dispensing with the requisite surveillance-sharing agreement.²⁷ For example, in approving the Spot Bitcoin ETPs, the Commission found that there were “sufficient ‘other means’ of preventing fraud and manipulation,” including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission’s own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME’s surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges’ comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of “significant size” related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].²⁸

Today, Coinbase Derivatives, LLC (“Coinbase Derivatives”) offers trading in AVAX futures. Nasdaq has a comprehensive surveillance-sharing agreement with Coinbase Derivatives via its common membership in the Intermarket Surveillance Group (“ISG”).²⁹ This facilitates the sharing of information that is available to Coinbase Derivatives through its surveillance of its markets, including its surveillance of Coinbase Derivatives’ AVAX futures market. Similar to the Spot Bitcoin and Spot ETH ETPs previously approved by the SEC, Nasdaq’s ability to obtain information regarding trading in the AVAX futures from other markets that are members of the ISG (specifically Coinbase Derivatives) would assist

Nasdaq in detecting and deterring misconduct.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5711(d)(vi), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust’s NAV per Share will be calculated daily and will be made available to all market participants at the same time. A minimum of 40,000 Shares will be required to be outstanding at the time of commencement of trading on the Exchange. Upon termination of the Trust, the Shares will be removed from listing. The Trustee will be a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Nasdaq Rule 5711(d)(vi)(D) and no change will be made to the Trustee without prior notice to and approval of the Exchange.

As required in Nasdaq Rule 5711(d)(viii), the Exchange notes that any registered market maker (“Market Maker”) in the Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity, related futures or options on futures, or any other related derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in the Shares shall trade in the underlying commodity, related futures or options on futures, or any other related derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by Nasdaq Rule 5711(d). In addition to the existing obligations under Exchange rules regarding the production of books and records, the registered Market Maker in the Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying AVAX, AVAX futures contracts, or any other AVAX derivative through members

²⁵ Pursuant to Nasdaq Rule 5720(a), the term “Trust Issued Receipt” means a security (a) that is issued by a trust which holds specified securities deposited with the trust; (b) that, when aggregated in some specified minimum number, may be surrendered to the trust by the beneficial owner to receive the securities; and (c) that pays beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities.

²⁶ Pursuant to Nasdaq Rule 5711(d)(iv), the term “Commodity-Based Trust Shares” means a security (1) that is issued by a trust that holds (a) a specified commodity deposited with the trust, or (b) a specified commodity and, in addition to such specified commodity, cash; (2) 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 (3) 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.

²⁷ See Winklevoss Order at 37580. The Commission has also specifically noted that it “is not applying a ‘cannot be manipulated’ standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.” *Id.* at 37582.

²⁸ See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Bitcoin-Based Commodity-Based Trust Shares and Trust Units). The SEC made substantially similar findings in the approval order for Spot ETH ETPs. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

²⁹ For a list of the current members and affiliate members of ISG, see <https://isgportal.org/public-members>.

acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its members, and their associated persons. The Exchange also has regulatory jurisdiction over any person or entity controlling a member, as well as a subsidiary or affiliate of a member that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 4:00 a.m. to 8:00 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The Shares of the Trust will conform to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d) and will comply with the requirements of Rule 10A-3 of the Act.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including without limitation the conditions specified in Nasdaq Rule 4120(a)(9) and (10) and the trading pauses under Nasdaq Rules 4120(a)(11) and (12).

Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the AVAX underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

If the IIV or the value of the Index is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the value of the Index occurs. If the interruption to the dissemination of the IIV or the value of the Index persists past the trading day

in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV per Share with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV per Share is available to all market participants.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, ping, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and listed AVAX futures from such markets and other entities. The Exchange also may obtain information regarding trading in the Shares, listed AVAX futures via the ISG, from other exchanges who are members

or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an information circular ("Information Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for creations and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Section 10 of Nasdaq General Rule 9, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and NAV is disseminated; (4) the risks involved in trading the Shares during the pre-market and post-market sessions when an updated IIV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding AVAX, that the Commission has no jurisdiction over the trading of AVAX as a commodity.

Additionally, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Trust's website.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,³¹ 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

³⁰ 15 U.S.C. 78f(b).

³¹ 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.

The Commission has approved numerous series of Trust Issued Receipts, including Commodity-Based Trust Shares, to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Commission has recognized that the "regulated market of significant size" standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that "other means to prevent fraudulent and manipulative acts and practices" are sufficient to justify dispensing with the requisite surveillance-sharing agreement with the underlying spot market. The Exchange and Sponsor believe that such conditions are present. As discussed above, in approving the Spot Bitcoin ETPs, the Commission found that there were "sufficient 'other means' of preventing fraud and manipulation," including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission's own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of "significant size" related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].³²

As discussed above, Coinbase Derivatives offers trading in AVAX futures. Nasdaq has a comprehensive surveillance-sharing agreement with Coinbase Derivatives via its common membership in ISG, which facilitates the sharing of information that is available to Coinbase Derivatives through its surveillance of its markets, including its surveillance of Coinbase Derivatives' AVAX futures market. Similar to the Spot Bitcoin and Spot ETH ETPs previously approved by the SEC, Nasdaq's ability to obtain information regarding trading in the AVAX futures from other markets that are members of the ISG (specifically Coinbase Derivatives) would assist Nasdaq in detecting and deterring misconduct.

The Exchange further believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. As discussed above, the surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting

procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange may obtain trading information regarding trading in the Shares and listed AVAX futures from such markets and other entities.

Trading in Shares of the Trust will be halted if the circuit breaker parameters have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

For all the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which

³² See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Bitcoin-Based Commodity-Based Trust Shares and Trust Units). The SEC made substantially similar findings in the approval order for spot ether ETPs. See Securities Exchange Act Release No. 100224 (May 23, 2024),

89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-030 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NASDAQ-2025-030. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-NASDAQ-2025-030 and should be submitted on or before May 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-06413 Filed 4-15-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102809; File No. SR-ICC-2025-004]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modifications to Fee Schedule To Introduce a Client Volume Incentive Program

April 10, 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 March 28, 2025, ICE Clear Credit LLC ("ICE Clear Credit" or "ICC") 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 primarily by ICC. ICC has designated this proposal for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to modify ICC's fee schedule to introduce a Client Volume Incentive Program. These revisions do not require any changes to the ICC Clearing Rules.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may

be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The proposed changes are intended to modify ICC's fee schedule to introduce a Client Volume Incentive Program. ICC maintains a client fee schedule⁵ that is publicly available on its website, which ICC proposes to update in connection with the proposed Client Volume Incentive Program. Currently, clearing fees applicable to clients of Clearing Participants are charged in accordance with the product, amount and currency set out in the client fee schedule and subject to any incentive programs or fee discounts described in the fee schedule. The proposed changes to the client fee schedule add a description of the proposed Client Volume Incentive Program, and such proposed changes are set forth in Exhibit 5. ICC proposes to make such changes effective following the applicable regulatory review or approval processes. The proposed changes are described in detail as follows:

Under the amended client fee schedule, the Client Volume Incentive Program will apply automatically to all clients of Clearing Participants, without further action by clients or Clearing Participants, and provide a tiered discount schedule based on client fees billed during the calendar year. Specifically, for any client with annual billed fees across all ICC credit default swap ("CDS") instrument categories (*i.e.*, index CDS, single name CDS, and index option CDS) that exceed U.S. dollar ("USD") equivalent of \$1 million, such client will be entitled to a fee discount as follows: (i) for billed annual fees greater than \$1 million USD equivalent and less than or equal to \$6.4 million USD equivalent, a progressive discount from 1% to 90%: the discount percentage increases by 1% for each \$60,000 in billed client fees;⁶ and (ii) for billed annual fees greater than \$6.4 million USD equivalent, a 90% discount. For purposes of calculating

⁵ Client fee details available at: https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees.pdf. As specified, all fees are charged directly to a client's Clearing Participant.

⁶ As an example, a client that is billed a total of \$1,120,000.00 in fees would be entitled to a 1% discount for the first \$60,000 in fees over \$1 million (or \$600) and a 2% discount for the second \$60,000 in fees over \$1 million (or \$1,200), for a total discount of \$1,800.

³³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f).

annual fees to determine the discount level, the fees of affiliated clients managed by one and only one specific asset manager may be aggregated (such that all such clients will be entitled to the same discount percentage). Such discount will be applied in the form of a fee rebate paid by ICC. The Client Volume Incentive Program applies to client clearing activity only, and Clearing Participants are not eligible to participate in the program.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of the Act, including Section 17A of the Act⁷ and the regulations thereunder applicable to it. More specifically, the proposed rule change establishes or changes a member due, fee or other charge imposed by ICC under Section 19(b)(3)(A)(ii) of the Act⁸ and Rule 19b-4(f)(2)⁹ thereunder. ICC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17A(b)(3)(D),¹⁰ which requires that the rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

ICC believes that the proposed volume discount in client fees have been set at an appropriate level. In determining the appropriate discount level and program structure, ICC took into account factors such as client clearing volume, related revenue, costs and expenses, and the goal of increasing market participation in the clearing service, including the expected impacts of different fee levels. In ICC's view, its client fees, after taking into account the discount under the proposed incentive program, will be reasonable and appropriate for its business as the discounts take into account anticipated volumes, costs and expenses, and revenues under each contract type, and they consider current and past market activity as well as anticipated market activity with respect to clearing CDS contracts at ICC. The Client Volume Incentive Program is designed to encourage the clearing of contracts at ICC by clients while properly compensating ICC for the risks, costs and expenses of clearing CDS contracts.

Moreover, the proposed discount will be available to all clients clearing contracts at ICC, based on their clearing

activity. The Client Volume Incentive Program under the amended client fee schedule automatically, and without further action by clients or Clearing Participants, applies to all clients. ICC's fee schedules, including the proposed incentive program, will continue to be transparent and to apply equally to market participants clearing indexes, single names, and index option CDS contracts at ICC. Therefore, the proposed rule change provides for the equitable allocation of reasonable dues, fees and other charges among participants, within the meaning of Section 17A(b)(3)(D) of the Act.¹¹ ICC therefore believes that the proposed rule change is consistent with the requirements of Section 17A of the Act¹² and the regulations thereunder applicable to it and is appropriately filed pursuant to Section 19(b)(3)(A) of the Act¹³ and paragraph (f)(2) of Rule 19b-4¹⁴ thereunder.

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. As discussed above, the proposed changes modify ICC's client fee schedule to introduce a Client Volume Incentive Program for clearing all categories of CDS contracts at ICC and will be available to all clients based on their clearing activity. The implementation of such changes does not preclude other market participants from offering similar incentive programs. Moreover, ICC does not believe that the amendments would adversely affect the cost of clearing for clients, the ability of market participants to access clearing services, or the market for cleared services generally. Accordingly, ICC does not believe the amendments impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICE Clear Credit will notify the Commission of any written comments received by ICE Clear Credit.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and paragraph (f) of Rule 19b-4¹⁶ 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.

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/regulations/self-regulatory-organization-rulemaking>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-ICC-2025-004 on the subject line.

Paper Comments

Send paper comments in triplicate to Vanessa Countryman, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR-ICC-2025-004. 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/regulations/self-regulatory-organization-rulemaking>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10

⁷ 15 U.S.C. 78q-1.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ 15 U.S.C. 78q-1(b)(3)(D).

¹¹ 15 U.S.C. 78q-1(b)(3)(D).

¹² 15 U.S.C. 78q-1.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(2).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(2).

a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at <https://www.ice.com/clear-credit/regulation>.

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-ICC-2025-004 and should be submitted on or before May 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-06412 Filed 4-15-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102811; File No. SR-PHLX-2025-16]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Phlx Options 7, Section 2

April 10, 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 April 1, 2025, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Pricing Schedule at Options 7, Section 2, Customer Rebate Program, to provide that if a member or member organization qualifies for two rebate incentives offered by the Exchange in notes “*” and “#” in a given month, the Exchange will only pay the higher of the two rebates in that month.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 Pricing Schedule at Options 7, Section 2, Customer Rebate Program, to provide that if a member or member organization qualifies for two rebate incentives offered by the Exchange in notes “*” and “#” in a given month, the Exchange will only pay the higher of the two rebates in that month.

Customer Rebate

The Exchange proposes to amend the Pricing Schedule at Options 7, Section 2, “Customer Rebate Program.” Today, the Exchange pays rebates on five Customer Rebate Tiers according to four categories. The Customer Rebate Tiers below are calculated by totaling Customer volume in Multiply Listed Options (including SPY) that are electronically-delivered and executed, except volume associated with electronic Qualified Contingent Cross Orders, as defined in Options 3, Section 12.³

Customer rebate tiers	Percentage thresholds of national customer volume in multiply-listed equity and ETF options classes, excluding SPY options (monthly)	Category A	Category B	Category C	Category D
Tier 1	0.00%–0.60%	\$0.00	\$0.00	\$0.00	\$0.00
Tier 2 ⁴	Above 0.60%–1.10%	* 0.10	* 0.10	* # 0.16	* # 0.21
Tier 3	Above 1.10%–1.60%	0.15	* 0.12	* # 0.18	* # 0.22
Tier 4	Above 1.60%–2.50%	0.20	0.16	# 0.22	# 0.26
Tier 5	Above 2.50%	0.21	0.17	# 0.22	# 0.27

The Exchange pays a Category A Rebate to members who execute electronically-delivered Customer Simple Orders in Penny Symbols and Customer Simple Orders in Non-Penny Symbols in Options 7, Section 4 symbols.⁴

The Exchange pays a Category B Rebate on Customer PIXL Orders⁵ in

Options 7, Section 4 symbols that execute against non-Initiating Order interest. In the instance where member organizations qualify for Tier 4 or higher in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order are paid a rebate of \$0.14 per contract. Rebates on Customer PIXL Orders are capped at

4,000 contracts per order for Simple PIXL Orders.

The Exchange pays a Category C Rebate to members executing electronically-delivered Customer Complex Orders⁶ in Penny Symbols in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Affiliated

Entities may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. See Options 7, Section 2.

⁴ Options 7, Section 4 describes pricing for Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based

index options symbols listed within Options 7, Section 5.A).

⁵ PIXL Orders are entered into the Exchange's Price Improvement XL (“PIXL”) Mechanism as described in Options 3, Section 13.

⁶ Complex Orders are described in Options 3, Section 14.

that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a rebate under any circumstances. The Category C Rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.

The Exchange pays a Category D Rebate to members executing electronically-delivered Customer Complex Orders in Non-Penny Symbols in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a rebate under any circumstances. The Category D Rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.⁷

Today, in note “*” the Exchange pays a \$0.02 per contract Category A and B rebate and a \$0.03 per contract Category C and D rebate in addition to the applicable Tier 2 and 3 rebate, provided the Lead Market Maker,⁸ Market Maker⁹

or Appointed MM¹⁰ has reached the Monthly Market Maker Cap¹¹ as defined in Options 7, Section 4, to: (1) a Lead Market Maker or Market Maker who is not under Common Ownership¹² or is not a party of an Affiliated Entity;¹³ or (2) an Order Flow Provider or “OFF” member or member organization affiliate under Common Ownership; or (3) an Appointed OFF¹⁴ of an Affiliated Entity.

In addition, today, in note “#” the Exchange pays a \$0.04 per contract Category C rebate and a \$0.02 per contract Category D rebate in addition to the applicable Tier 2, 3, 4 and 5 rebates to members or member organizations or member or member organization affiliated under Common Ownership provided the member or member organization qualified for any Market Access and Routing Subsidy or “MARS” Payments in Options 7, Section 6, Part E.

good standing that satisfies the RSQTO readiness requirements in Options 2, Section 1(a). *See* Options 7, Section 1(c).

¹⁰ The term “Appointed MM” is a Phlx Market Maker or Lead Market Maker who has been appointed by an Order Flow Provider (“OFF”) for purposes of qualifying as an Affiliated Entity. An OFF is a member or member organization that submits orders, as agent or principal, to the Exchange. *See* Options 7, Section 1(d).

¹¹ Lead Market Makers and Market Makers are subject to a “Monthly Market Maker Cap” of \$500,000 for: (i) electronic Option Transaction Charges, excluding surcharges and excluding options overlying broad-based index options symbols listed within Options 7, Section 5.A; and (ii) QCC Transaction Fees (as defined in Exchange Options 3, Section 12 and Floor QCC Orders, as defined in Options 8, Section 30(e)). *See* Options 7, Section 4.

¹² The term “Common Ownership” shall mean members or member organizations under 75% common ownership or control. *See* Options 7, Section 1(c).

¹³ The term “Affiliated Entity” is a relationship between an Appointed MM and an Appointed OFF for purposes of qualifying for certain pricing specified in the Pricing Schedule. Market Makers or Lead Market Makers, and OFFs are required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Members and member organizations under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each member or member organization may qualify for only one (1) Affiliated Entity relationship at any given time. *See* Options 7, Section 1(d).

¹⁴ The term “Appointed OFF” is an OFF who has been appointed by a Phlx Market Maker or Lead Market Maker for purposes of qualifying as an Affiliated Entity. *See* Options 7, Section 1(d).

Proposal

At this time, the Exchange proposes to provide that in the event that a member or member organization has qualified for the rebates in both notes * and # in a given month, the Exchange will only pay the higher of the two rebates in that month. While the Exchange is proposing to pay only the higher of the two potential rebates, note * or note #, for which the member or member organization qualified for in a given month, the Exchange believes that the Customer Rebates and the additional incentives in these two notes will continue to incentivize members and member organizations to execute against Customer orders on Phlx for the opportunity to earn these rebates.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ 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 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.”¹⁷

Likewise, in *NetCoalition v. Securities and Exchange Commission*¹⁸ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.¹⁹ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

¹⁷ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹⁸ *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

¹⁹ *See NetCoalition*, at 534–535.

⁷ Rebates are not paid on broad-based index options symbols listed within Options 7, Section 5.A. in any Category, however broad-based index options symbols listed within Options 7, Section 5.A. will count toward the volume requirement to qualify for a Customer Rebate Tier. *See* Options 7, Section 2.

⁸ The term “Lead Market Maker” applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. *See* Options 7, Section 1(c).

⁹ The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. The term “Streaming Quote Trader” or “SQT” is defined in Options 1, Section 1(b)(55) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. The term “Remote Streaming Quote Trader” or “RSQT” is defined in Options 1, Section 1(b)(49) as a Market Maker that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or “RSQTO,” which may also be referred to as a Remote Market Making Organization (“RMO”), is a member organization in

play a role in determining the market data . . . to be made available to investors and at what cost.”²⁰

Further, “[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’”²¹ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Customer Rebate Program

The Exchange’s proposal to pay only the higher of the note * or note # rebates in the event that a member or member organization has qualified for both rebates in a given month is reasonable because the Exchange will continue to pay the Customer Rebates in Options 7, Section 2 in addition to the higher of the note * and note # rebates in that month to any qualifying member or member organization. The Exchange will no longer aggregate both rebates (note * and note #) in addition to the Customer Rebate Tier in a given month, even if the member or member organization qualified for both rebates in note * and note #. Despite this proposal, the Exchange believes that the Customer Rebates and the additional incentives will continue to incentivize members and member organizations to execute against Customer orders on Phlx for the opportunity to earn these rebates.

The Exchange’s proposal to pay only the higher of note * or note # rebates in a given month in the event that a member or member organization has qualified for both rebates (note * and note #) is equitable and not unfairly discriminatory because the Exchange would uniformly pay only the higher of the note * and note # rebates in addition to the Customer Rebate Tier in a given month to any member or member organization who qualified for the rebates.

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.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange’s proposal to pay only the higher of note * or note # rebates in a given month in the event that a member or member organization has qualified for both rebates (note * and note #) does not impose an undue burden on competition because the Exchange would uniformly pay only the higher of the note * and note # rebates in addition to the Customer Rebate Tier in a given month to any member or member organization who qualified for the rebates.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²²

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in

furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2025-16 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-2025-16. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-Phlx-2025-16 and should be submitted on or before May 7, 2025.

²⁰ *Id.* at 537.

²¹ *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²² 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-06411 Filed 4-15-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102810; File No. SR-NYSEAMER-2025-19]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 7.18E and To Make Conforming Changes to Rules 1.1E, 7.11E, and 7.35E

April 10, 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 April 1, 2025, NYSE American LLC (“NYSE American” 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 Rule 7.18E (“Halts”) to effectuate amendments to Second Restatement of the CTA Plan and the Restated CQ Plan (together, the “Amended CTA Plan”). In addition, the Exchange proposes to make conforming changes to Rules 1.1E, 7.11E, and 7.35E. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

NYSE American LLC (“NYSE American” or the “Exchange”) proposes to amend Rule 7.18E (“Halts”) to effectuate amendments to Second Restatement of the CTA Plan and the Restated CQ Plan (together, the “Amended CTA Plan”).³ The proposed changes would amend the rule's categories of regulatory and operational halts, improve the rule's clarity, and adopt defined terms from the Amended CTA Plan.⁴ In addition, the Exchange proposes to make conforming changes to Rules 1.1E, 7.11E, and 7.35E.

Background

The Exchange has been working with other SROs to establish common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues. These common standards are designed to ensure that events that might impact multiple exchanges are

handled in a consistent manner that is transparent. The Exchange believes that implementation of these common standards will assist the SROs in maintaining fair and orderly markets. Notwithstanding the development of these common standards, the Exchange will retain discretion in certain instances as to whether and how to handle halts, as is discussed below.

Every U.S.-listed equity security has its primary listing on a specific stock exchange (its “Primary Listing Market”)⁵ that is responsible for a number of regulatory functions. These include confirming that the security continues to meet the exchange's listing standards, monitoring trading in that security, and taking action to halt trading in the security when necessary to protect investors and to ensure and fair and orderly market. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security or in the over-the-counter market, regulated by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The exchanges and FINRA are responsible for monitoring activity on the markets over which they have oversight, but also must abide by the regulatory decisions made by the Primary Listing Market. For example, a venue trading a security pursuant to unlisted trading privileges must halt trading in that security during a Regulatory Halt, which is a defined term under the proposed rules,⁶ and may only trade the security once the Primary Listing Market has cleared the security to resume trading.

All SROs have rules that require them to honor a Regulatory Halt. The Exchange, as a Primary Listing Market, also has rules outlining the circumstances in which it will halt trading in its listed securities, including situations in which such halts are for regulatory purposes—and therefore are applicable to all markets trading the security—or for operational purposes, which would not halt trading in other markets.⁷ However, the trading halt rules are not consistent across SROs. Consequently, events that might constitute a Regulatory Halt for

³ On February 3, 2021, the CTA/CQ Plan participants (“Participants”) filed Amendment 36 to the Second Restatement of the CTA Plan and Amendment 27 to the Restated CQ Plan, to revise provisions governing regulatory and operational halts. See Letter from Robert Books, Chair, CTA/CQ Operating Committee, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 3, 2021. The SEC approved the amendments on May 28, 2021 (the “Amended CTA Plan”). See Securities Exchange Act Release No. 92070 (May 28, 2021), 86 FR 29849 (June 3, 2021) (SR-CTA/CQ-2021-01). The SEC also approved similar amendments to the Nasdaq UTP Plan. See Securities Exchange Act Release No. 92071 (May 28, 2021), 86 FR 29846 (June 3, 2021) (S7-24-89) (the “Amended Nasdaq UTP Plan”). The Amended CTA Plan and the Amended Nasdaq UTP Plan include provisions requiring Participant self-regulatory organizations (“SROs”) to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the Amended CTA Plan and the Amended Nasdaq UTP Plan include provisions similar to the changes proposed by the Exchange in this filing.

⁴ The Exchange notes that this proposed rule change is based on a similar rule change filed by the Nasdaq Stock Market LLC (“Nasdaq”) that was approved by the SEC in 2022. See Securities Exchange Act Release No. 95069 (June 8, 2022), 87 FR 36018 (June 14, 2022) (SR-NASDAQ-2022-017). Several exchanges that do not operate Primary Listing Markets have also filed similar rule changes. See Securities Exchange Act Release Nos. 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022) (SR-Phlx-2022-49); 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023) (SR-PEARL-2023-11); and 97824 (June 29, 2023), 88 FR 43159 (July 6, 2023) (SR-MEMX-2023-11).

⁵ The Exchange proposes to incorporate into Rule 7.18E the same definition of “Primary Listing Market” as appears in Section XI.(a)(i)(H) of the Amended CTA Plan: “‘Primary Listing Market’ means the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.”

⁶ See proposed Rule 7.18E(a)(11).

⁷ See generally current Rules 7.18E and 7.13E.

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

securities listed on one Primary Listing Market theoretically might not be grounds for a Regulatory Halt in securities listed on another Primary Listing Market. Such inconsistency among exchange rules could lead to confusion in circumstances such as a cross-market event, including, for example, “Extraordinary Market Activity.”⁸

While the Exchange’s existing rules generally have worked as intended to afford the Exchange authority to initiate a Regulatory Halt in appropriate cases, the Exchange proposes to amend its rules to conform to the Amended CTA Plan.

The complex and interconnected market structure of the United States relies on consolidated market data processed and disseminated by the SIPs. In certain circumstances, the loss of this information or issues with the accuracy or timeliness of the information might cause a Primary Listing Market to determine that a trading halt is appropriate. The Exchange believes that providing further details in its rules will assist market participants in better understanding how various scenarios could be handled.

As noted above, the proposed changes that would be uniformly applied across SROs are those that relate to cross-market events as set forth in the Amended CTA Plan. However, there will still be situations where personnel at the Primary Listing Market will need to determine the impact of the cross-market event on the securities listed on its market and use discretion in deciding whether to halt trading in some or all securities during a cross-market event that affects securities listed on different markets. In making a determination as to whether to declare a Regulatory Halt, the Primary Listing Market will consider the totality of information available concerning the severity of the issue, its likely duration, and its potential impact on Member Firms⁹ and other market participants, and it will make a good-faith determination that the criteria for declaring a Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate. Moreover, the Primary Listing Market will consult, if feasible, with the affected Trading Center(s),

other Plan Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue. Once a Regulatory Halt has been declared, the Primary Listing Market would continue to evaluate the circumstances to determine when trading may resume in accordance with its rules.

While the Exchange and the other SROs intend to harmonize certain aspects of their trading halt rules, other elements of the rules will continue to be unique to each market. The Exchange believes that this is appropriate to reflect different products listed or traded on each market and the unique relationship of the Primary Listing Market to its listed companies. It is anticipated that these unique rules would most likely be invoked in cases where the Primary Listing Market’s decision on whether to institute a Regulatory Halt turns on specific information related to an individual security or issuer, such as the dissemination of news and the issuer’s ability to meet listing standards, rather than broader market issue stemming from Extraordinary Market Activity or the loss of consolidated market data from a SIP.

The Exchange will implement all of the changes proposed herein in conjunction with other SROs implementing the necessary rule changes. The Exchange will publish a trader notice at least 30 business days before implementing the proposed changes.

Proposed Exchange Rule Changes

The Exchange proposes to amend Rule 7.18E to add new definitions and proposed categories of regulatory and operational halts that are designed to address the type of market-wide events described in the Amended CTA Plan. Amended Rule 7.18E would also cross-reference the Exchange’s current halt authority. Because current subsections of Rule 7.18E would be renumbered, the Exchange proposes to update a cross reference to Rule 7.18E in Rule 7.35E. The Exchange also proposes to rename Rule 7.18E from “Halts” to “Trading Halts.”

Definitions

Amended Rule 7.18E(a) would set forth definitions, many of which cross-reference definitions in the Amended CTA Plan.¹⁰ The proposed definitions

would apply to both the proposed new halt authority as well as the Exchange’s halt authority under its current rules.

First, the Exchange proposes to add the definition of “*Primary Listing Market*”¹¹ to Rule 7.18E, which will have the same meaning as in the Amended CTA Plan, Section XI(a)(i)(H). As is currently the case under the Exchange’s rules and under the Amended CTA Plan, all Regulatory Halt decisions are made by the market on which the security has its primary listing. This reflects the regulatory responsibility that the Primary Listing Market has for fair and orderly trading in the securities that list on its market and its direct access to its listed companies, which are required to advise it of certain events and maintain lines of communication with the Primary Listing Market. The proposed definition makes clear that if a security is listed on more than one market (a dually-listed security), the Primary Listing Market means the exchange on which the security has been listed the longest. This provision matches language used in the definition of “*Primary Listing Exchange*” in the Limit Up-Limit Down Plan and will avoid conflict in the event of dually-listed securities.

Second, the Exchange proposes to add a definition for the term “*Extraordinary Market Activity*,”¹² which would be a new definition for the Exchange. The Exchange proposes that this term would have the same meaning as in the Amended CTA Plan:

“*Extraordinary Market Activity*” means a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade

⁸ The proposed definition of Extraordinary Market Activity encompasses a market event that affects multiple markets. See Amended CTA Plan, Section XI(a)(i)(A), which defines “Extraordinary Market Activity.” Proposed Rule 7.18E(a)(1) would incorporate this definition by reference.

⁹ “Member Firm” means a member as that term is defined in Section 3(a)(3) of the Securities Exchange Act. See Amended CTA Plan, Section XI(a)(1)(F) and proposed Rule 7.18E(a)(6).

¹⁰ The Exchange notes that these terms are defined identically in the Amended CTA Plan and the Amended Nasdaq UTP Plan, such that there will be uniformity in the meaning of the terms among such plans as well as among the rules of the SROs. The Exchange proposes to adopt in Rule

7.18E(a) all of the definitions in the Amended CTA Plan Section XI(a)(i) except for definition of “Regular Trading Hours” at Section XI(a)(i)(I), because the Exchange uses different terminology for its trading sessions and those terms are already defined in the Exchange’s rules. See Rule 7.34E(a) defining “Early Trading Session,” “Core Trading Session,” and “Late Trading Session.”

¹¹ See proposed Rule 7.18E(a)(9).

¹² See proposed Rule 7.18E(a)(1).

reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.¹³

The Exchange notes that the three scenarios included in the proposed new definition would not be exhaustive. This enables the Primary Listing Market to act in the best interests of the market when confronted with unexpected events. However, the Exchange believes that the three scenarios included in the rule cover many of the events that are most likely to occur.

Third, the Exchange proposes to add a set of new definitions that would be specific to events involving the SIP. While the Exchange recognizes that many events involving the SIP would also meet the definition of “Extraordinary Market Activity” as defined in the Amended CTA Plan, the Exchange believes that the critical role of the SIPs in market infrastructure weighs in favor having the Exchange’s rules specify how such events would be handled. The definitions of “SIP Outage,”¹⁴ “Material SIP Latency,”¹⁵ “SIP Halt,”¹⁶ and “SIP Halt Resume Time”¹⁷ are intended to provide specificity to address this subset of potential market issues. In addition, the Exchange is proposing to define terms related to SIP governance needed in order to understand these definitions:

- “Processor” or “SIP”¹⁸ would have the same meaning as the term “Processor” in the Nasdaq UTP Plan or the CTA Plan, as applicable.¹⁹
- “SIP Plan”²⁰ would be defined as “the national market system plan governing the SIP, as applicable.”
- “Operating Committee”²¹ would be defined as having the same meaning as in the CTA Plan, namely the committee charged with administering the CTA Plan.
- “Trading Center”²² would have the same meaning as in Rule 600(b)(95) of Regulation NMS.

The Exchange proposes to adopt a category of Regulatory Halt, called a

“SIP Halt,”²³ that would have the same meaning as that term is defined in the Amended CTA Plan, namely “a Regulatory Halt to trading in one or more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.”²⁴ This new category of Regulatory Halt would address situations where the Primary Listing Market declares a Regulatory Halt in one or more securities as a result of a SIP Outage²⁵ or a Material SIP Latency.²⁶

Fourth, the Exchange proposes to add a definition of “Regulatory Halt,”²⁷ which would be a new defined term that incorporates the Exchange’s existing regulatory halt authority as well as the proposed new regulatory halt authority. The Exchange proposes that the term would have the same meaning as in the Amended CTA Plan,²⁸ as follows:

a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down,²⁹ a halt based on Extraordinary Market Activity, a trading halt triggered by a Market-Wide Circuit Breaker,³⁰ and a SIP Halt.

The term “Regulatory Halt” would include the various existing reasons for a Regulatory Halt that are currently

enumerated in the Exchange’s rules and Company Guide, as well as the proposed new categories of Regulatory Halt from the Amended CTA Plan: (1) a SIP Halt (due to a SIP Outage or Material SIP Latency), (2) a halt based on Extraordinary Market Activity, and (3) a halt in the event of a national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.

Fifth, the Exchange proposes to add a definition of “Operational Halt,”³¹ which would be a new definition for the Exchange. The Exchange proposes that this term would have the same meaning as in the Amended CTA Plan, which is: “a halt in trading in one or more securities only on a Market declared by such Participant and is not a Regulatory Halt.”³² An Operational Halt is effective only on the Exchange; other markets are not required to halt trading in the affected securities. In practice, the Exchange has always had the capacity to implement operational halts and local trading suspensions in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.³³ The proposed change would provide greater clarity on when an Operational Halt may be implemented and the process for halting and resuming trading in the event of an Operational Halt. An Operational Halt is not a Regulatory Halt.

Regulatory Halts

Proposed Rule 7.18E(b) would set forth requirements relating to Regulatory Halts.

Authority To Initiate a Regulatory Halt

Proposed Rule 7.18E(b)(1) would describe the Exchange’s authority to initiate a Regulatory Halt. In this subsection, the Exchange would identify all of the bases for its Regulatory Halt authority, including cross-referencing to current rules describing existing halt authority and by adding the new Regulatory Halt authority consistent with the Amended CTA Plan.

Proposed Rule 7.18E(b)(1)(A) would describe “Mandatory Halts,” where the Exchange must issue a Regulatory Halt. The proposed rule would identify four categories of mandatory Regulatory Halts:

- Pursuant to Rule 7.11E concerning Limit Up Limit Down.³⁴ (Proposed Rule 7.18E(b)(1)(A)(i)). This proposed rule

¹³ See Amended CTA Plan, Section XI(a)(i)(H).

¹⁴ See proposed Rule 7.18E(a)(14).

¹⁵ See proposed Rule 7.18E(a)(5).

¹⁶ See proposed Rule 7.18E(a)(12).

¹⁷ See proposed Rule 7.18E(a)(13).

¹⁸ See proposed Rule 7.18E(a)(10).

¹⁹ See, e.g., Amended CTA Plan, Section I(x), which provides: “‘Processor’ means the organization designated as recipient and processor of last sale price information furnished by Participants pursuant to this CTA Plan, as Section V describes.”

²⁰ See proposed Rule 7.18E(a)(15).

²¹ See proposed Rule 7.18E(a)(7).

²² See proposed Rule 7.18E(a)(16).

²³ See proposed Rule 7.18E(a)(12).

²⁴ See Amended CTA Plan, Section XI(a)(1)(K).

²⁵ “SIP Outage” means “a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future.” See Amended CTA Plan, Section XI(a)(1)(M).

²⁶ “Material SIP Latency” means “a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the high speed line or over the “high speed line” under the CQ Plan, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future.” See Amended CTA Plan, Section XI(a)(1)(E).

²⁷ See proposed Rule 7.18E(a)(11).

²⁸ See Amended CTA Plan, Section XI(a)(1)(J).

²⁹ The Exchange proposes to incorporate the Amended CTA Plan’s definition of “Limit Up Limit Down.” See proposed Rule 7.18E(a)(2).

³⁰ The Exchange proposes to incorporate the Amended CTA Plan’s definition of “Market-Wide Circuit Breaker.” See proposed Rule 7.18E(a)(4).

³¹ See proposed Rule 7.18E(a)(8).

³² See Amended CTA Plan, Section XI(a)(1)(G).

³³ See Rule 7.13E (Trading Suspensions).

³⁴ Rule 7.11E is the Exchange’s rule governing Limit Up Limit Down.

would effectuate the definition of Regulatory Halt in proposed Rule 7.18E(a)(11), which cross-references Section XI(a)(1)(J) of the Amended CTA Plan.

- Pursuant to Rule 7.12E concerning Market-Wide Circuit Breaker.³⁵ (Proposed Rule 7.18E(b)(1)(A)(ii)). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 7.18E(a)(11), which cross-references Section XI(a)(1)(J) of the Amended CTA Plan.

- As provided for in Section 107 of the NYSE American LLC Company Guide (“Company Guide”). (Proposed Rule 7.18E(b)(1)(A)(iii)). This proposed rule would reference the Exchange’s existing authority to halt the market as specified in the Company Guide.

- For a security for which the Exchange is the Primary Listing Market before the end of the Late Trading Session on the day immediately before the market effective date of a reverse stock split (“Reverse Stock Split Halt”). (Proposed Rule 7.18E(b)(1)(A)(iv)). This proposed rule is based on current Rule 7.18E(f) and would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.” The Exchange proposes to delete current Rule 7.18E(f) as duplicative of the proposed rule text.

Proposed Rule 7.18E(b)(1)(B) would describe “Discretionary Halts,” where “the Exchange may declare a Regulatory Halt in trading for any security for which it is the Primary Listing Market.” The proposed rule would list four bases for the Exchange to declare a discretionary Regulatory Halt:

- Consistent with current authority as provided for in Section 107 and 402 of the Company Guide.³⁶ (Proposed Rule 7.18E(b)(1)(B)(i)). This proposed rule would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market,” and would reference the Exchange’s existing authority to halt the market as specified in the Company Guide.

- For a security that is the subject of an initial pricing on the Exchange and

that has not been listed on a national securities exchange immediately prior to initial pricing (an “Initial Listing Regulatory Halt”). (Proposed Rule 7.18E(b)(1)(B)(ii)). This proposed rule is based on current Rule 7.18E(e) and would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.” The Exchange proposes to delete current Rule 7.18E(e) as duplicative of the proposed rule text.

- If the Exchange determines that there is a SIP Outage, Material SIP Latency, or Extraordinary Market Activity. (Proposed Rule 7.18E(b)(1)(B)(iii)). This proposed rule would effectuate Section XI(a)(iii)(2) of the Amended CTA Plan, which provides this authority.

- In the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market. (Proposed Rule 7.18E(b)(1)(B)(iv)). This proposed rule would effectuate Section XI(a)(iii)(3) of the Amended CTA Plan, which provides this authority.

Communications

Proposed Rule 7.18E(b)(2) would describe communications, consistent with Section XI(a)(viii) of the Amended CTA Plan. The proposed rule would provide that whenever, in the exercise of its regulatory functions, the Exchange as Primary Listing Market for an Eligible Security determines it is appropriate to initiate a Regulatory Halt, it will notify all other Participants and the Processor of such Regulatory Halt as well as provide notice that a Regulatory Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange. The Processor shall disseminate to Participants notice of the Regulatory Halt (as well as notice of the lifting of a Regulatory Halt) through the high speed line or through the “high speed line” under the CQ Plan, and any other means the Processor, in its sole discretion, considers appropriate. Each Participant shall be required to continuously monitor these communication protocols established by the Operating Committee and the Processor during market hours, and the failure of a Participant to do so shall not prevent the Exchange from initiating a Regulatory Halt in accordance with the SIP Plan and the procedures specified in these rules.

Initiating a Regulatory Halt

Proposed Rule 7.18E(b)(3) would specify how the Exchange, as a Primary Listing Market, would initiate a Regulatory Halt. The proposed rule is consistent with the procedures for initiating a Regulatory Halt as set forth in the Section XI(a)(iv) of the Amended CTA Plan.

Proposed Rule 7.18E(b)(3)(A) would provide, consistent with Section XI(a)(iv)(A) of the Amended CTA Plan, that the start time of a Regulatory Halt would be when the Primary Listing Market declares the halt, regardless of whether an issue with communications impacts the dissemination of the notice. This proposal would provide market participants with certainty on the official start time of the Regulatory Halt. Under the proposed rule, the start time is fixed by the Primary Listing Market; it is not dependent on whether notice is disseminated immediately. This will avoid possible disagreement if the Regulatory Halt time were tied to dissemination or receipt of notification, which may occur at different times. The Exchange recognizes that in situations where communication is interrupted, trades may continue to occur until news of the Regulatory Halt reaches all trading centers. However, a fixed “official” Regulatory Halt start time will allow SROs to revisit trades after the fact and determine in a consistent manner whether specific trades should stand.

Second, proposed Rule 7.18E(b)(3)(B) would provide, consistent with Section XI(a)(iv)(B) of the Amended CTA Plan, that if the SIP is unable to disseminate notice of a Regulatory Halt or the Exchange is not open for trading, the Exchange would take reasonable steps to provide notice of a Regulatory Halt in the manner set forth in the Amended CTA Plan. Currently, after receiving notice from the Primary Listing Market, the SIP disseminates an automated, machine-readable trade halt messages to notify Trading Centers to automatically halt their order matching and order dissemination systems. Many Trading Centers rely solely on such SIP dissemination of a Regulatory Halt. Proposed Rule 7.18E(b)(3)(B) would provide that the Exchange would take additional, reasonable steps to notify Trading Centers of a Regulatory Halt. The Amended CTA Plan provides that if the SIP is unable to disseminate notice of a Regulatory Halt, the other available means of dissemination that a Primary Listing Market could use would include:

- Proprietary data feeds that contain the same quote and trade information

³⁵ Rule 7.12E is the Exchange’s rule governing Market-Wide Circuit Breaker.

³⁶ Those sections of the Company Guide provide the Exchange with authority to halt trading of a listed security for reasons including material news concerning the listed security, the issuer’s failure to comply with Exchange continued listing requirements, and the non-dissemination of the value of the underlying reference asset or indicative value of the listed security.

that the Exchange also sends to the applicable SIP;

- Posting on a publicly available Exchange website; or
- System status messages that are disseminated to market participants who sign up to receive such messages.³⁷

These additional sources for notice of a Regulatory Halt would provide redundancy if either the SIP or the Exchange is unable to communicate via the existing automated procedures. Although it may take longer for market participants to react to messages received in less automated formats, the use of multiple forms of dissemination will increase the likelihood that participants receive this important information. It will also assist participants that do not subscribe to the Exchange's proprietary feeds in getting regulatory notices. As noted above, in situations where communication is interrupted, the Exchange and other SROs would retain the ability to break trades that occurred after the start of the Regulatory Halt in appropriate circumstances, thereby lessening the potential impact on participants that were delayed in halting trading.

Proposed Rule 7.18E(b)(3)(C) would provide, consistent with Section XI(a)(iv)(C) of the Amended CTA Plan, that except in exigent circumstances, the Exchange would not declare a Regulatory Halt retroactive to a time earlier than the notice of such halt. Feedback from market participants has been that it is very disruptive to trading when the Primary Listing Market sets the start of a trading halt for a time earlier than the notice of the halt.³⁸ Therefore, in almost all situations the trading halt will start at the time of the notice or at a point in time thereafter. However, the Exchange would retain the authority to implement a retroactive halt to deal with unexpected and significant situations that represent exigent circumstances. While it is difficult in advance to provide an exhaustive list of when retroactive application of a trading halt would be in the public interest, one situation where a halt was applied retroactively was when the Primary Listing Market erroneously lifted a Regulatory Halt. In that case, the Primary Listing Market instituted a Regulatory Halt retroactively so that it coincided with the time the original halt was lifted in error.

Proposed Rule 7.18E(b)(3)(D) would provide, consistent with Section XI(a)(iii)(B) of the Amended CTA Plan, that in making a determination to declare a Regulatory Halt in trading any security for which the Exchange is the Primary Listing Market, the Exchange will consider the totality of information available concerning the severity of the issue, its likely duration, and potential impact on Member Firms and other market participants and will make a good-faith determination that the criteria for declaring the Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate. The Exchange will consult, if feasible, with the affected Trading Center(s), other SIP Plan Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue. Once a Regulatory Halt has been declared, the Exchange will continue to evaluate the circumstances to determine when trading may resume in accordance with its Rules.

UTP Regulatory Halt

Proposed Rule 7.18E(b)(4) would specify how the Exchange would respond to Regulatory Halts declared by other Primary Listing Markets, referred to by the Exchange as a "UTP Regulatory Halt."³⁹

Proposed Rule 7.18E(b)(4)(A) would provide that the Exchange would halt trading in a UTP Security when the Primary Listing Market declares a Regulatory Halt for any such securities. This proposed rule text is based on Section XI(a)(iii) of the Amended CTA Plan, as well as the first sentence of current Rule 7.18E(a),⁴⁰ which provides in part that if the UTP Listing Market declares a UTP Regulatory Halt, the Exchange will halt trading in that security.

Proposed Rule 7.18E(b)(4)(B)(i), (ii), and (iii) would set forth rules for trading halts in UTP Exchange Traded Products.⁴¹ This proposed rule text is

based on current Rule 7.18E(d)(1)(A), (B), and (C) with non-substantive differences to replace the term "UTP Derivative Securities Product" with the term "UTP Exchange Traded Product," the term "Exchange's Normal Trading Hours" with the term "Core Trading Session,"⁴² and the term "primary listing market" with the term "Primary Listing Market" in proposed Rule 7.18E(b)(4)(B)(ii) and (iii)(a) and (b). The Exchange proposes to delete current Rule 7.18E(d) and its sub-paragraphs as duplicative of the proposed rule text.

Resumption of Trading After a Regulatory Halt

The SROs have jointly developed processes to govern the resumption of trading in the event of a Regulatory Halt. While the actual process of re-launching trading will remain unique to each exchange (for example, trading in Exchange-listed securities resumes on the Exchange in most cases pursuant to Rule 7.35E), the proposed rule would harmonize certain common elements of the reopening process that would benefit from consistency across markets. These common elements include the primacy of the Primary Listing Market in resumption decisions, the requirement that the Primary Listing Market make its determination to resume trading in good faith, and certain parts of the complex process for reopening trading after a SIP Halt. With respect to a SIP Halt, common elements of the reopening process include the interaction among SROs (including the Primary Listing Market with the SIP), the requirement that the Primary Listing Market terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time, the minimum quoting times before resumption of trading, the cutoff time after which trading would not resume during Core Trading Hours, and the time when trading may resume if the Primary Listing Market does not open a security within the amount of time specified in its rules after the SIP Halt Resume Time.

Proposed Rule 7.18E(b)(5) provides the process for resuming trading upon the conclusion of Regulatory Halts other than SIP Halts. This new rule would effectuate Section XI(a)(v) of the Amended CTA Plan.

meets the definition of "derivative securities product" in Rule 19b-4(e) under the Securities Exchange Act of 1934 and that trades on the Exchange pursuant to unlisted trading privileges.

⁴² The term "Core Trading Hours" is defined in Rule 1.1E(j) to mean the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time.

³⁷ See Amended CTA Plan, Section XI(a)(iv)(B)(1)–(3).

³⁸ As noted previously, this is measured as the point in time when the Primary Listing Market declares the halt, regardless of whether there is a delay in dissemination of the notice or in receipt of the notice by participants.

³⁹ The term "UTP Listing Market" is defined in Rule 1.1E(jj) to mean the primary listing market for a UTP Security. The term "UTP Security" is defined in Rule 1.1E(ii) to mean a security that is listed on a UTP Listing Market and that trades on the Exchange pursuant to unlisted trading privileges. The term "UTP Regulatory Halt" is defined in Rule 1.1E(kk). The Exchange proposes a non-substantive amendment to this definition to cross-reference the definition of "Regulatory Halt" in proposed Rule 7.18E and delete the clause "that requires all market centers to halt trading in that security" as duplicative of the proposed new definition of Regulatory Halt, described above.

⁴⁰ As discussed below, the Exchange proposes to delete current Rule 7.18E(a) in its entirety as no longer applicable.

⁴¹ The term "UTP Exchange Traded Product" is defined in Rule 1.1E(bbb) to mean a security that

Proposed Rule 7.18E(b)(5)(A) would make clear that the Exchange, as the Primary Listing Market, is responsible for declaring a resumption of trading when it makes a good-faith determination that trading may resume in a fair and orderly manner in accordance with its rules.

Proposed Rule 7.18E(b)(5)(B) would provide that the Exchange would resume trading after a Regulatory Halt other than a SIP Halt with a Trading Halt Auction pursuant to Rule 7.35E, except in the situations enumerated in sub-paragraphs (i) through (v).

Sub-paragraph (i) would specify that the Exchange would resume trading after a Limit Up Limit Down trading pause as specified in Rule 7.11E.

Sub-paragraph (ii) would specify that the Exchange would resume trading after a Market-Wide Circuit Breaker halt as specified in Rule 7.12E.

Sub-paragraph (iii) would specify that the Exchange would resume trading after a Reverse Stock Split Halt with a Trading Halt Auction at 9:00 a.m. ET on the effective date of the reverse stock split.

Sub-paragraph (iv) would specify that the Exchange would terminate an Initial Listing Regulatory Halt when the security is open for trading.

Sub-paragraph (v) would provide that the Exchange would resume trading after a UTP Regulatory Halt other than a SIP Halt by starting to accept orders after the Exchange receives notification⁴³ from the UTP Listing Market that the Regulatory Halt has been terminated, provided that during Core Trading Hours, the Exchange will not resume trading in any security that is subject to the Limit Up Limit Down Plan until the Exchange receives the first Price Band in that security. This proposed rule text is based on the first sentence of current Rule 7.18E(a), and the Exchange proposes to delete the first sentence of current Rule 7.18E(a) as duplicative of this new rule text.⁴⁴ Sub-paragraph (v) would further provide that the Exchange would not conduct a Trading Halt Auction to resume trading

after a Regulatory Halt in a UTP Security.

Proposed Rule 7.18E(b)(6) would address resumption of trading after a SIP Halt. This new rule would effectuate Section XI(a)(vi) of the Amended CTA Plan.

Proposed Rule 7.18E(b)(6)(A) would establish rules for the resumption of trading following a SIP Halt initiated by the Exchange. Proposed Rule 7.18E(b)(6)(A)(i), which is based on Section XI(a)(vi)(A) of the Amended CTA Plan, would provide that the Exchange would determine when a SIP Halt would end, which would be defined as the “SIP Halt Resume Time,” which is also defined in the Proposed Amended CTA Plan.⁴⁵ As further proposed, in making this determination, the Exchange would make a good-faith determination and consider the totality of information to determine whether resuming trading would promote a fair and orderly market.

The SROs’ experience with such events is that communication among SROs, SIPs, and market participants is the best way to ensure that the Primary Listing Market has access to available information and to coordinate the reopening of trading in an orderly manner. In addition, the SROs anticipate that market participants and other affected entities will have access to information about the issue causing the SIP Halt, the duration of the halt, and the resumption process through updated communications from the SIP processor, Operating Committee, and Primary Listing Market. Accordingly, the proposed Rule 7.18E(b)(6)(A)(i) would further provide that when determining whether to resume trading, the Exchange would include input from the SIP processor, the Operating Committee, or the operator of the system in question (as well as any Trading Center(s) to which such system is linked), regarding operational readiness to resume trading. The rule would further provide that the Exchange would retain discretion to delay the SIP Halt Resume Time if it believes trading would not resume in a fair and orderly manner.

Under proposed Rule 7.18E(b)(6)(A)(ii), the Exchange would terminate a SIP Halt with a notification that specifies the SIP Halt Resume Time. Section XI(a)(vi)(B) of the Amended CTA Plan directs the Primary Listing Market to specify in its rules (a) the minimum notice it will provide of a SIP Halt Resume Time, during which period market participants may enter orders in the affected securities, and (b) the last

SIP Halt Resume Time before the end of regular trading hours. In accordance with that direction, Proposed Rule 7.18E(b)(6)(A)(ii) would state that the Exchange would provide for a minimum five-minute notice of a SIP Halt Resume Time, which is sufficiently in advance of resumption to permit market participants to prepare their systems for trading.

In addition, proposed Rule 7.18E(b)(6)(A)(ii) would establish that during Core Trading Hours, the last SIP Halt Resume Time would be 15 minutes before the end of Core Trading Hours, *e.g.*, 3:45 p.m. ET. The Exchange believes that a SIP Halt Resume Time after 3:45 p.m. ET would interrupt a fair and orderly closing process.

Accordingly, in such case, the Exchange would not run a Closing Auction and would establish Official Closing Prices for securities affected by the SIP Halt pursuant to Rule 1.1E(gg)(2) and (3), which set forth how the Exchange will determine the Official Closing Price if the Exchange is unable to conduct a closing transaction in one or more securities due to a systems or technical issue. In such case, the Exchange would disseminate a SIP Halt Resume Time after Core Trading Hours.

Proposed Rule 7.18E(b)(6)(A)(ii) would further provide the Exchange, as the Primary Listing Market, with discretion to stagger the SIP Halt Resume Times for multiple securities in order to reopen in a fair and orderly manner. For example, this discretion could be used to open trading in a small number of symbols to ensure that systems are operating normally before resuming trading in the remaining symbols.

Proposed Rule 7.18E(b)(6)(A)(iii) would provide that for a SIP Halt initiated by the Exchange, the Exchange would reopen trading with a Trading Halt Auction. Because a SIP Halt is a Regulatory Halt, such Trading Halt Auction would be subject to the extension logic and widened auction collars as described in Rule 7.35E(e)(5)–(7).

Proposed Rule 7.18E(b)(6)(B) would address resumption of trading after a SIP Halt initiated by a UTP Listing Market. The proposed rule would provide that for UTP Securities affected by a SIP Halt, during Core Trading Hours, the Exchange may resume trading in the affected security after trading in the affected security has resumed on the UTP Listing Market or notice has been received from the UTP Listing Market that such trading may resume. The proposed rule would further provide that during Core Trading Hours, if the UTP Listing Market does

⁴³ The manner and timing of such notice would be determined by the UTP Listing Market.

⁴⁴ The Exchange does not propose to include the second sentence of current Rule 7.18E(a) in the proposed rule, as that sentence is inconsistent with the first sentence (upon which proposed Rule 7.18E(b)(5)(B)(v) is based), and would permit the Exchange to resume trading in a security affected by a UTP Regulatory Halt other than a SIP Halt before the UTP Listing Market has provided notification that the halt has ended and before the Exchange receives the first LULD Price Bands in that security. The Exchange accordingly proposes to delete the second sentence of current Rule 7.18E(a).

⁴⁵ See Amended CTA Plan, Section XI(a)(i)(L).

not open a security within the amount of time listed by the rules of the Primary Listing Market, the Exchange may resume trading in that security, provided that the Exchange will not resume trading in any security that is subject to the Limit Up Limit Down Plan until it receives the first Price Band in that security.⁴⁶ Outside of Core Trading Hours, the Exchange may resume trading in an affected UTP Security after the SIP Halt Resume Time.

Order Processing During a Regulatory Halt, Including SIP Halts

Proposed Rule 7.18E(b)(7) would describe how the Exchange would process new and existing orders during a Regulatory Halt. This proposed rule text is based on current Rule 7.18E(b) and (c), with differences described below. The Exchange proposes to delete current Rule 7.18E(b) and (c) and their sub-paragraphs as duplicative of the proposed rule text.

Proposed Rule 7.18E(b)(7)(A) would address how the Exchange would process new and existing orders during a Regulatory Halt that will reopen with a Trading Halt Auction. This proposed rule is based on current Rule 7.18E(c) with differences to use new terminology relating to Regulatory Halts instead of referring to “securities listed on the Exchange during a halt, suspension or pause.” The Exchange also proposes to specify that the order processing described in this rule would only be applicable for Regulatory Halts if the Exchange reopens with a Trading Halt Auction. Proposed Rules 7.18E(b)(7)(A)(i)–(vi) are based on current Rule 7.18E(c)(1)–(6) without any differences.

Proposed Rule 7.18E(b)(7)(B) would address how the Exchange would process new and existing orders in a UTP Security during a UTP Regulatory Halt (including a SIP Halt initiated by a UTP Listing Market). This proposed rule text is based on current Rule 7.18E(b) with non-substantive differences to use new terminology. Proposed Rule 7.18E(b)(7)(B)(i)–(vi) are based on current Rule 7.18E(b)(1)–(6) without any substantive differences.

Operational Halts

The Exchange proposes to address Operational Halts in proposed Rule 7.18E(c). As noted above, an

Operational Halt is non-regulatory in nature and applies only to the exchange that calls the halt. As described above, the Exchange has always had the capacity to implement operational halts and local trading suspensions in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.⁴⁷ As part of the Exchange’s assessment with other SROs of the halting and resumption of trading, the Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate. In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt but where the impact is limited to a single market. For example, just as a market disruption might trigger a Regulatory Halt for Extraordinary Market Activity (as defined in the Amended CTA Plan) if it affects multiple markets, a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, could impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 7.18E(c)(1) would specify the Exchange’s authority to initiate an Operational Halt, which is discretionary, and provide that the Exchange may declare an Operational Halt for any security trading on the Exchange: if it is experiencing Extraordinary Market Activity on the Exchange (Proposed Rule 7.18E(c)(1)(A)); if a Primary Listing Market imposes an Operational Halt in a security that is a derivative or component of a security listed on the Exchange (Proposed Rule 7.18E(c)(1)(B));⁴⁸ or when otherwise

necessary to maintain a fair and orderly market or in the public interest (Proposed Rule 7.18E(c)(1)(C)).

Under proposed Rule 7.18E(c)(2), the Exchange would notify the Processor if it has concerns about its ability to collect and transmit quotes, orders, or last sale prices, or where it has declared an Operational Halt or suspension of trading in one or more Eligible Securities (as that term is defined in the CTA Plan), pursuant to the procedures adopted by the Operating Committee.

Proposed Rule 7.18E(c)(3) would set out rules for order processing during an Operational Halt. In such case, proposed Rule 7.18E(c)(3)(A) would provide that the Exchange would cancel all unexecuted orders resting on the Exchange Book, including Auction-Only Orders, and proposed Rule 7.18E(c)(3)(B) would provide that the Exchange would reject all other incoming order instructions until the Exchange resumes trading. The Exchange currently processes new and existing orders in this manner when it suspends trading.⁴⁹ The Exchange proposes to include this processing in Rule 7.18E to specify that this processing would also be applicable to when the Exchange resumes trading following an Operational Halt in an Exchange-listed security.

Proposed Rule 7.18E(c)(4) would specify how the Exchange resumes trading after an Operational Halt. Proposed Rule 7.18E(c)(4)(A) would provide that the Exchange would resume trading following an Operational Halt when it determines that trading may resume in a fair and orderly manner consistent with the Exchange’s rules. Proposed Rule 7.18E(c)(4)(B) would address “Communications,” and provide that trading in a halted security shall resume at the time specified by the Exchange in a notice. It would further specify that Exchange will notify all other Plan participants and the SIP of such Operational Halt as well as provide notice that an Operational Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange. If the SIP is unable to disseminate notice of an Operational Halt or the Exchange is not open for trading, the Exchange would take reasonable steps to provide notice of an Operational Halt, which shall include both the type and start time of the Operational Halt. Each Plan participant shall continuously monitor communication protocols

security that is subject to the Operational Halt continues to trade on other Trading Centers.

⁴⁹ See current Rule 7.18E(c).

⁴⁶ The Exchange’s proposal to wait for the first Limit Up Limit Down Price Band in the affected UTP Security before resuming trading after a SIP Halt initiated by a UTP Listing Market is consistent with the Exchange’s practice for resuming trading in affected UTP Securities after other types of Regulatory Halts. See proposed Rule 7.18E(b)(5)(B)(vi) and current Rule 7.18E(a).

⁴⁷ See Rule 7.13E (Trading Suspensions). The Exchange also notes that its proposed Rule 7.18E(c) regarding Operational Halts is substantially identical to the revised Nasdaq, Phlx, MIAX Pearl, and MEMX rules cited in note 4 above, and is therefore not novel.

⁴⁸ Proposed Rule 7.18E(c)(1)(B) would provide the Exchange with authority to halt a security listed on the Exchange if the impact of the component or derivative security on price discovery or the fair and orderly market in the Exchange-listed security is significant enough to warrant a trading halt. Factors would include whether trading in the security listed on Exchange is fair and orderly, the nature of the issue that triggered the Operational Halt(s) on the Primary Listing Market(s) in the component or derivative securities, and whether the

established by the Operating Committee and the Processor during market hours to disseminate notice of an Operational Halt, and the failure of a participant to do so shall not prevent the Exchange from initiating an Operational Halt.

Conforming Changes to Other Rules

The Exchange also proposes non-substantive amendments of three other rules.

First, as noted above, the Exchange proposes a non-substantive amendment to the definition of “UTP Regulatory Halt” in Rule 1.1E(kk) to cross-reference the definition of “Regulatory Halt” in proposed Rule 7.18E and delete the clauses “trade, suspension, halt, or pause” and “that requires all market centers to halt trading in that security” as duplicative of the proposed new definition of Regulatory Halt.

Second, the Exchange proposes to amend Rule 7.11E (Limit Up-Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility). Current Rule 7.11E(b)(2) provides that if a primary listing market other than the Exchange issues a Trading Pause, the Exchange will resume trading as provided for in Rule 7.18E(a) regarding UTP Regulatory Halts. The Exchange proposes to replace the term “primary listing market” with “UTP Listing Market” for clarity, and proposes to change the current cross-reference to Rule 7.18E(a) to refer instead to amended Rule 7.18E(b)(5)(B)(v), which would encompass the provisions of current Rule 7.18E(a).

Third, the Exchange proposes to amend Rules 7.35E(e)(3) and (e)(8) to update cross-references from current Rule 7.18E(c) to proposed Rule 7.18E(b)(7)(A).

Implementation

The Exchange will implement all of the changes proposed herein in conjunction with the Processors and the other SROs implementing the necessary rule changes and related technology and procedural changes. The Exchange will publish a trader notice at least 30 business days before implementing the proposed changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁵⁰ Specifically, the proposal is

consistent with Section 6(b)(5) of the Act⁵¹ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other SROs are seeking to adopt harmonized rules related to halting and resuming trading in U.S.-listed equity securities. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted and the process through which that halt will be implemented and terminated. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. equities exchanges and in the over-the-counter market while maintaining a fair and orderly market, protecting investors, and protecting the public interest. Based on the foregoing, the Exchange believes that the proposed rules are consistent with Section 6(b)(5) of the Act⁵² because they will foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities.

As discussed previously, the Exchange believes that the various provisions of the proposed rules that will apply to all SROs are focused on the type of cross-market event where a consistent approach will assist market participants and reduce confusion during a crisis. Because market participants often trade the same security across multiple venues and trade securities listed on different exchanges as part of a common strategy, the Exchange believes that the proposed rules will lessen the risk that market participants holding a basket of securities will have to deal with divergent outcomes depending on where the securities are listed or traded. Conversely, the proposed rules would still allow individual SROs to react differently to events that impact various securities or markets in different ways. This avoids the “brittle market” risk where an isolated event at a single market forces all markets trading equities securities to halt or halts trading in all securities where the issue affected only a subset of securities. By addressing both concerns, the Exchange believes that the proposed rules further the Act’s goal of maintaining fair and orderly markets.

The Exchange believes that the proposed rule’s focus of responsibility

on the Primary Listing Market for decisions related to a Regulatory Halt and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed. As is currently the case, the Primary Listing Market would be responsible for the many regulatory functions related to its listings, including the determination of when to declare a Regulatory Halt. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security or in the over-the-counter market, regulated by FINRA. These other venues are responsible for monitoring activity on their own markets, but also have agreed to honor a Regulatory Halt.

The proposed changes relating to Regulatory Halts would ensure that all SROs handle the situations covered therein in a consistent manner that would prevent conflicting outcomes in cross-market events, and ensure that all Trading Centers recognize a Regulatory Halt declared by the Primary Listing Market. The changes are consistent with and implement the Amended CTA Plan. While the proposed rules recognize one Primary Listing Market for each security, the rules do not prevent an issuer from switching its listing to another national securities exchange that would thereafter assume the responsibilities of Primary Listing Market for that security. Similarly, the proposed rules set forth a fair and objective standard to determine which exchange will be the Primary Listing Market in the case of dually-listed securities: the exchange on which the security has been listed the longest.

The Exchange believes that the other definitions in the proposed rules are also consistent with the Act. For example, the proposed rules would define what constitutes Extraordinary Market Activity, consistent with the definition of that term in the Amended CTA Plan, thereby furthering the Act’s goal of promoting fair and orderly markets. The Exchange is also proposing to adopt definitions for “SIP Outage,” “Material SIP Latency” and “SIP Halt,” to explicitly address situations that may disrupt the markets, and these definitions are identical to the definitions in the Amended CTA Plan. The proposed rules specify when the Exchange should seek information from the Operating Committee, other SROs, and market participants as well as means for dissemination of important information to the market, consistent with the Amended CTA Plan. The Exchange believes these provisions

⁵¹ 15 U.S.C. 78f(b)(5).

⁵² 15 U.S.C. 78f(b)(5).

⁵⁰ 15 U.S.C. 78f(b).

strike the right balance in outlining a process to address unforeseen events without preventing SROs from taking action needed to protect the market.

The Exchange believes that the proposed rules, which make halts consistent across exchange rules, is consistent with the Act in that it will foster cooperation and coordination with persons engaged in regulating the equities markets. In particular, the Exchange believes it is important for SROs to coordinate when there is a widespread and significant event, as multiple Trading Centers are affected in such an event. Further, while the Exchange recognizes that the proposed rule will not guarantee a consistent result on every market in all situations, the Exchange does believe that it will assist in that outcome. While the proposed rule relating to Regulatory Halts focuses primarily on the kinds of cross-market events that would likely impact multiple markets, individual SROs will still retain flexibility to deal with unique products or smaller situations confined to a particular market. To that end, the Exchange has retained some existing elements of Rule 7.18E that focus on its unique products and the processes it has developed over time to interact with its issuers.

Also consistent with the Act, and with the Amended CTA Plan, is the Exchange's proposal in Rule 7.18E(c) to address Operational Halts, which are non-regulatory in nature and apply only to the exchange that declares the halt. As noted earlier, the Exchange has always had the capacity to implement operational halts and local trading suspensions, but such halts are not currently referred to as "operational halts" in the Exchange's rules.⁵³ The Exchange also notes that its proposed Rule 7.18E(c) regarding Operational Halts is substantially identical to the revised Nasdaq, Phlx, MIAX Pearl, and MEMX rules cited above,⁵⁴ and is therefore not novel.

The Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate. In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt, but where the impact is limited to a single market. For example, just as a market disruption might trigger a Regulatory Halt for Extraordinary Market Activity if it affects multiple markets, so could a disruption at the Exchange, such as a technical issue affecting trading in one

or more securities, impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 7.18E(c)(1)(B) would give discretion to the Exchange to impose an Operational Halt in a security listed on the Exchange when a Primary Listing Market imposes an Operational Halt in a security that is a derivative or component of the Exchange-listed security. This rule would give the Exchange authority to halt a security listed on the Exchange if the impact of the component or derivative security on price discovery or the fair and orderly market in the Exchange-listed security is significant enough to warrant a trading halt. Factors would include whether trading in the Exchange-listed security is fair and orderly, the nature of the issue that triggered the Operational Halt(s) on the Primary Listing Market(s) in the component or derivative securities, and whether the security that is subject to the Operational Halt continues to trade on other Trading Centers. This rule is substantially similar to the other SRO rules cited above, and therefore is not novel.⁵⁵

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act⁵⁶ in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange believes the proposal would not impose a burden on intermarket competition but rather would alleviate any burden on competition because it is the result of a collaborative effort by all SROs to harmonize and improve the process related to the halting and resumption of trading in U.S.-listed equity securities. In this area, the Exchange believes that all SROs should have consistent rules to the extent possible in order to provide additional transparency and certainty to market participants and to avoid inconsistent outcomes that could cause confusion and erode market confidence. The proposed changes would ensure

that all SROs handle the situations covered therein in a consistent manner and ensure that all Trading Centers handle a Regulatory Halt consistently. The Exchange understands that all other Primary Listing Markets intend to file proposals that are substantially similar to this proposed rule change.

The Exchange does not believe that its proposals concerning Operational Halts impose an undue burden on competition. Under its existing rules, the Exchange already possesses discretionary authority to impose halts and trading suspensions for various reasons. The proposed rule change clarifies and broadens the circumstances in which the Exchange may impose such Operational Halts, and specifies procedures for both imposing and lifting them. The Exchange does not intend for these proposals to have any competitive impact whatsoever. Indeed, the Exchange expects that other exchanges will adopt similar rules and procedures to govern operational halts, to the extent that they have not done so already.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed rule would apply to all market participants equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely-accessible sources to ensure broad availability of information in addition to the SIP data and proprietary data feeds offered by the Exchange and other SROs that are available to subscribers.

In addition, the proposed rule change includes several provisions related to the declaration and timing of trading halts and the resumption of trading designed to avoid any advantage to those who can react more quickly than other participants. The proposed rules give the Exchanges the ability to declare the timing of a Regulatory Halt immediately. The SROs retain the discretion to cancel trades that occur after the time of the Regulatory Halt. The proposed rule change also allows for the staggered resumption of trading to assist firms in reentering the market after a SIP Halt affecting multiple securities, in order to reopen in a fair and orderly manner. In addition, the proposed rule change encourages early and frequent communication among the SROs, SIPs, and market participants to enable the dissemination of timely and accurate information concerning the market to market participants.

⁵³ See Rule 7.13E (Trading Suspensions).

⁵⁴ See *supra* note 4.

⁵⁵ See *supra* note 4.

⁵⁶ 15 U.S.C. 78f(b)(8).

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁵⁷ and Rule 19b-4(f)(6) thereunder.⁵⁸ 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.

A proposed rule change filed under Rule 19b-4(f)(6)⁵⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁶⁰ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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)⁶¹ 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-NYSEAMER-2025-19 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-NYSEAMER-2025-19. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-NYSEAMER-2025-19 and should be submitted on or before May 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-06415 Filed 4-15-25; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20985 and #20986; KENTUCKY Disaster Number KY-20016]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the Commonwealth of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA-4860-DR), dated March 4, 2025.

Incident: Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides.

DATES: Issued on April 9, 2025.

Incident Period: February 14, 2025 through March 7, 2025.

Physical Loan Application Deadline Date: May 5, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: December 4, 2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:

Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated March 4, 2025, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Laurel, McCreary.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2025-06455 Filed 4-15-25; 8:45 am]

BILLING CODE 8026-09-P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA-2025-0012]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information

⁵⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵⁸ 17 CFR 240.19b-4(f)(6).

⁵⁹ 17 CFR 240.19b-4(f)(6).

⁶⁰ 17 CFR 240.19b-4(f)(6)(iii).

⁶¹ 15 U.S.C. 78s(b)(2)(B).

⁶² 17 CFR 200.30-3(a)(12).

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 extensions and revisions of OMB-approved information collections.

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(s) 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–2025–0012] in your submitted response.

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than June 16, 2025. Individuals can obtain copies of the collection instrument by writing to the above email address.

eSignature/Upload Documents—20 CFR 404.704; 404.1512, 416.912, and 422.505—0960–0830

Background

In the digital age, individuals expect to complete transactions online, including submitting documents and forms to government agencies. The agency offers several service-specific options for individuals to submit forms and other documents online (e.g., iClaim, OMB #0960–0618; iAppeals, OMB Number 0960–0269 & 0960–0622; Electronic Records Express, OMB #0960–0753; etc.). While these available options are useful, the agency uses eSignature/Upload Documents [formerly Upload Documents (eSubmit)] to expand the options for first-party individuals to securely submit

information electronically to SSA to complete business with the agency and support claims for benefits. The Social Security Administration (SSA) introduced eSignature/Upload Documents nationally in April 2024, as a new way for individuals to securely submit evidence and forms electronically to SSA.

SSA relies heavily on receiving physical forms, proofs, and evidence from customers and third parties (e.g., appointed representatives) either in office or via paper mail. SSA estimates that our offices receive roughly 35–36 million pieces of mail each year and that it takes about 4 minutes per paper mail parcel for front line staff to manually open, sort, review, digitize, and assign each piece of mail manually using our backend intake processing systems. SSA regulations under 20 CFR 404.704, 404.1512, 416.200, 416.912, and 422.505 set out requirements for the evidence and forms respondents need to submit and complete to conduct business with the agency. In addition, Executive Order (E.O.) 14058, Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government, requires SSA to develop a mobile-accessible, online process so that any individual applying for, or receiving services from, SSA can upload forms, documentation, evidence, or correspondence associated with their transaction without the need for service-specific tools or travel to a field office. To comply with E.O. 14058, SSA created eSignature/Upload Documents, which allows respondents to upload and submit forms, documentation, and evidence to SSA electronically through the internet or a mobile application.

eSignature/Upload Documents

As per the requirements of E.O. 14058, respondents may use the secure upload portal, eSignature/Upload Documents, to submit documents and webforms to SSA. As of the March 2024 national rollout, eSignature/Upload Documents contains 71 forms and allows for the electronic submission of 79 evidence types. The current process requires an SSA technician to request forms and evidence from a customer, then send an email or text to the customer with a link to upload these documents. As a direct result of SSA Customer Experience (CX) testing and feedback recommendations, the eSignature/Upload Documents team is enhancing the tool to include an expansion of forms and evidence types available for upload including additional PDFs, as well as static and dynamic webforms. While adding

additional PDFs and static webforms increases the forms and evidence available for customers to upload electronically, the dynamic webforms modernize the forms for easier customer completion and submission. Dynamic webforms adapt questions based on the customer's response, ask questions in plain language, and are formatted in an easily understood way. Additionally, as a further result of customer feedback, eSignature/Upload Documents will implement an enhancement that allows customers to access the Upload Documents link directly from ssa.gov or their mySSA account without having to first interact with a SSA technician. Once the link is accessed and the form selected, the upload process eSignature/Upload Documents includes an electronic signature functionality allowing respondents to submit forms requiring a signature. Upon customer completion of a static or dynamic webform, the respondent includes an eSignature as needed, submits the form to SSA electronically, and the system generates a printable PDF for the customer's personal records if the customer desires it.

eSignature/Upload Documents serves individuals including Title II, Title XVI, and Title XVIII beneficiaries, as well as individuals who do not currently receive any benefits from SSA. eSignature/Upload Documents is limited to first-party individuals, and does not currently allow third parties, including representative payees, to submit documents on behalf of others. Technicians contact the respondent, via email, telephone, or face-to-face interview with SSA, for a business matter (e.g., filing a claim, performing a redetermination, or updating their personal information). During the interaction, the SSA technician requests additional information and offers the opportunity to provide the information electronically via the eSignature/Upload Documents portal. The technician then sends a one-time email or text message containing a link to eSignature/Upload Documents with access instructions. Customers who request a text message as their preferred communication method must first provide consent to text messaging. The electronic submission process is only available within 30 days from the date of the email or text. If the respondents do not submit the documents within 10 days, they receive an email or text reminder to complete their submission.

Once the respondents click on the link to eSignature/Upload Documents, the system requires them to authenticate using one of SSA's electronic access options (OMB Control No. 0960–0789),

ID.me, or *Login.gov*, and then presents them with the required language concerning the applicable Terms of Service, the Privacy Act Statement, the Paperwork Reduction Act Statement, and any identity proofing and authentication (as per the requirements of those authentication processes). Once the respondents arrive at the eSignature/Upload Documents dashboard, the system presents them with the description of the items SSA requested from them (examples of the documentation SSA may request includes forms or non-standardized evidence to support their request [e.g., pay stubs, bank statements, pension award letters, tax documents, child support payment history, etc.]). Each item SSA requests from the respondent appears as a request card on their dashboard.

To fulfill an eSignature/Upload Documents request, the system guides the respondent through one of three options:

1. Download, complete, save and then upload a PDF, or upload an evidence document, by dragging or browsing from their device and uploading the document to the eSignature/Upload Documents system.
2. Complete and submit a static webform with or without additional uploaded document(s).

3. Complete and submit a dynamic webform with or without additional uploaded document(s).

Once the respondents finish uploading their forms or documents, the system will alert them if the attempted file upload does not meet the file criteria requirements. The respondent then corrects any upload failures before submitting the documents to SSA.

After either uploading the documents, or completing the static or dynamic webform questions, the respondent must select the Submit button to complete the action, and the system will present them with the confirmation page. This page also presents an option to save or print the completed PDF. The respondent receives a successful submission email or text once they have successfully uploaded their document(s) to SSA. The system notifies the technician through the Technician Experience Dashboard (TED) when the document is available for review and consideration.

Commercial Product Alternative Signature (CPAS)

SSA also allows for the submission of certain forms signed using a commercial signature product. Some of these forms also have electronic means for submission.

Under the CPAS process, individuals who use a commercial signature product

to submit signed forms will ensure that the product is capable of generating an audit trail maintaining the following information in a digital certificate:

(1) confirmation that the document was signed using a commercial product; (2) signature details (*i.e.*, name of person who signed the document, date/time document was signed); (3) email and IP address associated with each signature; (4) whether the document was changed after signature; and (5) an identifier that connects the audit trail to the signed document to which it applies. SSA then requires the individual to maintain the digital certificate for a minimum of three years from the date they submitted the form and to produce the digital certificate if the agency requests it. Once the individual uses the CPAS process SSA allows them to submit the electronically signed forms using any method currently accepted for wet-signed forms (*e.g.*, by mail, in person, or via a secured electronic transfer, like Upload Documents or Electronic Records Express, OMB #0960-0753).

Currently, SSA only accepts CPAS for the Commercial Product Alternative Signature (CPAS) process as an additional means for individuals to sign the following eight currently approved agency forms prior to sending them to SSA:

OMB No.	Form No.	Form title
0960-0059	SSA-821-BK; SSA-821-APP	Work Activity Report—Employee.
0960-0229	SSA-8000-BK; iSSI (Internet modality)	Application for Supplemental Security Income (SSI).
0960-0444	SSA-8001-BK; iSSI (Internet modality)	Application for Supplemental Security Income (Deferred or Abbreviated).
* 0960-0527	SSA-1696; SSA-1696-APP	Appointment of Representative.
0960-0598	SSA-820-BK; SSA-821-APP	Work Activity Report (Self-Employment).
0960-0618	SSA-16; iClaim (Internet modality)	Application for Disability Insurance Benefits.
** 0960-0623	SSA-827; i827 (Internet modality)	Authorization to Disclose Information to the Social Security Administration.
* 0960-0810	SSA-1693; SSA-1693-APP	Fee Agreement for Representation before the Social Security Administration.

* While Forms SSA-1696 and SSA-1693 are not, currently, available through the Upload Documents (eSubmit) Portal, we offer an electronically signable and submittable PDF version through the Adobe Sign process. However, we hope to expand the Upload Documents Portal to include them in the future.

** **Note:** SSA may require additional verbal attestation for Form SSA-827 when submitted using the CPAS process. However, if the respondent chooses to submit the SSA-827 through the eSignature/Upload Documents webform, or the internet i827, SSA will accept it without any additional attestation.

The specific forms that respondents submit through eSignature/Upload Documents (or the CPAS process) retain their existing OMB Control Numbers, reflecting the fact that the eSignature/Upload Document Paperwork Reduction Act (PRA) approval is for the system we use to collect form submissions, but not

the actual questions on the forms themselves. While we note the use of eSignature/Upload Documents reduces the overall burden associated with submitting forms, SSA continues to document any burden reduction associated with improved submission

within the specific forms' supporting statements.

Respondents are first-party individuals who choose to use the internet to conduct business with SSA.

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 for teleservice center (minutes) **	Total annual opportunity cost (dollars) **
Internet-Based Static or Dynamic Webform	115,369	1	5	9,614	*\$32.66	** 21	*** \$1,632,771

* We based these figures on average U.S. worker's hourly wages (based on *BLS.gov* data, Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2025 wait times for teleservice centers (approximately 21 minutes per respondent), based on SSA's current management information data.

*** 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.*

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections 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 May 16, 2025. Individuals can obtain copies of these OMB clearance packages by writing to the *OR.Reports.Clearance@ssa.gov*.

1. Statement of Claimant or Other Person—20 CFR 404.702 & 416.570—

0960–0045. SSA uses Form SSA–795 in special situations where there is no authorized form or questionnaire, yet we require a signed statement from the applicant, claimant, or other individuals who have knowledge of facts, in connection with claims for Social Security benefits or Supplemental Security Income (SSI). The information we request on the SSA–795 is of sufficient importance that we need both a signed statement and a penalty clause. SSA uses this information to process, in addition to claims for benefits, issues

about continuing eligibility; ongoing benefit amounts; use of funds by a representative payee; fraud investigation; and a myriad of other program-related matters. The most common respondents are applicants for Social Security, SSI, or recipients of these programs. However, respondents also include friends and relatives of the involved parties, coworkers, neighbors, or anyone else in a position to provide information pertinent to the issue(s).

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 or telephone wait time (minutes) **	Total annual opportunity cost (dollars) ***
SSA–795 Paper	154,318	1	15	38,580	* \$13.30	** 23	*** \$1,299,876
SSA–795 (SSI CCE interviews)	22,516	1	15	5,629	* 31.48	** 21	*** 425,295
Totals	176,834	.....	.....	44,209	.....	.....	*** 1,725,171

* We based this figure on the average DI payments based on SSA's current data (<https://www.ssa.gov/legislation/2024FactSheet.pdf>) and on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based these figures on both the average FY 2025 wait times for field offices (23 minutes) and teleservice centers (21 minutes), based on SSA's current management information data.

*** 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.*

2. Request for Reconsideration—Disability Cessation—20 CFR 404.909, 404.1597(b), 416.995, & 416.1409—0960–0349. When SSA determines that claimants' disabilities medically improved, ceased; or are no longer sufficiently disabling, these claimants may ask SSA to reconsider that determination. SSA uses Form SSA–789

to arrange for a hearing or prepare a decision based on the evidence of record. Specifically, claimants or their representatives use Form SSA–789 to: (1) ask SSA to reconsider a determination, (2) indicate if they wish to appear at a disability hearing, (3) submit any additional information or evidence for use in the reconsidered

determination, and (4) indicate if they will need an interpreter for the hearing. The respondents are disability claimants for Social Security benefits or SSI payments who wish to appeal an unfavorable disability cessation determination.

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–789	72,796	1	10	12,133	* \$13.30	** 23	*** \$532,505

* We based this figure on average DI payments based on SSA's current data (<https://www.ssa.gov/legislation/2024FactSheet.pdf>).

** We based this figure on the average FY 2025 wait times for field offices, based on SSA's current management information data.

*** 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.*

3. *Travel Expense Reimbursement—20 CFR 404.999(d) and 416.1499—0960–0434.* The Social Security Act (Act) provides for travel expense reimbursement from Federal and State agencies for claimant travel incidental to medical examinations, and to parties, their representatives, and all reasonably necessary witnesses for travel exceeding

75 miles to attend medical examinations, reconsideration interviews and proceedings before an administrative law judge. Reimbursement procedures require the claimant to provide: (1) a list of expenses incurred; and (2) receipts of such expenses. Federal and state personnel review the listings and

receipts to verify the reimbursable amount to the requestor. The respondents are claimants for Title II benefits and Title XVI payments, their representatives, and witnesses.

Type of Request: Extension 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) *	Total annual opportunity cost (dollars) **
404.999(d) & 416.1499	60,000	1	10	10,000	* \$29.63	** \$296,300

* We based this figure by averaging both the average DI payments based on SSA's current data (<https://www.ssa.gov/legislation/2024FactSheet.pdf>), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** 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.*

4. *Permanent Residence in the United States Under Color of Law (PRUCOL)—20 CFR 416.1615 and 416.1618—0960–0451.* Under 20 CFR 416.1415 and 416.1618 of the Code of Federal Regulations (Code), SSA requires claimants or recipients to submit evidence of their alien status when they apply for SSI payments, and periodically thereafter as part of the eligibility determination process for SSI. When SSA cannot verify evidence of

alien status through the regular claimant interview process, SSA verifies the validity of the evidence of PRUCOL for grandfathered nonqualified aliens with the Department of Homeland Security (DHS) using the DHS Systemic Alien Verification for Entitlements (SAVE) program. SSA determines if the individual qualifies for PRUCOL status based on the SAVE program response. SSA does not maintain any forms or applications for respondents to use,

rather, the regulations listed in 20 CFR 416.1615 and 416.1618 specify the information respondents need to submit to SSA to show evidence of PRUCOL. Without this information, SSA is unable to determine whether the PRUCOL individual is eligible for SSI payments. Respondents are qualified and unqualified aliens who apply for SSI payments under PRUCOL.

Type of Request: Extension 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) ***
Personal Interview	1,049	1	5	87	* \$31.48	** 23	** \$15,971

* We based this figure on 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 2025 wait times for field offices, based on SSA's current management information data.

** 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.*

5. *Internet Request for Replacement of Forms SSA–1099/SSA–1042S—20 CFR 401.45–0960–0583.* Title II beneficiaries use Forms SSA–1099 and SSA–1042S, Social Security Benefit Statement, to determine if their Social Security benefits are taxable, and the amount they need to report to the Internal Revenue Service. In cases where the original forms are unavailable (e.g., lost,

stolen, mutilated), an individual may use SSA's automated telephone application to request a replacement SSA–1099 and SSA–1042. SSA uses the information from the automated telephone requests to verify the identity of the requestor and to provide replacement copies of the forms. SSA accepts information in other ways, however; The automated telephone

options reduce requests to the National 800 Number Network (N8NN) and visits to local Social Security field offices (FO). The respondents are title II beneficiaries who wish to request a replacement SSA–1099 or SSA–1042S via telephone.

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 for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
Automated Telephone Requests	316,000	1	6	31,600	* \$32.66	** 21	*** \$4,664,252
N8NN	497,778	1	3	24,889	* 32.66	** 21	*** 5,690,091

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 for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
Calls to local field offices	848,444	1	3	42,422	* 32.66	** 21	*** 1,870,438
Other (program service centers)	41,640	1	3	2,082	* 32.66	** 21	*** 91,807
Totals	1,419,462	.....	.....	100,993	.....	.....	*** 12,316,588

* We based this figure on 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 2025 wait times for SSA Teleservice centers, based on SSA's current management information data.

*** 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.*

6. Protecting the Public and Our Personnel To Ensure Operational Effectiveness (RIN 0960-AH35), Regulation 3729I—20 CFR 422.905 and 422.906—0960-0796. SSA published regulations for the process we follow when we restrict individuals from receiving in-person services in our field offices and provide them, instead, with alternative services. We published these rules to create a safer environment for our personnel and members of the public who use our facilities, while ensuring we continue to serve the American people with as little disruption to our operations as possible. Under our regulations at 20 CFR 422.905 of the Code, an individual for whom we restrict access to our facilities has the opportunity to appeal our decision within 60 days of the date of

the restrictive access and alternative service notice. To appeal, restricted individuals must submit a written request via mail stating why they believe SSA should rescind the restriction and allow them to conduct business with us on a face-to-face basis in one of our offices. There is no printed form for this request; rather, restricted individuals create their own written statement of appeal and submit it to a sole decision-maker in the regional office of the region where the restriction originated. The individuals may also provide additional documentation to support their appeal. Under 20 CFR 422.906 of the Code, if the individual does not appeal the decision within the 60 days, if we restricted the individual prior to the effective date of this regulation, or if the appeal results in a

denial, the individual has another opportunity to request review of the restriction after a three-year period. To submit this request for review, restricted individuals may re-submit a written appeal of the decision. The same criteria apply as for the original appeal: (1) it must be in writing; (2) it must be sent to a sole decision-maker in the regional office of the region where the restriction originated for review; and (3) it may accompany supporting documentation. We make this periodic review available to all restricted individuals once every three years. Respondents for this collection are individuals appealing their restrictions from in-person services at SSA field offices.

Type of Request: Extension of an OMB-approved information collection.

Regulation section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
20 CFR 422.905	75	1	15	19	* \$22.98	** \$437
20 CFR 422.906	75	1	20	25	* 22.98	** 575
Totals	150	.....	.....	44	.....	** 1,012

* We based this figure by averaging both the average DI payments based on SSA's current data (<https://www.ssa.gov/legislation/2024FactSheet.pdf>), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on claimants 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.*

7. Social Security Administration Health IT Partner Program Assessment—Participating Facilities and Available Content Form—20 CFR 404.1614 and 416.1014—0960-0798. The Health Information Technology for Economic and Clinical Health (HITECH) Act promotes the adoption and meaningful use of health information technology (IT), particularly in the context of working with government agencies. Similarly, Section 3004 of the

Public Health Service Act requires health care providers or health insurance issuers with government contracts to implement, acquire, or upgrade their health IT systems and products to meet adopted standards and implementation specifications. To support expansion of SSA's health IT initiative as defined under HITECH, SSA developed Form SSA-680, the Health IT Partner Program Assessment—participating Facilities

and Available Content Form. The SSA-680 allows healthcare providers to provide the information that SSA needs to determine their ability to exchange health information with us electronically. We evaluate potential partners (*i.e.*, healthcare providers and organizations) on: (1) the accessibility of health information they possess; and (2) the content value of their electronic health records' systems for our disability adjudication processes. SSA

reviews the completeness of organizations' SSA-680 responses as one part of our careful analysis of their readiness to enter a health IT

partnership with us. The respondents are healthcare providers and organizations exchanging information with the agency.

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) *	Total annual opportunity cost (dollars) **
SSA-680	10	1	2,400	400	* \$50.59	** \$20,236

* We based these figures on average Healthcare Practitioners and Technical Occupations, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** 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.*

Dated: April 10, 2025.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2025-06422 Filed 4-15-25; 8:45 am]

BILLING CODE 4191-02-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36836]

Norfolk Southern Corporation and Norfolk Southern Railway Company—Acquisition of Control—Norfolk & Portsmouth Belt Line Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Decision No. 3 in Docket No. FD 36836; Notice of Proposed Procedural Schedule and Request for Comments.

SUMMARY: Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, Applicants) are seeking Board approval to acquire control of Norfolk & Portsmouth Belt Line Railroad Company (NPBL). In this decision, the Board is publishing notice of the proposed procedural schedule, inviting public comments on that schedule, and designating 2023 as the year to be used for the impact analysis.

DATES: Written comments on the proposed procedural schedule must be filed by April 28, 2025.

ADDRESSES: Any filing submitted in this proceeding must be filed with the Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each filing must be sent (and may be sent by email only if service by email is acceptable to the recipient) to each of the following: (1) Secretary of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC

20530; (3) Applicants' representative, William Mullins, Mullins Law Group, PLLC, 2001 L Street NW, Suite 720, Washington, DC 20036; and (4) any other person designated as a Party of Record on the service list.

FOR FURTHER INFORMATION CONTACT:

Amy Ziehm at (202) 245-0391. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: On February 14, 2025, Applicants submitted a filing in which they sought Board approval for Applicants to acquire control of NPBL, a Class III rail carrier operating in Norfolk, Portsmouth, and Chesapeake, Va. (the Proposed Transaction). By decision served March 14, 2025, the Surface Transportation Board (Board) found that the Proposed Transaction was a "significant transaction" under 49 CFR 1180.2 and, among other things, directed Applicants to file a revised proposed procedural schedule reflecting that determination. *See Norfolk S. Corp.—Acquis. of Control—Norfolk & Portsmouth Belt Line R.R. (Decision No. 2), FD 36836, slip op. at 7-9 (STB served Mar. 14, 2025).* Applicants were also directed to indicate in their filing the year to be used for the impact analysis required for significant transactions and the approximate filing date of Applicants' anticipated supplement. *Id.* at 9.

On March 21, 2025, Applicants filed a revised motion, proposing a procedural schedule largely based off the schedule originally proposed by the Board in *CSX Corp.—Control & Merger—Pan Am Sys., Inc.*, FD 36472 (STB served Apr. 22, 2021). (Applicants Revised Mot. 2, Mar. 21, 2025.) Applicants also contend that no environmental review is required for the Proposed Transaction and thus no environmental review is accounted for in the proposed schedule. Applicants propose the following timeline:

F¹ Application filed.

F + 30 Board notice of acceptance of application to be published in the **Federal Register**.²

F + 40 Notices of intent to participate in this proceeding due.

F + 60 Descriptions of anticipated responsive, including inconsistent, applications due. Petitions for waiver or clarification with respect to such applications due.

Comments, protests, requests for conditions, and any other evidence and argument in opposition to the application or related transactions due. This includes any comments from the U.S. Department of Justice (DOJ) and U.S. Department of Transportation (USDOT).

F + 90 Responsive, including inconsistent, applications due.

F + 135 Responses to comments, protests, requests for conditions, and other opposition due, including to DOJ and USDOT filings. Responses to responsive, including inconsistent, applications due. Rebuttal in support of the application and related transactions due. Discovery closes.

F + 165 Rebuttal in support of responsive, including inconsistent, applications due.

¹ "F" designates the filing date of the supplement to perfect the application, and "F + n" means "n" days following that date. Applicants state that they anticipate filing the supplement on or shortly before June 14, 2025. (Applicants Revised Mot. 3 n.7, Mar. 21, 2025.)

² Applicants also propose that discovery begin on this date. The Board, however, has permitted discovery after the initiation of a proceeding under 49 U.S.C. 11323 but before the filing of an application. *See Canadian Pac. Ry.—Control—Kan. City S.*, FD 36500, slip op. at 4 (STB served Aug. 2, 2021); 49 CFR 1114.21(a) ("Parties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding."). This approach is appropriate here, given the initiation of the proceeding and the treatment of Applicants' February 14, 2025 submission as a pre-filing notification.

TBD Public hearing (if necessary).³
F + 180 Final briefs due. (Close of evidentiary record.)

F + 270 Service date of final decision.

F + 300 Effective date of final decision.

The Board invites all interested persons to submit written comments on the proposed procedural schedule. Comments must be filed by April 28, 2025. The proposed schedule is subject to change depending on the comments received or other circumstances.

Additionally, the Board's regulations require notice of the year to be used for the impact analysis required in significant transactions be published in the **Federal Register**. See 49 CFR 1180.4(b)(2)(ii). Applicants indicate that they intend to use 2023 as the base year.⁴ Accordingly, the Board will designate 2023 as the year to be used for the impact analysis.

On March 28, 2025, CSX Transportation, Inc. (CSXT), filed a response to Applicants' revised motion for a proposed procedural schedule. CSXT proposes certain modifications to the proposed procedural schedule, proposes that discovery should commence as of publication of the notice of Applicants' intent to file, and opposes the establishment, at this time, of a closing date for discovery. (CSXT Response 2–9, Mar. 28, 2025.) Additionally, although CSXT states that it does not object to the base year selected by Applicants, it argues that the Board should reject Applicants' supplement if it includes only base year data, without providing information to compare that data to a situation in which Applicants did not control NPBL. (*Id.* at 10–11.) CSXT also argues that it is too early for the Board to determine whether environmental review is required in this case. (*Id.* at 11.) Applicants responded to CSXT's response by letter filed *supra* April 1, 2025.

As noted above, *supra* note 2, the Board declines to propose a schedule that would limit the taking of discovery until the Board publishes a notice accepting the application. To the extent that CSXT's response otherwise relates to the proposed procedural schedule, it

will be addressed following the comment period, along with any other comments the Board may receive on the proposed schedule. CSXT's comments concerning the sufficiency of Applicants' future presentation of data are beyond the scope of this decision, which serves only to notice and solicit comments on the proposed procedural schedule, as required by 49 CFR 1180.4(b)(4)(i). Accordingly, those arguments will be addressed, to the extent necessary, at a later date. The Board will also address environmental review issues in a subsequent decision.

Decided: April 11, 2025.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

Regena Smith-Bernard,
Clearance Clerk.

[FR Doc. 2025–06471 Filed 4–15–25; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2024–2466; Summary Notice No. 2025–20]

Petition for Exemption; Summary of Petition Received; Michael Gray

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 6, 2025.

ADDRESSES: Send comments identified by docket number FAA–2024–2466 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://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 20590–0001, 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 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 <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://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 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kara White, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591. Telephone number: 202–267–3793.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2024–2466.

Petitioner: Michael Gray.

Section(s) of 14 CFR Affected: § 61.160(b).

Description of Relief Sought: Michael Gray is petitioning for relief from 14 CFR 61.160(b) to allow him to use his prior training and education experience to obtain the Restricted Air Transport Pilot certificate with a minimum of 1,000 hours of total time as a pilot. Mr. Gray is basing his request on his educational studies in the field of aviation as well as his vast experience and training working for a 14 CFR part 121 Air Carrier as an aircraft mechanic.

[FR Doc. 2025–06038 Filed 4–15–25; 8:45 am]

BILLING CODE 4910–13–P

³ The Board will decide whether to conduct a public hearing in a later decision after the record has been more fully developed. See 49 U.S.C. 11324(a) (“The Board shall hold a public hearing unless the Board determines that a public hearing is not necessary in the public interest.”).

⁴ Applicants state that they would prefer to use 2024 as the base year if waybill data for 2024 becomes available in time for use in this proceeding. (Applicants Revised Mot. 1 n.1, Mar. 21, 2025.) Any such request would be addressed in a future decision.

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****[Docket No. FAA–2025–0607]****Agency Information Collection
Activities: Requests for Comments;
Clearance of A New Approval of
Information Collection****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Notice and request for
comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for revision of a currently approved collection. The collection requires responses to questions regarding an individual's identity in order to gain access to U.S. Federal Government web applications. The information to be collected is used to verify the requestor's identity and create a user account.

DATES: Written comments should be submitted by June 16, 2025.**ADDRESSES:** Please send written comments:

By Electronic Docket:
www.regulations.gov (Enter docket number into search field)

By mail: Christopher K Brimage, 6500 S MacArthur Boulevard, ARB–115, Oklahoma City, OK 73169

By fax: 405–954–5798

FOR FURTHER INFORMATION CONTACT:
Christopher K. Brimage by email at: kyle.brimage@faa.gov; phone: 405–596–9143

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0808

Title: MyAccess Non-credentialed User Access Requests

Form Numbers: No forms.

Type of Review: Revision of a currently approved collection.

Background: Uncredentialed users requesting access to web-based

applications published by the Federal Aviation Administration or other United States Federal Government entities are required to identify themselves. The proposed collection of information will be used to positively identify the user requesting access and create a user account.

The identification of the requesting user is based on answers provided via a web interface that are matched against sources such as public records, mobile accounts, credit reporting bureaus and other available data. If a positive identification is made some of the collected information is used to create a user account to allow the user access to the requested web application.

Respondents: Any un-credentialed individual who requests a user account to access web applications published by the FAA or other U.S. Federal Government entity that is integrated with the MyAccess program.

Frequency: The collection is done one time for each new account request.

Estimated Average Burden per Response: ~0.07 hours (~4 minutes)

Estimated Total Annual Burden: ~0.07 hours (~4 minutes)

Issued in Oklahoma City, OK, April 11th, 2025.

Christopher K Brimage,

Information Technology Specialist, Enterprise Search & Integration Services Branch (ADE–330)—Solution Delivery Directorate, AIT, AFN, FAA, USDOT.

[FR Doc. 2025–06479 Filed 4–15–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Notice of Final Federal Agency Actions
on Proposed Transportation Project in
Ohio**

AGENCY: Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice of limitation on claims for judicial review.

SUMMARY: The FHWA, on behalf of the Ohio Department of Transportation (ODOT), is issuing this notice to announce actions taken by ODOT and other Federal agencies that are final agency actions. These actions relate to the proposed construction of Sunbury Parkway and the modified Interstate 71 at US 36/SR 37 interchange.

DATES: By this notice, the FHWA, on behalf of ODOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency

actions on the listed highway project will be barred unless the claim is filed on or before September 15, 2025. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

ADDRESSES: The Environmental Assessment Reevaluation and additional project documents can be viewed and downloaded from the project website at: Improved Interchange at I–71/U.S. 36/SR 37 and Proposed Sunbury Pkwy | Ohio Department of Transportation or by contacting ODOT Office of Environmental Services, 1980 West Broad Street, Mail Stop 4170, Columbus, Ohio 43223, during normal business hours of 8 a.m. to 4 p.m. (eastern standard time), Monday through Friday, except State holidays.

FOR FURTHER INFORMATION CONTACT: Timothy M. Hill, Administrator, Office of Environmental Services, Ohio Department of Transportation, 614–644–0377, Tim.Hill@dot.ohio.gov.

SUPPLEMENTARY INFORMATION: Effective December 11, 2015, amended June 6, 2018, and renewed December 14, 2020, the Federal Highway Administration (FHWA) assigned, and the Ohio Department of Transportation (ODOT) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that ODOT has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project. The actions by ODOT and other Federal agencies on the project, and the laws under which such actions were taken are described in the Environmental Assessment Reevaluation approved on February 7, 2025 and in other project records for the listed project. The Environmental Assessment Reevaluation and other documents for the listed project are available by contacting ODOT at the address provided above or on the listed project website.

The project subject to this notice is:

Project Location: The project will involve construction of an interchange at I–71, south of the existing US 36/SR 37 interchange. This interchange will carry the new Sunbury Parkway over I–71 and run east and west of the interstate, operating in conjunction with the existing interchange to the north at US 36/SR37. The project will also construct Sunbury Parkway from Africa Road at US 36/SR 37 east to US 36/SR 37 (Cherry Street) in Sunbury, OH as a six-lane road with a median, multi-use path and sidewalk and extend Wilson Road south from its current terminus at

the Tanger Outlet Mall to the future Sunbury Parkway.

Project Actions: This notice applies to the Environmental Assessment Reevaluation and all other Federal agency licenses, permits, or approvals for the listed project as of the issuance date of this notice including but not limited to the Section 4(f) Resource Programmatic Approval and all laws under which such actions were taken, including, but not limited to:

1. **General:** National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128]; 23 CFR part 771.

2. **Air:** Clean Air Act (CAA) [42 U.S.C. 7401–7671(q)], with the exception of project level conformity determinations [42 U.S.C. 7506].

3. **Noise:** Noise Control Act of 1972 [42 U.S.C. 4901–4918]; 23 CFR part 772.

4. **Land:** Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; 23 CFR part 774; Land and Water Conservation Fund (LWCF) [54 U.S.C. 200302–200310].

5. **Wildlife:** Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and 1536]; Marine Mammal Protection Act [16 U.S.C. 1361–1423h], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(f)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act (MBTA) [16 U.S.C. 703–712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801–1891d], with Essential Fish Habitat requirements [16 U.S.C. 1855(b)(2)].

6. **Historic and Cultural Resources:** Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 3006101 *et seq.*]; Archaeological Resources Protection Act of 1979 (ARPA) [16 U.S.C. 470(aa)–470(II)]; Preservation of Historical and Archaeological Data [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013; 18 U.S.C. 1170].

7. **Social and Economic:** Civil Rights Act of 1964 [42 U.S.C. 2000d–2000d-1]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. **Wetlands and Water Resources:** Clean Water Act (Section 319, Section 401, Section 404) [33 U.S.C. 1251–1387]; Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501–3510]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451–1466]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j-26]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic

Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 119(g) and 133(b)(3)]; Flood Disaster Protection Act [42 U.S.C. 4001–4130].

9. **Hazardous Materials:** Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. **Executive Orders:** E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1)).

Issued on: April 10, 2025.

David Snyder,

Ohio Division Administrator, Federal Highway Administration.

[FR Doc. 2025–06403 Filed 4–15–25; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Project in Michigan

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review.

SUMMARY: This notice announces actions taken by FHWA that are final. The actions relate to a proposed highway project, M–37 Improvement Project, just south of 92nd Street in the Village of Caledonia to just north of 76th Street in Caledonia Township, in Kent County, State of Michigan. The actions issue National Environmental Policy Act (NEPA) and Section 4(f) of the U.S. Department of Transportation Act of 1966 (Section 4(f)) decisions relating to the M–37 Improvement Project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim

seeking judicial review of the Federal agency action on the highway project will be barred unless the claim is filed on or before September 15, 2025. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then the shorter time period applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Eric Purkiss, Program Development Director, FHWA Michigan Division, 315 Allegan, Room 201, Lansing, MI 48933, Telephone: (517) 702–1848, email: Eric.Purkiss@dot.gov. The FHWA Michigan Division Office's normal business hours are 8 a.m. to 4:30 p.m. (Eastern Standard Time). For the Michigan Department of Transportation (MDOT): Thomas Sabin, Projects and Contracts Engineer Manager, MDOT, 2660 Leonard St. NE, Grand Rapids, MI 49525, Telephone: (616) 464–1800, email: SabinT@michigan.gov. The Michigan Department of Transportation's normal business hours are 7:30 a.m. to 4:30 p.m. (Eastern Standard Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing a Finding of No Significant Impact (FONSI) and a Section 4(f) de minimis finding for the following highway project in the State of Michigan: M–37 Improvement Project in Kent County which includes widening M–37 from Emmons Street to 92nd Street and reconstructing M–37 as a four-lane boulevard from just south of 92nd Street to the existing boulevard north of 76th Street, with directional median crossovers north and south of 84th Street, and 76th Street to service left-turn movements. Additional crossover locations are provided at various midblock points along M–37 to access side streets and properties. New traffic signals will be added at the new 84th Street directional median crossovers, improving access along M–37. In addition, the nonmotorized path adjacent to M–37 will be repaved from 92nd Street to Cherry Valley Avenue to accommodate the wider roadway cross-section. Lastly, all culverts, including the Emmons Lake Outlet culvert, will be replaced, and several detention basins of approximately 5.11 acres will be located at low points along the corridor.

The actions by FHWA (including the 4(f) de minimis impact determination, approved on July 26, 2024), and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on July 26, 2024, and in the FHWA FONSI issued on

December 27, 2024, and in other documents in the project records. The EA, FONSI and other project records are available for review by contacting FHWA or MDOT at the addresses provided above. The EA and FONSI can also be viewed and downloaded from the project website at: <https://www.michigan.gov/mdot/projects-studies/studies/traffic-and-environmental-linkages-studies/m-37-project>.

This notice applies to all Federal agency decisions that are final as of the issuance date of the notice and all laws under which such actions were taken, including but not limited to:

1. *General*: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128]; E.O. 11514 Protection and Enhancement of Environmental Quality.

2. *Air*: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land*: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife*: Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667d]; Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*]; E.O. 13112 Invasive Species.

5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469c]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013]; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments.

6. *Social and Economic*: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources*: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Coastal Barrier Resources Act [16 U.S.C. 3501–3510]; Coastal Zone

Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act, [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(M, 133(b)(11))]; Flood Disaster Protection Act [42 U.S.C. 4001–4128]; E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management.

8. *Hazardous Materials*: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1)).

Issued on: April 11, 2025.

Theodore G. Burch

Division Administrator Federal Highway Administration.

[FR Doc. 2025–06474 Filed 4–15–25; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0216]

Agency Information Collection Activities; Renewal of an Approved Information Collection Request: Waiver and Exemption Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. FMCSA requests approval to renew the ICR titled “Waiver and Exemption Requirements.” The ICR estimates the burden applicants incur to comply with the reporting tasks required for requesting waivers and exemptions. A **Federal Register** Notice with a 60-day comment period soliciting

comments on the following information collection was published December 6, 2024, and the comment period ended February 4, 2025. There were no comments received in response to the 60-day **Federal Register** notice.

DATES: Comments on this notice must be received on or before May 16, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted 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:

Bernadette Walker, Driver and Carrier Operations Division, DOT, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; 202–385–2415; Bernadette.Walker@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Waiver and Exemption Requirements.

OMB Control Number: 2126–0076.

Type of Request: Renewal, of a currently approved ICR.

Respondents: Individuals and motor carriers.

Estimated Number of Respondents: 447 per year.

Estimated Time per Response: 5 minutes to 2 hours.

Expiration Date: May 31, 2025.

Frequency of Response: On occasion, (respondents are not required to submit request for waivers or exemptions).

Estimated Total Annual Burden: 119 hours

Background

In 1998, the Federal Highway Administration, the predecessor agency of FMCSA, adopted 49 CFR part 381 as an interim final rule (IFR), establishing procedures for applying for waivers, exemptions, and pilot programs (63 FR 67600, Dec. 8, 1998). Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) amended 49 U.S.C. 31315 and 31136(e) to provide authority to the Secretary of Transportation to grant waivers and exemptions from motor carrier safety regulations. Section 4007 of TEA–21 requires that the terms and conditions for all waivers and exemptions likely achieve a level of safety equivalent to or greater than what would be achieved by complying with the safety regulations. In 2004, FMCSA adopted its IFR as final at 49 CFR part 381, consistent with section 4007 of TEA–21 (69 FR 51589, Aug. 20, 2004). The final rule also established procedures that govern how FMCSA

reviews, grants, or denies requests for waivers and applications for exemptions. The final rule included requirements for publishing notice of exemption applications in the **Federal Register** to afford the public an opportunity for comment. There is no statutory requirement to publish **Federal Register** notices concerning waiver applications.

The ICR estimates the burden an individual, motor carriers, States, or State driver's licensing agency (SDLA) incurs to comply with the reporting tasks required for requesting waivers, exemptions and renewals of existing exemptions in 49 CFR part 381. The current burden estimate associated with this information collection, approved by OMB on May 23, 2022, is 97 hours. Through this ICR renewal, the Agency requests an increase in the burden hours from 97 hours to 119 hours. The increase is the result of the increase in estimated waiver and exemption applications the Agency expects to receive in the next 3 years.

On December 6, 2024, FMCSA published a 60-day notice (89 FR 97165) requesting comment on the renewal of this ICR. No comments were received in response to that notice.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87.

Kenneth Riddle,

Acting Associate Administrator Office of Research and Registration.

[FR Doc. 2025-06408 Filed 4-15-25; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2023-0115]

Agency Information Collection Activities; Approval of an Information Collection Request: Commercial Driver Licensing and Testing Standards

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. FMCSA requests approval to renew an ICR titled, "Commercial Driver Licensing and Test Standards." This ICR is needed to ensure that drivers, motor carriers, and the States are complying with notification and recordkeeping requirements for information related to testing, licensing, violations, convictions, and disqualifications and that the information is accurate, complete, transmitted, and recorded within certain time periods as required by the Commercial Motor Vehicle Safety Act of 1986 (CMVSA or the Act), as amended.

DATES: Comments must be received on or before May 16, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted 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: Isabella Marra, Transportation Specialist, Office of Safety Programs, Commercial Driver's License Division, DOT, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; 202-843-2454; isabella.marra@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Commercial Driver Licensing and Test Standards.

OMB Control Number: 2126-0011.

Type of Request: Renewal of a currently approved ICR.

Respondents: Drivers with a commercial learner's permit (CLP) or commercial driver's license (CDL) and State driver licensing agencies.

Estimated Number of Respondents: 7,748,964, consisting of 7,712,074 driver respondents and 36,890 State respondents.

Estimated Time per Response: Varies from 5 seconds to 40 hours.

Expiration Date: April 30, 2025.

Frequency of Response: Varies.

Estimated Total Annual Burden: 2,806,735, which is the total of four tasks for CDL drivers (2,067,271 hours), added to a total of eight tasks for State driver licensing agency CDL activities (739,464 hours).

Background: The licensed drivers in the United States deserve reasonable assurances that their fellow motorists are properly qualified to drive the vehicles they operate. Before the CMVSA (Pub. L. 99-570, Title XII, 100 Stat. 3207-170, codified at 49 U.S.C. chapter 313) was signed by the President on October 27, 1986, 18 States and the District of Columbia authorized any person licensed to drive an automobile to also legally drive a large truck or bus. No special training or special license was required to drive these vehicles, even though it was widely recognized that operation of certain types of vehicles called for special skills, knowledge, and training. Even in the 32 States that had a classified driver licensing system in place, only 12 of those States required an applicant to take a skills test in a representative vehicle. Equally serious was the problem of drivers possessing multiple driver's licenses. By spreading their convictions among several States, commercial motor vehicle (CMV) drivers could avoid punishment for their infringements and stay behind the wheel.

The CMVSA addressed these problems by requiring the Federal government to act and place minimum standards on all jurisdictions, including the District of Columbia. Section 12002 of the Act made it illegal for a CMV operator to have more than one driver's license. Section 12003 required the CMV driver conducting operations in commerce to notify both the designated State of licensure official and the driver's employer of any convictions of State or local laws relating to traffic control (except parking tickets). This section also required the promulgation of regulations to ensure each person who applies for employment as a CMV operator notifies prospective employers of all previous employment as a CMV operator for at least the previous 10 years. In section 12005 of the Act, the Secretary of Transportation (Secretary) is required to develop minimum Federal standards for testing and licensing of operators of CMVs. Section 12007 of the Act also directed the Secretary, in cooperation with the States, to develop a clearinghouse to aid the States in implementing the one driver, one license, and one driving record requirement. This clearinghouse is known as the Commercial Driver's License Information System. The CMVSA further required each person who has their CDL suspended, revoked, or canceled by a State, or who is disqualified from operating a CMV for any period, to notify his or her employer

of such actions. Drivers of CMVs must notify their employers within 1 business day of being notified of the license suspension, revocation, and cancellation, or of the lost right to operate or disqualification. These requirements are reflected in 49 CFR part 383, titled "Commercial Driver's License Standards; Requirements and Penalties." Specifically, § 383.21 prohibits a person from having more than one license; § 383.31 requires notification of convictions for driver violations; § 383.33 requires notification of driver's license suspensions; § 383.35 requires notification of previous employment; and § 383.37 outlines employer responsibilities. Section 383.111 requires the passing of a knowledge test by the driver and § 383.113 requires the passing of a skills test by the driver. Section 383.115 contains the requirement for the double/triple trailer endorsement; § 383.117 contains the requirement for the passenger endorsement; § 383.119 contains the requirement for the tank vehicle endorsement; and § 383.121 contains the requirement for the hazardous materials endorsement. The 10-year employment history information supplied by the CDL holder to the employer upon application for employment (§ 383.35) is used to assist the employer in meeting his/her responsibilities to ensure that the applicant does not have a history of high safety risk behavior. State officials use the information collected on the license application form (§ 383.71), the medical certificate information that is posted to the driving record, and the conviction and disqualification data posted to the driving record (§ 383.73) to prevent unqualified and/or disqualified CDL holders from operating CMVs on the nation's highways. State officials are required to adopt and administer an FMCSA approved program for testing and ensuring the fitness of persons to operate CMVs (§ 384.201). State officials are also required to administer knowledge and skills tests to CDL driver applicants (§ 384.202). The driver applicant is required to correctly answer at least 80 percent of the questions on each knowledge test to achieve a passing score on that test. To achieve a passing score on the skills test, the driver applicant must demonstrate that he/she can successfully perform all the skills listed in the regulations. During State CDL program reviews, FMCSA officials review this information to ensure that the provisions of the regulations are being carried out. Without the aforementioned requirements, there would be no

uniform control over driver licensing practices to prevent unqualified and/or disqualified drivers from being issued a CDL and to prevent unsafe drivers from spreading their convictions among several licenses in several States and remaining behind the wheel of a CMV. Failure to collect this information would render the regulations unenforceable.

On February 2, 2024, FMCSA published an NPRM titled "Amendments to the Commercial Driver's License Requirements; Increased Flexibility for Testing and for Drivers After Passing the Skills Test" (89 FR 7327) with a 60-day comment period announcing its intention to seek OMB review and approval to update this ICR. The comment period closed on April 2, 2024, and 646 comments were received. In accordance with 5 CFR 1320.11, the NPRM served as the 60-day ICR notice. Because FMCSA has not yet finalized the NPRM, today's notice serves as the 30-day notice required under 5 CFR 1320.10, and it covers only the renewal of the existing information collection, not the revisions proposed in the NPRM.

FMCSA received one comment in reference to the original ICR itself, as opposed to the comments on the impacts of the NPRM on the ICR. That commenter, the National Propane Gas Association, stated they had no objections to the information collection requirements. Comments received in reference to the proposed changes in the NPRM are not included in this ICR, but will be addressed in the final rule, assuming a final rule is to be published.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87.

Kenneth Riddle,

Acting Associate Administrator, Office of Research and Registration.

[FR Doc. 2025-06473 Filed 4-15-25; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0238]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Coffeyville Resources Crude Transportation, USDOT#1236378

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of exemption.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant an application from Coffeyville Resources Crude Transportation, USDOT #1236378, (Coffeyville) for an exemption to allow it to operate commercial motor vehicles (CMVs) equipped with a module manufactured by Intellistop, Inc. (Intellistop). The Intellistop module is designed to pulse the required rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds when the brakes are applied and then return the lights to a steady-burning state while the brakes remain engaged. FMCSA has determined that granting the exemption to Coffeyville would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved by the regulation.

DATES: This exemption is effective April 16, 2025 and ending April 16, 2030.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-9209, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; MCPSV@dot.gov.

I. Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number "FMCSA-2024-0238" in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click "Browse Comments."

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number "FMCSA-2024-0238" in the keyword box, click "Search," and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations

on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, 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 (FMCSRs) to regulated entities. 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.

FMCSA reviews the safety analyses and the public comments 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 in 49 U.S.C. 31315(b)(1). The Agency must publish the 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 and the effective period and will explain 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. Background

A. Current Regulatory Requirements

Section 393.25(e) of the FMCSRs requires all exterior lamps (both required lamps and any additional lamps) to be steady burning, with certain exceptions not relevant here. Two other provisions of the FMCSRs—section 393.11(a) and section 393.25(c)—mandate that required lamps on CMVs meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108 in effect at the time of manufacture. FMVSS No. 108, issued by the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA), includes a requirement that installed brake lamps, whether original or replacement equipment, be steady burning.

B. Applicant's Request

Coffeyville applied for an exemption from 49 CFR 393.25(e) to allow it to operate CMVs equipped with Intellistop's module. When the brakes are applied, the Intellistop module is designed to pulse the rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds and then maintain the original equipment manufacturer's (OEM) level of illumination for those lamps until the brakes are released and reapplied. Intellistop asserts that its module is designed to ensure that if the module ever fails, the clearance, identification, and brake lamps will default to normal OEM function and illumination.

Coffeyville's application followed the Agency's October 7, 2022, denial of Intellistop's application for an industry-wide exemption to allow all interstate motor carriers to operate CMVs equipped with the Intellistop module. 87 FR 61133. While the Agency determined that the scope of the exemption Intellistop sought was too broad to ensure that an equivalent level of safety would be achieved, the Agency explained that individual motor carrier applications for exemption may be more closely aligned with FMCSA authorities. Exemptions more limited in scope would allow the Agency to ensure compliance with all relevant FMCSA regulations because the individual exemptee would be easily identifiable and its compliance with applicable regulations could be monitored, thus providing a level of safety equivalent to compliance with 49 CFR 393.25(e).

Coffeyville stated that previous research demonstrated that the use of pulsating brake-activated lamps increases the visibility of vehicles and should lead to a significant decrease in rear-end crashes. In support of its application, Coffeyville cited the similar exemption granted to Gemini Motor Transport (89 FR 40529) which relied on several reports of research conducted by NHTSA on the issues of rear-end crashes, distracted driving, and braking signals.^{1 2 3} This same body of research

¹ See NHTSA Study—Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811127.pdf>; As part of the General Findings the NHTSA study report concluded that “rear lighting continues to look promising as a means of reducing the number and severity of rear-end crashes.”

² See also NHTSA Study—Enhanced Rear Lighting and Signaling Systems <https://tinyurl.com/y2romx76> or https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/task_3_results_0.pdf; As part of the conclusions NHTSA found that enhanced, flashing brake lighting “demonstrated

was also referenced in Intellistop's industry-wide exemption application. Relying on these studies, Coffeyville stated that the addition of brake-activated pulsating lamp(s) will not have an adverse impact on safety and would likely maintain a level of safety equivalent to or greater than the level of safety achieved without the exemption.

A copy of the application is included in the docket referenced at the beginning of this notice.

IV. Comments

FMCSA published a notice of the Coffeyville application in the **Federal Register** on November 21, 2024, and asked for public comments (89 FR 92274). The Agency received 19 comments from organizations and individuals, including Intellistop, Inc.; National Tank Truck Carriers, Inc. (NTTC); Motor Vehicle Lighting Manufacturers Safety Institute (MVLMSI); American Trucking Associations (ATA); and 15 other commenters. All nineteen commenters favored the exemption application, with none expressing concerns.

Intellistop supported the applicant's request for exemption. It commented that for over 20 years, multiple States have allowed pulsing or flashing of brake lamps. Many State driver training schools recommend tapping brakes when a CMV is slowing or stopping to warn other drivers. Intellistop stated that it is unlikely that other motorists would confuse the use of their module with the recommendation to tap brakes when a CMV is slowing or stopping.

The MVLMSI supported the potential of motor vehicle safety advances with the technology offered by Intellistop modules. The benefit of the flashing brake lights is to draw attention to the vehicle slowing down, and the MVLMSI cites current NHTSA allowable use cases for flashing red lamps include flashing warning lamps under FMVSS 49 CFR 571.108, Table I-a—Required Lamps and Reflective Devices, and school bus flashing lamps under S7.11 School bus signal lamps.

The ATA believes that granting this exemption can provide valuable real-world experience and data for a safety technology with the potential to reduce crashes. It also can inform future design considerations, best practices, and regulatory actions related to lighting

improvements in brake response times and other related performance measures.”

³ See also NHTSA—Traffic Safety Facts <https://tinyurl.com/yxglsdax> or <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/tsf811128.pdf>; which concluded that flashing brake lights were a promising signal for improving attention-getting during brake applications.

technologies, rear signaling, and commercial vehicle conspicuity.

The NTTC stated that the Intellistop module does not have an adverse impact on safety, and adherence to the terms and conditions of the exemption as requested would likely achieve a level of safety equivalent to or greater than the level of safety achieved without the exemption. The NTTC was granted an exemption on October 8, 2020, (FMCSA–2019–0260) to install amber brake-activated pulsating lamp similar to the Intellistop module. Based on the NTTC's own experience, it supports all reasonable rear pulsating light exemption requests designed to reduce rear-end crashes to tank trailers.

Fifteen additional individual comments supported granting the exemption. These commenters believe that any technology that has been shown to reduce rear-end crashes should be allowed and cited various benefits of brake activated pulsating lamps, including (1) enhanced awareness that the vehicle is making a stop, especially at railroad crossings, (2) increased visibility in severe weather conditions, and (3) grabbing the attention of distracted drivers. Several commenters noted that 37 States currently allow brake lamps to flash. In addition, three commenters noted that the guidelines developed by the American Driver and Traffic Safety Education Association advise driving instructors to teach new drivers to pulse brake lamps when stopping to improve visibility.

V. Equivalent Level of Safety Analysis

Coffeyville requested that FMCSA grant an exemption from 49 CFR 393.25(e)—requiring certain exterior lamps to be steady burning—to allow it to operate CMVs equipped with Intellistop's module. FMCSA has determined that in order for Coffeyville to operate vehicles in compliance with the FMCSRs, an exemption from 49 CFR 393.25(e) must be accompanied by limited exemptions from 49 CFR 393.11(a) and 393.25(c), both of which mandate that required lamps on CMVs operated in interstate commerce must, “at a minimum, meet the applicable requirements of 49 CFR 571.108 (FMVSS No. 108) in effect at the time of manufacture of the vehicle.” FMCSA grants exemptions only when it determines “such exemption[s] would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption[s].”

Rear-end crashes generally account for approximately 30 percent of all crashes. They often result from a failure

to respond (or delays in responding) to a stopped or decelerating lead vehicle. Data on crashes that occurred between 2010 and 2016 show that large trucks are consistently three times more likely than other vehicles to be struck in the rear in two-vehicle fatal crashes.^{4,5} FMCSA is deeply interested in the development and deployment of technologies that can reduce the frequency, severity, and risk of rear-end crashes.

Both FMCSA and NHTSA have examined alternative rear-signaling systems to reduce the incidence of rear-end crashes. While research efforts concluded that improvements in the incidence of rear-end crashes could be realized through certain rear-lighting systems that flash,⁶ the FMCSRs do not currently permit the use of pulsating, brake-activated lamps on the rear of CMVs. FMCSA believes that the two agencies' previous research programs demonstrate that rear-signaling systems may be able to “improve attention getting” to reduce the frequency and severity of rear-end crashes. Any possible benefit must be balanced against a possible risk of increased driver distraction and confusion. In balancing these interests, the Agency was compelled to deny the Intellistop application for exemption because the industry-wide scope of the request was too broad for the Agency to effectively monitor for the potential risk of driver distraction or confusion.

The Agency acknowledges the limitations of the research studies completed to date and the overall data deficiencies in this area. Nonetheless, as noted in its Intellistop decision, the Agency recognizes that existing data do suggest a potential safety value in the use of alternative rear-signaling systems, generally. Specifically, FMCSA considered NHTSA's research concerning the development and evaluation of rear-signaling applications designed to reduce the frequency and severity of rear-end crashes via enhancements to rear-brake lighting. The study examined enhancements for

(1) redirecting drivers' visual attention to the forward roadway (for cases involving a distracted driver) and (2) increasing the saliency or meaningfulness of the brake signal (for inattentive drivers).⁷ The research considered the attention-getting capability and discomfort glare of a set of candidate rear brake lighting configurations using driver judgments and eye-drawing metrics. The results of this research served to narrow the set of candidate lighting configurations to those that would most likely be carried forward for additional on-road study. Based on subjective participant responses, this research indicates some form of flashing or variation in brake light brightness may be more than two times more attention-getting than the baseline, steady-burning brake lights for distracted drivers.⁸

While some of the data collected in the study may not be statistically significant, the study results nonetheless indicate that additional efforts to get drivers' attention when they are approaching the rear of a CMV that is stopping may be helpful to reduce driver distraction and, ultimately, rear-end crashes. This was among several reasons why researchers concluded that the promising nature of enhanced brake lighting systems warranted additional work and research. FMCSA believes the acquisition of relevant data through real-world monitoring is of critical importance as the Agency continues to seek new and innovative options for reducing crashes. This is particularly true given the data limitations noted in previous studies.

Despite finding a potential safety value in the use of alternative rear-signaling technology, in the Intellistop decision the Agency determined that the data presently available did not justify an exemption to allow all interstate motor carriers to alter the performance of an FMVSS-required lighting device (*i.e.*, stop lamps) on any CMV. In contrast, however, Coffeyville's application requests an exemption from the steady-burning brake lamp

⁴ U.S. Department of Transportation, National Highway Traffic Safety Administration (2012), Traffic Safety Facts—2010 Data: Large Trucks, Report No. DOT HS 811 628, Washington, DC (June 2012), available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811628>.

⁵ U.S. Department of Transportation, National Highway Traffic Safety Administration (2018), Traffic Safety Facts—2016 Data: Large Trucks, Report No. DOT HS 812 497, Washington, DC (May 2018), available at: <https://crashstats.nhtsa.dot.gov/Api/Public/Publication/812497>.

⁶ Expanded Research and Development of an Enhanced Rear Signaling System for Commercial Motor Vehicles: Final Report, William A. Schaudt *et al.* (Apr. 2014) (Report No. FMCSA–RRT–13–009).

⁷ See NHTSA Study—Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811127.pdf>.

⁸ *Ibid.* While data demonstrated that brighter flashing lights were the most attention-getting combination for distracted drivers in this study, flashing lights with no increase in brightness were still more effective at capturing a distracted driver's attention than the baseline steady-burning brake lamps. Both look-up (eye drawing) data and interview data supported the hypothesis that simultaneous flashing of all rear lighting combined with increased brightness would be effective in redirecting the driver's eyes to the lead vehicle when the driver is looking away with tasks that involve visual load.

requirement for CMV operations by only one interstate motor carrier. As FMCSA noted in its denial of Intellistop's industry-wide exemption application, individual motor carrier exemption requests more closely align with FMCSA and NHTSA authorities to ensure compliance with all other applicable regulations and with the safety performance of the smaller population of affected motor carriers. With an individual motor carrier exemption, the Agency can also more easily monitor compliance with terms and conditions intended to ensure operations conducted under the exemption do in fact provide an equivalent level of safety. Coffeyville's application demonstrates why this is particularly true, since the vehicles operated by Coffeyville under the exemption would be easily identifiable, and compliance with NHTSA's "make inoperative" prohibition and other related regulations could be readily checked.

The Agency's decision to grant this exemption is based on the data suggesting enhanced rear signal systems, such as pulsing brake lights, may help reduce the frequency and severity of rear-end crashes, as well as on the limited number of vehicles operating under the exemption. Coffeyville currently operates a nationwide fleet of approximately 185 CMVs. The installation of the module on a finite number of CMVs operated by a single motor carrier provides the opportunity for the Agency to collect data on the effects of pulsing brake lights in real-world conditions. The terms and conditions FMCSA imposes through this exemption will ensure appropriate Federal oversight in the use of these devices on a finite number of CMVs utilizing a phased-in approach.

Initially restricting the application of this exemption to a limited portion of Coffeyville's fleet will allow for a comparison between the crash involvement of Coffeyville CMVs equipped with the Intellistop device, those without the device, and the overall crash involvement of CMVs operated by similarly sized motor carriers with similar operations and overall safety performance. Data collected through this exemption and any other similar exemptions the Agency may grant in the future will allow for an evaluation of how the Intellistop module may improve following-vehicle driver responses to CMV braking. Consideration of the scope of any particular carrier's operation and the number and types of vehicles the carrier operates are critical to ensuring FMCSA gathers the most

relevant data as the Agency considers safety benefits gained by the deployment of these rear brake lamp systems in CMV operations. The Agency's incremental approach in granting this limited exemption will also allow FMCSA to investigate and respond as appropriate to any incidents of alleged driver confusion attributable to use of the brake lamp systems in CMV operations.

Coffeyville maintains two fleets of vehicles, a Clean Products division (approximately 80 combination units) that primarily operates on highways and a Crude Products division (approximately 100 combination units). Coffeyville reports that it intends to install the devices on only the Clean Products division vehicles, and expects that by running the two fleets, a good comparison of effectiveness may be made. FMCSA disagrees with Coffeyville that the Crude Products division would make a good control for comparison to the Clean Products division. As Coffeyville notes in its application, the use cases of the two fleets are different, with the Crude Fleet operating under differing road conditions ("bumpy roads and debris"). Coffeyville cites in its application concerns about maintenance under these rough road conditions and FMCSA shares these concerns. Rather, FMCSA believes it sufficient to limit installations to the Clean Products division in a similar manner to other exempted carriers using the Intellistop module. FMCSA is therefore limiting Coffeyville's exemption to only the Clean Products division vehicles.

FMCSA acknowledges that, until recently, all pulsating rear lamp exemptions the Agency granted involved the addition of non-mandatory auxiliary lights while the Intellistop module that Coffeyville seeks to install alters the functionality of original equipment manufacturers' lamps. Nonetheless, those previous exemptions are instructive. Most notably, the Groendyke exemption involved auxiliary lamps rather than required lighting, but, like the Intellistop module, the modulation of the auxiliary lamps occurs during braking. More importantly, the Groendyke exemption also involved a technology installed on a number of the carrier's CMVs, which allowed the Agency to monitor its compliance more realistically with other applicable regulations. When granting the exemption, FMCSA found Groendyke's experience with brake-activated pulsating warning lamps, which resulted in a 33.7 percent reduction in rear-end crashes, to be compelling. Through the granting of the

Groendyke exemption, the Agency was able to collect additional real-world data about the operation of the module at issue. Similarly, limited exemptions with narrowly tailored terms and conditions permitting the use of the Intellistop module will allow the Agency to collect data about the reliability and safety benefits of an integrated alternative rear-signaling system.

FMCSA notes that Coffeyville failed to provide any evidence beyond what is publicly available about the integration of the Intellistop module with its CMVs' existing systems or to support the claim that a malfunction of the device would result in the brake lights returning to OEM functionality. Nonetheless, based on the Agency's understanding of the device's design and assertions made in publicly available materials, FMCSA believes concerns about both the reliability and integration of the device are sufficiently alleviated in this instance because of the narrow scope of the exemption and the stringent requirements imposed by the Agency in the terms and conditions. Any evidence that module failure results in anything less than a return to brake light OEM functionality will result in revocation of the exemption.

Likewise, granting this exemption to an easily identifiable carrier alleviates concerns the Agency previously articulated about its inability to monitor compliance with NHTSA's "make inoperative" prohibition. FMCSA can monitor compliance with this exemption and ensure that only Coffeyville installs the module on its own CMVs.

Notwithstanding the promise the Agency sees in this technology, exemptions are warranted only if the applicant can demonstrate that an equivalent level of safety likely will be maintained. For this reason, the Agency believes it is important to consider the safety record of the applicant motor carrier. The Agency carefully considered Coffeyville's existing on-road safety performance record prior to granting this exemption. Coffeyville's out-of-service (OOS) rate is below the national average, with a vehicle OOS rate of only 1.3 percent (national average—21.4 percent), a driver OOS rate of 0.6 percent (national average—6 percent), and hazardous material OOS rate of 0 percent (national average—4.5 percent). Coffeyville maintains a Satisfactory safety rating.

FMCSA has authority to grant temporary exemptions to the FMCSRs only to motor carriers and not to CMV manufacturers or vehicle alterers. FMCSA acknowledges that the research

described above did not fully address all of the implications of allowing pulsating stop lamps, especially by automobiles where stop lamp design is stylized and often brand-specific, and that it remains unclear whether deviation from the uniform brake-light patterns of CMVs may cause confusion among highway users when the lamps are pulsated during braking. When Intellistop sought an industry-wide exemption, FMCSA concluded that the potential risks of widespread adoption outweighed the potential benefits. But FMCSA reaches a different conclusion here, where any risks will be more limited and easier to monitor. FMCSA notes, moreover, that the research suggests that the use of rear-signaling systems may be a means to reduce the frequency and severity of rear-end crashes involving CMVs, as do the reductions in rear-end crashes reported by Groendyke (84 FR 17910, April 26, 2019) utilizing an auxiliary flashing rear-signaling system. These facts and the specific safety record of the applicant motor carrier support the conclusion that permitting the use of Intellistop's pulsating-lamp module among a limited and known population of vehicles of a single motor carrier, subject to terms and conditions for monitoring, is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

VI. Exemption Decision

a. Grant of Exemption

FMCSA has evaluated Coffeyville's exemption application and the comments received. The Agency believes that granting a temporary exemption to section 393.25(e), and temporary limited exemptions to the requirements of 49 CFR 393.11(a) and 393.25(c) to allow Coffeyville to operate a limited number of CMVs equipped with Intellistop's pulsating-brake module will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

This exemption is restricted to vehicles in Coffeyville's Clean Products division fleet and provides relief from the steady burning requirement for rear clearance, identification, and brake lamp activation for 2 seconds following brake activation. All other FMVSS No. 108 requirements cross-referenced or incorporated within the FMCSRs remain in effect, with a limited exception to the requirement exempted here in sections 393.11(a) and 393.25(c) for only the first two seconds of brake engagement. In addition, through the terms and conditions, FMCSA will be able to

monitor to performance of these CMVs to determine whether they were involved in a crash and whether they appear to be overrepresented in crashes compared to a control group (comprised of Coffeyville vehicles that are not equipped with the Intellistop unit but are operating on similar routes with similar schedules, etc., as further described in the Terms and Conditions).

The Agency has evaluated the application and hereby grants the exemption for a 5-year period, beginning April 16, 2025 and ending April 16, 2030. During the temporary exemption period, Coffeyville (Applicant) may operate CMVs, in its Clean Products division equipped with Intellistop's module that pulses the rear brake, clearance, and identification lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds. This grant applies only to the "steady-burning" requirement as specified in FMVSS 108 S7.3, and Tables I-a, I-b, and I-c. All other photometric and requirements for stop lamps specified in FMVSS 108 must still be met.

b. Terms and Conditions of the Exemption

(i) Installation of the Intellistop Module

The Applicant is responsible for installing the Intellistop module. This exemption applies only to CMVs owned and operated by the Applicant. THE PRODUCT MUST BE INSTALLED ONLY BY THE OWNER OF THE VEHICLE. IN ACCORDANCE WITH FEDERAL LAW (49 U.S.C. 30112(a)(1) AND 49 U.S.C. 30122), THE PRODUCT MAY NOT BE INSTALLED BY ANY MANUFACTURER, DISTRIBUTOR, DEALER, RENTAL COMPANY, OR MOTOR VEHICLE REPAIR BUSINESS.

The Applicant may not install the Intellistop module on more than 25% of its power units, and 25% of its trailers in the Clean Products division fleet during the first year of operation under the exemption, or on more than 50% of its power units, and 50% of its trailers in the Clean Products division fleet during the second year. The Applicant must provide the vehicle identification numbers for the power units and trailers that will be operating under the exemption.

The Applicant must maintain a control group of equal size to the group of power units and trailers equipped with the Intellistop unit during the first year of the exemption. And the CMVs in the control group must operate on routes with schedules that are similar to those of the Intellistop-equipped vehicles.

Installed modules may be used only to modulate rear clearance, identification, and stop lamps.

Within 30 business days of its first installation of the Intellistop module, the Applicant must notify the Agency via email at MCPSV@dot.gov of the number and type of CMVs it is operating, or intends to operate, with the Intellistop module installed; the module type and/or sub-type; and any troubleshooting, repair, or other use of an Intellistop module covered by this exemption. Amended installation information, including CMVs on which the device is installed or uninstalled, may then be submitted via the quarterly submission specified in sub-paragraph (iv) *Recurring Reporting Requirements* below.

If the Applicant sells or transfers ownership of any CMV equipped with an Intellistop module under this exemption, or if the exemption is terminated for any reason, the Applicant must remove the module and restore the CMV to full compliance with the FMCSRs and FMVSSs prior to the transfer of ownership, or upon termination of the exemption. The Applicant must also certify in writing to the purchaser/transferee and FMCSA that the CMV has been restored to compliance with the FMCSRs and FMVSSs.

(ii) Driver Pre-Trip Vehicle Inspections

The Applicant must ensure that each driver of an Intellistop-equipped CMV performs a pre-trip inspection to confirm that the Intellistop module operates only for 2 seconds and does not interfere with the normal operation of lamps after 2 seconds. If the lamps are not steady burning after 2 seconds, the CMV must not be dispatched until repairs are made. At the end of each work shift, drivers must note any problems observed by or reported to them concerning the Intellistop module on a driver vehicle inspection report (see 49 CFR 396.11), and the motor carrier must correct the problem before the vehicle is dispatched again.

(iii) Safety Notification to FMCSA

The Applicant must notify FMCSA within 5 business days after it becomes aware, or otherwise determines, that the continued use of a module or entire type or subtype of module covered by this exemption is no longer likely to maintain a level of safety that is at least equivalent to the level that would be achieved absent this exemption. Notification must be made by sending an email to FMCSA at MCPSV@dot.gov.

(iv) Recurring Reporting Requirements

During the exemption period, the Applicant must provide quarterly submissions to FMCSA of the data described below. The Applicant's first quarterly submission is due on July 16, 2025, and thereafter will be due every 3 months, on the first business day of the month. The first quarterly submission must include the required data beginning 60 days prior to the date of module installation. All quarterly submissions must include data through at least the 14th day (inclusive) of the month immediately preceding the submission. Unless otherwise agreed to by FMCSA, quarterly submissions must be sent via email to FMCSA at MCPSV@dot.gov. If the Applicant does not have one or more categories of information described below, it must, within 20 days of the effective date of this exemption, discuss with FMCSA other available information. If the Agency accepts such alternative information, the Applicant must submit that data in lieu of the information specified below.

In the quarterly submission, the Applicant must provide FMCSA the following information known to the Applicant regarding all crashes and other incidents ("crash or incident") involving a CMV equipped with an Intellistop module covered by this exemption where the Intellistop module is potentially implicated. Crashes involving a CMV equipped with an Intellistop module that are "head-on" or otherwise involve only the front of the Intellistop-equipped CMV impacting some other object (such that the Intellistop module, without question, could not be implicated) are not subject to this condition. For the first quarterly submission, data must include any crash or incident occurring in the 60 days prior to installation of the Intellistop module that would have been contained in this reporting category had the module been installed at the time of the crash or incident. The Applicant's knowledge includes, but is not limited to: (1) outreach from a consumer, lawyer, or any other person or organization (via letter, email, fax, telephone call, social media, or any other medium); (2) lawsuits to which the Applicant is a party, or otherwise knows exist where an Intellistop module covered by this exemption is an issue in the litigation; and (3) insurance claims against the Applicant related to use of the Intellistop module. When in the Applicant's possession, information provided to FMCSA shall include:

1. The date of first contact regarding, or the Applicant's first awareness of, the crash or incident;

2. The date of the most recent follow-up contact, if any, between the Applicant and the other party;

3. The date, time, and location of the crash or incident;

4. A brief description of the crash or incident;

5. The Intellistop module type and/or subtype(s) involved in the crash or incident; and

6. Information, if any, indicating that the Intellistop module is, or was, not working as intended, or caused confusion or a roadway hazard for either the consumer or other motorists.

Annual data. At the end of each 12-month period this exemption is in effect, the Applicant shall, within 60 days, submit a report detailing all information in its possession regarding crash rates and vehicle miles traveled by CMVs equipped with a module covered by this exemption. Additionally, the report shall specify the number and type of CMVs the Applicant is operating under the exemption, the module type or sub-type installed on each CMV, the affected lamps (rear clearance, identification, and/or brake lamps), the number of covered vehicles sold or transferred in ownership during the 12-month reporting period, and a statement certifying that any sold/transferred vehicle(s) have been restored to compliance with applicable FMVSSs and FMCSRs.

Meetings. The Applicant shall, at FMCSA's request, meet with FMCSA to answer questions regarding data and information provided by the Applicant under this exemption.

(v) Early Termination

The exemption is valid for 5 years from the date of issuance unless rescinded earlier by FMCSA. FMCSA will terminate the exemption if: (1) the Applicant fails to comply with the terms and conditions; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

(vi) Notification From the Public

Interested parties possessing information that would demonstrate that Coffeyville's CMVs equipped with Intellistop's pulsating rear-light module may not be achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take

immediate steps to revoke the exemption.

(vii) Non-Endorsement

This limited and conditional exemption does not constitute an endorsement of the Intellistop product by FMCSA, NHTSA, the U.S. DOT, or any of their components, or by any of these agencies' employees or agents. As a condition of the continued effectiveness of this exemption, Intellistop is expressly prohibited from describing its product as approved by, endorsed by, or otherwise authorized by FMCSA, NHTSA, or U.S. DOT, or as compliant with Federal safety regulations.

VII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Sue Lawless,

Chief Safety Officer/Assistant Administrator.

[FR Doc. 2025-06409 Filed 4-15-25; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0237]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Casey's Services Company, USDOT #162449

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of exemption.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant an application from Casey's Services Company, USDOT No. 162449, (Casey) for an exemption to allow it to operate commercial motor vehicles (CMVs) equipped with a module manufactured by Intellistop, Inc. (Intellistop). The Intellistop module is designed to pulse the required rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds when the brakes are applied

and then return the lights to a steady-burning state while the brakes remain engaged. The Agency has determined that granting the exemption to Casey would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved by the regulation.

DATES: This exemption is effective April 16, 2025 and ending April 16, 2030.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, Federal Motor Carrier Safety Administration; 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-9209; MCPSV@dot.gov.

I. Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number “FMCSA–2024–0237” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number “FMCSA–2024–0237” in the keyword box, click “Search,” and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, 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 (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 the applicant’s safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews 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(a)). 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. Background

A. Current Regulatory Requirements

Section 393.25(e) of the FMCSRs requires all exterior lamps (both required lamps and any additional lamps) to be steady burning, with certain exceptions not relevant here. Two other provisions of the FMCSRs—section 393.11(a) and section 393.25(c)—mandate that required lamps on CMVs meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108 in effect at the time of manufacture. FMVSS No. 108, issued by the U.S. Department of Transportation’s National Highway Traffic Safety Administration (NHTSA), includes a requirement that installed brake lamps, whether original or replacement equipment, be steady burning.

B. Applicant’s Request

Casey applied for an exemption from 49 CFR 393.25(e) to allow it to operate CMVs equipped with Intellistop’s module. When the brakes are applied, the Intellistop module is designed to pulse the rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds and then maintain the original equipment manufacturer’s (OEM) level of illumination for those lamps until the brakes are released and reapplied. Intellistop asserts that its module is designed to ensure that if the module ever fails, the clearance, identification, and brake lamps will default to normal OEM function and illumination.

Casey’s application followed the Agency’s October 7, 2022, denial of Intellistop’s application for an industry-wide exemption to allow all interstate motor carriers to operate CMVs equipped with the Intellistop module (87 FR 61133). While the Agency determined that the scope of the exemption Intellistop sought was too broad to ensure that an equivalent level of safety would be achieved, the Agency explained that individual motor carrier applications for exemption may be more closely aligned with FMCSA authorities. Exemptions more limited in scope would allow the Agency to ensure compliance with all relevant FMCSA regulations because the individual

exemptee would be easily identifiable and its compliance with applicable regulations could be monitored, thus providing a level of safety equivalent to compliance with 49 CFR 393.25(e).

Casey stated that previous research demonstrated that the use of pulsating brake-activated lamps increases the visibility of vehicles and should lead to a significant decrease in rear-end crashes. In support of its application, Casey submitted several reports of research conducted by NHTSA on the issues of rear-end crashes, distracted driving, and braking signals.^{1 2 3} This same body of research was also referenced in Intellistop’s industry-wide exemption application. Relying on these studies, Casey stated that the addition of brake-activated pulsating lamp(s) will not have an adverse impact on safety and would likely maintain a level of safety equivalent to or greater than the level of safety achieved without the exemption.

A copy of the application is included in the docket referenced at the beginning of this notice.

IV. Comments

FMCSA published a notice of the Casey application in the **Federal Register** on October 23, 2024, and asked for public comment (89 FR 84667). The Agency received 22 comments as of January 15, 2025 from organizations and individuals, including the National Tank Truck Carriers Transportation Safety Equipment Institute (NTTC), the American Trucking Associations (ATA) and the Motor Vehicle Lighting Manufacturers Safety Institute (MVLMSI). Twenty-one of the commenters favored the exemption application, and one anonymous commenter expressed concerns.

NTTC, ATA, and MVLMSI submitted comments in support of Casey’s request for a five-year exemption to use the Intellistop electronic module. NTTC emphasized the safety benefits of

¹ See NHTSA Study—Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811127.pdf>; As part of the General Findings the NHTSA study report concluded that “rear lighting continues to look promising as a means of reducing the number and severity of rear-end crashes.”

² See also NHTSA Study—Enhanced Rear Lighting and Signaling Systems <https://tinyurl.com/y2romx76> or https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/task_3_results_0.pdf; As part of the conclusions NHTSA found that enhanced, flashing brake lighting “demonstrated improvements in brake response times and other related performance measures.”

³ See also NHTSA—Traffic Safety Facts <https://tinyurl.com/yxglsdax> or <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/tsf811128.pdf>; which concluded that flashing brake lights were a promising signal for improving attention-getting during brake applications.

pulsating brake, clearance, and identification lamps in reducing rear-end collisions, particularly at railroad crossings and intersections. The organization highlighted research and industry data that demonstrate the effectiveness of such systems in enhancing road safety and reducing accidents. Drawing on previous exemptions granted to Groendyke Transport, NTTCC, and Grote Industries, NTTCC reported that its members have experienced significant safety improvements, including fewer rear-end collisions and positive feedback from drivers. NTTCC urged the FMCSA to approve the exemption as a step toward advancing safety standards within the tank truck industry.

ATA highlighted the importance of innovative lighting solutions in improving truck visibility and reducing rear-end and roadside crashes, a persistent issue in the trucking industry. ATA also emphasized that granting this exemption would allow DOT to collect valuable real-world data on the effectiveness of these technologies, complementing ongoing research and previous exemptions for similar technologies. It advocated using this data to modernize regulations and establish best practices for lighting solutions, with input from organizations like the Technology & Maintenance Council (TMC).

Additionally, MVLMSI highlighted that California has permitted the use of similar systems since 1984 without jeopardizing federal safety funding. They also noted that other States allow the use of flashing brake lamps on the rear of vehicles. Furthermore, MVLMSI noted that both NHTSA and FMCSA currently permit the use of flashing red lamps in specific applications, such as warning signals and school bus lighting.

Several individual commenters echoed support for the exemption, citing various benefits of brake-activated pulsating lamps, including (1) enhanced awareness that the vehicle is making a stop, and (2) increased visibility in severe weather conditions. Other commenters noted that 37 States currently allow brake lamps to flash. In addition, one commenter noted that the guidelines developed by the American Driver and Traffic Safety Education Association advise driving instructors to teach new drivers to pulse brake lamps when stopping to improve visibility.

An Anonymous commenter expressed opposition to Casey's request for an exemption to use the Intellistop system. The commenter highlighted that FMCSA previously determined the Intellistop system does not meet safety requirements to exceed current

standards and stated that Casey has not provided sufficient new evidence to justify reconsideration. The commenter also noted that the application lacks critical details required under 49 CFR 381.310, such as the number of drivers and vehicles affected, as well as supporting reference materials. Additionally, concerns were raised about potential unintended consequences of pulsating lights, including driver distraction, confusion with emergency vehicles, and the "startle" effect.

V. Equivalent Level of Safety Analysis

Casey requested that FMCSA grant an exemption from 49 CFR 393.25(e)—requiring certain exterior lamps to be steady burning—to allow it to operate CMVs equipped with Intellistop's module. FMCSA has determined that in order for Casey to operate vehicles in compliance with the FMCSRs, an exemption from 49 CFR 393.25(e) must be accompanied by limited exemptions from 49 CFR 393.11(a) and 393.25(c), both of which mandate that required lamps on CMVs operated in interstate commerce must, "at a minimum, meet the applicable requirements of 49 CFR 571.108 (FMVSS No. 108) in effect at the time of manufacture of the vehicle." FMCSA grants exemptions only when it determines "such exemption[s] would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption[s]."

Rear-end crashes generally account for approximately 30 percent of all crashes. They often result from a failure to respond (or delays in responding) to a stopped or decelerating lead vehicle. Data on crashes that occurred between 2010 and 2016 show that large trucks are consistently three times more likely than other vehicles to be struck in the rear in two-vehicle fatal crashes.^{4 5} FMCSA is deeply interested in the development and deployment of technologies that can reduce the frequency, severity, and risk of rear-end crashes.

Both FMCSA and NHTSA have examined alternative rear-signaling systems to reduce the incidence of rear-end crashes. While research efforts

concluded that improvements in the incidence of rear-end crashes could be realized through certain rear-lighting systems that flash,⁶ the FMCSRs do not currently permit the use of pulsating, brake-activated lamps on the rear of CMVs. FMCSA believes that the two agencies' previous research programs demonstrate that rear-signaling systems may be able to "improve attention getting" to reduce the frequency and severity of rear-end crashes. Any possible benefit must be balanced against a possible risk of increased driver distraction and confusion. In balancing these interests, the Agency was compelled to deny the Intellistop application for exemption because the industry-wide scope of the request was too broad for the Agency to effectively monitor for the potential risk of driver distraction or confusion.

The Agency acknowledges the limitations of the research studies completed to date and the overall data deficiencies in this area. Nonetheless, as noted in its Intellistop decision, the Agency recognizes that existing data do suggest a potential safety value in the use of alternative rear-signaling systems, generally. Specifically, FMCSA considered NHTSA's research concerning the development and evaluation of rear-signaling applications designed to reduce the frequency and severity of rear-end crashes via enhancements to rear-brake lighting. The study examined enhancements for (1) redirecting drivers' visual attention to the forward roadway (for cases involving a distracted driver) and (2) increasing the saliency or meaningfulness of the brake signal (for inattentive drivers).⁷ The research considered the attention-getting capability and discomfort glare of a set of candidate rear brake lighting configurations using driver judgments and eye-drawing metrics. The results of this research served to narrow the set of candidate lighting configurations to those that would most likely be carried forward for additional on-road study. Based on subjective participant responses, this research indicates some form of flashing or variation in brake light brightness may be more than two times more attention-getting than the

⁴ U.S. Department of Transportation, National Highway Traffic Safety Administration (2012), Traffic Safety Facts—2010 Data; Large Trucks, Report No. DOT HS 811 628, Washington, DC (June 2012), available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811628>.

⁵ U.S. Department of Transportation, National Highway Traffic Safety Administration (2018), Traffic Safety Facts—2016 Data; Large Trucks, Report No. DOT HS 812 497, Washington, DC (May 2018), available at: <https://crashstats.nhtsa.dot.gov/Api/Public/Publication/812497>.

⁶ Expanded Research and Development of an Enhanced Rear Signaling System for Commercial Motor Vehicles: Final Report, William A. Schaudt *et al.* (Apr. 2014) (Report No. FMCSA-RRR-13-009).

⁷ See NHTSA Study—Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811127.pdf>.

baseline, steady-burning brake lights for distracted drivers.⁸

While some of the data collected in the study may not be statistically significant, the study results nonetheless indicate that additional efforts to get drivers' attention when they are approaching the rear of a CMV that is stopping may be helpful to reduce driver distraction and, ultimately, rear-end crashes. This was among several reasons why researchers concluded that the promising nature of enhanced brake lighting systems warranted additional work and research. FMCSA believes the acquisition of relevant data through real-world monitoring is of critical importance as the Agency continues to seek new and innovative options for reducing crashes. This is particularly true given the data limitations noted in previous studies.

Despite finding a potential safety value in the use of alternative rear-signaling technology, in the Intellistop decision the Agency determined that the data presently available did not justify an exemption to allow all interstate motor carriers to alter the performance of an FMVSS-required lighting device (*i.e.*, stop lamps) on any CMV. In contrast, however, Casey's application requests an exemption from the steady-burning brake lamp requirement for CMV operations by only one interstate motor carrier. As FMCSA noted in its denial of Intellistop's industry-wide exemption application, individual motor carrier exemption requests more closely align with FMCSA and NHTSA authorities to ensure compliance with all other applicable regulations and with the safety performance of the smaller population of affected motor carriers. With an individual motor carrier exemption, the Agency can also more easily monitor compliance with terms and conditions intended to ensure operations conducted under the exemption do in fact provide an equivalent level of safety. Casey's application demonstrates why this is particularly true, since the vehicles operated by Casey under the exemption would be easily identifiable, and compliance with NHTSA's "make inoperative" prohibition and other

related regulations could be readily checked.

The Agency's decision to grant this exemption is based on the data suggesting enhanced rear signal systems, such as pulsing brake lights, may help reduce the frequency and severity of rear-end crashes, as well as on the limited number of vehicles operating under the exemption. Casey currently operates a nationwide fleet of approximately 526 CMVs. The installation of the module on CMVs operated by a single motor carrier provides the opportunity for the Agency to collect data on the effects of pulsing brake lights in real-world conditions. The terms and conditions FMCSA imposes through this exemption will ensure appropriate Federal oversight in the use of these devices on a finite number of CMVs utilizing a phased-in approach.

Initially restricting the application of this exemption to a limited portion of Casey's fleet will allow for a comparison between the crash involvement of Casey CMVs equipped with the Intellistop device, those without the device, and the overall crash involvement of CMVs operated by similarly sized motor carriers with similar operations and overall safety performance. Data collected through this exemption and any other similar exemptions the Agency may grant in the future will allow for an evaluation of how the Intellistop module may improve following-vehicle driver responses to CMV braking. Consideration of the scope of any particular carrier's operation and the number and types of vehicles the carrier operates are critical to ensuring FMCSA gathers the most relevant data as the Agency considers safety benefits gained by the deployment of these rear brake lamp systems in CMV operations. The Agency's incremental approach in granting this limited exemption will also allow FMCSA to investigate and respond as appropriate to any incidents of alleged driver confusion attributable to use of the brake lamp systems in CMV operations, which a commenter has raised as a potential concern.

FMCSA acknowledges that, until recently, all pulsating rear lamp exemptions the Agency granted involved the addition of non-mandatory auxiliary lights while the Intellistop module that Casey seeks to install alters the functionality of original equipment manufacturers' lamps. Nonetheless, those previous exemptions are instructive. Notably, the Groendyke exemption involved auxiliary lamps rather than required lighting, but, like the Intellistop module, the modulation

of the auxiliary lamps occurs during braking. More importantly, the Groendyke exemption also involved a technology installed on a number of one carrier's CMVs, which allowed the Agency more realistically to monitor its compliance with other applicable regulations. When granting the exemption, FMCSA found Groendyke's experience with brake-activated pulsating warning lamps, which resulted in a 33.7 percent reduction in rear-end crashes, to be compelling. Through the granting of the Groendyke exemption, the Agency was able to collect additional real-world data about the operation of the module at issue. Similarly, limited exemptions with narrowly tailored terms and conditions permitting the use of the Intellistop module will allow the Agency to collect data about the reliability and safety benefits of an integrated alternative rear-signaling system.

FMCSA notes that Casey failed to provide any evidence beyond what is publicly available about the integration of the Intellistop module with its CMVs' existing systems or to support the claim that a malfunction of the device would result in the brake lights returning to OEM functionality. Nonetheless, based on the Agency's understanding of the device's design and assertions made in publicly available materials, FMCSA believes concerns about both the reliability and integration of the device are sufficiently alleviated in this instance because of the narrow scope of the exemption and the stringent requirements imposed by the Agency in the terms and conditions. Any evidence that module failure results in anything less than a return to brake light OEM functionality will result in revocation of the exemption.

Likewise, granting this exemption to an easily identifiable carrier alleviates concerns the Agency previously articulated about its inability to monitor compliance with NHTSA's "make inoperative" prohibition. FMCSA can monitor compliance with this exemption and ensure that only Casey installs the module on its own CMVs.

Notwithstanding the promise the Agency sees in this technology, exemptions are warranted only if the applicant can demonstrate that an equivalent level of safety likely will be maintained. For this reason, the Agency believes it is important to consider the safety record of the applicant motor carrier. The Agency carefully considered Casey's existing on-road safety performance record prior to granting this exemption. Casey's out-of-service (OOS) rate is below the national average, with a vehicle OOS rate of only

⁸ *Ibid.* While data demonstrated that brighter flashing lights were the most attention-getting combination for distracted drivers in this study, flashing lights with no increase in brightness were still more effective at capturing a distracted driver's attention than the baseline steady-burning brake lamps. Both look-up (eye drawing) data and interview data supported the hypothesis that simultaneous flashing of all rear lighting combined with increased brightness would be effective in redirecting the driver's eyes to the lead vehicle when the driver is looking away with tasks that involve visual load.

5.5 percent (national average—21.4 percent), a driver OOS rate of 0 percent (national average—6 percent), and hazardous material OOS rate of 0.6 percent (national average—4.5 percent). Casey maintains a Satisfactory safety rating.

FMCSA has authority to grant temporary exemptions to the FMCSRs only to motor carriers and not to CMV manufacturers or vehicle alterers. FMCSA acknowledges that the research described above did not fully address all of the implications of allowing pulsating stop lamps, especially by automobiles where stop lamp design is stylized and often brand-specific, and that it remains unclear whether deviation from the uniform brake-light patterns of CMVs may cause confusion among highway users when the lamps are pulsated during braking. When Intellistop sought an industry-wide exemption, FMCSA concluded that the potential risks of widespread adoption outweighed the potential benefits. But FMCSA reaches a different conclusion here, where any risks will be more limited and easier to monitor. FMCSA notes, moreover, that the research suggests that the use of rear-signaling systems may be a means to reduce the frequency and severity of rear-end crashes involving CMVs, as do the reductions in rear-end crashes reported by Groendyke (84 FR 17910, April 26, 2019) utilizing an auxiliary flashing rear-signaling system. These facts and the specific safety record of the applicant motor carrier support the conclusion that permitting the use of Intellistop's pulsating-lamp module among a limited and known population of vehicles of a single motor carrier, subject to terms and conditions for monitoring, is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

VI. Exemption Decision

a. Grant of Exemption

FMCSA has evaluated Casey's exemption application and the comments received. The Agency believes that granting a temporary exemption to section 393.25(e), and temporary limited exemptions to the requirements of 49 CFR 393.11(a) and 393.25(c) to allow Casey to operate a limited number of CMVs equipped with Intellistop's pulsating-brake module will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

This exemption is restricted to vehicles in Casey's fleet and provides relief from the steady burning

requirement for rear clearance, identification, and brake lamp activation for 2 seconds following brake activation. All other FMVSS No. 108 requirements cross-referenced or incorporated within the FMCSRs remain in effect, with a limited exception to the requirement exempted here in sections 393.11(a) and 393.25(c) for only the first two seconds of brake engagement. In addition, through the terms and conditions, FMCSA will be able to monitor to performance of these CMVs to determine whether they were involved in a crash and whether they appear to be overrepresented in crashes compared to a control group (comprised of Casey vehicles that are not equipped with the Intellistop unit but are operating on similar routes with similar schedules, etc., as further described in the Terms and Conditions).

The Agency has evaluated the application and hereby grants the exemption for a 5-year period, beginning April 16, 2025 and ending April 16, 2030. During the temporary exemption period, Casey (Applicant) may operate CMVs, equipped with Intellistop's module that pulses the rear brake, clearance, and identification lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds. This grant applies only to the "steady-burning" requirement as specified in FMVSS 108 S7.3, and Tables I-a, I-b, and I-c. All other photometric and requirements for stop lamps specified in FMVSS 108 must still be met.

b. Terms and Conditions of the Exemption

(i) Installation of the Intellistop Module

The Applicant is responsible for installing the Intellistop module. This exemption applies only to CMVs owned and operated by the Applicant. THE PRODUCT MUST BE INSTALLED ONLY BY THE OWNER OF THE VEHICLE. IN ACCORDANCE WITH FEDERAL LAW (49 U.S.C. 30112(a)(1) AND 49 U.S.C. 30122), THE PRODUCT MAY NOT BE INSTALLED BY ANY MANUFACTURER, DISTRIBUTOR, DEALER, RENTAL COMPANY, OR MOTOR VEHICLE REPAIR BUSINESS.

The Applicant may not install the Intellistop module on more than 25% of its power units, and 25% of its trailers during the first year of operation under the exemption, or on more than 50% of its power units, and 50% of its trailers during the second year. The Applicant must provide the Agency the vehicle identification numbers for the power units and trailers that will be operating under the exemption.

The Applicant must maintain a control group of equal size to the group of power units and trailers equipped with the Intellistop unit during the first year of the exemption. And the CMVs in the control group must operate on routes with schedules that are similar to those of the Intellistop-equipped vehicles.

Installed modules may be used only to modulate rear clearance, identification, and stop lamps.

Within 30 business days of its first installation of the Intellistop module, the Applicant must notify the Agency via email at MCPSV@dot.gov of the number and type of CMVs it is operating, or intends to operate, with the Intellistop module installed; the module type and/or sub-type; and any trouble-shooting, repair, or other use of an Intellistop module covered by this exemption. Amended installation information, including CMVs on which the device is installed or uninstalled, may then be submitted via the quarterly submission specified in sub-paragraph (iv) *Recurring Reporting Requirements* below.

If the Applicant sells or transfers ownership of any CMV equipped with an Intellistop module under this exemption, or if the exemption is terminated for any reason, the Applicant must remove the module and restore the CMV to full compliance with the FMCSRs and FMVSSs prior to the transfer of ownership, or upon termination of the exemption. The Applicant must also certify in writing to the purchaser/transferee and FMCSA that the CMV has been restored to compliance with the FMCSRs and FMVSSs.

(ii) Driver Pre-Trip Vehicle Inspections

The Applicant must ensure that each driver of an Intellistop-equipped CMV performs a pre-trip inspection to confirm that the Intellistop module operates only for 2 seconds and does not interfere with the normal operation of lamps after 2 seconds. If the lamps are not steady burning after 2 seconds, the CMV must not be dispatched until repairs are made. At the end of each work shift, drivers must note any problems observed by or reported to them concerning the Intellistop module on a driver vehicle inspection report (see 49 CFR 396.11), and the motor carrier must correct the problem before the vehicle is dispatched again.

(iii) Safety Notification to FMCSA

The Applicant must notify FMCSA within 5 business days after it becomes aware, or otherwise determines, that the continued use of a module or entire type

or subtype of module covered by this exemption is no longer likely to maintain a level of safety that is at least equivalent to the level that would be achieved absent this exemption. Notification must be made by sending an email to FMCSA at MCPSV@dot.gov.

(iv) Recurring Reporting Requirements

During the exemption period, the Applicant must provide quarterly submissions to FMCSA of the data described below. The Applicant's first quarterly submission is due on July 16, 2025, and thereafter will be due every 3 months, on the first business day of the month. The first quarterly submission must include the required data beginning 60 days prior to the date of module installation. All quarterly submissions must include data through at least the 14th day (inclusive) of the month immediately preceding the submission. Unless otherwise agreed to by FMCSA, quarterly submissions must be sent via email to FMCSA at MCPSV@dot.gov. If the Applicant does not have one or more categories of information described below, it must, within 20 days of the effective date of this exemption, discuss with FMCSA other available information. If the Agency accepts such alternative information, the Applicant must submit that data in lieu of the information specified below.

In the quarterly submission, the Applicant must provide FMCSA the following information known to the Applicant regarding all crashes and other incidents ("crash or incident") involving a CMV equipped with an Intellistop module covered by this exemption where the Intellistop module is potentially implicated. Crashes involving a CMV equipped with an Intellistop module that are "head-on" or otherwise involve only the front of the Intellistop-equipped CMV impacting some other object (such that the Intellistop module, without question, could not be implicated) are not subject to this condition. For the first quarterly submission, data must include any crash or incident occurring in the 60 days prior to installation of the Intellistop module that would have been contained in this reporting category had the module been installed at the time of the crash or incident. The Applicant's knowledge includes, but is not limited to: (1) outreach from a consumer, lawyer, or any other person or organization (via letter, email, fax, telephone call, social media, or any other medium); (2) lawsuits to which the Applicant is a party, or otherwise knows exist where an Intellistop module covered by this exemption is an issue in the litigation; and (3) insurance

claims against the Applicant related to use of the Intellistop module. When in the Applicant's possession, information provided to FMCSA shall include:

1. The date of first contact regarding, or the Applicant's first awareness of, the crash or incident;
2. The date of the most recent follow-up contact, if any, between the Applicant and the other party;
3. The date, time, and location of the crash or incident;
4. A brief description of the crash or incident;
5. The Intellistop module type and/or subtype(s) involved in the crash or incident; and
6. Information, if any, indicating that the Intellistop module is, or was, not working as intended, or caused confusion or a roadway hazard for either the consumer or other motorists.

Annual data. At the end of each 12-month period this exemption is in effect, the Applicant shall, within 60 days, submit a report detailing all information in its possession regarding crash rates and vehicle miles traveled by CMVs equipped with a module covered by this exemption. Additionally, the report shall specify the number and type of CMVs the Applicant is operating under the exemption, the module type or sub-type installed on each CMV, the affected lamps (rear clearance, identification, and/or brake lamps), the number of covered vehicles sold or transferred in ownership during the 12-month reporting period, and a statement certifying that any sold/transferred vehicle(s) have been restored to compliance with applicable FMVSSs and FMCSRs.

Meetings. The Applicant shall, at FMCSA's request, meet with FMCSA to answer questions regarding data and information provided by the Applicant under this exemption.

(v) Early Termination

The exemption is valid for 5 years from the date of issuance unless rescinded earlier by FMCSA. FMCSA will terminate the exemption if: (1) the Applicant fails to comply with the terms and conditions; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

(vi) Notification From the Public

Interested parties possessing information that would demonstrate that Casey's CMVs equipped with Intellistop's pulsating rear-light module may not be achieving the requisite

statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

(vii) Non-Endorsement

This limited and conditional exemption does not constitute an endorsement of the Intellistop product by FMCSA, NHTSA, the U.S. DOT, or any of their components, or by any of these agencies' employees or agents. As a condition of the continued effectiveness of this exemption, Intellistop is expressly prohibited from describing its product as approved by, endorsed by, or otherwise authorized by FMCSA, NHTSA, or U.S. DOT, or as compliant with Federal safety regulations.

VII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Sue Lawless,

Chief Safety Officer/Assistant Administrator.

[FR Doc. 2025-06410 Filed 4-15-25; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on April 9, 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 April 9, 2025, OFAC determined that the person identified below meets 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 person identified below. As a result, the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual

1. BELTRAN GUZMAN, Jesus Alfredo (a.k.a. “Alfredito”; a.k.a. “El Mochomito”; a.k.a. “Tito”), Mexico; DOB 23 Apr 1991; POB Sinaloa, Mexico; nationality Mexico; Gender Male; C.U.R.P. BEGJ910423HSLZS02 (Mexico) (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.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2025–06449 Filed 4–15–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels 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. The vessels placed on the SDN List have been identified as property in which a blocked person has an interest.

DATES: This action was issued on April 10, 2025. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On April 10, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individual

1. BRAR, Jugwinder Singh, Dubai, United Arab Emirates; DOB 15 Mar 1962; POB Kot Kapura, India; nationality India; Gender Male; Identification Number 01872998 (India) (individual) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of Executive Order 13902 of January 10, 2020, “Imposing Sanctions With Respect to Additional Sectors of Iran,” 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for operating in the petroleum sector of the Iranian economy.

Entities

BILLING CODE 4810–AL–P

1. B AND P SOLUTIONS PRIVATE LIMITED, Jammu, Jammu and Kashmir; Uttara Kannada, Karnataka, India; Bhuj, Ghujarat, India; House No 213, Sector 36-A, Chandigarh, Chandigarh 160036, India; C-98(C), Level 3, Mohali, Punjab 160059, India; Organization Established Date 09 Apr 2015; C.I.N. U24100CH2015PTC035482 (India); Legal Entity Number 894500OIQ3CMTKB1PU89; Registration Number 035482 (India) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, directly or indirectly, JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902.

2. GLOBAL TANKERS PRIVATE LIMITED, 213, Sector 36-A, Chandigarh, Chandigarh 160036, India; Plot No. C 98, Phase 7, Industrial Area, Mohali, Punjab 160055, India; A5 Transportnagar, Gorakhpur, Uttar Pradesh 273001, India; Organization Established Date 09 Apr 2008; C.I.N. U63090CH2008PTC031196 (India); Identification Number IMO 6025151; Registration Number 031196 (India) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, directly or indirectly, JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902.

3. GLORY INTERNATIONAL FZ-LLC (Arabic: جلوري إنترناشيونال ش.م.ح-ذ.م.م), SFFO0472, Compass Building, Al Shohada Road, Al Hamra Industrial Zone-FZ, Ras Al Khaimah, United Arab Emirates; PO Box 121813, RAKIA Amenity Center, Al-Jazirat Al-Hamra, Ras Al Khaimah, United Arab Emirates; A1-1309, Building No. A1, Al Hamra Industrial Zone-FZ, Ras Al Khaimah, United Arab Emirates; Organization Established Date 19 Jul 2023; alt. Organization Established Date 09 May 2019; Identification Number IMO 6116541; Business Registration Number 47010084 (United Arab Emirates); alt. Business Registration Number 7003461 (United Arab Emirates); alt. Business Registration Number 5027598 (United Arab Emirates); Economic Register Number (CBLS) 12163265 (United Arab Emirates); alt. Economic Register Number (CBLS) 11478636 (United Arab Emirates); alt. Economic Register Number (CBLS) 12164617 (United Arab Emirates) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, directly or indirectly, JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902.

4. PRIME TANKERS LLC (Arabic: **برايم تانكرز ش.ذ.م.م**), Street 14B, Al Quoz Industrial Area 4, Dubai, United Arab Emirates; Office 1, Mezzanine Floor, HH Shaykah Mariyam Bint Rashid, Umm Hurair Road, Dubai, United Arab Emirates; PO Box 31559, Dubai, United Arab Emirates; Website www.primetankers.ae; Organization Established Date 09 Aug 2000; Identification Number IMO 1904245; Legal Entity Number 8945002C2A9Y0X2Y6M46; Business Registration Number 520465 (United Arab Emirates); Economic Register Number (CBLIS) 10803728 (United Arab Emirates) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, directly or indirectly, JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902.

BILLING CODE 4810-AL-C

Vessels

1. GLOBAL ELEGANCE (E5U4389) Chemical/Oil Tanker; Former Vessel Flag Cook Islands; Vessel Registration Identification IMO 9232955; MMSI 518998409 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

2. GLOBAL EMERALD (3E2462) Products Tanker Panama flag; Vessel Registration Identification IMO 8982888; MMSI 352001105 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

3. GLOBAL PEAK (3FBM7) Products Tanker Panama flag; Vessel Registration Identification IMO 9125712; MMSI 354117000 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

4. GLOBAL RANI (T8A4955) Chemical/Oil Tanker Palau flag; Vessel Registration Identification IMO 9136113; MMSI 511101535 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

5. GLOBAL STAR (3FYM8) Chemical/Oil Tanker Panama flag; Vessel Registration Identification IMO

9164500; MMSI 354068000 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

6. GLOBAL EVEREST (3EU04) Oil Products Tanker Panama flag; Vessel Registration Identification IMO 9125724; MMSI 352995000 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

7. GLOBAL FALCON (T8A4956) Chemical/Oil Tanker Palau flag; Vessel Registration Identification IMO 9399167; MMSI 511101536 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

8. GLOBAL MAHARANI (8P2426) Oil Products Tanker Barbados flag; Vessel Registration Identification IMO 9546708; MMSI 314932000 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

9. GLORY STAR I (3E4656) Oil Products Tanker Panama flag; Vessel Registration Identification IMO 9463528; MMSI 352002878 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person

whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

10. HARMONY (8PVO9) Oil Products Tanker Barbados flag; Vessel Registration Identification IMO 9397030; MMSI 314825000 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

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11. OCEAN PRINCESS 1 (3EVR9) Oil Products Tanker Panama flag; Vessel Registration Identification IMO 8413306; MMSI 373094000 (vessel) [IRAN-EO13902] (Linked To: BRAR, Jugwinder Singh).

Identified as property in which JUGWINDER SINGH BRAR, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

12. CHIL 1 (C5J280) Chemical/Oil Tanker Gambia flag; Vessel Registration Identification IMO 9171498; MMSI 629009268 (vessel) [IRAN-EO13902] (Linked To: GLORY INTERNATIONAL FZ-LLC).

Identified as property in which GLORY INTERNATIONAL FZ-LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

13. GLOBAL CREST (3FHI8) Crude Oil Tanker Panama flag; Vessel Registration Identification IMO 9113094; MMSI 372463000 (vessel) [IRAN-EO13902] (Linked To: GLORY INTERNATIONAL FZ-LLC).

Identified as property in which GLORY INTERNATIONAL FZ-LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

14. GLOBAL DOMINANCE (V2YZ5) Bunkering Tanker Antigua & Barbuda

flag; Vessel Registration Identification IMO 9672301; MMSI 305290000 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

15. MIRAGE (8P2465) Chemical/Oil Tanker Barbados flag; Vessel Registration Identification IMO 9254422; MMSI 314963000 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

16. NADIYA (3E3423) Oil Products Tanker Panama flag; Vessel Registration Identification IMO 9118745; MMSI 352001151 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

17. PURNA (a.k.a. “SAMPURNA RAJYA”) (C5J300) Oil Products Tanker Gambia flag; Vessel Registration Identification IMO 9176656; MMSI 629000928 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

18. GLOBAL ACE (3FJW3) Chemical/Oil Tanker Panama flag; Vessel Registration Identification IMO 9190078; MMSI 374808000 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

19. GLOBAL ANGEL (3FVC9) Oil Products Tanker Panama flag; Vessel Registration Identification IMO 9311309; MMSI 353283000 (vessel)

[IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

20. GLOBAL BEAUTY (3E6819) Chemical/Products Tanker Panama flag; Vessel Registration Identification IMO 9221267; MMSI 352004530 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

21. GLOBAL DIGNITY (3E2062) Chemical/Products Tanker Panama flag; Vessel Registration Identification IMO 9309227; MMSI 352898795 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

22. GLOBAL EAGLE (D6A3537) Chemical/Products Tanker Comoros flag; Vessel Registration Identification IMO 9422847; MMSI 620999538 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

23. GLOBAL HAWK (E5U3877) Chemical/Oil Tanker; Former Vessel Flag Cook Islands; Vessel Registration Identification IMO 9422859; MMSI 518100966 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

24. GLOBAL PEACE (E5U3881) Oil Products Tanker Cook Islands flag; Vessel Registration Identification IMO 9555199; MMSI 518100969 (vessel) [IRAN–EO13902] (Linked To: GLORY INTERNATIONAL FZ–LLC).

Identified as property in which GLORY INTERNATIONAL FZ–LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

25. GLOBAL ASPHALT (3FZQ3) Oil Products Tanker Panama flag; Vessel Registration Identification IMO 9005338; MMSI 354816424 (vessel) [IRAN–EO13902] (Linked To: GLOBAL TANKERS PRIVATE LIMITED).

Identified as property in which GLOBAL TANKERS PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

26. GLOBAL GENESIS (E5U3771) Oil Products Tanker; Former Vessel Flag Cook Islands; Vessel Registration Identification IMO 9451501; MMSI 518100860 (vessel) [IRAN–EO13902] (Linked To: GLOBAL TANKERS PRIVATE LIMITED).

Identified as property in which GLOBAL TANKERS PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

27. LUANDA 1 (3FWF5) Anchor Handling Vessel Panama flag; Vessel Registration Identification IMO 9372705; MMSI 357029000 (vessel) [IRAN–EO13902] (Linked To: PRIME TANKERS LLC).

Identified as property in which PRIME TANKERS LLC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

28. SIMRAN (HO4539) Oil Products Tanker Panama flag; Vessel Registration Identification IMO 9136644; MMSI 356762000 (vessel) [IRAN–EO13902] (Linked To: GLOBAL TANKERS PRIVATE LIMITED).

Identified as property in which GLOBAL TANKERS PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2025–06406 Filed 4–15–25; 8:45 am]

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